

Rooting Nepal's Democratic Spirit

Edited by Chandra Dev Bhatta



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Nepal Office
Lalitpur Metropolitan City, Ward 2, Sanepa
P. O. Box: 11840
Kathmandu, Nepal

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Foreword

Democracy is not built in a day – this lesson was learnt the hard way in Europe during the early twentieth century. Yet, young democracies often face great expectations right after political transitions, which they are struggling to live up to. Of course, people who were eagerly waiting for change have a right to expect improvements in their daily lives, but political systems often take time to change and rather gradually. A systemic change cannot be completed from one day of the other. In many cases the process of democratization is long and painful and democratic consolidation is not a story of linear improvement. These processes might involve drawbacks and detours. Therefore, democracies everywhere need constant commitment and nourishment. Or as Friedrich Ebert – the first democratically elected president of Germany during the times of the Weimar Republic and namesake of the Friedrich-Ebert-Foundation (FES) – put it: Democracy needs democrats.

At FES we are committed to Friedrich Ebert's legacy and to support democracy worldwide through the work of our more than 100 country offices. However, in doing so we do not believe that there is a single recipe for a model democracy. Democracy is always embedded in specific economic, political, social and cultural contexts and are (and should be) shaped by its citizens. At FES we want to be a supportive and critical friend on that path.

Nepal already has quite a history of struggling for democracy over at least the last 70 years and has accomplished many hard-won victories on the way. FES opened its office in Nepal in 1995, more than 25 years ago. During this time alone, the Maoist insurgency came to an end by a political solution, two Constitutional assemblies were elected, a new constitution was adopted in 2015, and the first election on all levels of the newly found federal state were held in 2017 – achievements that, in no case, should be undervalued! Though, the country since then already seen some political instability, the Nepalese democracy has navigated through them.

The constitution of Nepal has often been hailed for being progressive and enabling the integration of different parts of the population. Lately it also

seems like the criticism is growing as well and some blamed the constitutional provisions for the instabilities. However, no constitution will be perfect after drafting. Constitutional provisions need interpretation in practice as well as amendment in some cases over time to adapt to changing social contexts. Thus, the 2015 constitution is, of course, the outcome of political compromises and should be seen as the base to build the future of the Nepalese democracy on. However, in the end a constitution will always only be as good as the democrats committed to its core values and that accept the limits it sets on the accumulation of power.

This publication project started in 2020, a year where FES Nepal celebrated its 25th anniversary of its work in the country and the years of partnership for democracy and social justice. However, it also was the first year of the Corona pandemic and the celebrations could not take place as planned. In 2020 our civic education program also turned 10. A program that was founded to support discussions and the dissemination of information about the first and second Constitutional Assemblies work and to discuss democratic and civic values with citizens in different parts of the country. The programme was initially launched to support Nepal's democratization process and they were truly helpful in many ways. With this publication, we want to honor all those who contributed immensely, but also take stock of the democratization process of the country. Last but not the least, I also wish to thank you Mr. Biswas Baral, Chief Editor of The Annapurna Express, for his editorial support.

The contributions in this volume do not necessarily represent the position of FES but are supposed to offer a spectrum of perspectives on the state of Nepal's democracy. We hope with this we can support the further discussions on democratic consolidation in the country. There is always a lot to be done for the supporters of democracy: Let us keep working together to support a vibrant and inclusive democratic future for Nepal and its citizens!

Jonathan Menge
Resident Representative, Friedrich-Ebert-Stiftung Nepal Office

Democratizing Democracy in Nepal: An Exordium¹

Chandra Dev Bhatta

Nepal's journey towards democratization started shortly after the end of the Second World War. However, it gained real momentum from 1990 onwards. For Nepal it was also the year of the restoration of democracy, after 30 years of the 'partyless' Panchayat system, which coincided with the collapse of the USSR and an unprecedented rise of liberal democracy around the world. During what Huntington (1993) regarded as the third wave of democratization. These were times of phenomenal changes in world politics and their impacts were felt everywhere, including in Nepal. During the Cold War, Nepal's political spectrum was divided – between the two blocs – although state itself has adopted non-aligned foreign policy– as it was the case with many other countries then. But those divisions were largely removed after the 1990 political change. The struggle for democracy brought together political parties that ideologically seemed to have very little in common. In fact, hopes were high that liberal democracy would prevail. Yet the transition did not turn out to be as easy as expected. Political transitions are tough, protracted, and inconclusive processes. Often, history has seen countries that have adopted liberal political systems drifting back to authoritarianism. Scholars even argue that in some cases transitions may be more virtual than real as they can become co-opted, controlled, or aborted (Diamond and Plattner, 1993).

Democracy was not an entirely new system of governance in Nepal. There are examples in the past where governance was based on democratic norms and values. Even though there may not have been governments adhering to modern democratic processes such as periodic elections and parliaments, in some instances decision-making and leader-selection were based on discussions and the will of the people (Dahal and Bhatta, 2008). During its journey towards

¹ The author is humbly grateful to Priyanka Kapar for the editorial support and Jonathan Menge for providing inputs on the chapters. The chapters in this volume do not necessarily cover the recent political events but they certainly raise the issues that Nepal might need to consider with regard to consolidating democracy and have its dividends realised by all.

democratization, Nepal has undergone multiple transitions: in 1950, 1980, 1990, and in 2006. Each transition was the product of political movements supported by political parties and their ancillary organizations, which brought down different authoritarian regimes in their wake. Most of these movements, in fact, not only played a catalytic role in changing governments, but also brought down existing regimes or initiated regime changes. The latest of these was headed by the Nepal Communist Party Maoist (NCPM) which started as an insurgency in 1996 and ended in 2006 with a political compromise.² These movements have brought about phenomenal changes in Nepal's political landscape, but they have also become the source of constitutional and political instability. Nonetheless, all these (failed) attempts to root democracy are stages in Nepal's democratization journey.

A period of over 70 years seems a long time for transition to democracy. However, even in some established democracies, it took longer than this. A closer look at the history of Western democracies reveal that there are no shortcuts to a stable democracy. Over a considerably long transitional period during the 19th and 20th centuries, Europe saw two World Wars and the rise and fall of fascism. In the United States, it took not only a bloody civil war, but another hundred years of democratic consolidation until full liberal and democratic rights were granted to all citizens. And looking at the state of some European and American democracies today, one might conclude that the struggle for democracy is far from over. With populism rising, some established democracies have actually shown signs of democratic de-consolidation (Foa and Monk, 2017). Just a few years ago, the United States voted a populist into the oval office and Europe has also seen a worrying rise in right-wing populism and extremism in recent times. There have been serious attacks on the foundation of liberal democracy in some European Union member states like Poland and Hungary.

Overall, democracies take time to consolidate, they need continuous nourishment and might slip back into less democratic systems. From a historical perspective, this is not a surprise; for none of the so-called 'consolidated democracies' the

² The signing of the infamous 12-point agreement played a crucial role in the formation of compromises at a latter phase. It was closed between Nepal Communist Party (Maoist) and the, then, Seven Party Alliance (SPA) with mediation by India.

journey has been a linear progress (Berman, 2007 and 2019). On top of that, democracy should not be understood as an all-or-nothing accomplishment; in many ways it is a process that needs continuous commitment and engagement. And while this process might be frustrating at times, Sheri Berman lists some good arguments why it might be worth the effort after all: “Solid scholarship has shown that democracies are less likely to abuse their own citizens, rarely if ever wage war upon one another, and do at least as well as other regimes in promoting economic development” (Berman, 2007: 28). Yet there are exceptions. In some instances, instead of preventing arbitrary exercise of power, democratic powers have been abused to exploit or monopolise state power.

This chapter looks into various dimensions of Nepal’s current state of political affairs and tries to explain existing problems with regard to the democratization process. It also reflects on various aspects of political transitions. In that regard, a cursory look at the state of affairs indicate that Nepal’s journey towards successful democratic consolidation will be difficult but not impossible. For example, the fact that the parliament was dissolved twice in 2020/21 and needed to be restored by the Supreme Court is a discouraging sign for multiple reasons. First, it shows the unhealthy extent of political struggle among political parties and their leaders. Second, it indicates that the separation of powers between two important organs of the state was undermined. Third, the fate of the legislative and the executive being decided in a court of law is not encouraging. Principally, this is not something anti-democratic, yet it certainly undermines the role of the legislative constituted by the sovereigns. Critics are also of the view that judicial interpretation whether legislative should be dissolved or restored can go either way – in favour of the constitution or against it – when judiciary itself is increasingly becoming unreliable in the light of political appointments of the judges (Varshney, 2022). The fear, nevertheless, is that if this trend of sidelining of the legislative continues, the quality of democracy will deteriorate, and democracy might be reduced to a legal form without legitimation by a popular vote.

Moreover, a similar event took place in 1994, when lawmakers of Nepali Congress – like those of Nepal Communist Party (NCP) in 2021 – brought down their own government. Nepal’s political history have seen quite a few of these

incidents, from the time the Malla Kings ruled Kathmandu valley to the time of Shah/Rana rulers. Even the first democratically elected government of B.P. Koirala with its two-third majority was brought down through a royal putsch. The fall of BP's government allowed King Mahendra to usher in a party-less Panchayat³ system. The Panchayat period (1960-1990) was relatively stable, but also not free from internal conflicts⁴ and its *raison d'être* were shaky from the start. In fact, no government during that time could complete its full term in office. This trend continued only to be transformed into chronic instability of various nature including frequent regime and government changes. Taken together, these all have not only resulted in crises in executive, judiciary, and legislative but also in regard to developmental activities as well. While instability has made the state economically fragile and dependent largely on foreign aid and assistance, people, for their part, have largely been depending on migration to other countries for their livelihood.

Rise of Machiavellian politics

Machiavelli was the practitioner of conventional politics which lay importance to power politics. That what to do and how when power is at hand remained his focus. This is what Hobbes explained and *realpolitik* ruled for more than three centuries and sustained the Westphalian order (Aditya, 2016:19). His was also the time that made Prince – the ruler – stronger and the subjects not necessarily on the same par. The conditions, however, have changed with the introduction of full-blown democracy that came to the centre of governance. Interestingly, it allows people to be the ruler, rather than searching for the Prince again and again. Democracy, however, is losing the trust of the people in recent years and Nepal is no exception to this. Over the period of time, Nepal has brought some tangible and significant achievements with regard to democratization

³ Panchayat is one of the oldest systems of governance in the *Bharatbarsha* and continues till the date. This time, the idea was floated by Indian Socialist leader Jaya Prakash Narayan as an alternative to the western democracy.

⁴ Part of the problem with Panchayat began from the fact that it largely included Communists closer to Russian Camps, defaulters from Nepali Congress and pro-palace politicians – they, all have their own imagination as how should it work. Yet for their interactions with the outsiders – they developed Leninist style one party ruthless system. It is them who advised the King to ban political parties and it was done from the Second Amendment of the Panchayat Constitution. (See Sharma, 2022: 127-77) and Shaha, 1978:217 for detail).

process. The successful removal of authoritarian regimes and ushering of modern political system could be the case in point. The end of Maoist conflict through negotiations and settlement through the compromised peace-process could be another example in that regard.⁵ Put together, these are few accomplishments which deserve to be celebrated. The political changes of 2005/06 brought about further fundamental changes in Nepal's politics and society. Most noteworthy, democracy has not only become the most accepted form of government with the country's population, but also the undisputed game in town for the political parties, irrespective of their ideological orientation. That despite many hiccups, Nepal's polity, policies, and politics have become more diverse and inclusive.⁶ Yet in the course of Nepal's journey towards democracy, it also produced its own kind of Prince(s) who often skirt the democratization process, for their own interests, thereby forcing many people to remain in the margins.⁷ Similarly, in regard to economic development Nepal has not been able to generate sufficient economic activities, although the level of poverty has certainly come down, within the country to create enough jobs for its growing youth population.

The Hobbesian nature of politics, moreover, that we have noticed have forced political transitions to revolve between order and anarchy under the democratic garb: one could see them moving from authoritarian to democratic, conflict to peace, political instability to stability, and vice versa. This remained mainstay of Nepal's political history, where instances of such a 'back and forth' from one regime/system to another can be identified on multiple occasions which has left certain political, social, and economic issues unsettled. In a 'soft state' like Nepal there are high chances that these factors might have potential to launch afresh political movement to destabilise the power structures (Sharma, 2021:160). The political structure that came into being after the political change of 2005/06 does provide ample grounds for the successful democratization, yet what looks perturbing for more than one reason is that the political, social, and economic sphere has been largely hijacked and captured by those in power alone – largely by Princes and their courtiers. If the extant situation remains as it is, this will create obstacles for the people at large to be benefited from the new political

⁵ Cf. Pitambar Bhandari in this volume.

⁶ Cf. Meena Poudel in this volume.

⁷ Cf. Santosh Pariyar in this volume.

structure. This will also leave many political and social issues unattended, which may alone become contentious (Lawoti, 2007) and sufficient to keep, what Gramsci calls, revolutionary political culture alive in the country forever. When revolutionary power politics (Chomsky, 2014) becomes more prominent than all other issues of public importance are sidelined. What may even happen is the democratic control – not necessarily a popular control (Pettit, 2013) – of the state and its institutions – where consolidation process would turn into fissiparous. That being said, the way politics is evolving in Nepal, a danger is being lurking where constitutional democracy will be controlled through electoral democracy in more than one way. Under the current state of affairs, what may possibly happen, for all the practical purposes, is that the electoral aspects of democracy may change constitutional democracy – through votes - and non-electoral dimensions of political activities (Varshney, 2022) will prevail over political democracy. In that process, the true spirit of democracy, for which it was invented, will be lost.

There are two reasons as to why this is likely to happen: first, constitutional democracy somehow has been usurped up by those who prefer their own interpretation and undermine its spirit in that course. Second, the political democracy, for its part, has failed to deliver on what scholar call the promise of politics (Arendt, 1993). Moreover, the current political dispensation, for its part, rewards opportunities largely to those who are closely knit with political parties. This may perhaps be the reason, among others, why political parties are being exploited by the organized vested interests groups, crony corporates, and capitalist classes (Yadav, 2021: xxv). An important fact that is to be looked into is that this will also open space for the corporate control of the political parties which is already underway, but this will, yet again, have its own ramifications. First, this will vertically divide society along partisan lines (not necessarily along ideological lines). Second, those who do not prefer or could not align with political parties – for whatever reasons – might be deprived of political and economic opportunities. Further consolidation of patron-client relationships would become norms where interests of hillbilly groups will rarely be represented. Furthermore, it will also impact on economy's overall ability to innovate and compete in the markets as it shuts door for the healthy entrepreneurship. Paradoxical as it may be, such a patronage system, however, have its own profiteers in the direct periphery of the power holders

and it is these profiteers in tandem with *Karyakartas* (cadres) of political parties who would prefer to maintain the status quo in the entire mechanism. Many see these as new methods to control the political ecosystem, which is akin to Machiavellian politics. Yet, the fact that Machiavelli was living in the 16th century and European politics were facing quite different challenges during these times seems to be forgotten.

The Hobbesian nature of power politics does not end here in Nepal. It has been anchored in many ways. We can still cite one recent example which is related with the dissolution of the House in 2020/21 and the splitting of the ruling NCP, due to a classic case of unresolved 'inner-party' conflicts,⁸ was mainly driven from those perspectives only. An illness from which Nepal's other mainstream and fringe parties, too, are suffering.⁹ Thus, it may be argued that the political crisis in Nepal has not only become chronic but also erratic. However, Nepal has also a tradition of skillfully practiced political consensus, which proved helpful, for example, during the constitution-writing phase (2008-2015) and its promulgation in 2015. Consensus among the political elites also saved the derailed peace process, which, otherwise, could have threatened the whole democratic apparatus. Yet consensus – whose Nepali equivalent is *Sahamati* – does not always result in democratic peace. It also brews frustration with the potential of undermining legitimacy, when it is only based on the agreement among a narrow circle of influential people and only the issues of their choice. While elites have their own logic for forging consensus, for the common people, it might look like a 'betrayal of democracy' (Lasch, 1994), where power and perks are distributed among close circles. A modus operandi that was, for example, also applied by the influential Rothschild family in 19th century Europe as portrayed in the seminal work of Niall Ferguson (1999) or in the Rana's Courts in Nepal.¹⁰

Politics of negation is another factor often used to project power. To our dismay, today, this has been ingrained in Nepal's recent political culture and

⁸ Cf. Uddhab Pyakurel in the volume.

⁹ The split of Bibeksheel Sajha Party for a number of times and its formation under various names is another classic example. The party that was initially hailed for providing space for alternative politics and was largely formed by the urban youths appears to have been in doldrums and seems to have lost their original course.

¹⁰ Cf. Amit Gautam and Jeevan Baniya's paper in this volume. Also see Biswo Poudel (2021) in *Prospects for Social Justice and Sustainable Development: Geoeconomic Perspectives*, Kathmandu, FES Nepal Office.

practices. Part of the problem with regard to politics of negation might have been associated with the ensuing political changes itself, which automatically negates a few actors in the new political set-up. This certainly is a natural process as well to a large extent. Problem, however, begins when negation is applied at the cost of democracy and is being carried out for the purpose of politics of vengeance and self-aggrandizement (Joshi and Rose, 1966). Sure enough, vengeance being part of the political motivation and culture threatens to harm the political ecosystem and objectives at large. Politics of negation have politicized the entire democratization process, which, in turn, gave rise to the power- and leader-centric trends that have evolved since then.¹¹ The triumph of such a state of affairs inhibits the danger of bringing both, old and new political classes together, albeit, to enjoy the state power and sovereign wealth.¹² They can also develop binary and exclusionary logics – by references to enemies within and outside – either to grab power or brush off their own failures. These may also give a space either to grow a party state¹³ or limit a state to the level of a mere administrative level (Lawson, 1994) with little consideration for democratic dispensation.

Likewise, there are a multiverse of opinions on democracy and the political system itself in Nepal. While some of them are natural, others may have been, yet gain, motivated from the logic of power politics to keep the revolutionary politics alive or prove their own relevance rather than bringing substantial changes into politics in the changing context. To that end, a number of political parties (mostly hailing from the political left) opine that the parliamentary system is the major source of instability and that it should be replaced with an executive

¹¹ Experience from Nepal suggests that political parties and their leaders often consider 'the state' as their *jagir* and would like to run it in accordance with their interests. Constitutional behavior and democratic political culture are missing. The tendency to amend constitution remains unabated, yet, mainly for short-term benefits. In fact, there seems to have been more fascination with changing the constitution and political system rather than changing self and the political behavior and the culture.

¹² With regard to sovereign wealth, the Santiago principle underlines how state funds should be used. It states that in no way it should be used by anyone (including political leaders) for personal benefits. An anti-corruption principle also expressed in the *Chanakyan* philosophy.

¹³ The term Party State is used to denote the role of political parties who control everything and act as de facto state.

presidential system, with most of them advocating a 'people's democracy'.¹⁴ Yet there are those like the Rastriya Prajatantra Party (RPP), who want to reinstall the Monarchy and/or a Hindu state. Additionally, there are also non-ideological developmental parties as well as regional and identity-based ones. In general, Nepal's political parties can broadly be divided into four categories: ideological parties, regional parties, identity-based parties, and programmatic parties. One common factor among them, however, is that they all advocate democracy – some sort of catchword. Yet, it is difficult to differentiate one from the other and the boundary between ends and means often seem to blur. However, Nepal's democracy should not only be judged by the behaviour of the political parties, even though they play a very important role in democratic consolidation, there are other factors which are equally important for bringing current state of political affairs largely dictated by power that we have explained earlier.

Perspectives of democratic consolidation

The democratic transition from the late 1980s radically transformed the global political landscape. Yet there is no agreement over what democratization entails, where it begins and ends. In principle, the period between the breakdown of the earlier regime and conclusion of the first democratic national election and formation of the new government and the institutions should be taken as the phase towards democratization transition. In a more nuanced approach, scholars divide the process of democratization into three phases: (i) liberalization – when the previous authoritarian regime opens up or crumbles; (ii) transition – when first competitive elections are held; and (iii) consolidation – when democratic practices are expected to become firmly established and accepted (O'Donnell, Schmitter, and Whitehead, 1986; Linz and Stepan, 1996). From this perspective, Nepal's several political movements/transitions¹⁵ to (re)establish democracy makes difficult as to when the liberal phase begins and the illiberal phase ends for the obvious reason that every successive change gets its legitimacy

¹⁴ There are political parties including Nepal Communist Party (Revolutionary) headed by Mohan Vaidya 'Kiran' who still believes in People's Democracy rather than parliamentary democracy that Nepal is currently practicing. Likewise, almost all the political parties representing left of the political spectrum have dream of strengthening communist movement that certainly creates confusion between means and ends.

¹⁵ Nepal has witnessed at least four regime changes in recent decades: Rana, Panchayat, constitutional monarchy, and federal republic.

by terming the preceding one as illiberal. Yet what certainly true is that from 1950 till 2006, several regimes/systems regarded as 'authoritarian/autocratic' were toppled and (re)installed, constitutions promulgated, and elections held. Overall, these movements have certainly shifted the institutional mechanism of governance from personalized (Meng, 2020) to democratic one. They also set out paths for the democratic consolidation but failed, in truly bringing about the desired stability. What is apparent nevertheless is that democratization is neither a 'switch on/switch off' system nor is it a linear process (Hsaio, 2013) as mentioned in the beginning. By far not all democratic openings and transitions lead to consolidated democracies. In many cases, countries slide back towards more or less authoritarian systems.

As mentioned earlier, multiple factors and actors involved in the democratization process decide the fate of democratic consolidation. These factors include how actors' manage the political process, how the rule of law and separation of power are implemented, how issues related to human rights, inclusion and exclusion are addressed. Another important factor in that regard is the role of non-political and technocratic elites, members of civil society, and the media. How these actors perceive the change and respond to past commitments as well as the political culture (Almond and Verba, 1963) that evolves from the interplay of different stakeholders over the period of time, are other deciding factors. Moreover, democratic consolidation is also dependent on how political actors, old and new elites, and civil society members all accept the change¹⁶ within the constitutional framework that comes with it (Linz and Stepan, 1996), Gorokhovskaia, 2017) and how mediation is struck between the state, the market, and other actors in the future. The beforementioned conditions are only partly met in the case of Nepal. The modern public sphere which includes civil society, elites of all sorts, and intellectual classes (Habermas, 1962) in Nepal, as discussed elsewhere in this paper, is largely divided along partisan lines (Bhatta, 2012) not necessarily along democratic lines. Often, they have their own imagination of Nepali state, society, and politics which contradicts with that of people's perception.

¹⁶ In fact, in the case of Nepal, accepting the change has become conditional. If the change does not provide benefits to those who engineered change, at the first place, would dismiss and call for another movement. There are enough examples to demonstrate this argument.

Another factor that needs to be considered is the traditional structure of society and its value systems. There are scholar(s) who connect democratization to a set of certain emancipative values (Welzel, 2021) largely drawn from the western tradition. Yet societies in Asia/South Asia, however, are rather rooted in collectivism, relationships, informality, and influenced by the age-old social practices. All these factors can also be found in the political parties and their working behaviour as well. This being the case what can be argued is that the political parties here are fundamentally different than those in the western countries (Hachhethu, 2002) and expected to carry out roles which also includes taking care of cadres, supporters, well-wishers and other societal issues as well. At the hindsight, this may look like clientelism being practised and may also not truly match with theoretical aspects of democracy. Yet this is the reality which is not going to change so easily at least in this part of the world. With this perspectives in place, still one may argue that political parties here are livelier than the ones in the western democracies.¹⁷ In this regard what should also be borne in mind is that many forms of modern governance mechanisms were developed in the post-industrial societies, while Nepal were/are still largely an agrarian society. They are yet to develop a mercantile system (Sharma, 2022: 5) suitable for the post-industrial democracy. In the absence of that it would only trigger conflicts between the tradition and the modernity as well as between those who advocate 'revolutionary' change and those who prefer slow but steady change.

The role of external actors, internal economic conditions, and social structures are also important for a successful democratic transition. In regard to external support, political transition profits from assistance in at least two areas: institution-building and moving the political process ahead. But while the external support in the form of technical assistance is considered helpful and has a rather high acceptance when geopolitical realities are taken into account (Carothers, 2020), in other cases it was rather perceived as an intervention, which can even endanger democratic stability (Reiss, 1970) and create geopolitical ripples (Burkhart and Lewis-Beck, 1994).¹⁸ In Nepal's context, both potential negative consequences must be considered in context of democracy support: internally it can contribute to destabilising political and societal dynamics; externally, given

¹⁷ The very logic of politics and its Nepali equivalent '*rajniti*' fundamentally differ from each other.

¹⁸ Cf. Arjun Ayadi in this volume.

its sensitive geographical location between its two rising neighbours – China and India – the entire mechanism of support might face vulnerability.

In recent times, the majority of Nepal's political parties, who claim to be left, communist as well as democrats at the same time (Baral, 2012) (which outnumber in voters) are moving closer to China and have brotherly relationship with Communist Party of China (CPC). Yet, on a broader societal level, the interactions with India and the West in many regards are more developed and happening. However, this also produces problems in striking a right balance between ideological affiliations of the political parties and the day-to-day activities/engagements of the society. In either case, the influence of both the neighbors can be observed in internal political dynamics as well as in external relations. Or as Leo Rose once stated, international factors have a strong and decisive impact on Kathmandu's domestic politics (Joshi and Rose, 1966; Rose, 1971; Sharma, 2022: 224). Several scholars still see the external powers India, China, and others pursuing their own policies with regard to democratization and social peace in Nepal akin to 1950s/60s and also during the Panchayat era – when Russians, then USSR, too were involved in (Sharma, 2022 and Kumar, 1984). Neither it was then, nor it will now be necessarily suitable environment for democracy in the region in general and Nepal in particular. While China may impose its own model of governance – the China model (Bell, 2016) largely built around Xi Jinping thought and quite a few of Nepal's political parties are fascinated by that thought. India, for its part, is focusing on the Bharatiya values (not necessarily Indian values) with the rise of Modi's Bharatiya Janata Party – for which there is already a huge public support. Taken together, the trickle-down effect from both the sides in tandem with a tendency to seek external patronage either to remain in the power or jeopardize existing power structure (Baral, 1983: 12) will have consequences for the democracy which is built around what scholar call 'emancipative values – that prioritise universal human freedoms, individual choice, and an egalitarian emphasis on equality of opportunity (Welzel, 2021) in Nepal as well. Similarly, the geopolitical discourses that are underway sometimes get overstressed in Kathmandu as well. At other times, some of the discourses on geopolitics are rather far-fetched and Nepal's position seem rather naïve, given the hyper-globalised world we are living in. The storm and stress of geopolitical underpinnings have deep impact on domestic politics where

every incident and change that might look more important appear difficult to accomplish. This only problematizes case for Nepal to move ahead – democratically as well as economically¹⁹ for the reason that it reinforces structural problems arising from economic underdevelopment and political inequality. Meanwhile, minimising structural problems and economic growth and overall development are important factors for the acceptance of democracy and democratic consolidation (Lipset, 1981 and Prezworski, 1992). While developed economies can fulfil their constitutional commitments to protecting social, economic, and political rights, which is vital in building public trust in the system, for developing countries this often becomes a difficult challenge. Paul Collier (2007) argues that when a nation fails to fulfil people’s basic needs and to provide two vital public goods – security and accountability – to the ‘bottom-billions’, democracy is rendered meaningless. Many countries that were part of the third wave of democratization, including Nepal, promoted a rather neoliberal version of democratic order, which went not only against the people but also the state, giving rise to what Acemoglu and Robinson (2013) call the rentier state with full of parasite class. When authorities exploit power and extract resources without accountability democracy will not thrive (Acemoglu and Robinson, 2013).

Similarly, successful transition and consolidation call for true democrats both in quality and numbers. Fleiner and Fleiner (2009) argue that no state or political party would declare itself not to be democratic. For them, all of them professes to be democratic to have legitimacy in the eyes of the people, but what does to be a democratic state or party for that matter entail and – is something that needs to be carefully looked into? If we reflect on from this perspective, there are some problems in Nepal. Similarly, it also requires periodic elections, but they should be inclusive allowing for everybody to run for office. From the electoral perspective, Nepalese democracy may, by far, enjoy higher level of legitimacy but if these elections are carried out only to elect the same people and affirm the supreme leader’s legitimacy (Yadav, 2021: xxviii) – they certainly will not bring about positive changes. Moreover, the way political contestations are organized in context of elections and with the amount of financial investment needed for successful candidates – these elections are far from the access of *aam adami*

¹⁹ Cf. Arjun Bahadur Ayadi in this volume.

(common people) yet political leaders call them *Janata Janardan* (voters are God) only for the purpose of vote banking. In contrary politics, in these specific situations, will not be able to handle social and economic policies – the ‘tissues and fiber’ of political democracy (Ambedkar, 1946: 207) successfully. By not doing that, two possible scenarios could emerge: either the country slides back or it may witness the rise of populism, right-wing conservatism, nationalism, and identity politics. A phenomenon increasingly faced by developed democracies (The Economist, 2019; Snyder, 2017 and 2021) where democracy and liberalism are pitted against nationalism and vice versa. For Nepal – with frequent history of regime transitions – such a scenario might become very dangerous. With regard to populism, it is also a specific form of identity politics that makes moral claim to representation of the true people (Carney, 2021, Muller, 2016). Nepal certainly is not there yet, the faith and allegiance towards democracy is very high despite many shortcomings. Situation, however, deteriorates when democracy fails to deliver.

Perils of transition

Nepal's prolonged political transition has generated multiple problems for the state and the society. Those problems were reflected in more than one way in Nepal's democratization process. The foremost, among them, is the politicization of the entire democracy-building process. While politicization can be both: democratic and anti-democratic action (Wiesner, 2021). It is mostly connected to anti-democratic actions. One of the perils such action can have, is the creation of, what Douglas North (1990) calls the limited access order. That order can be witnessed not only at the layers of the state institutions but also in the other mechanisms such as governance and economy. The consequence of such an order may produce obstacles for the common people for their upward mobility and harness their entrepreneurial skills as the order keeps them outside of the ring. Moreover, it may also hijack entire transition process and can be counterproductive for democratic consolidation.

The extended transition, for its part, can also invite too many cooks – fishing in a troubled waters – who would provide their own recipes to fix up political, societal, and economic problems. Yet their recipes often fail to capture the very

essence of society. In contrast, it only creates huge gaps between the demand and supply side. In that context what is being supplied by those fly-by night experts is neither working out properly nor it is being accepted by the people. Likewise what people, at large, want is considered unsuitable for democracy often termed as traditionalists and conservative often referred as tyranny meted out by the meritocrats (Sandel, 2020, Easterly, 2014). Inability to prioritize right issues in the right times is another peril that transition often invites. One recent example in that regard is that while the whole world was preparing to contain the impact of Covid-19, the political leaders in Kathmandu were fighting²⁰ among themselves during the summer of 2020/21. The worrisome engagement of Nepalese political leaders with power politics, for all the practical reasons, has been reducing the scope of thinking in an innovative way to explore new opportunities available in the global market brought about by the new political economy which is centered around technology per se factors. While technological revolutions including digitization can have immense potential to generate new type of economy, they also will have profound implications on politics, economy, and society (Susskind, 2018) for which we are not really catching up with required pace.²¹ Innovations in the field of technology would certainly create opportunities for a large number of young people in the future. It will also dilute their frustration towards politics and become the real stakeholder in the democratization process. Until now, the large numbers are either non-political or politics for them is a dirty game as it does not necessarily provide grounds for their livelihood and majority of them are forced to leave the country to work in the Gulf-countries and other destinations. It appears that, for them, tragedy and destiny remain the same, since the story of *Muna-Madan* was conceived. What has changed, is the destination from Bhot to the Gulf-countries and there are not only Madan but also Munas, too, from various parts of the country. Deciphering the agonies of Lahure – the migrants – sizeable numbers of book (fictions and non-fictions) have been published in recent times. They include protagonists from various parts of the country.

²⁰ Nepal faces fresh political crisis on top of a deepening coronavirus crisis, see at <https://tkpo.st/3eDghsr>
<https://kathmandupost.com/politics/2021/05/12/nepal-faces-fresh-political-crisis-on-top-of-a-deepening-coronavirus-crisis>.

²¹ Cf. Rajib Timalisina and Roshan Pokharel in this volume.

Another factor that might have consequences if the transition remains unfinished is the rise of identity politics which is already dominating every discourse in society. The sharp differences between the cultural identity of the nation and political identity of the state (Yadav, 2021) will have consequences for the democratization process as both are not really moving into the right direction. And there are little endeavours to resolve them precisely for the reason that they can also be used for the political gains. In fact, we all live in a time when individual and group identities are becoming more pronounced compared to other identities and political leaders and parties might be tempted to prey on these dynamics for their political gain. In Nepal, identity politics is getting rooted in every layer of society and as Voltaire once said: "... whoever can make you believe absurdities can make you commit atrocities". If factors related to identity politics such as gender, caste, class, ethnicity, religion, and regions are not resolved, they might turn into major fault lines. Against this background, it might be necessary to revisit the discourse and efforts on nation building process. The extant debate on nation building, for its part, is largely dominated by the ethnicity building discourse (Gellner and others, 1999) which certainly is not helpful to enhance unity in diversity.²² The future of Nepal's transition towards democracy would, therefore, depend on how a balance is reached out between country's diversity and pluralism, liberalism and nationalism, and how people address or anchor their identities, that is, whether demos prevail over ethnos or vice versa – or how the conflict between the state and nations are mediated.

Similarly, the prolong transition can also have severe impact on the capacity of the state institutions. When the state institutions are weak, there are chances that either the strong leaders or the non-state actors would become more influential and try to influence the democratization process in more than one way (Bhatta, 2016) for their own benefits. To avoid this, both democracy building and institution building should go hand in hand. Otherwise, state institutions will be captured and personalized by the strong political leaders

²² The period 1960-1990 has been described by some political parties and scholars as a period of 'nation building'. Yet, there are no agreement whether it was truly a nation building period or not. But what was certainly true is that Nepal, as state, could consolidate and built the mechanism required for governance internally and externally in this period.

and non-state actors. This, at least, will have two direct impacts on the entire political process. First, they will try to define terms and conditions as per their comfort – which mostly happens in the post-conflict societies like Nepal and, second, state institutions will be exploited for personal gains and lose their legitimacy. This will also increase the power of non-state actors, including networks and interest groups, to interfere in various affairs of the state without any accountability. With regard to the role of political leaders, there is always a tendency to look for heroic images on them. Not necessarily transformational qualities. In the post-colonial and post-conflict societies, this is a common phenomenon, where individual leader(s) have struggled for democracy. Yet the heroic image should not become larger than life as it often subverts state institutions (Levistky and Ziblatt, 2018), which only gives rise to what is called the captive state phenomenon.²³ One can observe such phenomenon in the Supreme Court of Nepal in the latter half of 2021.²⁴ The judicial activism – largely politically motivated – was even to destabilise the Supreme Court where real issues were sidelined, and imaginary ones featured prominently. During the last thirty plus years, imaginary issues and conspiracy theories became more prominent and deeply inculcated into the minds of people than the real ones. This somewhat is akin to what happened to Charlie Chaplin, in a look-a-like Charlie Chaplin show, when real Charlie Chaplin lost the competition with the unreal one. And non-democratic activities have been portrayed as democratic ones into the minds of people. Over the period of time, in the words of Palshikar (2020) not only judiciary but other state institutions have become sermonising priests at best and ideological partners of executive at worst which certainly will create trust deficit between the state and the society at large (Migdal, 1988 and Fukuyama, 1996). Moreover, the future of democracy or political change would, then, depend, largely on the mercy of those leaders. The search for heroic image can only make the history of democracy as the history of ‘political leaders’ which would only undermine contribution made by the common people.

²³ The concept ‘Captive State’ has been drawn from 2019 American Science Fiction film directed by Rupert Wyatt and co-written by Wyatt and Erica Beene. The idea here, however, is slightly different than the one projected in the film. Here its about state and its institutions and the syndicate system that has been developing around it in many ways to control the state largesse.

²⁴ Cf. Amit Gautam and Jeevan Baniya in this volume.

In search of political Chanakya

From the above discussion, what can be argued is that Nepal's democratization process is facing a sort of polycrisis²⁵ – the confluence of multiple and mutually reinforcing factors which have significant potential to induce conflicts. There is already conflict between the past and the present, new and the old social contracts, between the state and society, leaders and the people (*Janata*), and tradition and modernity. To elaborate further, while the old social contract based on the traditional order has been largely dismantled, the new social contract based on modern democratic norms and values are not rooted yet. Similarly, the socialism-oriented economy enshrined in the constitution is, if at all, only moving forward slowly. Until now, it largely exists in the form of political or bureaucratic socialism precisely for the reason that access to the state resources are available unevenly. As of now, it is more for those who have supposedly played an important role in steering the political movements – the heroes – and of course for the state bureaucrats – the *rastra sewaks* - while others find themselves in a situation that may be referred as the 'tragedy of the commons' (Hardin, 1968). Considering these factors, Nepal might be rather in need of a new Chanakya – a skilled strategist born around 375 BCE – rather than a Machiavelli, who was fascinated by *fortuna* and *virtu* and the expansion of hard power – who can restore both *Rastra dharma* and *Raj dharma*. These two were the principles enunciated by Chanakya, who laid the foundation of the Mauryan empire in this part of the world. This can only happen when we have *Punya Netas* (morally pure leaders), *Punya Adhikaris* (morally pure officers) and *Punya Aatmas* (morally pure people). We certainly cannot have Plato's ideal leaders and Ram's ideal state(s) (*Ram Rajya*) but what Nepal needed is transformative leaders – the *Rajanetas* – not necessarily transactional ones, and the functional state institutions. These qualities of leaders and institutions can certainly be helpful to transform the politics for the better. Likewise, too much of obsession with power politics may result not only in system collapse but also in the state collapse. The classic example, yet again, is the Mauryan Empire which collapsed

²⁵ This term was coined by European Commission President Jean-Claude Juncker (2016) to refer to the confluence of multiple, mutually reinforcing challenges the EU faced, from 'the worst economic, financial and social crisis since World War II' through 'the security threats in our neighborhood and at home, to the refugee crisis, and to the UK referendum', that 'feed each other, creating a sense of doubt and uncertainty in the minds of our people (see at <https://www.tandfonline.com/doi/full/10.1080/13501763.2019.1619803>).

in the absence of those qualities, as well as conflicts between what may be called as '*rastraniti*' and '*rajaniti*'.

Even so, and most importantly for democratic consolidation, democracy needs democrats – the maxim of Friedrich Ebert – the first democratically elected President of Germany and namesake of FES. It is as relevant in today's context as when he enunciated it. Democracy is taking an alarming course in several 'consolidated democracies' in Europe and North America, where support for it has decreased (Foa and Mounk, 2016). Various studies have shown that people are becoming cynical of democracy as a political system and are not hopeful that it can bring about positive change into their lives. Considering these factors, perhaps, there is a need that democracies will have to invent new strategies to avoid "democratic ways of subverting democracy" (Palshikar, 2022) or through electoral process as has been mentioned earlier as well. Among other factors, protecting them also requires a continuous process of 'learning, unlearning and relearning' of the democratic rules of the game (Runciman, 2018; Applebaum, 2020; own emphasis).

As 19th century French philosopher Joseph de Maistre said, "every nation gets the government it deserves". Nepal deserves more, not less, despite all those anomalies discussed earlier. For that writing constitution(s) and frequent regime changes alone would not be insufficient.²⁶ Neither should one take it for granted that democracy will be rooted automatically at a time during which we have witnessed an 'open all-out conflict' between the political parties and their leaders in the periphery of power politics. What is needed, thus, is a sustained pedagogy of learning to enrich the socio-political debate not only at the common people's level but also at the level of party leaders and their followers rather than continuously mobilising people for the movement – sometime to protect democracy at other times to protect the constitution.²⁷ Such learning alone can help democracy take root and democratize it based on constitutionalism and remove the dominant imaginary division of Nepali society into political left, right, centre or sub-national identities. For this we may have to look inside rather than outside for solutions. Likewise, such learning could also strengthen

²⁶ Cf. Kashi Raj Dahal in this volume.

²⁷ This point has been raised in almost all the civic education seminars organized over the years.

civic nationalism by converging multiple identities into the collective identity of the state (Sen, 2007).

Nepal's political history informs about sufficient extension of political, social, and economic rights. Implementation of these rights has become problematic due to unavailability of sufficient largely economic resources in the country. Yet whatever resources are available, large chunk of them are in the hands of few – the inequality curve is widening. In spite of these, Nepal is better positioned compared to many other South Asian countries with regard to successful consolidation of democracy. The culture of accommodation of different ideas and opinions appear very much receptive and encouraging. What is certainly missing, however, is strong and autonomous state institutions that could alone strike the right balance between various dimension of state and society (Fukuyama, 2011). Likewise striking a fine balance between labour and capital (Bhatta, 2011) is also important not only to enhance just capital formation process but also to create economic opportunities for all. These factors are necessary to allow people to be part of the system which strengthens their allegiance with the state.²⁸ Nepal's successful democratization, therefore, is contingent upon how internal political governance is conducted, external relations are maintained, economy is restructured, and fault lines are addressed to ensure justice for all. Nepal's democratization process, by and large, lies between, what scholar call, consolidation and crisis (Croissant and Martin, 2006). This is so because conditions required for consolidation – which operates at the multimodal level²⁹ – are there in place but the issue at stake is their rooting and sustainability as they are often being challenged by the political parties and their leaders motivated by the logic of power with high potential of inviting crisis and may end up with 'hybrid regimes or defective democracies' if they really succeed.

²⁸ Cf. Hari Bansh Jha in this volume.

²⁹ The multi model of democratic consolidation includes five layers – institutional consolidation, representative consolidation, behavioral consolidation, consolidation of civic culture and legitimacy stability. They operate at the elite level, mass level and are time bound. See Plausible Theory, Unexpected Results: The Rapid Democratic Consolidation in Central and Eastern Europe at https://library.fes.de/pdf-files/ipg/ipg-2008-2/03_a_merkel_gb.pdf.

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From the Peace Agreement to the New Constitution

Power-sharing in Nepal

Pitambar Bhandari

There has been a rise in the intrastate conflict after the end of the Cold War. Some of these intrastate conflict has led to state collapses, state failure, and even disintegration of the state. Some have witnessed multiple transitions and have not been able to manage internal societal and political dynamics and plunged into full blown internal conflict. And there have been some countries who have been able to successfully manage intrastate conflict through peace processes. One such case is of Nepal which fell to the Maoist armed conflict in the midst of a democratic boom and was successfully able to manage its peace process through a home-grown power sharing approach.

Power-sharing is an institutional means of ending conflict and is commonly inherent in peace agreements that provides critical assurances to conflict parties for remaining committed to the peace process. Often termed as an emerging 'doctrine' in the international practice of managing conflicts (Gurr, 2008), power-sharing arrangements include at least one of four dimensions – politics, economics, security, and territory (Hartzell and Hoddie, 2007). Political power-sharing can take the form of specific proportions in the executive, legislative or judiciary, or allocation of posts and positions in government. Economic power-sharing shares resources between groups to address inequalities that often lead to conflict. On the security front, power-sharing would involve factions to conflict sharing the armed forces by merger or integration. And territorial power-sharing involves delegating centralized power structures to peripheries. Countries may address one or more of these dimensions or integrate all of them into their peace agreements. Thus, the power-sharing approach, rather than merely focusing on the distribution of political power, puts a high premium on managing societal diversity as well as agendas of inclusion/exclusion into consideration which reduces the risk of reverting back to the conflict, especially in divided societies.

Power-sharing experiences in Nepal is not completely new. During the 1950s, after the end of Rana regime and introduction of democracy, there was a power-sharing between King Tribhuvan, Nepali Congress, and the Ranas. Again, in 1990 after the restoration of multiparty democracy, there were power-sharing arrangements between Nepali Congress and Communist Party of Nepal (CPN)-Unified Marxist Leninist (UML). Against this background, this paper focuses on the power-sharing arrangements that took place between the Seven Party Alliance (SPA) and CPN (Maoists) in the backdrop of armed conflict and the direct rule of King Gyanendra. To dive deeper into how power-sharing took its form in Nepal, the paper opens a brief background on the armed conflict. The second section describes how peace agreement between conflict parties were shaped following which are the major elements of peace process in Nepal. Then, it also looks into Nepal's transition from conflict to peace through four loci of conflict to peace transition and finally reflects on the power-sharing exercise.

Prelude to the peace agreement

Nepal witnessed a decade long armed conflict a few years after the restoration of democracy. The political stability people hoped for after the restoration of multiparty democracy in 1990 was short-lived. On 13 February 1996, CPN (Maoist) launched an armed struggle against the state with the aim of establishing a democratic system where the sovereign power is vested on the people. Prior to that, on 4 February the CPN (Maoist) had submitted a 40-point demand to the government to address a wide range of social, economic, and political agendas, and had warned of a militant struggle if their demands were not met. Initially regarded as a minor problem of law and order, the armed conflict became violent and brutal which resulted in thousands of casualties, disappearances, and damage to properties and infrastructures along with economic downturns. During the ten years, political instability engulfed the country with failed peace talks over the years with Maoists, the royal massacre, the declaration of national emergency, dissolution of parliament and the direct rule of King Gyanendra.

The year 2006 became a landmark year for the Nepalese political landscape. Under his direct rule, King Gyanendra had announced municipal elections on 8 February 2006 in the shadow of Maoist attacks and boycotts of political parties.

The Maoists had called for a bandh (general shutdown) from 5 to 11 February to disrupt the elections, and urban centres, such as Nepalgunj, Biratnagar and Pokhara, were subjected to unrelenting Maoist pressure in the form of attacks and bomb blasts. The average voter turnout was less than 20 per cent and was termed a “hollow attempt” to legitimize the king’s government.¹

The seven-party alliance (SPA)² formed in May 2005 against the direct rule of King Gyanendra to restore democracy in Nepal had met CPN (Maoists) in New Delhi on 22 November 2005 and concluded a 12-point understanding to “implement the concept of full democracy through a forward-looking restructuring of the state to resolve the problems related to class, caste, gender, region and all sectors including the political, economic, social and cultural, by bringing the autocratic monarchy to an end and establishing full democracy.”³ The agreement brought two parties – one seeking reinstatement of democracy and the other seeking transformation in existing governance structure – on the same ground. Again, in March 2006, the SPA and CPN (Maoists) issued their Memorandum of Understanding and appealed to all democratic forces, civil societies, marginalized and oppressed people, the press and the public to actively take part in the peaceful movement to restore people’s sovereignty. The two agreements brought the SPA and CPN (Maoists) together and shifted a state-centric conflict to a regime-centric conflict against the monarch. It also paved way for *Jana Andolan II* (People’s Movement II) which commenced on 6 April as a four day nationwide general strike but eventually got extended as the movement intensified with thousands of people on the street. On 21 April, the king offered to return all the executive powers to the people and requested the SPA to recommend the name of the prime minister who would run the government. The SPA refused the offer and presented their three core demands the next day: reinstatement of the dissolved parliament, formation of an all-party government and elections to a constituent assembly

¹ The United States released a press statement on 8 February 2006 and condemned the municipal elections as a hollow attempt to legitimize the king’s power. It further added that there was a clear lack of public support for these elections. See more at <https://2001-2009.state.gov/r/pa/prs/ps/2006/60805.htm>.

² The seven-party alliance included Nepali Congress, Nepali Congress (Democratic), Communist Party of Nepal (CPN) – Unified Marxist-Leninist (UML), Nepal Workers and Peasants Party, Nepal Sadwawana Party (Anandi Devi), United Left Front and People’s Front.

³ For detailed content of the agreement, refer https://constitutionnet.org/sites/default/files/2005-11-22_12_pointagreement_between_maoist_and_seven_party_2.pdf.

that would draft a new constitution. Finally, after 19 days on 24 April, the King abdicated reinstating the dissolved House of Representatives and called upon the SPA to unify the nation.

Shaping peace agreement in Nepal

Following the royal proclamation of stepping down by King Gyanendra, the SPA withdrew its nationwide indefinite general strike and chose Nepali Congress president Girija Prasad Koirala to head the all-party government. On 28 April, the first sitting of the reinstated House of Representative took place and registered a proposal to hold a constituent assembly election. The second sitting on 30 April unanimously passed the proposal. On 3 May, the government revoked the 8 February 2006 municipal elections and invited Maoists for talks. Reciprocating to the invite, the Maoist chairman Pushpa Kamal Dahal alias Prachanda forwarded a draft code of conduct to be adhered to by both sides during the period of talks. On 26 May, representatives of the government and the Maoists met at Gokarna, outskirts of Kathmandu and held the first round of peace talks. The 25-point Cease-fire Code of Conduct was announced that paved the way for elections to the Constituent Assembly. The Maoist reiterated the demand for immediate dissolution of the House of Representatives, formation of an Interim Government and replacement of the existing constitution by an interim one. The Maoists wanted to be included in the interim government, but the government was adamant on disarming them before that. On 9 August, the government and Maoists reached a five-point agreement to seek the assistance of the United Nations in the entire peace process and create a free and fair atmosphere for constituent assembly elections. After many talks and high-level discussions, the SPA government and the CPN (Maoists) on 7 November midnight reached an agreement to end the decade long conflict and restore lasting peace. Finally, on 21 November, Prime Minister Girija Prasad Koirala and Maoist Chairman Prachanda signed the Comprehensive Peace Accord (CPA) 2006 which ended the armed conflict and promised a 'peaceful, democratic and new Nepal'.

The CPA pledged for political, economic, social transformation and conflict management of Nepalese society and to ensure a political system that 'fully

abides by the universally accepted principles of fundamental human rights, multiparty competitive democratic system, sovereignty and supremacy of the people, constitutional balance and control, rule of law, social justice, equality, independent judiciary, periodic elections, monitoring by civil society, complete press freedom, people's right to information, transparency and accountability in the activities of political parties, people's participation, impartial, competent and clean bureaucracy' (CPA, 2006). It envisioned an inclusive, democratic, and progressive restructuring of the state by ending the centralized and unitary forms of the state.

Besides, the CPA introduced formal power-sharing measures in Nepal and established an interim coalition government designed to allow the political parties and the Maoists to work together until the constituent assembly elections could be held. The CPA did not allocate specific positions to various parties but mandated that all decisions in the interim government should be taken by universal consensus (Falch and Miklian, 2008). As a result, an Interim Constitution of Nepal 2007 was endorsed which placed the sovereignty of Nepal on its people and declared Nepal as a federal democratic republican state. It provided a 330-member interim parliament and the CPN (Maoists) were allocated seats on an arbitrary basis as a part of the power-sharing arrangement.

Major elements of Nepal's peace process

The peace process in Nepal has been mostly understood as a home-grown and domestically led process. Falch and Miklian (2008) assert that though Nepal benefited from assistance and support from international actors throughout the peace processes, the structure of both the Comprehensive Peace Accord and the peace process were outcomes of Nepalese actors, and their initiatives and previous experiences provided additional legitimacy to the process. Four elements were crucial in the implementation of peace agreement and peace process in Nepal: political management and drafting of the new constitution, management of arms, ammunition, and former combatants, addressing grievances of conflict victims and reforming institutions of state for social, economic, and cultural transformation of Nepalese society (Bhandari, 2016).

Political management and drafting of the new constitution

A new constitution that would uphold the values of an inclusive, democratic and progressive state was central to the peace agreement signed between Maoists and the government. Therefore, constitution making was an integral part of the peace process. As a result, Constituent Assembly (CA) elections were held on 28 May 2008 to form unicameral body of 601 members tasked with writing a new constitution and acting as an interim legislature for two years. The first CA got dissolved on 28 May 2012 without finalizing the constitution because of lack of consensus on crucial issues among the major political parties. The country then went for CA election the second time on 19 November 2013. Differences between the parties continued the delay in the constitution drafting process and the second CA failed to meet its deadline on 22 January 2015. Later, a massive earthquake hit Nepal on 25 April and 12 May where thousands of people lost their lives, got injured and had damages to public and private infrastructures. In the aftermath of the earthquake, constitution making process got blurred in the background. It got an acceleration later on 30 June when the CA tabled preliminary draft constitution. When the draft of the constitution was tabled, political parties based in the Terai region walked out of the constitution-making process and largely objected the new federal boundaries. This led to Madhesh Movement III.⁴ Despite the protests, the constitution was promulgated on 20 September 2015. The constitution making process was a long run towards ensuring political stability in Nepal. However, what stood out throughout the process was the commitment of all parties to work towards creating a secular federal democratic republic and stabilizing democracy in Nepal.

Management of arms, ammunitions, and former combatants

The integration and management of former combatant has been an important element of any peace process and Nepal was no exception. An Agreement on Monitoring of the Management of Arms and Armies (AMMAA) 2006 was signed between the Maoist and the government in the witness of Personal Representative of the Secretary-General, United Nations. The agreement underlined four phases

⁴ C.f. Hari Bansh Jha in this volume.

of integration: reporting and verification, redeployment and concentration of forces, Maoist army cantonment, Nepal Army barracking and arms control, and full compliance with the agreement and conceptualized processes involved in each phase.⁵ Nepal sought assistance from the United Nations which then deputed the United Nations Mission in Nepal to monitor the management of arms and armed personnel of both sides in line with the provisions of the CPA and provide technical support for planning, preparation and conduct of the election of Constituent Assembly in a free and fair atmosphere (United Nations Security Council, 2007).

After protracted discussions on the process of reintegrating former combatants, three separate packages were developed – integration into the Nepal Army, cash aided voluntary retirement, and rehabilitation through acquiring alternative skills. Integration of all former combatants into Nepal Army was not possible owing to its political and financial implications and therefore a ceiling of 6, 500 was introduced (Bhandari, 2015). The second option of voluntary retirement was widely preferred by former combatants (see table 1) as it provided financial packages depending on their former ranks. The distribution of cash to former combatants was part of providing a safety net under the ‘golden handshake’ scheme. It had its own operational issues, but it was also important for them to restart their life with their families meaningfully. Only six former combatants chose rehabilitation package which included providing education, training, and skill development opportunities.

Table 1: Number of former combatants integrated into various categories

S. N.	Category	Total	Female	Male
1	Verification by secretariat	17,052	3,350	13,702
2	Integration (into Nepali Army)	1,422	104	1,318
3	Voluntary retirement	15,624	3,246	12,378
4	Rehabilitation	6	0	6

Source: Bhandari (2015).

⁵ For more information on the content of the agreement, refer https://peacemaker.un.org/sites/peacemaker.un.org/files/NP_061108_Agreement%20on%20the%20Monitoring%20of%20Arms%20and%20Armies.pdf.

Reintegration of former combatants is always a very tedious task in any peace process. Bhandari (2012) calls Nepal's approach to the reintegration as unique and unorthodox. When the process was ongoing, there were fears about the inadequacy of the reintegration strategy. However, now it can be reflected as an efficient and successful approach that can offer useful insights into complexities involving reintegration of former combatants.

Reforming institutions of state for political, social, economic, and cultural transformation

Another important element of the peace process is concentrated on how a country reforms its state institutions and systems for better social, economic, and cultural transformation. For Nepal, one of the most evident reforms was to restructuring state into federalism. It took several years for political parties to agree on a federal structure, whether to base it on ethnicity, geography, region or a mix of it. Finally, the seven provinces were formed by grouping existing districts and was included in the Constitution of Nepal 2015. Besides the federal structure, there have been three major issues in regard to federalism. One is the obvious naming process and the question of province headquarters. There are still some provinces that are yet to decide on their name and headquarter. The second is the power sharing model between the three tiers of government. Although the constitution enlists power and functions of each tier of government in its schedule, there are some coinciding areas where further operationalization is required. And finally, the administrative and operational issue that includes restructuring of bureaucracy, fiscal policies and behavioral aspects of implementation.

Formal political institutions were also created to support the peace process and political transformation. The Ministry of Peace and Reconstruction (MoPR) was established in April 2007 and had been a key actor in implementation of CPA. It also oversaw the reconstruction of physical infrastructure damaged during the conflict. The Ministry was supplemented with several other structures like the Local Peace Committees (LPCs), the Nepal Peace Trust Fund (NPTF), the Nepal Transition to Peace (NTP), and the Centre for Constitutional Dialogue (CCD).

On the social front, with the promulgation of Constitution of Nepal 2015, provisions of affirmative action to ensure social justice for marginalized and vulnerable groups have been introduced. The principles of substantive equality have been internalized in most of the state institutions.

The economic transformation of the Nepalese society during the peace process was more concerned with reconstruction of infrastructures like bridges, telecommunications, airports, police posts, government officers etc. damaged and demolished during the armed conflict. Moreover, it included economic and humanitarian relief as well as livelihood recovery for conflict victims' families and internally displaced people. The long-term transformation process would include creating employment opportunities, building new infrastructures, prioritizing industries and agriculture sector, supporting entrepreneurship and attracting investments. While these long-term strategies have been well documented in plans and policies, the implementation part seems to be turtle-paced. One of the reasons for slow socio-economic transformation of the Nepalese society is the marginalization of economic agenda in the transitional politics and unclear articulation of visions of economic transformation (Subedi, 2012).

Addressing grievances of conflict victims

The most important and the most sensitive element of the peace process is to address the grievances of conflict victims. In order to address the grievances of conflict victims, Nepal set up two commissions: Truth and Reconciliation Commission (TRC) and Commission of Investigation on Enforced Disappeared Persons (CIEDP). Both the commissions were established to investigate the facts about gross violations of human rights and crimes against humanity during the armed conflict, and to create an environment of reconciliation in the society. These commissions were already late in formation. Since its operation, the commissions have made little progress. One reason is mainly limited resources to deal with extremely high number of complaints and the other is unclear procedural rules for operation and administration (Jeffrey, 2019).

Summing up conflict-to-peace transition in Nepal: Four major loci

Nepal's peace process has been internally led, managed, and implemented with assistance from United Nation and other international organizations on various fronts. Its transition from conflict to peace involves commitment to deepening democratic norms and values in the society. From monarchy to republicanism, from unitary to federal governance, from hegemonic to being inclusive, the country has come a long way. The path from conflict to peace has not been linear for Nepal, for it has gone through multi-faceted challenges and obstacles in various points of time. It has not completely transitioned to peace, but its transformation process has focused on creating socio-economic foundation, improving and maintaining security, building and strengthening institutional and political framework and promoting equitable and just societies. In its commitment to these elements, one can see four major loci defining the transition process – rule of law and transitional justice, decentralization of power, role of civil societies and role of international communities.

Rule of law and transitional justice

Maintenance of rule of law is important not only to uphold the spirit of the peace process but also to maintain the society's democratic credentials. This is one mechanism that can help people to realize democracy and continue its effort towards peace. Therefore, adherence to the rule of law can create conditions where people can feel positive change in the system. Equally important is to delve into cases related to transitional justice, which Nepal has not been able to advance. Although TRC and CIEDP have been established to conduce transitional justice, one and half decades down the road, conflict victims are yet to get justice. Perhaps this could be the why there have been doubts on legitimacy of these commissions. Conflicting parties in the name of 'culture of cooperation' to keep the peace-process intact' have also opted for 'mutual agreements' that have no legal standing. This leads to a fear that a culture of impunity could persist.

Decentralization of power

As has been said earlier, power sharing is an important aspect of the peace process primarily because decentralization of political power and economic resources is vital to accommodate diverse actors/views. One of the main factors that led to the Maoist armed conflict in the first place was the centralization of both political and economic power. While sharing political power at the central level provides space to draft new laws through collective approach, power sharing at the local level enhances conciliation. Moreover, distribution of power at the top political level may end violence and build trust and respect for each other, at the lower level, it generates feelings of belongingness and rallies people to collective causes. Both approaches were widely practiced during Nepal's peace-process and federalization of polity and government formation. By guaranteeing a 'seat at the table' to address structural root causes of conflict, one provides ownership to the process, which in turn will contribute to sustainable peace and consolidation of democracy.

Role of civil society

Civil society plays an important role in political transitions. Because of conflict, state organs either become weak or they lose trust of conflicting parties. In either case, the civil society can become a bridge to connect to opposing parties to come to consensus. It contributes to transitioning from conflict to peace through advocacy, facilitation in conflict resolution processes, safeguarding human rights and implementing campaigns to establish culture of peace. In Nepal, the civil society played a significant role until the signing of the CPA but after that one could see sharp divisions in the civil society organizations that were divided along partisan lines. The polarization and shifting of constituencies on the part of civil society makes it hard to distinguish between civil society and political organizations. The 'cross-holding' of portfolios makes it difficult to ascertain who is standing for whom (Bhatta, 2012). Therefore, the mere existence of civil societies does not guarantee smooth transition from conflict to peace. It requires civil societies to have clarity in their intended impacts and address institutional and structural constraints in stabilizing democracy as a part of vertical accountability.

Role of international community

Role of the international community is important primarily because they bring knowledge and expertise to conflict-resolution. Moreover, international communities can play constructive roles in mediating space for negotiations, and to build safety nets – for fiscal and economic growth, security, human and social capacity and political stability – to protect nascent political settlements from shocks and enable them to move forward (Salmon, 2020). Most of the times, international actors and partners are certainly helpful but sometimes such assistances might also be counterproductive not only in the long run but also in the short term as they try to bring the idea of ‘standard civilisation’ process (Sripati, 2020). Therefore, it is important for the state to call upon international communities to cooperate and become agents of complementarity in the process of consolidation and stabilization by providing resources, among other things, in accordance with the priorities defined by the local realities.

Power-sharing in Nepal and the quest of political stability

The collaboration of democracy and peace is only possible when the distribution of power invites stability and avoids isolation or concentration of power. The cornerstone of Nepal’s transition from conflict to peace has been the power-sharing arrangements envisioned in the CPA. The institutionalization of power-sharing arrangements had two distinct phases. The first was the formal arrangements during the 18 months (21 November 2006 - 10 April 2008) running down from peace agreement to the first CA elections. The second phase was more of an informal power-sharing arrangements between parties for securing their political positions while working towards institutionalizing democracy. Falch and Miklian (2008) lists out the defining features of Nepal’s power-sharing arrangements – a positive-sum nature of negotiations, the flexibility of the mechanism and the strong national ownership of the process.

Nepal’s power-sharing arrangement has incorporated all four dimensions pointed out by Hatzell and Hoddie (2007). On the political side of power-sharing, SPA and CPN Maoist both were able to gain political power. SPA received it right after king’s address to reinstate the House of Representative. The CPN Maoists

were allocated seats in the interim parliament. The power-sharing on the security dimension involved the reintegration process of former combatants which was successfully implemented. On the territorial front, both parties agreed for decentralization of power from the capital to provincial and local levels. While the economic power-sharing might not seem to have direct manifestations, parties to conflict had access to resources that had previously led to conflict.

But were the power-sharing arrangements successful? The Kroc Institute for International Peace revealed that 75 percent provisions mentioned in the Comprehensive Peace Agreement have been implemented in Nepal (Lederach, 2016). Though the transition from conflict to peace in Nepal has been a bumpy ride, and is still an ongoing process, one can say that power-sharing served its purpose for several reasons. Firstly, the inherent goal of power-sharing between the SPA and CPN (Maoist) was to promulgate people's constitution where the sovereignty of Nepal is vested on its citizens. The second objective was to create pathways for political stability which also got materialized through local, provincial and federal elections in 2017. Secondly, the power-sharing arrangement was supposed to convert high levels of mutual distrust into cooperation. It seemed difficult at the outset to imagine cooperation between SPA and Maoists. However, when power-sharing measures were implemented, both SPA and Maoist had something to gain from it. Perhaps the fact that they both were dividing the pie that neither of them had before helped both parties to create a conducive environment for political accommodation and access to new political structure. Finally, the end goal of power-sharing was to encourage unity during a fragile and hostile period which could be witnessed in Nepal's journey from conflict to peace.

Conclusion

Nepal's peace process has largely been built on power-sharing arrangements. As shown by the political events since 2006, power-sharing requires honest efforts of parties involved in the process and demands commitment towards the larger goal. Under challenging conditions, fragile and weak systems, one of the best ways to sustain democracy and uphold democratic practices is to promote power-sharing that provides stakes to otherwise divided and opposing interests.

Nepal's power-sharing arrangements can be an example of how conflicting parties could come together to find their common grounds. Besides, it also paved way for enhancing access of marginalized and vulnerable communities to get a seat at the table and have their say on social, political and economic issues.

The experiences of Nepal show that power-sharing facilitates in stabilizing the political realm of the country, especially in the aftermath of violent conflict and armed struggle. However, continuous power-sharing could also lead to political stagnation and lack of political will to go beyond power politics. Therefore, for thriving democracy in the long run, Nepal should see to strike a balance between power-sharing and healthy competitive party politics, and between rights and duties and constitutional commitments.

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An Overview of the Constitutional Development in Nepal

Kashi Raj Dahal

Modern states are constitutional ones as they define rules of governance based on constitutionalism. For many of them, the constitution also defines the relationship between the state and citizens vis-à-vis governance. Today, most of the countries have a politico-legal document that also encapsulates part of the customary law. Yet, the nature of the constitution differs depending upon the political system(s) and ideology. It is these two factors that build broader norms of governance. Before discussing the historical development of the constitutional process in Nepal, it may be appropriate to reflect on the system of governance that government(s) over the years have adopted.

Various types of government systems have been in practice since the start of human civilization. Some were formal, while others were informal and handed down as customs (*riti thithi and chalan*) in our context. There are cases in which rulers are at the top. Yet, others put people above in the sense that sovereignty rested with them. Under these circumstances, the decision-making process cannot be the same. In the ruler-centric system, it's the rulers' desire to frame the constitution and they make such rules suitable to their own interests. Conversely, in the people-centric system, people are regarded as the source of power where the government runs on the principle of what Rawls calls the 'law of the people'. Yet, what matters in today's world is the absolute freedom that people look for. Thinkers from Aristotle to John Locke, and Immanuel Kant to Montesquieu to Friedrich Hayek, all lay emphasis on the freedom and rights of citizens, as well as their economic progress and prosperity. For them, these all should happen as per the rule of law and, should be distributed and dispensed equally. Influenced by these political philosophers, most modern states in some form have followed the principles of democratic constitutionalism that upholds the rule of law and human rights. But there are states that are still governed under a ruler-centric system.

Mostly, the systems of governance are crafted on certain philosophies that may have been reached out between political actors on the basis of political compromise, which by and large determines the kind of constitution a country evolves. With regard to the ideology, there are countries that adopt the principles of liberal democratic constitutionalism, which also entails social democracy or democratic socialism, which are often used interchangeably. Likewise, we can also see communism with their own variants of socialism. Taken together, these political orientations play an important role in developing political and governance mechanisms. In addition to the ideologies, there are republicans, absolute monarchies, constitutional monarchies, crowned republics etc. They, too, have an important role in defining the constitution's ingredients. In some countries like the UK there are no written constitutions while in others, both the informal constitution of the society and the formal constitution of the state are in operation. But in the case of countries like Nepal balance is required between informal constitution of the society and formal constitution of the state.

Historical background

If we look at the legal history of Nepal, an important milestone is 1853, when *Muluki Ain* – the first codified law – came into effect. Parts of this law are still operational. Yet *Muluki Ain* cannot be equated with a constitution in the modern sense of the term. Nepal's journey toward constitution only began in 1947 when Rana Prime Minister Padma Shumsher formed the Constitution Reform Committee (CRC), for which he also invited an Indian constitutional expert to help draft what would, then, become Nepal's first constitution. This new constitution, known as Government of Nepal Act 1948, provided for a parliamentary system with a strong Prime Minister. The constitution, nevertheless, was not fully brought into operation primarily because Nepal was undergoing a political upheaval, building the ground for a revolution against the Rana regime. The revolution of 1951 led to the end of the Rana autocracy and, through King Tribhuvan's Royal proclamation, democracy was established on 18 February 1951. After the regime change, King Tribhuvan on 11 April 1951 declared an interim constitution in the form of Interim Government Nepal Act 1951. This constitution recognised the king as the head of the State who could act in consultation with his Council of Ministers. The constitution assimilated some

modern democratic principles such as multi-party democracy, citizen's rights, independent judiciary, and other fundamental aspects of democracy, paving the way for an open political system in Nepal. But soon, there were internal conflicts within the ruling party. Following this, the constitutional rights as well as the rights of the Supreme Court (*Pradhan Nyayalaya*) were curtailed through a royal proclamation in 1953, as all state powers were again vested in the king.

In the course of political wrangling between the ruling party (Nepali Congress) and the king, election of the Constituent Assembly could not be held on time, which King Tribhuvan had reportedly promised while declaring the constitution. In 1951, the issue of the Constituent Assembly was dropped without any political consensus. Due to internal political instability, there was little focus on the constitutional issues - this was also a kind of transition period, although Nepal went for the first ever general election during that period. Later, King Mahendra on 12 February 1959 proclaimed yet another constitution drafted by the Constitution Commission. This constitution provisioned for constitutional monarchy under the Westminster model and internalised the spirit of a democratic system. But the king reserved the power of declaring a state of emergency. Exploiting this, King Mahendra in 1960 dissolved the first elected government of Nepali Congress, imposed a ban on political parties and suspended important clauses of the constitution. Nepal Special Governance Act (1960) was declared after this royal coup, vesting all powers on the king. After two years of assuming absolute power, King Mahendra on 16 December 1962 announced the Panchayat system under a new constitution. This constitution, too, vested all legislative, judicial, and executive powers in the king and legitimated his direct rule. It imposed a permanent ban on political parties by adopting a partyless Panchayat system. The legislature (National Panchayat) was relegated to an advisory body as the king nominated the majority of its members. Yet, this constitution had to be amended three times, either to consolidate the executive power or to silence the voice of the political parties. Nonetheless, the student movements of 1979/80 forced the King to call for a referendum to decide the fate of the Panchayat democracy. Somehow the Panchayat democracy survived the referendum and introduced reforms in the sense that some members of the National Panchayat were now to be elected on the basis of adult franchise. The king's direct rule only came to an end after the 1990 *Jana Andolan* (People's Movement).

The political movement for democracy in 1990 ended the Panchayat regime and reintroduced the multiparty system. A new constitution was then drafted, whose salient feature was vesting of state sovereignty on people for the first time in Nepal's political history. It also had some important provisions to enhance democracy such as the guarantee of fundamental human rights, constitutional monarchy, multiparty system, parliamentary democracy, independent and competent judicial system, rule of law, and adult franchise. These features were also common to the British parliamentary democracy. However, all was not well. A sizable section of the left political parties, including *Samyukta Janamorcha* (United People's Front), were unhappy even if they did participate in the electoral process held under this constitution. The ruling parties, for their part, also could not translate the constitutional spirit into action. The constitution was used and abused more than once and frequent changes of the government frustrated and alienated the public at large. In addition, the ceaseless wrangling between the political parties left an ugly image of democracy. Likewise, the adoption of the 'neoliberal' economic policies served to benefit only a few elite. Taken together, all these significantly damaged the image of democracy. The Maoists, who already had certain reservations towards parliamentary democracy, used the moment to raise arms against the political system in 1996, radically changing the direction of the political course of the country.

Another turning point in Nepal's political journey was the royal massacre on 1 June 2001 in which King Birendra and his entire family members were assassinated. The country's political situation became more volatile. Gyanendra – brother of the late King – was crowned the new monarch in line with the Royal Succession Act. The Royal massacre took place while the Maoist revolution was gaining momentum. Mass disillusionment rose to new heights after the king's constitutional coup in February 2005. Agitation then was centred on restoring the dissolved parliament and handing over power to the people.

Genesis of the republican constitution

On 25 November 2005, a 12-point agreement was signed in New Delhi between seven political parties—Nepali Congress, CPN-UML, Nepali Congress (Democratic), Unified People's Front, Nepal Sadbhawana Party (Anandi Devi),

Unified Left Front, Nepal Labor and Peasant Party—and the warring Maoists. This galvanized public support for a movement against the monarchy. The accord, in due course, laid the ground for abolishing absolute monarchy and restoring democracy. It charted out the course of democracy, peace, and prosperity and concluded that autocratic monarchy was the main obstacle to this mission. The seven agitating parties and the Maoists agreed to further intensify the movement against monarchy. They saw eye to eye on reinstatement of the dissolved parliament, election to Constituent Assembly, full restoration of democracy, and a political solution to the armed conflict. The 19-day political movement broadly known as *Jana Andolon II* changed Nepal's political course. The movement forced the king to revive the dissolved parliament, start the republican journey, and brought the Maoists into the political mainstream.

It was on 21 November 2006 that the government of Nepal and Nepal Communist Party (Maoist) signed the Comprehensive Peace Agreement (CPA). The draft of an interim constitution was prepared in line with the spirit of the CPA, whose main thrust was to end the conflict, integrate Maoist combatants into society and bring their leaders and cadres into the political mainstream. The interim constitution was written on the basis of consensus among political parties and promulgated by the reinstated House of Representatives on 15 January 2007. The House that the king had reinstated later dethroned him. With this, the earlier Constitution of Kingdom of Nepal 1990 was replaced. The Interim Constitution 2007 had provisions for progressive restructuring of the state in order to address existing ethnic, class, regional and gender imbalances. Among other things, it provided for election of a 601-member Constituent Assembly—240 members on first-past-the-post basis and 335 on proportional representation basis. The interim constitution was markedly different from the previous constitutions. This was a 'consensus document', it emphasized liberal inclusive democracy, secularism, expansion of fundamental rights, committed to a constitution derived by the Constituent Assembly, and agreed on a consensual political system. It also settled on a mixed electoral system. Later, the constitution had to be amended as many as 12 times to accommodate the emerging concerns of political and social groups. For example, the first amendment on 14 March 2007 followed a movement of Madheshis and Janajatis. It ensured the participation of Madheshis, Dalits,

Janajatis, women, labourers, peasants, persons with disability, and marginalized groups in state institutions on a proportional inclusive basis.

That amendment also provided for representation in the Constituent Assembly based on population, stipulating progressive state restructuring, and including the phrase 'federal government system.' The final call on the nature of state restructuring, however, was left to the Constituent Assembly. The fourth amendment in 2008 declared the country a federal democratic republic with inclusive democracy, progressive state restructuring, and local self-governance.

The first meeting of the CA held on 28 May 2008, officially abolished the monarchy. As the country embarked on a republican polity, the constitution made a provision for the Constituent Assembly, political consensus, election of the President and Vice President as Head of the State, and majority voting in the CA in case there was no consensus. There was something noticeably progressive about the first CA since it was inclusive and diverse, with 33 per cent representation of women, and significant members of indigenous communities elected. Though the interim constitution gave the CA two years to complete the constitution, the CA's terms repeatedly had to be extended because it failed on its mission, as it was unable to reach consensus on the key issues. This happened even though political parties had earlier resolved to settle contentious issues on the floor of the CA.

The interim constitution did incorporate a federal system, but there were no discussions on the number, nature, and boundaries of federal units. No party in the CA had a clear majority to resolve outstanding political questions. These unresolved issues were ultimately responsible for the first CA's dissolution. Other causes for its failure were the power-centric mind-set of political leaders, frequent government changes, and lack of clarity on the issues to be incorporated in the constitution.

The second CA elections were held on 19 November 2013, giving a thumping majority to Nepali Congress, as it bagged 196 seats, followed by UML with 175, the Maoist party with 80, followed by the Rastriya Prajatantra Party and various Madhesh-based outfits. Around 30 political parties, including two independent members, were represented in the second CA. Nepali Congress formed the

government under the leadership of Sushil Koirala after the CA resumed its work on 29 January 2014. The major political parties—Nepali Congress, United Marxist and Leninist (UML) and Maoist party—also committed to completing the constitution within a year. The second CA, it appeared, would not repeat the mistakes of the first CA most ethnic since regional issues had thawed.

As the work on constitution continued, a devastating earthquake struck the country in April-May 2015. This prompted Nepali Congress, UML, and the Maoist party to sign a 16-point agreement to resolve all contentious issues as they agreed on government formation, general elections, election of the President and Vice President, and restructuring of local levels. Though public feedback was sought on contentious issues like federalism, secularism, and constitutional court, political parties, by and large, sought to resolve the outstanding issues among themselves.

The Madhesh-based parties were opposed to the 16-point agreement from the beginning and walked out of the second CA. But Nepali Congress, UML and Maoist parties did not budge from their commitment and promulgated the constitution on 20 September 2015—even as the Madheshi parties were protesting against the national charter in the Tarai plains. To address the dissent of Madheshi and Janajati groups, the constitution was amended for the first time on 28 February 2016. Representation was guaranteed in state organs on the basis of proportional inclusion, and electoral constituencies were to be delimited based on ‘population, geographical proximity, and specialty’ instead of just ‘geography and population’. Accordingly, population was made the primary factor and geography the secondary basis in delineating electoral constituencies. The agitating Madheshi parties, however, continued their protests. Only after the three parties promised to address their concerns by amending the constitution the Madhesh-based parties took part in the 2017 general elections.

Promulgation and aftermath

The second Constituent Assembly realized the old Nepalese dream of constitution through an elected people’s body—a dream that had been deferred since 1950. The 2015 constitution ensured federalism, inclusive democracy, republicanism,

political and economic rights, social justice and the right to social security, socialism-oriented state, and secularism with the right to preserve and practice religions and faiths that have continued since time immemorial. The statute also provided for bicameral federal legislature (House of Representatives and National Assembly), unicameral provincial legislature, and village and municipal assemblies with the right to frame laws at the local level.

The constitution made one seat in parliament and three per cent vote threshold mandatory for representation of political parties in parliament to discourage frequent party splits and to encourage the formation of stable government. It prohibited registration of a 'no-confidence' vote against the government for at least two years from the time of its formation. Even if a vote of no-confidence was registered, the party doing so had to put forward the name of an alternative Prime Ministerial candidate. Even a strong Prime Minister had no right to dissolve the Parliament. Likewise, the constitution divided powers among federal, provincial, and local levels. Issues of national and international importance including foreign, security, and monetary policies were put under the jurisdiction of the federal government, while other powers were delegated to provinces and local governments. There were also concurrent powers for all three levels. Similarly, the constitution envisioned seven provinces and 753 local governments. Now there are functioning governments at all levels. In the local sphere, however, the executives can be chosen through direct election. After the constitution's promulgation, the Constituent Assembly automatically turned into a legislature parliament. During deliberations on the government system, there was an argument that a mixed electoral system could lead to instability and horse-trading. Governments, again, kept changing frequently even after the promulgation of the constitution and there were four governments before the election of the new parliament (from 2015-2018).¹ This may have been done to manage the transition, but people were frustrated. One drawback of the 1990 constitution was that it did not specify how many ministers could be appointed in the cabinet. Lack of constitutional clarity became an excuse for

¹ There were governments headed by Sushil Koirala, KP Oli (11 October 2015-03 August 2016), Pushpa Kamal Dahal (4 August 2016-7 June 2017), and Sher Bahadur Deuba (7 June 2017-15 February 2018).

political parties to form 'jumbo cabinets' in the name of managing a coalition or power-sharing. Realising this, a high-level administrative reform committee (2013) recommended that the Council of Ministers be limited to 25 members, including the Prime Minister.

Although the constitution officially put an end to transitional politics, Nepal's democratization process is yet to be completed. Nepal's political parties lack internal democracy and are often fraught with factionalism. The economic base to implement the constitution is not sufficient. Taken together, all these features do not assure political stability. If these issues are not handled judiciously, it might prove be difficult, if not impossible, to sustain constitutionalism. All this said, what is important, is how the political parties and their leaders behave. If they do not abide by the constitutional spirit, it will be difficult to institutionalize the constitution and allow democracy to take root in Nepal.

Conclusion

Democratic constitutions replaced a governance mechanism based on customary laws and other traditional forms around the world. The very objective these modern constitution is to ensure people's participation in governance and institutional life of the state. Yet, the problem lies with allowing the constitution to take root, and this certainly is a major problem in Nepal. The solution will come only when the state wins people's loyalty by ensuring rule of law. It is thus important for countries in 'democratic transition' to internalise a constitutional culture. If governance cannot be guided by constitutionalism, no system of governance and no democratic constitution can work (Sartori, 1989: 861). As the constitution is not an end but a means to an end, it is the responsibility of political parties to use it for the right purposes. To make the current republican constitutional system functional, there has to be qualitative changes in our political culture. Abuse of power and corruption have jeopardized the democratic systems of many countries (Robinson, 2012: 1-3). Political culture is the main basis of democracy and political parties acquire legitimacy by adopting moral norms and values (Fuller, 2009: 152). Political parties are thus the key to the creation of a vibrant constitutional democracy.

These parties, however, tend to focus on narrow interests. To avoid such tendencies, some countries have provisions explaining the roles and responsibilities of parties in the constitution. The 2008 constitution of Bhutan, for instance, prescribes the roles of both the ruling and opposition parties. When an elected government serves non-elected persons or groups, democratic bodies are relegated to the status of 'paper institutions'. Constitution alone cannot guarantee that democracy will move in the right direction. What is important, thus, is how the constitutional spirit is anchored in governance. In fact, no constitution or system is bad if it is developed with the consent of the governed and if it incorporates the wishes of the people.

Likewise, in a parliamentary democracy, government(s) are formed on the basis of the number of parliamentarians elected from the respective political parties. Nepal's new political system is an improved model of parliamentary democracy and the constitution duly recognizes it. Yet, there are enough examples that the constitutional spirit is not held truly. The resolution and reinstatement of the parliament twice in the year 2021 is a case in point. Such a constitutional behaviour is helpful in enhancing the political culture based on constitutionalism – which certainly would have been helpful to strengthen democracy in the country. Hence, if democracy is to be consolidated, Nepal's political parties and other actors now must abide by the constitutional provisions. Political federalism, administrative federalism, and fiscal federalism, all key components of federal rule, have to be developed and put into action. Those in power should also abide by the roles and responsibilities delineated for them. The country's constitutional history suggests that while people have always been democratic, ones in power have not really lived up to the task. Obsession with power has set a bad precedent and often derailed the democratic process. Nepal has been unable to ensure the social and economic rights guaranteed by the constitution, mainly due to a weak economic system. Now the Covid-19 pandemic, which has hit the economy hard, has brought further challenges. The state needs to focus determinedly on the creation of a prosperous economy through good governance in order to realise the constitutional ideals.

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Role of Political Parties in the Democratization Process of Nepal

Krishna Hachhethu

Every aspect of democracy in South Asia is marked by disjunction between the script and the practice of democracy that can take various forms: between constitutional design and political practices, between formal ideology and political orientation, between theoretical expectations and real-life outcomes (SDSA Team, 2008: 7).

Following the promulgation of the new constitution in September 2015, and particularly since 2017—the year of elections of all three tiers of Nepal has entered a new phase of tri-party system. The Nepal Communist Party (NCP)—formed in May 2018 after unification between the then Communist Party of Nepal—Unified Marxist-Leninist (CPN-UML) and the Communist Party of Nepal Maoist Centre (CPN-MC) led by Pushpa Kamal Dahal aka Prachanda—is in power at centre with near two-thirds majority in the 275-member House of Representatives (HoR, the lower House of bicameral parliament). It also rules six of seven provinces, and over 53 per cent of 753 local governments. The Nepali Congress (NC)—the oldest party and a dominant actor at time of the first (1951-1960) as well as the second experiments of democracy (1990-2012)—is now relegated to the position of the major opposition party in parliament. The third force, the Janata Samajbadi Party (JSP)—the party in power in Madhesh Province—is an amalgamation of several splinter groups including Madheshi Janadhikar Forum, Nepal (MJFN, led by Upendra Yadhav), Sanghiya Samajbadi party (SSP, led by Ashok Rai), Naya Shakti (NS, led by Baburam Bhattarai) and the Rashtriya Janata Party (RJPN, which consists of six Madhesh-based outfits). The JSP has reservations on a number of critical provisions of the constitution, and the federal design in particular.

Table 1: Result of the 2017 elections

Political Parties	House of Representatives	Provincial Assemblies	Heads of the local government
NCP	174 (63.3%)	351 (63.8%)	400 (53.1%)
NC	63 (22.9%)	113 (20.6)	266 (35.3%)
JSP	34 (12.4%)	66 (12%)	61 (8.1%)
Others	4 (1.4%)	20 (3.6)	26 (3.4%)
Total	275 (100%)	550 (100%)	753 (100%)

Source: Election Commission (2018a; 2018b; 2018c).

Trajectory of party transformation

Nepalese political parties are not unique as per stasiology, the science of political parties, which defines a political party, describes its evolution and illustrates its functions. A political party is a group of people bound together by a common mission to pursue and promote its own ideological goal.¹ It is an agency for forging links between state and society (Lawson, 1980; Stokes, 1999); so acts like a bridge between society's input and political system's output functions (Almond and Powell, 1960) that include a wide range of jobs, i.e. structure the popular vote, integrate and mobilize the mass of the citizenry, aggregate diverse interests, recruit leaders for public office, and formulate public policy (Mair 1990:1).² Over time, a party generally transforms into a 'catch-all' organization (Kirchheimer, 1966; Panebianco, 1988) that leads to weakening links with society and tightening links to state power (Katz and Mair, 1994; Mair, 1997). Change in party occurs for different reasons, i.e. electoral defeat, change in party leadership, change in environment etc. (Wolinetz, 1988).

Notwithstanding such commonality in understanding political parties all over the world, the dominant image of a party is different from one part of the world to another. Nepalese political parties—unlike in European countries where

¹ For details see Ostrogorski (1964), Duverger (1964), Michels (1968), Ware (1987).

² For further details see Neuman (1956), Henig and Pinder (1969), Eldersveld (1964).

political parties are generally understood as an 'ideological community' or 'policy platform'³ and are categorised into Left, Right and Centre, and also unlike the American perception of political parties as 'electoral machines'⁴ seeking to control government apparatus—are more like the political outfits of most third world countries (Randall, 1988; Manikas and Thornton, 2003; Salih et al, 2007) and South Asia in particular (Baral, 1999; SDSA Team, 2008; Suri and others, 2007). Here, the political parties are organizations committed to a 'particular mission or ideology' at time of their inception but later, when they enter competitive politics, turn largely into 'power houses' that mainly serve a narrow circle of political elites and vested interest groups.

The 'power houses' political parties have a common trajectory, transforming from 'change agents' at time of their inception⁵ and when they struggled for survival⁶ to organizations concentrating in power politics.⁷ The only difference between them concerns the timeframe of their conversion from 'movement' to 'power seeking organization'. The NC had long sustained its image as change agent since it founding with the mission of ending the century-long Rana oligarchy (1946-1951) and this image evolved with the struggles against the three-decade-long partyless Panchayat system (1960-1990). With the reinstatement of multiparty democracy through the 1990 *Jana Andolan* (mass movement), followed by the promulgation of the 1990 constitution, the NC lost its zeal to transform Nepalese politics and society in conformation to substantial democracy, and acted as if its final destination was parliamentary system and constitutional monarchy.

The former UML—notwithstanding its past record of being a radical force that 1) confirmed to the Communist Party of Nepal's (the parent organization of all communist parties in Nepal) non-conformist position vis-à-vis 'bourgeois democracy' of the 1950s; 2) originated as the Jhapali group or Nepalese Naxalites

³ For details see Ostrogorski (1964), Duverger (1964), Michels (1968).

⁴ For details see Down (1957), Epstein (1967), Wilson (1962).

⁵ For details about formative phase of Nepalese political parties see Gupta (1964), Joshi and Rose (1966), Chauhan (1970).

⁶ For details on role of political parties during the partyless panchayat system, 1960-1990, see Baral (1977), Shaha (1982).

⁷ For details on party politics in the post-1990 period, Hachhethu (2002), Dhungel (2007), Aditya and Bhatta (2016).

in the early 1970s; 3) pursued an ideology of Marxism-Leninism-Maoism till 1980s under its former name, Marxist-Leninist or ML; and 4) pushed to broaden the goal of the 1990 mass movement from 'lifting the ban on political parties' to confining the king as constitutional monarch⁸—also followed in the NC's footsteps, particularly since the formation of its own minority government in mid-1990s and subsequently as a partner of a number of coalition governments. Its progressive image was considerably eroded when it became a junior partner of a coalition government headed by Lokendra Bahadur Chand (a pillar of erstwhile partyless Panchayat system) in mid-1990s and again in the Deuba-led government formed in 2005 by former King Gyanendra who had assumed all executive powers in October 2002. The deviation of the UML from communist orthodoxy and the replacement of its original strategic goal of 'new democracy' (a prototype of Chinese communism) by a new programme of '*bahudaliya janbad*' (multiparty people's democracy) created a vacuum in Nepal's radical political space. This space was later filled up by the then CPN (Maoist) that undertook a decade-long armed insurgency (1996-2006).⁹

No doubt, the UCPN (Maoist)—renamed the 'Maoist Center' by the dominant Maoist faction under Prachanda—was a protagonist for Nepal's transformation from monarchy to republic, from Hindu to secular, and from unitary to federal state. But, as a result of its relegation from the position of the largest party in Constituent Assembly-I (2008-2012) into a distant third party in CA-II (2013-2015), the UCPN (Maoist) compromised on its high-sounding radical agendas, including recognition of ethnic identity as the core of inclusion and federalism. It pursued pragmatic politics to get an opportunity to be a shareholder of state power, as was evident by its involvement in governments formed after the promulgation of the constitution in September 2015, in an alliance with the UML in the beginning and later in coalition with the NC. The Maoist center eventually merged with the UML in May 2018—even though the two were wide apart on a number of agendas of state restructuring. There could be no better example of giving up revolutionary agendas that it carried before the promulgation of the new constitution.

⁸ For transformation of the UML from radical to moderate Left, see K.C. (1999), Mishra (2001), Hachhethu (2002).

⁹ For details on the CPN (Maoist) during and after the armed insurgency, see Karki and Seddon (2003), Thapa (2003), Thapa and Sijapati (2003), Hutt (2004), Adhikari (2014), Sharma (2019).

Now, the radical elements of ethnicity-based identity, inclusion and federalism are in the JSP's ideological box. But the individual profiles of most of its top leaders also suggest they too are hungry for power.

Overall, a trajectory of transformation of Nepalese political parties is reflected in one observation in the case of the NC and UML in the 1990s.

“... political parties have undergone a number of distinct transformations: from illegal organizations to legitimate contenders for political power; from movement or underground organizations to open competitive parties; from cadre based to mass based parties; from a small group of people sharing common interests to heterogeneous organizations consisting of people of diverse interest; and from ideology oriented organization to power seeking parties. (Hachhethu, 2002: 259).

Democracy and democratization

Against the background of transformation of Nepalese political parties from being change-agents of the political system to actors of governance, this paper examines their role in the country's democratization process. No doubt, a competitive party system is indispensable for representative democracy. Political parties are expected to play multiple roles in making the government responsive to general will of the sovereign people, one of the core attributes of democratization of state and society. On this task, political parties could contribute in many ways. Of these, this paper briefly but critically evaluates three significant roles: representation of society (taking into account the ethnic diversity of Nepal), participation in decision making (against the background of these being highly centralized organizations), and bridging the gap between citizens and government (against the persistence of the state's patrimonial characters). But let us begin with what democracy means for the people, and also as outlined by the new constitution of Nepal.

Nepal democracy surveys,¹⁰ conducted periodically in 2004, 2007 and 2013, revealed that 'freedom and equality,'¹¹ 'institution and process'¹² and 'principles'¹³ were the top three answers to the question: 'What does democracy mean for you?' These literally confirm core notions of liberal democracy, nevertheless, these responses, and equation of democracy with equality in particular, have a broader country-specific meaning.

If consolidation of democracy and absence of authoritarian alternatives is understood as 'the only game in town', the findings of Nepal democracy surveys are optimistic. Nepalese people believe democracy is suitable for Nepal; they prefer democracy to authoritarianism; and they subscribe to a system of rule by elected representatives (Hachhethu, 2004; 2013 and Hachhethu, and others, 2008). In addition, the 2015 constitution of Nepal—while upholding provisions introduced in the 1990 constitution and reiterated by interim constitution of 2007—discards any possibility of reversion to a partyless system (the kind Nepal experimented with between 1960-1990) as well as invention of one party system (which all communist parties of Nepal, at time of their inception, expressed their faith in, but later abandoned in favour of multiparty competitive system) (GoN, 2015: 139).

Notwithstanding the safeguarding of democracy by public vigilance, by shift of parties' position (e.g., NCP's support of multiparty system from its original faith in one-party communist system) or by legal/constitutional provisions, democracy is yet to emerge from the danger zone. Why so? A global survey finds that democracy is at risk mainly because of authoritarian tendency of elected leaders (Levitsky and Ziblatt, 2018). This, somehow, is also true in Nepal's case. In Nepal, democracy was introduced in the 1950s and reinstated

¹⁰ Nepal Democracy Surveys—part of a larger study on State of Democracy in South Asia—adopted three-stage probability sampling in following ways: Stage 1: systematic sampling of 41 parliamentary constituencies from the total 205 parliamentary constituencies, Stage 2: systematic selection of 4 polling stations from each sample parliamentary constituency (total 164 polling station), and Stage 3: selection of respondents, 100 from each set of 4 polling stations (total 4,100), from the updated voter list prepared by the Election Commission of Nepal.

¹¹ Several responses related to fundamental rights, i.e. rights to live, property, equality, organization, dissent and freedom of speech, mobility, and against repression come under 'freedom and liberty'.

¹² It includes responses like political party, parliament, government, leadership, election.

¹³ An aggregation of number of interrelated responses, i.e. multiparty competition, rule of law, separation of power, independent judiciary, rule by majority, respect of minority.

in 1990s died in short spans both times. One reason for this failure might be bad handling of democracy. In the present context, democracy surveys indicated such deficiencies. Over 70 per cent of the respondents in the 2013 survey said the state of affairs in the country in the past (decade) was 'undemocratic'. The majority of them, much like the respondents in the 2004 democracy survey, said they were 'dissatisfied' with the way democracy was working. Two-thirds rated the performance of political parties in the post-2006 *Jana Andolan II* as 'bad'; consequently, 64 per cent of the respondents said they did not trust 'political parties'. The present situation is not much different.

The failure of democracy in 1950s and 1990s could be seen from another perspective. The constitution at both times—following the end of the Rana oligarchy in 1951 and with the reinstatement of multiparty system in 1990—lacked the component of social contract in terms of content as well as (non) participation of non-dominant groups (women, Dalit, Janajati and Madheshi), while framing these charters. In this perspective, the new constitution adopted by CA-II also lacks legitimacy (Khanal, 2018: 92; Hachhethu, 2017: 63). Further, the political system adopted by the 1959 constitution and later by the 1990 charter, was liberal democracy. The fact that the system failed so quickly both times suggests the inadequacy and inappropriateness of conventional liberalism to a country as socially diverse as Nepal.

Liberal democracy, in essence, is a paradox. On one hand, it guarantees formal/legal 'individual equality' of all citizens of a given sovereign territory. On the other, it ignores ground realities: inequality between men and women, between rich and poor, and between dominant groups and ethnic minorities. By contrast, inclusive democracy—gives more emphasis to substantial democracy with 'group equality'. This, however, does not mean inclusive democracy as a concept is opposed to liberal democracy. There is no hard line between these two concepts on fundamental attributes of democracy, i.e. popular sovereignty, guarantee of fundamental rights, respect of human rights, rule of law, independent judiciary, adult franchise, periodic elections, rule by elected representatives and other elements. Inclusive democracy can thus be portrayed as an 'advanced

democracy' that gives paramount importance to recognition of ethnic identity,¹⁴ celebrates cultural diversity, translates identity into political constituency, and seeks equality among unequal groups.

The relevance of inclusive democracy in Nepal can be explained in country-specific context. All Nepalese as individual citizens are equal before the law but they, as members of community, live in a state of inequality.

Table 2: Inequality among ethnic groups

Caste/ethnicity		Human Development Index (HDI)			Poverty Incidence (PI) in %			Government Index (GI) in % ^{***}
		1996	2006	2011	1995/96	2003/04	2011	2005
	National	0.325	0.509	0.490	42	31	25	100
Hill Castes	Brahmin	0.441	0.612	0.557	34	18	10	71
	Chhetri	0.348	0.514	0.507			23	
	Dalits	0.239*	0.449	0.446	58	45	44	2*
Hill IPs	Newar	0.457	0.616	0.565	19	14	10	12
	Other IPs	0.299	0.507	0.482	49	44	28	7
Madhesi	High castes	0.313	0.625	0.536	NA	NA	19	8
	Middle castes		0.450	0.460	29	21	29	
	Tarai IPs		0.470	0.473	53	35	26	
	Dalit	0.239*	0.383	0.400	NA	NA	38	
	Muslim	0.239	0.401	0.422	44	41	20**	

Sources: NESAC (1998), UNDP (2009; 2014); CBS (2005; 2011)

* Including hill and Madhesi Dalit.

** One Central Bureau of Statistics (CBS) officer explained that this apparent big decline in the rate of poverty among Muslims is due to deficiencies in the sample.

*** Representation in executive, legislature, judiciary and constitutional bodies.

As shown in Table 2, periodic studies of HDI, PI and GI since the 1990s reveal persistent inequality between ethnic groups. The Khas Aryas, the dominant

¹⁴ The term ethnicity is used here in its broad meaning as a group of people bound together by common race or language or religion or culture or region, and/or combination of two or more of these elements, which are different from other social groups.

segment of Nepalese society, have an HDI ratio that has always exceeded national average. In contrast, the HDI ratio of minority groups (except Newars among hill Janajatis and high castes among Madheshis) has been lower than the national average. This asymmetry corresponds to the asymmetric distribution of economic power. The poverty headcount rate of Khas Aryas has always been lower than national average whereas it has always been higher for marginalized groups (again with the above noted exceptions). Disparity in sharing political power is demonstrated by the fact that compared to their share of the overall Nepalese population (31 per cent) the Khas Aryas are overrepresented in all organs of the government. Representation of the excluded groups, including the hill Janajatis, in the state apparatus, has always been much lower than their population size. Ethnicity based inequality is evident in social, economic and political life (Neupane, 2000; DFID and World Bank, 2006; Gurung and others, 2014).

Here the concept of equality as synonymous to democracy needs an expanded definition. In Nepal—a country suffering from longstanding patriarchy, caste-based hierarchical order, and ethnic inequality—people's perception and aspiration for equality goes beyond the notion of equality as it is understood as a part of civil and political rights. Two points in Nepal democracy surveys should be taken into consideration. One, a booster survey among the Gurungs of Kaski district and Madheshis of Dhanusha district—both districts parts of Nepal democracy surveys—found that 'state restructuring' scored far higher to any other aspect in their understanding of democracy (Hachhethu and others, 2008: 34). State restructuring was/is understood as a project of republic, secularism, federalism and inclusion in its form and reduction of inequality among the different ethnic groups in its mission. Two, the percentage of Nepalis who exclusively identified with ethnic/regional identity was on the rise steadily, from 22 per cent in 2004 to 25 per cent in 2007 to 32 per cent in 2013. This trend is high among the hill Janajatis and Madheshis as their preference for ethnic/regional identity moved up from 32 to 34 to 37 per cent and from 27 to 45 to 50 per cent respectively (Hachhethu, 2004 and 2013; Hachhethu and others, 2008).

Taking Nepal's diversity into account—with its four broad ethnic groups of Khas Aryas, hill Janajatis, Madheshis and Dalits (of both hill and plains)—inclusive

democracy is a sensible option. This is acknowledged in several provisions of the new constitution¹⁵—if not to the extent hill Janajatis and Madheshis have wanted it—but with a lot of ambiguity. Leaving room for misuse of the provisions by those in power.

Coming to political parties, the constitution envisages a political party as an ideological community—an organization consisting of ‘persons who are committed to common political ideology, philosophy and programme’—that must allow, a) election of its office bearers, and b) representation of social diversity. The first point has been honoured since the promulgation of the 1990 constitution and the second since the promulgation of the 2007 interim charter. As per the new 2015 constitution, a political party, to make it eligible to contest elections, has to fulfil following requirements:

1. Its constitution and rules must be democratic;
2. Its constitution should provide for election of each office-bearer in the party at the federal and province levels at least once in every five years;
3. There should be a provision of inclusive representation in its executive committees at various levels, reflecting the diversity of Nepal (GoN, 2015: 139).

Here, in-party democracy is categorically spelled out: party executives at each level should be elected by members of party legislative bodies at the respective level. As those in party positions at all levels, from high to low, were handpicked by party top brass when they operated as a movement organization or as an underground party or as an insurgent group, such a mandatory constitutional provision of selection of party leaders through internal election is, no doubt, a significant innovation. The NC and the former UML have been practicing it

¹⁵ There are long lists of inclusive provisions in the constitution, i.e. rights of linguistic minorities (articles 7, 32 and 287), rights of women and Dalit (articles 38 and 40), special structure for rather small minorities (article 56 and 295), constitutional commissions for each excluded groups: women, Dalit, IPs, Madheshi, Tharu and Muslim (articles 252-264), affirmative action and reservation (articles 18 and 285), proportional inclusive representation of ethnic and other marginalized groups in state bodies (article 42), gender and ethnic-based proportional representation in national and provincial parliament (articles 84 and 176), inclusion in the formation of central and provincial cabinets (articles 76 and 168), composition of political party (article 269), in appointment of high dignitary posts (articles 281-283), and women and Dalit quota for their representation in local governments (articles 215, 216, 222 and 223).

since 1990 but the new parties are yet to do so. Before its unification with the UML, the MC, led by Prachanda, upheld the old practice of selecting party post holders without internal elections. None of the constituent parties of the present-day JSP had convened its national convention before unification. Till date, the JSP is operating on an *ad hoc* basis. However, this privilege should no longer persist. A point of caution is that, as per the third point of the above-mentioned constitutional requirement, selection of party leaders through election should promote inclusive leadership building.

Such a constitutional provision of inclusive leadership building is copied in the charters of all three major parties, though, in rather vague terms. Nevertheless, the names of excluded groups, e.g. women, Dalits, Janajatis, Madheshis and others are mentioned as entitled to representation at all levels of party organization, from grassroots to highest level (NC, 2016; NCP, 2018; JSP, 2019). Yet, its implementation remains weak as the NCP and the JSP—newly unified in 2018 and 2019 respectively—are now running on an *ad hoc* basis. The NC has a relatively clear provision of reserved ethnic quota—for instance 20 (23.5 per cent) of total 85 seats of its Central Committee (CC) are allocated as following: six each for Dalits and Janajatis, and eight for Madheshis (including two Muslims). The former UML had a similar system, with 28 (24.4 per cent) out of its 115-members CC being reserved seats: 12 for Janajatis, 11 for Madheshis and 5 for Dalits. Besides, there is a women's quota included in the party's CC: 13 seats in NC (including seven elected from ethnic quota) and 17 in the former UML. However, there is still a big discrepancy between the provisions of the Party Regulation Act of 33 per cent women representation in parties' executive committee at all levels—indeed the NCP copied this provision in its interim charter—and the actual representation in the parties' CCs: 17 per cent in the NCP, 20 per cent in the NC and 15 per cent in the JSP (Kantipur, 12 August 2020).

Table 3: Leadership of major political parties of Nepal, by ethnicity and sex

Political Parties		No	Ethnic Groups (%)				Gender (%)
			Khas Arya	Hill Janajati	Madhesi	Dalit	Women
1. Central Committee							
NCP	UML	115	57	29	9	6	19
	MC	151	56	29	12	3	15
NC		85	66	15	13	6	20
JSP	MJFN	42	4.8		95.2	-	13
	TMLP	51	-	-	100	-	14
	NSP	56	8.9		91.1	-	16
2. Central Executive/Standing Committee							
NCP		45	71	18	9	2	5
NC		29	72	10	14	4	10
JSP		51	14	18	65	4	14
3. High Command/Secretariat							
NCP		9	78	22	-	-	-
NC		7	71	-	29	-	-
JSP		5	20	20	60	-	-
4. FPTP members, HoR							
NCP		116	59	26	12	3	4
NC		23	52	9	39	-	-
JSP		22	2	-	91	-	-
Others		4	25	75	-	-	25
Total		165					

Source: EC (2018), Tewari (2012), Simkhada (2017).

The striking point is that political parties have adopted inclusive representation to the extent that it will not jeopardise the longstanding domination of the Khas Aryas in party structure, the upper echelons in particular. It seems that seats allocated for open competition and territorial quotas are largely and implicitly reserved for the dominant Khas Aryas. For instance, in the last general convention of the NC held in March 2016, 20 of 25 elected members of the party CC from non-reserved seats or from open competition were from Khas

Aryas background. The people of same ethnic background were elected from 14 territorial reserved seats, two each from seven provinces, except one Limbu (a Janajati). Indeed, among those elected from six reserved seats for women, all but one were from Khas Aryas ethnicity. The story was same in the last national convention of the former UML in July 2014. Most of those elected from 49 open seats, 17 territorial reserved seats, 17 women reserved quota and three from 'others' are from the Khas Aryas background.

The representation of Khas Aryas has increased in higher echelons. For instance, their representation in the Central Executive Committee of the NC and the Standing Committee of the CPN is over 70 per cent each. The 'high commands' of the NC is constituted by Khas Arya leaders with two Madheshis. Seven of nine-member Secretariat of the NCP—the most powerful body after the two Co-chairs—are from Khas Arya ethnicity. The domination of Khas Arya in organizational wings of political parties is also well reflected in composition of their electoral wings. For example, over 50 per cent representatives of the NCP and NC, elected under the First Past The Post (FPTP), are leaders of the Khas Arya community. The JSP, an amalgamation of several Madhesh-based regional parties, is obviously overrepresented by leaders of Madheshi background.

Such a huge disproportionality in composition of party leadership in terms of gender and ethnicity suggests the agenda of inclusion is taken as cosmetic, tokenism and co-option rather than accommodation of ethnic diversity. This means party leaders belonging to non-dominant groups—i.e. Janajatis, Madheshis, Dalits and women—have no or less voice/participation in intra-party affairs of both the NCP and the NC. Perhaps this may be the reason, among others, why party departments formed in the name of marginalized groups have become show pieces. Had party post holders belonging to non-dominant groups been in a position to influence in their respective parties, they would have formed caucuses in elected bodies, national parliament and provincial assemblies. But this is not the case. Actually, both the NCP and the NC are under the grip of a few dominant Khas Arya leaders who are on record saying that they did not accept identity, inclusion and federalism of their own choice. The policy implication of this reluctance has been that several inclusive provisions of the constitution—related to minority language, proportional

inclusion, special structure for tiny minorities, identity-oriented constitutional commission, affirmative actions, reservation etc.—are either pending or invoked in a diluted form.

Beyond ethnicity, Nepalese political parties—including the NCP, the NC and the JSP—are exclusionary on other accounts too. They are highly centralized organizations, suggesting the absence of broad-based participation in decision-making. Formally party leadership is built bottom-up but power flows top-down. The *modus operandi* of the ruling NCP is that each party member is under the party organization and each lower unit of the party is under the command of a unit immediately above it. Those in top posts control the resources, and select electoral candidates. As these parties operate within a system of collective leadership, personality-based factional conflicts have become *sine qua non* in the party system of Nepal. Factional rifts have always manifested in clash of egos and personalities, conflict of interest, and struggle for power, impacting on the party's capacity to work as a bridge between the state and the society. For instance, the NCP party machinery remained non-functional owing to the party's failure to settle power-centric in-party fighting between the factions led by K.P. Sharma Oli (PM and Co-chair of the party), Pushpa Kamal Dahal (another Co-chair), and Madhav Kumar Nepal (senior leader).

Coming to the process of the country's democratization through the role of political parties as bridges between the government and the people, the scenario is not bright either. Generally, a political party tends to expand its support base through the distribution of collective incentive (ideology, policy, and programme) to the people in general as well as through selective incentive (power, status, money, job and other material rewards) to the party's clients. In Nepal, the party's promises related to collective incentives are largely confined to formal documents, i.e. election manifestos, annual policy programme of the government, budget speech, etc. Most Nepalese political parties took part in struggles in which hundreds of thousands of people contributed in one way or another. Indeed, the NCP is a cadre-based mass party—now its 'organized members' reportedly exceed 900,000—that practices a levy system. Now, the rank and file look for pay back—seeking patronage—for their contribution. A tendency of seeking favours—post, monetary and other benefits—is thus high.

This detracts the party from its role of making the government responsive to the will of the common people.

Nepalese political parties are overwhelmed with the distribution of selective incentives. It is a system of 'vote for favour' for vested interest groups and 'favour for vote' for party leaders. This is indeed a system of establishing links through rewards to party clients for a variety of services—donation, mobilization of voters, and others (bribe, commission etc.) to the party. The masses are in general excluded from such benefits as political parties, via their patronage functions, seek the loyalty of the affluent sections of society who will thereby mobilize public support. Patronage is guided by personal interests of power holders who want to consolidate their influence in the party and in their electoral constituency. Consequently, political parties have increasingly becoming clientelist and patronage machineries. As a result of excessive party-run clientelism, there has been excessive politicization of society, and of the professional domain in particular.

Conclusion

In course of transformation of Nepalese political parties from change agents to power seeking organizations in the post-1990 competitive politics, they have carried over past burdens and even acquired new vices. Despite the electoral system of selection of party leadership, they, as before, remain highly centralized. Party leaderships at highest level are largely comprised of the dominant group, Khas Aryas, suggesting their exclusionary character. This indicates indeed an elitist and oligarchic mode of functioning and a lack of broader participation in the parties' decision making-processes. The parties are characterised by factions and splits, which are, by and large, the product of clashes of interest and egos as well as power hunger among party leaders. As most of the time and energy are spent on factional conflicts and managing internal crises, their role in public policy formulation has been affected. Party functionaries have been motivated to promote self-interest, widening the gap between parties' promises and performances.

To overcome the above-mentioned problems, party reformation is of utmost importance. Nepalese political parties should be inclusive both in terms of ethnic

and gender representation as well as in regard to policy contents. They should reorient themselves towards making policies and seeking office to implement those policies, rather than being mainly concerned with capturing power. Decentralization of party structures can help in making local party functionaries active even between elections, enhancing the party's capacity to work as a link institution between the state and society. In addition, decision making should be broad-based so that party rank and file will be more committed to carry out the party's policies, plans and programmes. Parties should have their own policy committees with good documentation and research cells. Finally, professionalism should not be politicized along party lines.

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Inner-party Democracy in Nepal

A Study of Major Political Parties in Parliament

Uddhab Pyakurel

"Parties don't simply compete and represent but also turn competitive arenas and representational processes into resources for and against government"
(Kothari, 1970: 161).

Political parties and democracy are synonymous in modern political systems, as, according to Aristotle, the former are endemic to democracy (Stokes, 1999: 245) and the latter a form of government 'directed at the interest of the poorer classes' (Baker, 1946:114-115). Effective functioning of democracy presupposes political parties adopt democratic principles in their internal life (Dahal, 2010). By competing in elections, the parties offer citizens a choice in governance, and while in opposition they hold the government accountable. Political parties offer citizens avenues for political participation, opportunities to shape their country's future, and a choice in governance (Pepera, n.d.). Sudedi rightly states that cardinal civilizational ideas such as democracy, freedom, equality, fraternity and social justice gained wider currency with the evolution of parties (Subedi, 2016: 98). The political parties thus occupy a central position among all political organizations.

Political parties organise politics in every modern democracy, and some observers claim they make democracies responsive (Stokes, 1998 and Przeworski and others, 1999). According to others, parties give voice to extremists and reduce government responsiveness to the citizenry. However, parties are not part of the formal definition of democracy, nor do the constitutions of most democracies dictate parties' roles. Indeed, in most countries, parties operate in a realm little regulated by statutory law, which is the case for new democracies like Nepal too.

In India, social thinkers like Mahatma Gandhi and J.P. Narayan were instrumental in building political parties as important tools to mobilize the masses for social reform, and had taken anti-political party stands in normal times. Gandhi's proposal to keep the Indian National Congress out of 'unhealthy competition'

for power, according to Kothari (1970: 158), was 'highly unrealistic'. It was an extreme form of the idea that 'the movement has not ceased and must carry on' whereas J.P. Narayan wanted to keep himself away from power and party politics. He, thus, propounded the concept of "Partyless Democracy" to overcome shortcomings of existing practices being perpetuated in the name of majoritarian democracy in India.¹ There are other scholars who argue that the existence of several political parties *per se* is not a requirement of democracy (Folson, 1993: 32). In the United States, the founders were dead against parties. The book 'Why Parties?' (Aldrich, 1995) explores the origins of the US party system. Members of Congress faced important questions about debt repayment and the future government structure. It became clear even to anti-party thinkers such as Hamilton and Jefferson that there were advantages to be gained by coordinating votes over a number of issues among congressmen with similar (though not identical) preferences (Stokes, 1999). However, there were people like Nehru who thought the concept of a partyless democracy was impractical. Notwithstanding the shortcomings of the party system, it had to be adopted in the absence of better alternatives.² Even Folsom (1993: 32) was of the view that as democracy requires freedom of speech and association, political parties were inevitable consequences.

There is almost an eight-decade-old history of party formation in Nepal. It is the youngest republic in the world and still identified as a full-fledged party system. Nepalese political parties have carried out political modernization and democratization through political education, social mobilization, recruitment of leadership, and aggregation and articulation of public interest. By acting as a transmission belt and projecting societal interests onto decision-making, they have been a means of communication between the political system and the citizens and demonstrated political will and cooperative actions for the restoration of democracy (Dahal, 2016b: 115-116). As political parties were not

¹ His refrain was that the country's requirements were moral and could be fulfilled by an evolved partyless democracy. Directly or indirectly, his efforts were oriented at organizing and strengthening people's power. While doing so, he advocated local government system (Panchayati Raj) so that power remains with the grassroots. He was averse to the idea of holding local level elections along party lines. He wanted radical change to invert the existing pyramid of power, by allowing direct elections at the lowest level, and then indirect elections through electoral colleges.

² For details, see letter written by Nehru to J.P. Narayan in 1957 Ranjan, 2002.

truly banned for much of this period, we find only few studies on their internal dynamics. However, the parties and their *modus operandi* are now in public debate and multi-party competitive politics has become stable in Nepal after *Jana Andolan II (2005-2006)*. As there is no best way to analyze inner-party democracy of a particular party, scholars and commentators have mainly looked at party structures and representations from marginalized sections.

Political scientist Krishna Hachhethu's (2002) study on Nepalese political parties titled "Party Building in Nepal: Organization, Leadership and People", addressed four variables: expansion, system, harmony, and dynamism as indicators of party-building in Nepal. He quotes Neumann (1956), Stanly Henig and John Pinder (1969) to refer to a long list of party functions, i.e. selection of government personnel, formation of public policy, education of citizens, and establishment of links between the people and the government. The Friedrich-Ebert-Stiftung (FES)'s 2016 monograph also touched on inner-party issues while discussing the deepening of democracy (Aditya and Bhatta, 2016). The major issues identified in these studies on inner-party democracy are: meaningful participation of the members in formation of party policy, democratic selection of party leadership with periodic party elections, transparency of party funds, periodic elections of leadership with open and transparent membership system, and inclusive organizational structure.

Given this background, this paper argues that political parties and democracy are inseparable in a modern political system, and the level of democratic governance people enjoy depends on the level of inner-party democracy. The paper, in the following sections, analysis two major indicators: party organization and party *modus operandi* in taking major decisions, mainly in three major political parties: Nepali Congress (NC), Nepal Communist Party (NCP), and Janta Samajbadi Party (JSP).

Party structures and social inclusion

Inclusion of women, Janajatis, Dalits and Madheshis was not a big public issue in Nepal before the Maoist insurgency (1996-2006). There used to be only token representation of members of marginalized groups in political parties and

in the government (Baral, 1978). The democratic discourse at that time was still within the frame of 'politics of ideas' as discussed by Phillips (1995). Nepal had to spend almost six decades to achieve stable democracy. *Jana Andolan II* (2006) was the turning point in acknowledging the importance of shifting from conventional 'politics of ideas' to 'politics of presence' (ibid). No leader could avoid four terms—women, Dalits, Janajatis and Madheshis—while addressing the masses. They repeatedly stated that that 'New Nepal' would address the issue of these groups' marginalization, suppression, oppression, subjugation, and social exclusion.

A few leaders of marginalized communities were made quite aware and empowered by regimes after 1950. The entry of Dhan Man Singh Pariyar³ and Parshu Narayan Chaudhary as General Secretary of Nepali Congress in 1950s and 1970s respectively, appointment of Dwarika Devi Thakurani as Assistant Minister in 1960, and repeated appointments of Man Bahadur Bishwakarma and Bedananda Jha in royal cabinets were attempts to convey that everyone, including women, Dalits, Janajatis and Madheshis could be in leadership position—in political parties, in parliament, even in government.

However, the organizational structures of the government and parties were predominantly male and hill high-caste until 1990. The 1990 constitution had envisioned women's inclusion in the parliament but kept mum on cabinet, bureaucracy and party structures. As there were no institutional arrangements to make such organizations inclusive, only few members from marginalized communities were picked as tokens, which was neither sustainable nor could it be considered a social transformation. The following table illustrates the status of party organizations before *Jana Andolan II*.

³ The party's fifth convention, known as the Janakpur Convention, appointed Pariyar senior general secretary along with Rajeshwori Prasad Upadhyaya as joint general secretary. The convention was not only a milestone in terms of inclusion of Dalits, but also against caste-based discrimination and social movement in the country through which the NC adopted a resolution regarding Dalits, caste-based untouchability and bad social customs. It was the first formal resolution related to Dalits by a Nepalese political party.

Table 1: Caste and ethnic composition in the party central committees, 2003

Party Name	Nepali Congress	Nepal Communist Party-UML	Rastriya Jana Morcha
Total Number	29	46	38
Bahun Chhetri (%)	72.4	76.1	52.5
Newar	3.4	13.0	10.5
Hill Ethnic Groups	13.8	6.5	21.0
Tarai Communities	10.3	4.3	5.2

Source: Pyakurel, 2013.

As the political parties at the vanguard of *Jana Andolan I* were not inclusive enough, marginalized communities had many complaints against the *modus operandi* of elected governments formed after 1990. In the meantime, the Rastriya Jana Morcha, which was distant third in the 1991 election, took a strategic line to remove poverty, caste-based discrimination, ethnic and regional suppression in their governance agenda. When the party split and went underground to launch the ‘people’s war’ the Maoist faction further engaged with those agendas not only by forming political structures based on castes, ethnicities and regions but also by recruiting members of minority groups to lead their ‘regional autonomous governments’.

It was a time political parties did not hold their regular gatherings. As a result, a few top leaders could control decision-making (UNDP, 2009:7). The situation was similar to Michels’ iron law of oligarchy—without firm checks in party constitutions and electoral rules, even organizations formally committed to democracy will be dominated by ruling elites (Hague and Horrop, 2007). Once the Maoist party was over-ground following the success of *Jana Andolan II*, it started displaying confusing and conflicting tendencies. On the one hand, the party appeared committed to the discourse of inclusion at community and society levels and nominated historically high numbers of women and Dalits in the Constituent Assembly in 2007. The party also released an appeal and said on 20 August 2007 that the lack of guaranteed proportional representation of different oppressed indigenous groups, Madheshi, women and oppressed

castes—were hindering Constituent Assembly election.⁴ On the other hand, the Maoists were dead-set against reservations in party rank and file. For them, party positions were based on loyalty, contribution and party's needs. In around 2007, the Maoist party had changed the leaders of most of its frontier organizations, replacing those from marginalized groups with those from historically dominant groups (see table 2). Even if it was a regressive move, the discourse on representation and inclusive democracy could not be weakened. Parties like Nepali Congress-Democratic⁵ and Rastriya Prajatantra Party took up the inclusion agenda and started implementing it in party structures. The Election Commission also stated, “parties must be democratic...parties are expected to hold internal elections for office bearers every five years” (Election Commission, 2008). By 2008 there was a drastic change in the composition of the apex elected body—the parliament—now with 33 per cent women, 32 per cent Madheshi, 6.5 per cent Dalit and 23 per cent Janajati representations.

⁴ See, http://www.bannedthought.net/Nepal/MIB/MIB17/press_release.html, accessed on August 20, 2020.

⁵ Nepali Congress (Democratic) was a political party formed in 2002 due to a vertical split of the original Nepali Congress and was led by Sher Bahadur Deuba. It was the first political party to provide reservations for Dalits, women, ethnic groups, Madheshi and Karnali zone in its constitution before its November 2005 general convention. It reserved eight seats—two for Madheshi, two for ethnic groups, two for women, one each for Dalits and Karnali zone—among the 28 elected Convention seats.

Table 2: Regional autonomous governments and leadership of Maoist Party before and after 2007

S.n.	Name of Autonomous Regions	Heads	
		Before 2007	In 2007
1	Kirat Autonomous Region	Gopal Khambu	Gopal Kirati
2	Tamsaling Autonomous Region	Hit Bahadur Tamang	Agni Sapkota
3	Newar Autonomous Region		Hitman Shakya
4	Tamuwan Autonomous Region	Dev Gurung	Hitraj Pandey
5	Magarat Autonomous Region	Santosh Buddha Magar	Hemanta Prakash Oli
6	Tharuwan Autonomous Region	Ram Charan Choudhary	Sakti Basnet
7	Madheshi Autonomous Region*	Matrika Yadav	Posta Bahadur Bogati
8	Bheri-Karnali Autonomous Region	Khadga Bahadur Bishwokarma	Khadga Bahadur Bishwokarma
9	Seti-Mahakali Autonomous Region	Lekh Raj Bhatta	Kul Prasad KC

Source: Pyakurel (2012) and Decision of the series of central committee meetings in various phases from 31 July - 15 August 2007 computed by the author.

* Madhesh autonomous region was further divided into Abadh, Tharuhat, Bhojpura, Kochila, and Mithala after 2007 and leadership given to Devendra Poudel, Haribhakta Kandel. Bhim Prasad Gautam, Haribol Gajurel and Bishwanath Sah, respectively.

The inclusive nature of the parliaments in 2008 and 2013 started impacting law-and policy-formulation. The Constitution of Nepal 2015 even directs political parties to reflect the diversity of Nepal in their executive committees at various levels. The conditions to be fulfilled while registering a political party, according to sub-article 4 of Article 269 of the constitution are:

- (a) Its constitution and rules must be democratic,
- (b) Its constitution must provide for election of each of the office bearers of the party at the Federal and State levels at least once in every five years; provided that nothing shall bar a political party from holding such election within six months in the event of the failure to hold election of its office-bearers within five years because of a special circumstance,
- (c) There must be a provision of such inclusive representation in its executive committees at various levels as reflective of the diversity of Nepal.

The following table shows the compositions of central committees of major parties at the time of the promulgation of the constitution on 20 September 2015.

Table 3: Representation of marginalized groups in the central executive committees in main political parties in 2017 (in percentage).

	NC	UML	Maoist
Total Number	85	115	151
Hill Ethnic Groups	12.94	18.26	21.85
Tarai Communities (including Muslims)	14.11	12.10	13.84
Dalits	7.05	5.21	2.66
Women	20	17.42	13.24

Source: Simkhada (2017).

In the initial years, Nepali Congress was better than other parties on representation of marginalized communities in the party central committee. The NC's 12th general convention held in Kathmandu (September 17-21, 2010) elected 13 women, 11 Hill Janajatis, eight Madheshis, five Dalits and one Muslim even when the law required it to elect only five Janajatis, six women, five Madheshis, five Dalits and one Muslim. This representation started decreasing though, after the failure of the first Constituent Assembly. After 2008, representation in NC's Central Committee for hill Janajatis decreased from 20 per cent to 18.03 per cent (2010), to 12.94 per cent (2015). Even the proportion of Dalits-members came down from 8.19 per cent in 2008 (Pyakurel, 2020) to 7.05 per cent in 2015. When the party amended its constitution in February 2018 through its executive meeting, and decided to form a 167-member Central Working

Committee,⁶ the diversity was further compromised. It provided for election of a Deputy General Secretary each from eight clusters and maintained 33 per cent women representation. Yet, Janajatis, Madheshis, and Dalits would now have lesser representation.⁷

The CPN-UML, after its 8th General Convention (16-25 February 2009), also seemed committed to bringing minorities on board in its central committee. It had initially reserved 45 per cent central committee seats for women, Dalits and other marginalized groups, and eventually elected eight Dalits, becoming one of the most inclusive political parties (Rai, 2009). But most members from the marginalized communities had less voting rights. For example, five of eight Dalits were alternative members and could attend meetings only when full quorum was not met. The party provision to select a Dalit for every 75 members in party units (one worker for every 75 members, one woman for every 100 members) as convention representatives was proposed. The 10th General Convention in July 2014 pretty much upheld previous representative quotas.

As stated earlier, the Maoist party—the name before 17 May 2018 was the Communist Party of Nepal (Maoist Centre)—advocated fair representation in state structure but not party structure. The party constitution⁸ was not inclusive even if its leadership could have appointed as many members of the marginalized groups as it liked. For example, in 2009, it had six Dalit members in the merged 138-member Central Executive Committee, which comes to just 4.34 per cent.

The two major parties—the Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) and the Communist Party of Nepal (Maoist Centre)—announced their merger as Nepal Communist Party (NCP) on 17 May 2018, and agreed on

⁶ The committee includes the President, two vice presidents and General Secretaries each, eight Deputy General Secretaries (one each from women, Janajati, Dalit, Madheshi, Tharu, Khas Arya and Muslim), a treasurer, 35 elected members from general categories, nine women elected members, 21 from seven provinces (including three women), nine Dalits (including four women), 15 Janajatis (including seven women), 13 Khas Arya (including six women), nine Madheshis (including four women), four Tharus (including two women), three Muslims (including one women), one each from deprived region, minorities and disabled. The president nominates the remaining 33 members, also along inclusive lines.

⁷ As per the amended party constitution, representation of Janajati, Madheshi and Dalits will be 9.58 per cent, 5.98 per cent and 5.98 per cent, respectively.

⁸ As the party had no reservation policy, the selection criterion was 'contribution, commitment and loyalty'.

a 43-member Standing Committee and 441-member Central Committee. But the unified party could not maintain the pre-unification diversity. In its nine-member Secretariat, there was not a single woman, Madheshi or Dalit, and the new Standing Committee had only 6.97 per cent women, 4.65 per cent Madheshis and 2.32 per cent Dalits.

While 56 per cent members in the 443-member Central Committee were from Hill High castes, there were only 17 per cent women and 2.93 per cent Dalits. Of 13 Dalits, only four (0.9 per cent) were women (FEDO/IDSN, 2018). The party composition invited heavy criticism from its own cadres as well as from other rights activists, as they charged the party of violating not only the constitution and government rules and regulations, but also NCP statute that clearly states that all party committees should have at least 33 per cent women representation.

Inclusion was weaker still in the Janata Samajbadi Party Nepal (JSPN), the third largest in parliament. This newly registered party with the Election Commission had only 15 per cent women in its 52-member Central Working Committee. Organizational structures of the two parties which eventually merged to form the JSPN in 2020 were also not inclusive: there were only 12 per cent women in the 432-member Central Committee of Samajbadi Party, and 16.3 per cent women in the 765-member central structure of Rastriya Janata Party.

Political parties have thus failed to fulfil their commitment to be inclusive. Today, inclusivity is considered a major indicator of a democratic society, and it was all due to the wise political leadership of *Jana Andolan II*. But today's political leadership is reluctant to implement constitutional provisions and does not heed those pitching for more inclusion. The main opposition at the time, the Nepali Congress, with a comparably better record on inclusion until recently, also seemed to have backtracked. Rather, Congress rulers can be heard making statements like inclusion has weakened people's rights to choose their representatives (Saud, 2016: 158).

Political parties and decision-making process

Gyanwali rightly states that discussions, debates and internal opposition are characteristics of a political organization. Also, political organizations completely

free of internal clashes can hardly be imagined (Gyanwali, 2016: 147). While it is true that, there is no fixed model or formula to intra-party democracy, there yet there are some universally accepted values and assumptions: "maximum participation of the members of party in the formation of policy and election of leadership, democratic selection of candidates, transparency of the source of party funds, periodic elections of leadership, a legitimate way for granting membership and development of the organizational structure", including listening to the grievances of the people' (ibid: 148). For Subedi (2016: 202), intra-party democracy in Nepalese parties is dead and this in turn is hindering the democratization of parties and the society. Such a situation, according to him, is not due to lack of organizational provisions, statute, system, or structures aimed at enhancing internal democracy, but rather due to political leaderships' reluctance to implement them.

Empirical data also suggest that there is no institutionalized decision-making process in major political parties. The NC, the oldest party, claims to be the most democratic with its ideology of democratic socialism, and yet it hardly ever summons its Central Committee—even when the party statute mandates such a meeting every two months. Rather, crucial decisions are taken by its President. This has remained a tradition for a long time.

If we evaluate the decision-making of the erstwhile Nepal Communist Party (NCP), the process seems weak and confusing. It is weak as its two chairpersons make most decisions in violation of party constitution and without consulting party committees, i.e. Central Committee, Politburo and Standing Committee. It is confusing in the sense that leaders picked one of the bodies—Secretariat, Politburo, Standing Committee or Central Committee—to discuss crucial subjects only when pressure built, and most of the selection in the party structures took place on political calculations.

The party was clearly guided more by individuals than procedures and seems to have 'paternalistic leaders who consider themselves most competent and cadres incompetent' (Bhusal, 2009: 32). The leadership that often cites groupism as a major problem needs to read their ideological icons, especially Karl Marx and Friedrich Engels, who had acknowledged party democracy as crucial to combatting

group conspiracy. Even Lenin was in favour of freedom to criticize within party principles in order to guarantee party reform and unity (Dahal, 2010).

The situation is similar in the Janata Samajbadi party. The Samajbadi Party and Rastriya Janata Party had reached a merger deal on 22 April 2020 to avoid possible split of the Samajbadi party. The Rastriya Janata Party, which in turn was formed on 20 April 2017 after the unification of six Madhesh-based parties, had settled for collective leadership. However, the leaders quarrelled most of the time. Instead of resolving the leadership issue by adhering to due procedure, they postponed the general convention three times. The party cited merger consultations for the repeated cancellations, even as it did not prepare for the convention.

Major political parties seem to be trying to escape from holding their general conventions as well. The Maoist party took 20 years to hold its first general convention in Hetauda in January 2013. Before that, the general convention of the erstwhile Rastriya Janamorchha was held in Chitwan district in 1991, and elected Prachanda as its general secretary. Then, in 2001, the CPN (Maoist) elected him party chairman and he has not stepped down since. Before the Maoist party had to hold its next generation convention, the party decided to merge with the CPN-UML to form the NCP. Like the Maoists, the UML also got an excuse to defer its general convention. The NCP in its statute provided for a unity convention within two years of its formation. But the party soon split.

The NC, too, was not prepared for its scheduled April 2021 general convention as it was yet to federalize party structures. The NC claims ownership of the 'federal and inclusive' constitution, and yet the party did not update its organizational structure in the three years since the country adopted federalism. In fact, not being able to mobilize party cadres in the new political structure while restructuring party organization as per the constitution was a missed opportunity. But the leadership does not realize this.

These are all activities of supposedly progressive political parties. The NC, which led all three political revolutions—in 1950, 1990 and even in 2006—had appointed Devbrat Pariyar from the Dalit community in its 11-member Central Committee in its first convention in January 1946 (Magh 12-13, 2003 BS) held at Khalsa

School in Bhawanipura, Calcutta.⁹ The UML also has a long history of struggle and sacrifice for the establishment of multiparty democracy. Even the incumbent PM spent 14 years in jail while struggling for democracy. The contributions of the Maoist and Madhesh-based parties are more recent and yet they too played vital roles in the country's federalization and adoption of inclusive provisions. If they could succeed in movements for democracy, why can they not run the show from the driver's seat? Or instead of trying to maintain the democratic dynamic of inputs and outputs of political systems, why do political parties in the seat of government lack even basic rationality? Are they unaware that democracy thrives when there are opportunities for the masses to actively participate?¹⁰

Conclusion

I would like to conclude by citing Kothari (2005: 30) again, agreeing with his 'classes and masses' theory on Indian democracy. Weak implementation of inner-party democracy as discussed in the previous sections owes not to lack of organizational provisions, statute, systems, and structures to enhance internal democracy, but to the failure to implement such provisions (Subedi, 2016: 202). The reality is that there is an increasingly defensive *status quo* and forces of transformation are constrained a variety of micro-settings (Kothari, 2005: 30). Whatever is happening at the central level has hardly bothered others. That is why party leaderships never sought legal intervention to compel their parties to follow legal and constitutional provisions as inclusive principles were openly violated. Nor were constitutionally established regulating bodies like the Election Commission¹¹ and the Court¹² playing a constructive role. After such indifference of certain 'classes' who could mobilize and create opinion, one does not hesitate to say that 'the classes' hardly support democracy, which is otherwise an enabling tool for the lower reaches of society.

⁹ For details, see <http://therisingnepal.org.np/news/9202>, accessed on August 29, 2020.

¹⁰ Crouch (2008: 2) argue that democracy thrives when there are major opportunities for the mass of ordinary people to actively participate, through discussion and autonomous organizations, in shaping the agenda of public life.

¹¹ The Election Commission, in June 2018, directed all political parties to maintain 33 per cent women representation in party decision-making bodies, offering a month's deadline (for details, see <https://nepallive.com/story/25626>). However, no party followed this call.

¹² Once the NCP was registered without fulfilling the constitutional requirement of 33 per cent seats for women, a petition was filed in Supreme Court in June 2018. But the court did not organize any hearing for over two years, except to issue a show cause to the Election Commission and the NCP.

The decreasing trust of the masses on political parties and its leaders is worrisome. One national survey (where the author was involved) carried out over the past four years suggests decreasing trust in political parties. When the survey sought to measure Nepalese level of trust in 20 different entities, including government and independent institutions, the political parties were found to be the least trusted institutions in 2017, 2018 and 2020 surveys. Surprisingly, the level of trust, which had declined to 58.3 per cent in 2018 from 64.3 per cent in 2017, has gone further down to 56.2 per cent in 2020 (Giri and others, 2020). As Aristotle hints, the masses may not be greatly offended at being excluded from office (they may even be glad to be given the leisure for attending their own business) (Barker, 1946: 228). But it is up to the leadership to be smart enough to reach out to the people through an inclusive structure and deliberative decision-making. But do our political parties and leaders realise the importance of this? The answer is 'no'. That is why, the '*netantra*' (leaderocracy; Baral, 2020) is being strengthened along with the 'extra-constitutional interest groups, and programs to serve the interest of their cadres' (Bhatta, 2016: 209-234), while inner-party democracy is further weakening. The pro-leadership, elitist electoral system we follow has helped strengthen the nexus between party leadership and apolitical elites with business interests, weakening party grassrootization and democracy. The need today is to correct imbalances and institutional erosion, and empower the masses, especially the underprivileged. Nothing outside of politics can make the parties and their leaderships behave democratically. They must be forced to accept inclusion in their organizational structures and undertake deliberations in decision-making. Constant and critical engagement is only the way out.

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Interest Groups, Patronage Politics and Democratic Governance in Nepal

Amit Gautam and Jeevan Baniya

The concept of special interest groups is rather vague while defining from an academic vantage point. However, interest groups play an important role in democratic governance. They are considered vital elements as they play a key role in addressing wide range of issues. Moreover, they are also considered to hold the government accountable and put pressure to work for the broader welfare of the citizens. In addition to this, they enhance the participation of people in the decision-making process (Maloney, 2009). They can, at least in principle, through collective and democratic processes, organise and mobilise citizens independently to make demands and link them with politics. This not only enables aggregation of demands and can contribute to policy formulation, but also leads to social transformation when there is political facilitation not only from above but also from below (Harriss and others, 2004; Wampler and Avritzer, 2004; Heller, 2009). Informed individuals in these groups can also contribute to form better relations between citizens and policy makers through the promotion of civic values (Maloney, 2009). During the course of this, it is necessary to involve and engage those interest groups who have capacity and are well equipped to understand social, economic, and political dynamics of the country.

However, interests' groups involvement in governance might also pose risks as some of them may undermine democratic values, accountability, and generate crisis for the legitimacy of the government (Saurugger, 2006). This may happen when there is no clear boundary between interest groups and political parties or when one tries to use the other for their own benefits. Yet interests' groups have their own positive and negative impacts which would depend on the way they use their resources, strengths and affiliations. Most of the time, in recent years, they are blamed to have weakened the democratic process, not only in Nepal, but also in other parts of the world where democracy is considered relatively stable. Often the pacts between powerful elites, vested interest groups, and politicians collectively undermine democracy. There is sufficient evidence that political and business leaders, government officials, and other entrepreneurs

combinedly dominate political and public institutions and abuse formal means of decision-making process (Harriss and others, 2004). Likewise, there are occasions where elected representatives work more on orders of their party leaders or higher levels of government officials than for public good. Put together, such tendencies weaken governance and create a trust deficit in society towards the government (Grossman and Lewis, 2014). Among many other factors, such a state of affairs is also considered counterproductive for democracy.

In Nepal, political parties along with common people have played an important role in political and economic affairs. Among other things, they were instrumental in bringing about democratic changes from the Rana regime till the political change of 2006. They also played a crucial role in the promulgation of the Constitution in 2015. However, what happened in the course of time is interest groups either grew out of the political parties or were outside of the political parties, tried to fulfil their own interests in the fragile political situation of the country. Nepal has gone through multiple political transitions during the last seventy years and there has been frequent changes of regimes, systems, and governments, which have been weakening the state and its institutions. With the passage of time, interest groups and non-state actors became more powerful than the states and often tried to circumvent it. The weak state phenomenon certainly allowed them to be more influential in the major government decisions.

This article looks into how different interest groups have contributed towards democratic governance in Nepal. It also assesses how these interest groups have become influential and hijacked not only the decision-making process but also key institutions of the state, undermining Nepal's democratic governance. We draw on examples and evidence to discuss the issue in the light of recent experiences within the framework of governance. This article takes three recent cases into consideration and explains how deeply interest groups interfere in governance and how this poses a risk to further rooting Nepal's democracy.

Governance in Nepal

Over the past three decades Nepal has witnessed major changes in its political and governance landscape. The people's movement of 1990 brought an end

to absolute monarchy and reinstated democracy. With the return of democracy, not only the number of civic organizations but also interest groups have grown up considerably. However, as in the case always, these groups could not play an important role in regard to the democratization process and the country slid into the Maoist insurgency which only came to an end in 2006. The political change of 2006 and the subsequent promulgation of the constitution in 2015, taken together, brought new hopes for good governance and democratic stability. The governments in office reiterated the promise of good governance at all layers of the state, which is exemplified by the post-constitution government's slogan—*Gaun Gaun Ma Singhadurbar*. Similarly, the Nepal Communist Party (NCP) led government that came into power in 2018 coined the slogan “Happy Nepali, Prosperous Nepal” that further enhanced people's expectations. However, three years after the formation of governments at all three layers of the newly found federal state, it appears that these expectations remained largely unfulfilled.

One of the most important factors in these frustrations is that the nexus between politics, business, and bureaucracy has become so entrenched that it has created its own momentum in society. The service delivery mechanism of the government has been mired with corruption, even at local level (Shrestha, 2019; Khanal, 2019). As pointed out in the Commission for the Investigation of Abuse of Authority's (CIAA) 2019 report, 27.3 per cent of the respondents said that corruption at the local level has increased since the formation of the new local government bodies in 2017 (CIAA, 2019). Needless to say, the clientelist nature of the politico-administrative structure has remained intact even after the start of the federal project. Local governments are at high risk of falling into the hands of local elites (Hatllebakk, 2017) as newer forms of income ‘surplus’ have been introduced at the local level (Kumar, 2019). Elected executives at the local level decide who contract bids are awarded to and, in some cases, these representatives even use their own firms and construction equipment for public works, flouting basic norms of public procurement. Likewise, local authorities have imposed arbitrary taxes, which primarily serve their own and not the public interest (Ghimire, 2018). There have been reports on jaw-dropping increments in tax rates, as much as 2,500 per cent from the previous years' rate (myRepublica, 2018). Expansion of local revenues through property or sales taxes or indirect charges is considered prerequisite for fiscal decentralisation in

developing countries (Bird, 2006). However, a sudden increment in tax rates has contributed to popular resentment against federalism.

“Chakari” (sycophancy) and *“aafno manchhe”* (nepotism and favouritism) have long been central features of Nepal's governance (Kondos, 1987; Bista, 1991). Studies show how, often, the only way people receive services is either by bribing service providers or through strong connections to ‘an influential person’ or ‘political leader’ (The Asia Foundation, 2017; CIAA, 2018; CIAA, 2019). Lately, these informal groups have morphed into alliances between different interest groups and individuals. Regardless of the nature of the political regime, this nexus between the state representatives, bureaucrats, and vested interest groups has kept working to fulfil each other's interests. These elite-centric arrangements have debilitated the rule of law and governance wherever rent seeking, position buying, nepotism, favouritism and procurement kickbacks have become the new normal (Adhikari, 2015). These kleptocratic networks are eroding people's trust not only into governance but also democracy. And there have been many instances where all three branches of government – executive, legislative and judiciary – have been involved in controversies. Many argue that both plutocrats and kleptocrats are working together and enjoying the state largesse.

Controversial role of the judiciary and the CIAA

This section explains how interest groups and networks are weakening the state bearing institutions. One such example revolves around Nepal's Supreme Court, which is losing people's faith in recent times. Part of the problem is the political appointments in the judiciary and cases where political parties apparently influence decisions for political profits (Momen, 2013). The suspected involvement of a Supreme Court judge in a recent high-profile scam raised questions on the judiciary's impartiality and credibility.

Similarly, the CIAA's role is also not free of controversy. The agency has only been registering cases related to small-scale corruption while most large-scale corruption cases with suspected involvement of those in high political positions and those enjoying political protection were overlooked (Gyawali, 2020). This shows how the institutions, whose major responsibility is to protect and provide

justice, are failing to provide equal grounds for all. This is important because the state's fairness towards its citizen is manifested in its institutions and fairness, in turn, is a prerequisite for trust.

Nexus with business groups

The problems connected to the relationships between politicians and businessmen are as old as politics itself. However, there certainly are basic ethical principles that both parties are required to uphold in a democracy. Sometimes it can be observed that business leaders make every effort to win over political leaders and the bureaucracy, either to secure new contracts or to protect and promote their business interests. There is a number of cases where it became clear that the proximity of businessmen to top political leaders has played a role in the awarding of lucrative contracts. How Yeti group has been favoured by/ in context of awarding many contracts is a classic example for such instances (Mandal, 2019). Another such example was reported in case of Omni Business Corporate International (OBCI) that was contracted to procure Covid-19 test kits. Eventually, after growing public pressure, the deal got cancelled and Omni was blacklisted by the government (myRepublica, 2020).

These are only selected cases illustrating the nexus between business and political elites and how they derail the very notion of good governance which ultimately provides bad image of democracy. They also make the legislative and the judiciary vulnerable to undue influence from outside and impact long-term stability. A case study of the post-2006 democratic transition in Nepal shows how corruption reduces the possibility of sustaining peace in the country. The research, which included participants of diverse backgrounds, illustrates how respondents need to make informal payments to get official works done on time. It also shows how an unequal power relationship between government officials and common citizens is central to this kind of corruption (United Nations Office on Drugs and Crime, 2015). In another study, research participants attributed this difference mainly to the fact that the former have stronger political connections than the latter (Jarvis, 2020).

Private interests in health, education and migration

The education and health sectors provide further examples of the influence of particular interests impacting on the delivery of public goods, especially in instances when politicians and educational entrepreneurs share business interests (Gellner and Adhikari, 2020). This is not only the case at the federal level but can be observed on all governance levels. At the local level, teachers and university lecturers have been politicized and divided along partisan lines. The school management committees' (SMCs) agendas have been hijacked by local elites and local interest groups, who are not only involved in constructing school buildings but even influencing the appointment of teachers.

In 2019, the Parliamentary Committee on Education and Health approved the National Medical Education Bill allowing establishment of private medical colleges. However, the bill was postponed under the pressure of affiliates of major political power centres (myRepublica, 2019). Many Nepalese universities are influenced by their affiliate colleges in designing curricula and evaluating students, and these colleges can even influence university vice chancellors (Wagley, 2010). The National Vigilance Centre had found 12 medical colleges guilty of collecting NRs three billion (USD 2.6 million) from guardians of medical students without proper billing. Yet the government took no action against the operators of those colleges (Acharya and Kaini, 2020).

Civil society organizations, which are considered as being vital to a democracy and good governance and have the ability to exert pressure on the government to bring about necessary changes considerably. But civil society, too, appears to have been divided along partisan lines or even along the agendas of interest groups. This even manifested during Dr. Govinda KC's hunger strike. Moreover, Dr Govinda KC who has been demanding reform on the medical education and has gone for hunger strikes for nearly 19 times. But all those hunger strikes only ended in pledges and nothing substantial has happened under the pressure of interest groups.

Infact, no other sector has such a strong nexus between interest groups and decision makers as it is the case in labour migration. Over 90 per cent recruitment of Nepali labour migrants is facilitated by the Private Recruitment Agencies

(PRAs), who, along with other intermediary agencies, regularly fleece aspiring labour migrants. They deceive prospective migrants about working conditions in the destination countries and make them pay exorbitant fees as well as other related costs (United Nations Office on Drugs and Crime, 2015), while their connections with influential political leaders allows them to bypass laws (NHRC, 2019). PRAs have, in case of opposition, successfully pushed high-ranking government officials out of office. All these preventing aspects of the safer migration strategy, enshrined in the Sustainable Development Goals 10.7 as well as in the Global Compact of Migration (GCM); from being implemented.

Conclusion

The rise of interest groups certainly is not something new and nothing that is special to Nepal. Yet what has become problematic is the boundary between political parties and interest groups is getting thinner and often creates confusion. Also, not all interest groups are bad. However, as we have seen from the discussed examples, if the economy and democracy are in danger of getting captured by particular interest groups through corruption, the state institutions start losing trust of the citizens, which in turn will impact in the overall governance system: democracy. What has been observed over the years is that democracy often has been circumvented by these forces who also try to influence political parties. The result is that nepotism and favouritism networks are entrenched in all spheres of governance. This can also be seen in the politicisation of the legislative and judiciary, where sometimes even largely unqualified candidates are appointed. Cases like Omni and Yeti will continue to happen in other regimes as well. Part of the problem here is related with "neoliberal" approach in general that tries to curtail the role of the state and its institutions at the cost of private agencies.

Political elites have wielded disproportionate influence in every kind of decision-making in Nepal, from appointing government officials to awarding contracts to the private actors. As we mentioned earlier, among senior political leaders there is a strong tendency to bypass formal contract bidding processes. As such, an alliance between citizens, civil society and institutionalized politics is vital in fostering democratic governance and fighting undemocratic politics and policies.

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Gendering the State: Opportunities, Challenges, and Lessons

Meena Poudel

When multiparty democracy was reinstated in 1990, this also coincided with the rise of the global third wave of feminism, which was exploring new strategies for gender equality. Nepalese women affiliated with various mainstream political parties¹ initiated discussions and forged collaborations with national, regional, and international counterparts for women's empowerment, not necessarily gender equality. As the wave was marching ahead, the Fourth World Conference on Women was taking place in Beijing in 1995, which provided a unique opportunity for Nepalese women to establish feminist networks and put 'gender' on the agenda back home. Before that, the 1990 constitution already included the provisions of allotting five per cent of the seats of the lower House of Representatives to women. Similarly, the amended Local Governance Act of 1994 included the historic provision that 20 per cent of the nominations at the local units should be women. These provisions had already brought a significant number of women representatives into the village development committees, the lowest units of governance and laid the foundation for women's inclusion in the polity. However, their participation in the democratic process was still limited, which is why the mainstream women's movement continued to raise their voices within their affiliated political parties. Their movement was also supported by civil society organizations (CSO). Following their continuous advocacy, the Ministry of Women, Children, and Social Welfare was established—a key institutional mechanism to implement decisions of the Beijing conference as well as some of the affirmative policies on gender equality.

As the democratization process advanced, Nepalese women started developing various thematic issues in association with regional and global feminist movements to fight subordination, end discrimination, and stop violence against women. In

¹ There has been a debate on the identity of the mainstream women's movement. CSOs have claimed that they are in the lead. However, in this chapter 'mainstream women's movement' refers to the movement led by women's organizations affiliated with registered political parties. The author's viewpoint is that NGOs are important but agenda-based supporters.

addition, they also acknowledged diversity and intersectionality of women's issues and used various alliances and collaborations to address their issues.

From a historical perspective, the roots of the women's movement can be traced back in Nepal at least to the late 19th century. Yet, the organized movements of today only started to take shape in the middle of the twentieth century, when two key political parties representing liberal democratic (Nepali Congress) and Marxist parties formed women's organizations: The All Nepal Women's Association led by Sahana Pradhan and Nepal Women's Association led by Mangala Devi Singh. The founders of these organizations had experienced gender injustices in their own lives and began to focus their work on a limited number of key issues such as women's rights to education, health, and increased political representation. These initiatives laid the foundation to improve women's social status in many respects. However, they saw a significant set-back during the return of the monarchy, since, political parties and their affiliates including women's organizations were banned. Though, there were also women's organizations led by pro-royal groups who were working as per the wishes of the regime.

Still, Nepal, being a member of the United Nations, took part in the First World Conference on Women as part of international women's year 1975 in Mexico City. During this time, Nepal also signed the Convention on Elimination of All Forms of Discrimination Against Woman (CEDAW) and introduced a provision on the right to inherit property for women who were unmarried until they reach the age of 35 years in an amendment to the Civil Code. A few other affirmative action and institutional settings were introduced during 1980s but women's broader participation in politics was still very limited.

The 1990 democratic change, however, allowed Nepal to enter the global discourse on feminism guided by Marxist and liberal feminist perspectives. That time the feminist movement or feminist movements focussed more on affirmative actions and programmes at the grassroots level to raise awareness about socio-cultural, political, economic and legal rights of women. However, soon after Nepal plunged into a decade-long conflict launched by the Maoist insurgency, which only ended in 2006 after signing the Comprehensive Peace Agreement (CPA) between the government and the then Communist Party of

Nepal (Maoist Centre) – short: CPN (Maoist). Before the Maoists had launched the insurgency in 1996, they, however, had submitted a demand list with 40 points to the government. Among those demands, one (no. 19) explicitly stated that patriarchal exploitation and discrimination against women should be stopped and daughters be allowed to have access to [parental] property (Thapa, 2003; Bhattarai, 2002). Though, the initial document did not mention feminism, the Maoists consistently used terms like ‘women’s liberation’ and ‘women’s emancipation’ in line with Marxist feminism. They believed economic empowerment as the key to women’s liberation, unlike liberal feminists whose primary focus lay on legislative reforms. The post-conflict situation in Nepal, however, has brought opportunities to advance women’s equality both in the state, society, and the family (Pant and Standing, 2011: 409). By putting gender and patriarchy at the centre, this chapter looks into feminist discourse(s) in Nepal.

Patriarchy and feminism in the Nepalese context

Patriarchy is not a historical constant as it manifests in several forms (Walby, 1990). While various feminist writers have attempted to theorise it from their own perspectives the term is largely used to describe power relationships between men, women, and social institutions. The global feminist discourses, over the course of the last century, has focused on addressing women’s status as: a) subordinate, b) oppressed, and c) discrimination based on gender. They believed that patriarchy is the main reason of unequal power relations in society. They also identified social, cultural, and political issues that have to be addressed to support equality, while keeping factors related to intersectionality in mind. Largely influenced by this discourse, Nepalese women’s organizations also started working to address these issues and their manifestations in context of the local realities. The formation of an all-party women’s caucus in the first Constituent Assembly was part of this process, which achieved some significant improvements towards gender equality. However, the problems of structural discrimination are not resolved, despite Nepalese feminists’ rigorous efforts in federal and provincial parliaments. Patriarchy still systematically dominates women in all social institutions – the family, the community, the labour market, and the state.

Patriarchy needs to be periodically re-examined and re-interpreted in different spaces and times. In Nepal and other societies in the South Asian sub-continent, patriarchy is still dominant. Some scholars see a major role of the caste system in this regard (Omvedt, 2005), while others include aspects of traditions and culture as well. They argue that maintenance of caste boundaries does not allow inter-ethnic marriages and controls women's sexuality. Though, Nepal legally abolished the caste system long ago, practices are still perpetuated through social institutions. Moreover, the patriarchy in South Asia manifests itself in other ways as it can be observed in society, politics, and the labour market. This domination builds a kind of hierarchy (Jagger, 1984) whose major roots can be found in the material base – the neoliberal orthodoxy of the market that creates obstacles for women's access to power (*ibid.*: 239). Among the most important manifestations are patrilineal descent and patrilocal residence of women (Rendall, 1982: 15-34; Mansoor, 1999: 32). Through patrilineal descent family titles and property rights are inherited by male lineage. Many view this practice as manifesting as an institutionalized subordination of women to men.

Even though, Nepal has seen some improvements over the last decades, the numerical inclusion of women in state institutions – which is part of liberal feminist approach – may not be sufficient to fracture patriarchy. However, the numerical inclusion also does not necessarily translate into appropriate affirmative action. As a result, though the CPA acknowledged that the patriarchal domination over women has multiple facets, it was not seriously integrated in the peace process. And while men might be divided over political ideologies, they still collaborate in the institutionalization and upholding of patriarchy. Women, in contrast, often get divided by the masculine political strategy of their own parties, which often keeps feminist movements from breaking patriarchal power. A tendency that became evident in Nepal's peace process.

Radicalization of the gender agenda

Following the signing of the CPA, the Maoists not only joined mainstream politics but also became participants in the interim government and contributed in drafting Nepal's Interim Constitution 2007. The Interim Constitution included a provision of requiring 33 per cent women's representation at all levels of the

state structures, a significant step towards gender equality (Bennett, 2005; Pant and Standing, 2011). It also called to repeal discriminatory citizenship provisions which was under discussion for long-time. Two years later, an elected Constituent Assembly declared Nepal a federal democratic republic and underlined that politics and the policy making process should be inclusive. For all practical purposes, this was another significant step towards gender equality in Nepal. Yet, some leaders from the CPN (Maoist) that oppression of women cannot be compared with other types of oppression which might be based on caste, class, and ethnicity and that women's emancipation cannot be limited to gender alone (Yami, 2007). However, the focus on equality is one of the reasons why Maoists were successful in mobilising women from the margins during their insurgency (Gautam, 2001; Manchanda, 2012). In addition, the Maoist's strategy of recruiting women encouraged rights groups and the mainstream women's movement to strengthen their gender advocacy further.

During the peace process, Maoists also forwarded a proposal for the removal of all forms of gender-based discrimination. They proposed reserving 25 per cent of the seats for women in all representative institutions and ensure their constitutional right to education, health, and employment. Their proposition was well-accepted by like-minded organizations. Without using the term 'feminism' the Maoist certainly contributed to advancing a feminist agenda in the post-conflict democratization process in Nepal.

Gendered peace process and the Nepalese masculinity

Following the civil war, Nepal has undergone significant political transformations by restructuring the state and drafting the constitution through an inclusive political process. The democratization process has brought about enormous transformations in the society as well. Everyday lives are reconceptualised, reconstructed and required to live with new negotiations in private as well as public spaces. As agreed between the CPA signatories for the peace process, Nepal drafted an interim constitution. The contents of the constitution were essentially inclusive in nature, which was also reflected in the Constituent Assembly (CA) that was formed later.

The CA included a significant number of female representatives from diverse social groups. The very idea of restructuring the state came as part of the initiative to empower citizens irrespective of their gender and social identities (Baral, 2008). However, during the peace process women were excluded from critical decisions from the onset and the inclusion of gender aspects was limited to women's numerical representation, as mentioned earlier, than addressing the structural barriers towards gender equality. The absence of a clear political strategy and commitment to addressing these structural barriers consequently raised questions about the Maoist's commitment to gender equality and 'women's emancipation'.

During the peace-process critical cadres including senior female politicians from the Maoists and other political parties were not engaged in the peace-process whilst the CPA was being decided. Nepal's peace-process, in fact, was based on compromise and consensus that was struck among top political leaders of various political parties which only kept their concern in consideration. Whereas the experiences from other post-conflict societies, suggest that political conflicts can provide opportunities for women to claim political and socio-cultural space as well as provide economic opportunities, but in Nepal many women were mostly forced to go back to the kitchen (Kumar, 2001; Manchanda, 2001). A historical political betrayal of the Nepalese feminist movement by the male dominated leadership of the CPA signatories. However, the lack of a common strategy of various women's organizations operating in the country also contributed to this outcome.

This situation continued as the peace process advanced, almost all the committees that were formed to monitor the peace process were largely male dominated. While drafting the interim constitution, in the beginning, the six member committee only included a single female member. It was only, later that two women representatives were included, one of them from the Dalit community (Falch, 2010), due to mounting pressure from women's activists. However, women have also managed to take away a few victories when they were working together. For example, the constitution also required a minimum of 33 per cent women's representation in all state institutions, including in official bodies of political parties. Female politicians from all key political parties in the CA formed a caucus, which contributed significantly to the inclusion of this provision in the new constitution. The caucus also played a key role in ensuring that gender

is taken into consideration in policy making, particularly relating to human trafficking, proportional representation, and property rights. Through strategic collaboration with the Indigenous Caucus, the Dalit Caucus and the Madheshi Caucus, the Women Caucus played a critical role in influencing party leadership to put forward their agendas. However, implementation of these milestones remains a challenge until today and major structural barriers to gender equality look largely unaddressed. There are, at least, two reasons (1) while women's presence in various agencies have regressed after the post-conflict period and (2) men are reasserting masculine authority aggressively once again. This leaves little space for women further institutionalizes patriarchal structures.

Reflecting on key achievements

After all those efforts and the mission of the radical Maoist movement to build 'new Nepal': Are gender relations changing in Nepalese society? Have women received 'their liberation from feudal patriarchy' or has patriarchy just changed its approaches and continues to undermine female agency? What are the issues that still need to be addressed and what still needs to be achieved by the next Nepalese feminist movement in regard to gender equality? Where does Nepalese feminism stand at this juncture of the democratization process? These are some of the key questions that will need to be addressed from a critical feminist perspective in context of the ongoing democratization process in Nepal.

Nonetheless, despite structural barriers, institutional challenges and patriarchal mind-sets undermining women's agency, Nepalese women, to some extent, used the political transformation after the civil war as an opportunity to build their confidence. They acquired negotiation skills to fracture some of the normative barriers, and contributed significantly to make the fragile peace process a success and, thus, helped building the foundation to sustain the democratization process. Possibly one of the major lessons to be learnt from the Nepalese peace process is that the situation created opportunities to collaborate for a highly divided feminist movement for a shared gender equality agenda.

In the following paragraphs some key achievements of the Nepalese women's movement are discussed in more detail.

Gendering the constitutional process

Using and dividing women at various levels, including in politics, has remained a strategy to institutionalize patriarchy globally (Kabeer, 1995; Walby, 1997; Mostove, 2006). One can also witness including women from various committees, as mentioned earlier, during the peace process is a classic example to understand the strategies of Nepalese patriarchy. However, the Nepalese feminist movement learnt from this defeat and developed collaborative strategies for the post-CPA process. This collaborative action has played a vital role in sensitising the constitutional process to gender issues. As a result, the Interim Constitution 2007 appears to be one of the most gender inclusive documents in Nepal's political history. Some of the key features of the Interim Constitution in this regard are elements of fundamental rights for women in accordance with the UN Charter on Civil Rights that Nepal had signed (Nepal Law Commission, 2007). The constitution ensured 33 per cent of women's representation in the upcoming/next Constituent Assembly, as well as the entitlement to parental property including land. Women were also represented in all thematic committees of the parliament set up to discuss and draft the interim constitution, an unprecedented opportunity to influence national decision-making and the development of the new constitution. These provisions were also included in the new constitution that was finally promulgated in 2015 and have created a solid foundation to enhance gender equality. However, implementation of those provisions is challenging and will require long-term strategies to root them in Nepalese society.

Affirmative actions on gender welfare

Affirmative actions are key to strengthen citizen's ability to exercise their constitutional rights in the democratization process in any post war transition. In Nepal the affirmative process was accelerated after signing the CPA. While internal political dynamics might have played a role in this, feminist consciousness and Nepalese media also connected with global feminist activism, introducing the gender mainstreaming agenda to Nepalese policy makers and women's organizations has brought further momentum. As a result, since 2006 various affirmative actions were introduced through constitutional and transitional policy exercises. The key policy focus of this initial period of the peace process was to mainstream gender into the democratization and national

development processes,² revise policies in line with gender justice, strengthen key institutions as well as investment to build capacity of grassroots women for economic activities (Acharya, 2015). Furthermore, initiatives also focussed on strengthening microcredits schemes for rural women, social security schemes for senior citizens as well as a number of affirmative provisions for socially and culturally excluded social groups such as Dalits, Muslim and others. Some of the key initiatives included:

- Mainstreaming gender in development planning through the formulation of gender and social inclusion (GESI) policies in various ministries including budgeting process.
- Strengthening institutional mechanisms to ensure gender justice. This included upgrading the National Women’s Commission to the status of a constitutional body, enhancing the capacity of the Ministry of Women, Children and Social Welfare, and setting up GESI-units in a number of ministries.
- The passing of the amendment of the labour law, the foreign employment act, and the country’s civil code to make affirmative mechanisms more gender responsive. In addition, collaborative actions from female politicians also persuaded the government to amend relevant laws and formulate policies corresponding to constitutional provisions. For example, laws relating to property ownership, human trafficking, early marriage, sexual minorities, domestic violence, marital rape, and abortion. These affirmative changes, however, had less impact in overcoming structural barriers. Nonetheless they contributed providing positive ground to advance feminist work on structural transformation.

One of the biggest advances in this regard came about through the Local Election Act 2017 which made it mandatory for political parties to ensure 50 per cent female candidates in one of the top two positions – chair or deputy – in the local government (Nepal Election Commission, 2017). As a result, after the promulgation of the new constitution in 2015, the first local elections 2017 were a breakthrough in terms of encroaching spaces traditionally perceived as

² Three Year Interim Plan (2007/08 – 2009/10), Government of Nepal National Planning Commission Singhadurbar, Kathmandu, Nepal, December 2007 retrieved October 2020.

masculine. The Local Elections Act facilitated women's representation in the state institutions by guaranteeing more than 40 per cent women in local governance. These mandatory electoral provisions have contributed to the election of 18 women candidates in the local government either as mayors or chairpersons out of 753 such units. In addition, 700 vice chairs and deputy mayors were elected across the country (Nepal Election Commission, 2020).

Prevailing legal provisions do not prevent women to run for political offices chair of the village council and mayor of municipality, but the masculine nature of political parties does not provide appropriate ground for female leaders to be elected into into those and other political positions. However, due to the in context of the 2017 elections, the situation will likely improve for women in the next elections. The Local Government Operation Act 2017 2017 provides some distinct and very important responsibilities to deputies along with general political responsibilities. Para 16 (b) of the Act makes them the coordinator of local judicial committee, which is crucial for serving women and marginalized social groups. Although this role is relatively in low profile politically, less visible publicly and domestic in nature, the legal functions of the deputies empowered female deputy mayors by enhancing communication and skills to analyze the existing legal framework critically. It certainly can be an effective instrument to weaken patriarchy. Such legal provisions will contribute significantly to create more space for women in the state institutions.

Key unresolved issues

Despite the aforementioned achievements, there are some key unresolved issues which are explained as follows.

Legal subordination to men

While the new constitution has brought about some positive transformations in Nepalese society, there are still gender injustices that need to be addressed. Nepalese women still do not exist as an independent person. Their personhood is defined through men, either their father or their husband. Nepal's constitution carries a complex notion of identity which is based on descent and naturalization

that determine an individual's legal autonomy as well as his or her status in society. Although the constitution in part 2 (11) article 2 (b) includes the provision that 'any person whose father or mother is a citizen of Nepal at the birth of such person' is eligible to be a citizen of Nepal, the same article (5) also states 'a person born to a Nepalese citizen mother as a descent citizen and having his/her domicile in Nepal but whose father is not traced, shall be conferred the Nepalese citizenship by descent'. This provision is further elaborated by adding 'provided that in case his/her father is found to be a foreigner, the citizenship of such a person shall be converted to naturalized citizenship according to the Federal law'. Though, referring to 'mother' rather than 'wife' or 'sister' is a positive step compared to previous formulations, several laws still discriminate women. This especially is the case with regard to property management, rights to inheritance of resources, and citizenship policies which still include male 'guardianship', that is, women require to be recommended by a male guardian. In addition, of the reference to mothers makes little difference over past practices, since only a woman who has her own 'formal citizenship' (Lister, 2003) (descent in this case) can recommend her children to apply for a citizenship card. Women who have no formal citizenship card can neither get their own, nor recommend a card for their children. A woman herself needs to be recommended either by her father (in the case of an unmarried woman) or by her husband to be eligible to recommend her children. Such complex legal environment only reinforces prevalent feudal socio-cultural practices and strengthens patriarchy further. It also restricts women from voting and run for public positions. Moreover, the non-existence of women's agency under the law suggests that women's bodies, earnings (if any), family property and children are still belonging to men (Walby, 1990; Chan, 2000; Bennett, 2002; Kondos, 2004; Poudel, 2011).

Economic dependency on men

In addition to restricting political rights of women, such legal subordination has direct consequences on women's economic rights and daily livelihoods. Constitutionally, citizens have equal rights to property. The government recently offered a number of financial concessions and tax rebates to women on land and similar property (Acharya, 2015). Although, these provisions are rather symbolic in character, they can nonetheless be taken as a foundation to move on with more

substantial affirmative arrangements to remove women's legal subordination so that they are able to use economic opportunities and reduce dependency to men.

Cultural responsibility to preserve prestige

Over the period of time, Nepal has moved from feudalism to modern political discourse but the influence of neo-liberalism in politics and economy has only strengthened patriarchy and is still playing a key role in weakening women's agency. As discussed before, despite women's active role in the democratization process, the legal construction of womanhood, and economic interpretation of women's agency are still grounded in cultural practices that define women's role in society and relegate women to certain sectors. For example, while women's contributions are not considered significant in economic terms in the family, their cultural roles, linked with female sexuality, are. Thus, women are held responsible for maintaining family and kin's *izzat* (prestige) (Cameron, 2005; Poudel, 2011). For Nepalese society, women are daughters, sisters, mothers, and wives and as such symbols of *izzat* and have to be protected by male guardians and kept unpolluted (Chen, 2000). If their sexuality is tainted by men other than their husbands – in context of migration, trafficking or in the case of rape – this is considered as shame for the community and family. Not only that they also lose social status. Regardless of the democratization of social institutions, power, pride and nationalism are still culturally linked with men and masculinity, whereas victimhood, shame and sorrow are connected to women and femininity. This not only has consequences for the social position of women but also determines the gendered life chances (Bhuthalia, 2000; Poudel, 2011).

Socially lower position than men

A complex interaction of gendered identity with legal subordination, economic dependency, and cultural obligations put Nepalese women at a lower social position than men. The benefits generated from these institutions including wages, pensions and social benefits are also unevenly distributed. The new constitution promulgated in 2015 guarantees women coming from various social groups equal opportunities and rights, women's relative status, however, varies from one social group to another. For example, the social status of women in

Tibeto-Burman communities seems relatively better than of their counterparts in Indo-Aryan communities.

Conclusion

The United Nations have defined the status of women in the context of their access to knowledge, resources, and political power as well as their personal autonomy in the process of making decisions. When Nepalese women's status is analyzed in this light, the picture is generally bleak. Nepalese society is connected with global neoliberal market structures, the nature of patriarchy, however, is still rooted in feudalism that defines womanhood, enforces cultural obligations, maintains economic dependency, and tolerates lower status in social institutions (Poudel, 2011).

The volume of work that has marked women's activism in recent decades in Nepal is notable. Feminist activism has engaged with political and social transformation to reconstruct and enhance women's identity, promoting political representation, preventing gender-based violence and exploring non-traditional approaches to livelihood.

However, a complex interaction of new hopes, desires and opportunities with traditional and discriminatory cultural practices surfaced in gender responsive policy implementation and remains a key challenge in regard to protecting the progress made by women throughout the democratization process after the CPA. Moreover, the feminist movement is being challenged at the discursive level. Masculinity is being institutionalized further in social institutions and political leaders are increasingly proclaiming the death of their own goal of 'women's emancipation'. In recent years, many leaders that were formerly perceived as liberal on gender questions are adopting masculine approaches to operationalize the achievements. For example, political reserved quotas for women of socially marginalized groups are largely filled with women from urban elites, who always enjoyed privileges in exchange of endorsing legal subordination, economic dependency, cultural obligations, and lower social status.

Nevertheless, the changes that happened during the last few decades should not be underestimated. They certainly have contributed positively to Nepalese society. For instance, the adaptation of traditional values, social norms, and gendered behaviour into new circumstances is not only challenging the masculine perspective of the political discourse but also providing women with political, economic and socio-cultural agency. All changes, however, have to be used as a transformative change in a wider society. This, in turn, would deconstruct existing legal subordination, economic dependency, cultural obligations and improve social position in society.

These changes, however, cannot be sustained, as new circumstances are still fragile, unless the national and provincial institutions are set up to safeguard them. Perhaps the most important part in this regard is that the Women's Commission and other constitutional commissions and institutions will have to be strengthened politically. They should be made financially viable, technically skilled, philosophically clear and free from masculine interference. This is because the state, as a gendered institution, is traditionally been understood as an institution which can hold monopoly over two key areas: in one hand legitimate coercion within the given territory and maintain the social cohesion of classed society on the other (Walby, 1997). In Nepal, a hierarchical structured society with its interlocking systems of caste, ethnicity, and religion, patriarchy plays a significant role in building centralized institution. However, the pluralistic political set-up that was created in 2006 is certainly encouraging and will provide more level playing grounds for women.

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Democracy Building through Inclusion

Santosh Pariyar

Democracy building has more than one dimension, more so in post-conflict societies like Nepal, which has also gone through multiple transitions in the past 70 years. There was a transition in political, economic, social, and cultural arenas but more is still needed to deepen democracy's roots. Democratization processes in other parts of the world inform us that it can only deepen when it is truly owned by the people. For that to happen, scholars suggest democracy needs to move beyond ritualism or from 'procedural' to 'substantial' stage. 'Procedural democracy' may be enough for day-to-day affairs, but it certainly will not be sufficient to address broader social problems.

In Nepal's contemporary political discourse, the issue of inclusion has constantly been brought into discussion. Such discussions took momentum from the 1990s and spiked after the political change of 2005/06. It was also the time when Nepal adopted 'inclusion by representation' for those who were poorly represented politically. Yet, this alone was not sufficient to have an inclusive society. For certain caste-based groups such as Dalits, whose problems are complicated, the numerical approach was not enough to resolve their problems. In fact, scholars argue that democracy and the caste system do not go well together. While democracy advocates equality, the caste system lays emphasis on social hierarchy, which becomes problematic. To say Dalits of South Asia are torn between (liberal) democracy and caste-based discrimination will not be an exaggeration. While liberal democracy pushes them towards poverty, caste-based discrimination, does not give them respect and dignity. In fact, there has been 'double discrimination' against them, and this is precisely the reason they cannot be uplifted with the same methods of inclusion adopted for others. There are at least three areas which seriously need to be looked into in order to improve their social situation: first, they need to be better represented in state mechanisms; second, their social and cultural status will have to be enhanced (they have to be integrated into the broader society); and, third their economic conditions need to be greatly improved.

Over the years, Nepal has come up with various policies and programmes to improve the conditions of Dalits and end all sorts of discriminations against them. However, very little has been achieved. Nepal's promises of an equal and just society, for all practical purposes, have largely been confined to the red books of the planning commission, manifestos of the political parties and reports of non-governmental organizations. The most plausible reason for this is the perpetual political instability that Nepal has witnessed in the past seven decades. Yet again, instability was the product of bad politics coupled with unresolved societal problems. The situation started improving after the reinstatement of the multi-party democracy in 1990, laying the foundation for the activism to put pressure on the government. The political change of 2006 then, highlighted their key issues. In principle, provisions of inclusive democracy were duly incorporated in the Interim Constitution of 2007 and the Constitution of Nepal 2015. Both increased the political representation of marginalized groups including Dalits. However, representation alone will not be enough, at least for Dalits, since other social and cultural issues hold them back. While we have adopted a modern political system and lifestyles, we continue with traditional practices where caste and creed are more important than democracy and constitution. Striking a balance between modernity and tradition, between the informal constitution of the society and the formal constitution of the state, and between state and non-state actors seem to have become problematic. This does not allow us to bring desired changes in society as well as in our polity. Perhaps Nepal needs to develop a new social contract based on constitutional supremacy and rule of law, in further deals with some issues related to inclusion, representation, and their impact on democracy in general and uplifting Dalits and other marginalized groups in particular.

Setting the context

In the medieval period, Nepal was divided into smaller Kingdoms. It only emerged as a nation-state, though not necessarily in the European sense of the term, in 1768 when Prithvi Narayan Shah unified it. However, the unification process has not been well received by many caste, ethnic, and regional groups. There are some who blame Shah for imposing a supposedly Nepalese culture

through the process of '*Sanskritization*'.¹ Yet, Prithvi Narayan Shah was the necessity of the time, and his acts cannot be judged in today's context. Critics argue that the unification process that Shah initiated made Nepal 'a state' but not 'the state' in a sense that it has not necessarily been able to include all the 'nations' into it. The country, they argue, was not able to consider the emotions of the people and nations residing within the commonly shared geographical boundaries. Physical unification is not enough, emotional, and social unification of the nations and society, too, are important. Striking a balance between nation and state, therefore, has emerged as a major problem in today's world. Such a problem should have been addressed by democracy, yet that is not the case. In fact, as the democratization process moves ahead, Nepal is becoming a 'less-state'.² Such a situation is not good for sustainable democracy. Many criticise the current republican regime that is broadly dominated by party elites having substantial influence over political processes and decisions. Like many donors, they are preying on poverty and further marginalization of various societal groups.

Marginalized groups, communities, and regions, to some extent, are represented in polity yet many feel the entire process is not going in the right direction. Every political regime claims to be democratic but that is not necessarily true. Resident elites do not necessarily like to share political powers with others let alone marginalized communities/groups. It does not necessarily carry the voices of those it claims to represent. There are scholars who argue that mere representation in institutional life of the state will not bring about social transformation. It will rather reinforce the situation wherein the majority of such representation will be exploited by the political elites, and those who truly need to be uplifted will fall behind. While discussing representation and social justice, one can say that Nepal's marginalized people from different backgrounds have a long way to go in achieving formal equality. Cultural, social, political, and economic inequalities persist in multiple forms. Therefore, representation

¹ 'Sanskritization' is often used in a misleading way, since it implies that the 'sanskrit' language is to be blamed for certain social conditions, while that conditions are rather connected to the caste system which is built around in hierarchy.

² Less-state here means a state dominated by some exclusive caste groups, without the representation of other people of different castes and cultures in statecraft.

alone should not be equated with democracy.

Discourse on inclusion by representation

The very rationale of the state lies in protecting rather its citizens, but anyway. And for that states have developed different types of political systems. Yet, they largely settled with 'democracy' as the most suitable system, despite its preconceived biases towards equality. It was believed to create conditions/ situations for everyone to exercise their rights – political rights as well as fundamental rights. It does so with the help of elected representatives (Bobbio, 1989). Representative democracy believes that people from a group/society cannot represent themselves and their genuine concern/interests have to be articulated with the help of their representatives. To represent, thus, means to speak on behalf of the people (Heywood, 1997). John Stuart Mill (1958) in his seminal work "Considerations on Representative Government" speaks in favour of representative democracy and argues that a government must be representative. Yet, it neither allows for ownership nor is it truly representative. Underrepresentation, however, is often common in Leviathan (Pitkin, 1972) for the obvious reason that it exercises power over people. Faced with this problem, this led to the rise of debate not only on exclusion but also on inclusion. In fact, the discourse on inclusion has taken the centre-stage in recent years among academicians, policymakers, and citizens. This may be due to the improvement on the quality of democracy itself. Part of the problem lies with the decision-making process, which leaves certain people out. Because of their less social and economic power, their voices and concerns are not heard (Young, 2002). Many scholars and activists believe that the whole discourse on inclusion will have to be revisited and their part of the story has to be communicated. There has been great emphasis on inclusive democracy, which involves more than formal equality of all individuals and groups in the political process. It also entails taking special measures to compensate for the social and economic inequalities of unjust social structures. Such special measures may require group representation so that the particular social perspective of group members gets voice (Young, 2002).

In principle, inclusion emphasizes thorough democratization of all state agencies.

However, Nepal has not been successful in democratizing its institutions. Rather, every regime change promoted ideological favouritism, nepotism, and constituency-oriented approach, which influenced larger state institutions as well. This has created obstacles for true representation and only reinforced exclusionary culture. Many of us hoped that the situation would change after the restoration of democracy in 1990 and even more so after 2008 when Nepal became a federal democratic. However, there is dissatisfaction and disillusionment primarily because we continue with the same self-centred political culture that fosters discrimination, distrust and conflict among various castes and ethnic groups (Khanal et al, 2012).

Representation or inclusion?

Inclusion of all ethnic and caste-based groups in politics and society, and all layers of decision-making mechanisms in governance, has become one crucial aspect of democratization of political power. It also entails decentralization of economic power and enhancing the living standard of people in all levels. All these would not only enhance the quality of democracy but also contribute towards institutionalization. The signing of the Comprehensive Peace Agreement (CPA) between the government and the Maoists on 21 November 2006 formally ended a decade-long civil war, promised state restructuring to address the nation's "class, ethnic, regional and gender problems" and set up a competitive democratic political system that guaranteed civil liberties, fundamental rights, human rights, press freedom, and the rule of law. As Nepal's state-centric conflict is now morphing into a low-intensity social conflict, it certainly has the potential to derail the democratization process. This is where inclusive democracy is important in order to strengthen the state's linkages and outreach in society (Menocal, 2009: 4). The Nepalese peace process set an example in conflict resolution and yet the political, economic and social transformation and issues of Dalits and other marginalized committees are yet to be resolved.

In a country of minorities like Nepal, political inclusion means providing all groups access to power and avoiding the hijack of political power by a single group. Yadav (2016) argues that the notion of inclusive politics has exposed the nature of political parties that have been mostly dominated by people from certain caste groups/communities. This also holds true when it comes to state institutions.

However, such a situation does not go well with democratic values and could instead be a source of further conflict. The mainstream political parties could not guarantee proper representation of marginalized communities and Dalits in various party committees including their central committees. As a result, women, Madheshi, Janajati and Dalits continue to be disadvantaged groups (DAGs) with very limited access to power.

The lack of political commitment has deprived of space in leadership positions and decision-making processes. Such a state of affairs has alienated them from mainstream politics and their issues have been captured by the increasing number of Dalit, Tharus, Madheshi, Women and Janajati-based organizations. These organizations have developed their own networks to establish “common ground” to address their issues. However, these networks are largely ineffective in influencing political parties. Such organizations, in recent years, have been hijacked by careerist ‘activists’ and donors whose main objective is to capitalize on their agony but not to address their problems. This has given birth to a projectile society (Bhatta, 2012) whose main objective, again, would be to move ‘projects’. There certainly is a need to expand the scope of inclusive representation in some party apparatus for political empowerment and social integration. Since elections in Nepal are expensive, there have to be certain provisions for Dalits to contest them. In this context, it is also essential to understand the question of inclusive democracy in political parties in four dimensions: voice, representation, articulation of policy platforms, and performance.

Political parties and representation

The post-1990 political change is a turning point with regard to representation. This allowed various groups/communities to raise voices for greater political representation. Their concerns were also supported and facilitated by national and international NGOs (Hachhethu, 2008). This was further reinforced after the 2006 political change. Yet, as indicated earlier, their inclusion has not increased and translated into a policy process. The promises political parties made during the popular agitation only benefited elites from certain political parties but not those whose should have been represented (Sharma, 2008). In principle, democracy is a system of governance practised for the highest number of people

– the masses. Yet, in practice, masses are only there for the purpose of voting; the real rulers have always been the people representing elite classes.

The Nepalese state came up with solid programmes to increase the representation of Dalits and other marginalized groups in politics, economy and society - by amending electoral laws, increasing and making quotas mandatory and abolishing discriminatory practices such as untouchability. However, often political parties include their own people in the name of representation. The various reform mechanisms for inclusion by representation appear to have been hijacked by privileged classes. Historically disadvantaged groups such as Dalits were confident that the new political dispensation would work for them. However, the benefits went to those whose social and economic status was already elevated. The major political parties did not take the issue of Dalit representation in their party structures seriously.

Only the well-functioning political parties with strong commitment to bring about change can ensure social justice, provide public goods and, with this, can play an important role in rooting democracy. The political conditions that have emerged today do not allow much possibilities for the people (Dillon, 1996: 1). The ideological dogmas of political parties only then get to power and not necessarily to deliver justice (Powell, 2000). Quite a few people from certain castes, ethnicities, regions and sexual backgrounds still suffer from entrenched structural marginalization. If Nepal's political parties truly wanted to address the issues of inclusion and representation, they will have to (1) create 'reservation within reservation' in each social group, both at national and sub-national levels, to guarantee quotas for underrepresented groups, (2) improve socioeconomic status of excluded and marginalized identities, and (3) initiate institutional reformation and capacity-building (4) and change the language used to identify certain groups. Likewise, The social movement spearheaded by 'marginalized groups' such as Dalits, Madheshis, Janjatis, women and others have asked for an expanded constitutional base of politics, and institutional base of political parties and governing institutions. Negotiated settlement of these issues would seemed to have served them to get to democracy take root. To strengthen and effectively implement inclusive democracy, several recommendations could be put forward:

- The political parties have to demonstrate a democratic culture in their attitude

and behavior so that inclusive democracy can be realized through compromises among various groups, where no single group can form government and settle disputes.

- To make party cadres aware of inclusive democracy and state restructuring, civic education programs have to be conducted throughout the country. The goal is that they do not trample on the rights of others just because the “others” are in a relative minority.
- The political parties, including the larger ones, have to demonstrate a culture of respect to uphold the spirit of multi-cultural society and maintain a balance between three groups of rights—individual rights, groups rights and human rights.
- There has to be a balance between legislative and executive powers, a system of checks and balances, to prevent the tyranny of the majority.

Conclusion

Nepal, a culturally, socially, linguistically and religiously diverse country – and also a country of minority in a sense that no single group can claim more than 18 per cent share in population – there must be institutional mechanisms to provide all groups a fair share of the state resources and help build ownership. Inclusion should be implemented such that protecting and respecting weaker sections of society is as important as maintaining diversity. There are attempts to destroy diversity in the name of equality primarily because many see the former as the part of the problem. If implemented prudently, political inclusion would provide representation in governance, and social inclusion would generate a sense of social belonging. Taken together, the two can contribute to strengthen and enhance post-conflict state-building.

Only then will democracy be truly inclusive and become a public good for all, and create the space for the distribution of public goods across various divides of society, allowing political leadership to peacefully resolve conflicts of all sorts. Nepal has a diverse population and complex mosaic of ethnic, caste and cultural

identities. However, political power and access to resources have hitherto been exploited by high-caste, hill-based groups, notably Brahmins and Chhetris, who claim to have built the state. They are of the view that this state should carry their identity, not necessarily the identities of the mosaic that Nepal possesses. There has been no realisation that other communities/groups/regions have also contributed in the state-building process. If this thinking continues, democracy that we talk about will continue to be for a few and not for everyone.

Electoral democracy only provides political legitimacy, real legitimacy comes from the people and can happen with inclusion at its centre. As we all know, inclusion comes not only from political representation but also from social recognition and respect, and this is something that has to be anchored in governance of the state and society. The normative theory of democracy and teaching of *dharmasastra* alone will not bring about positive changes if *Dharma* is not upheld and we do not internalise the central message of inclusion. Many feel that after the 2006 political change and subsequent government formations, the state has only become more Brahminical (not in the *Upanishadic* sense of the term though). So there is a lot to do to deepen democracy. Compared to other groups, integration of Dalits in the society requires a radical change in our societal outlook. Their problems should be resolved before the “street becomes an alternative parliament and court”. They have suffered a lot in the past and continue to suffer in the 21st century. Most other categories of ‘marginalized groups’ are consolidating their positions in society and governance whereas Dalits are still demanding their rightful share.

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Madhesh in the Politics of Nepal

Hari Bansh Jha

Located in the south of the country, the plain land of Madhesh, which is also called Terai, occupies about 23 per cent of Nepal's land mass, but is home to over 50 per cent of its overall population of 29 million. Of the 59 castes/ethnic groups in the Madhesh region, the share of the Tharus alone is 21.13 per cent, followed by Yadavs (12.3 per cent) and Telis (4.19 per cent). Together, these four groups constitute 51 per cent of the population of Madhesh (Jha, 2010). The Madhesh region is also well known for its diversity of culture, languages/dialects, religious beliefs, ethnic communities and above all its flora and fauna.

However, on account of certain historical legacies, the Madheshi people feel a sense of deprivation and exclusion from the Nepalese state. Though things have started to change in recent years, the part of the population is still inadequately represented in civil service, security organs, diplomatic jobs, the legislature, the judiciary and even in the political parties of Nepal. Over the years, there have been efforts to promote migration of people from other parts of the country to this region, with the result that locals in certain districts turned into minorities. The distrust of Nepalese elites towards the Madheshi people is a historic fact that was most evident, as was most glaringly evident during the authoritarian Rana regime (1846-1951) as well as the 30 years of Panchayat system (1960-1990). These factors led to the cultural and economic disadvantages of the native population and gave rise to identity crises and developed a certain sense of alienation and identity crisis among them.

Madheshi leaders have supported democracy and the federal form of government since the 1950s with the hope of ending traditional injustices against them. However, even in the new state structure their issues remain largely unaddressed to date. Democracy cannot deepen its roots unless the issues raised by the Madheshis, Janajatis, Dalits and other disadvantaged groups are addressed, who constitute over two-thirds of Nepal's population. The extent of Nepal's democratization would largely depend on how Madhesh as a nation is integrated into the Nepalese state. This paper discusses major issues in Madhesh and their possible impact on Nepal's democratization process.

Major Madheshi issues

As the Madheshi people have felt discriminated by the state, they launched , movements in 2008 ,2007 and 16-2015. Some issues they raised during those movements are discussed below:

Fixation of Provincial Boundaries

The Madheshi people prefer the Ten Province Model of the High-Level Restructuring Committee that had been presented to the first Constituent Assembly (CA-I). The committee had provided for two states in the Terai: the Madhesh Province dominated by ethnic Madheshi groups and the Tharuwan Province with a substantial population of Tharus. In Madhesh Province, the share of Madhesh-based ethnic groups would be 74 per cent, whereas in Tharuwan Province, the share of Tharus and Bajji Madheshis would be 52 per cent (Table No. 1).

Table No. 1: Province model of high-level restructuring committee

Provinces	Largest Group	Margin (%)	Second Largest Group	Margin (%)
Limbuwan	Limbuwan	27	Khas Arya	27
Kirant	Rai	35	Khas Arya	27
Madhesh	Madheshi	74	Pahadi	26
Newa	Khas Arya	37	Newar	36
Tamsaling	Tamang	35	Khas Arya	30
Narayani	Khas Arya	45	Magar	11
Tamuwan	Khas Arya	33	Gurung	32
Magarat	Magar	35	Khas Arya	35
Tharuwan	Tharu (27) + Bajji Madheshi (25)	52	(Khas Arya (25) + Pahadi (23) anajati	48
Khaptad	Khas Arya	60	Pahadi Dalit	19

Source: Shah (2016).

The Ten Province Model, however, was overlooked while drafting the new constitution in 2015. Instead, a Seven-Province model was incorporated so as to make the Khas Arya ethnic group as the largest group in almost all provinces,

except in Madhesh Province where the Madheshis happen to be the largest group (Table No. 2).

Table No 2: Ethnic composition of seven-province of Federal Nepal

Provinces	Largest Group (%)	Second Largest Group (%)	Margin (%)
Province 1	Khas Arya – 27	Terai Indigenous Peoples- 12	15
Madhesh Province	Madheshi – 88	Pahadi – 12	76
Bagmati Pradesh	Khas Arya – 37	Tamang – 20	17
Gandaki Pradesh	Khas Arya – 42	Magar – 17	25
Lumbini Pradesh	Khas Arya – 30	Magar – 16	14
Karnali Pradesh	Khas Arya -62	Hill Dalits – 16	50
Sudurpaschimanchal Pradesh	Khas Arya – 60	Tharu – 17	43

Source: Hachhethu (2016).

Delimitation of Electoral Constituencies

For their due representation in parliament, the Madheshi people want electoral constituencies to be based on population. But the constituencies for the 275-member House of Representatives (HoR), the lower house of federal parliament, are based both on population and geography. Because of certain weightage given to geography while delimiting electoral constituencies, even a hill/mountain district like Manang with 6,500 people or Mustang with less than 14,000 people has one Member of Parliament (MP) each in the HoR. Meanwhile, populous districts in the Terai like Dhanusha (755,000), Saptari (640,000) and Siraha (637,000) have one MP representing over 150,000 people. The number of electoral constituencies such as municipalities and village councils are far more in the hills/mountain regions compared to the Terai region.

Further, in the 59-member National Assembly, the upper house, each of the seven provinces gets eight members—irrespective of the population-size Plus, three National Assembly members are nominated by the country's President.

Accordingly, Province 2 with over 5.4 million people has the same eight members as the Karnali Province whose population is merely 1.5 million, as per the 2011 census. Since Madheshis are the dominant group in Madheshi alone, the community gets the maximum eight representatives in the National Assembly from there. But other provinces are most likely to elect non-Madheshis.

Members of HoR, National Assembly, Provincial Assemblies, and representatives of local units like municipalities/village councils are all eligible to vote in the election of the Nepalese President. Although the population of Madhesh, on the whole, exceeds that of the hills and mountains put together, there are more voters for such apex bodies in hills and mountains than there are in Madhesh.

Proportional Representation

In the 22-point agreement reached between the Government of Nepal and the Madheshi People's Rights Forum, Nepal on 30 August 2007, there was an agreement to ensure balanced proportional representation and partnership of Madheshis, indigenous peoples/Janajatis, Dalits, women, backward classes, disabled people, minority communities, and Muslims who have been excluded for generations in all organs and levels of government and power structures, mechanisms, and resources (Jha, 2018). Even the Interim Constitution 2007 had a provision of reservation for Madheshis and other disadvantaged ethnic groups in different layers of the administration.

But the spirit of affirmative action enshrined in the Interim Constitution was somewhat diluted in the new constitution mainly through the provision of reservation for the economically disadvantaged Khas Arya groups like the traditionally privileged hill Brahmins and Chhetris. Such a provision in the new constitution has eroded the share of the traditionally marginalized deprived ethnic groups like the Madheshis, Tharus, Janajatis, Dalits (ICG, 2016). Besides, the new constitution has also granted one-third reservation to women in government organs, but it is unclear if the traditionally backward women of the Madheshi, Dalit, Tharu, and Janajati communities can claim their shares in such organs.

Citizenship Issue

As citizenship is the birth-right of every person, there should be no discrimination in issuing citizenship certificates to genuine citizens. But the Madheshis, Dalits and Janajatis tend to be discriminated in this. The voice against this discrimination has been raised in the Terai region since the 1950s. In the past, different commissions were formed to resolve this problem, but to no avail. A large number of people, especially in the Terai region, are yet to get citizenship certificates.

The new constitution has complicated the citizenship issue by denying the spouses of Nepalese women naturalized citizenship, in the way the spouses of Nepalese men get such citizenships. The foreign spouses of Nepalese men are easily granted naturalized citizenship after they relinquish their previous nationality. But foreign spouses of Nepalese women are expected to live in Nepal continuously for 15 years to be eligible for naturalized citizenship (TKP, 2016).

As per the new constitution, children born to Nepalese citizens marrying foreign nationals can get naturalized citizenship, or half-citizenship. Their children will not be able to hold the country's top constitutional positions such as the President, Prime Minister, and Chief Minister. This provision directly affects women of the Terai region who often marry across the border in India. An estimated 2.4 million people of this region have matrimonial ties across the border (Nepal Bharat Maitri Sangh, n.d.).

Even as a large number of genuine citizens from Madheshi and other communities are struggling to acquire Nepalese citizenship, the secretariat of the ruling Nepal Communist Party (NCP) had introduced an amendment bill on Citizenship Act 2006. The citizenship issue could thus be further complicated. The amendment bill stipulated that foreign women married to Nepalese men would have to wait for seven years to be eligible for naturalized citizenship (Mohan, 2020). So far, as per the Interim Constitution of Nepal 2006, foreign women married to Nepalese men can easily get naturalized citizenship.

The amendment bill on citizenship was criticized as regressive and discriminatory against women (ibid). If passed, foreign women married to Nepalese men would neither get Nepalese passports nor could they apply for government positions

for seven years (after which they become eligible for naturalized citizenship). Such women would be denied political rights like casting votes and contesting elections (My Republica, 2020). This created a fear psychosis among the Madheshi communities as such a move could affect socio-cultural ties among border residents of Nepal and India. Major political parties including the then Samajbadi Party Nepal (JSPN) and Nepali Congress criticized the bill (Jha, 2020).

Madhesh issues in the first Constituent Assembly

Following the first Constituent Assembly elections on 10 April 2008, Nepal declared itself a federal republic on 28 May 2008. In CA-I, Madhesh-based political parties, including the Sadbhavana Party (SP), the Madhesh Janadhikar Forum and the Terai Madhesh Democratic Party (TMDP), had common agendas on citizenship, formation of an autonomous Madhesh Pradesh, the federal system, and inclusive proportional representation of Madheshis, indigenous nationalities, women, Dalits and other minority communities in security services and other government organs. Some of these agenda had already been incorporated in the agreement between Madhesh-based political parties and the government of Nepal after the first (2007) and second (2008) Madhesh movements.

But in the 601-member CA-I, the Madhesh-based parties were chiefly concerned with drafting the federal constitution. The concept of federal structure differed from one political party to another. The, then, Unified Communist Party of Nepal (Maoist), the largest party in the CA-I, came up with a 13-state federal model. It had provided for nine states in the hills and mountain regions with the remaining four states—Bhojpura, Kochila, Mithila and Tharuwan—in the Terai. On the other hand, the Communist Party of Nepal-Unified Marxist-Leninist (CPN-UML) came out with a 15-state model based on ethnicity, linguistics, culture, history and geography. It did not support the demand of the Madhesh-based political parties for a single Madhesh state (Jha, 2010: p. 75-77). Likewise, NC's model of federalism was based on vertical rather than horizontal divisions of the provinces, somewhat akin to the five-development zones of the partyless Panchayat system (1960-1990).

The Madhesh Janaadhikar Forum Nepal (MJFN), the TMDP and the Sadbhavana Party developed federal models based on geography, ethnicity, linguistics, social,

cultural, population and economic sustainability (ibid). These parties wanted ecological belts as the base for state-formation. They sought to concentrate powers in the states except in matters of security, foreign relations, and monetary policy. But larger political parties like the NC and the UML wanted to maintain the status *quo* and keep most powers with the centre.

Amid simmering debates over federal structure, a sub-committee was formed under the Constituent Assembly Committee on State Restructuring and Distribution of State Powers. This committee put forward an ethnicity-based 14-state model for Nepal (ibid). Immediately, the Madhesh-based parties, including the Madheshi Janaadhikar Forum Nepal (MJFN), the TMDP and the NSP rejected this model. They were not in a mood to accept any model that went against their demand for 'One Madhesh-One Pradesh' as had been decided in the 28 Feb 2008 (eight-point agreement between the Government of Nepal and the United Democratic Madheshi Front (UDMF), an alliance of Madhesh-based political parties. Despite much debate on forms of federal system, the CA-I could not resolve contentious issues related to state-restructuring. Subsequently, it was dissolved on 28 May 2012 without producing a federal constitution.

Madhesh issues in the second Constituent Assembly

In the second CA elections in November 2013, the Madhesh-based parties could win merely 10 per cent seats in the 601-member assembly, unlike in the CA-I in which they had a substantial presence. Even though the percentage of votes they got (12 per cent) was the same in both elections, they met a humiliating defeat in the CA-II. Mainly because altogether 13 Madheshi contested in the CA-II elections, while it was only three in the CA-I elections (Jha, 2015). Besides, those parties were also punished for their relentless power games and for overlooking people's genuine concerns.

No headway had been made in drafting the new constitution until the deadly earthquakes of April 25 and May 12 in 2015. But when the entire country was suffering in the earthquake's wake, certain leaders of the NC, the UML, the UCPN-Maoist, and the Rastriya Prajatantra Party Nepal (RPPN) signed a 16-point agreement to draft a new constitution on a fast-track basis.

The UDMF found its demands on federal boundaries, proportional representation in state mechanisms, electoral constituencies, and citizenship ignored in the agreement. As such, all major Madhesh-based parties except the then Madheshi People's Rights Forum-Democratic headed by Bijay Kumar Gachhedar opposed it. The Madheshis were excluded in the constitution-making process, in an undemocratic manner. Perhaps this was one reason the Madheshis, Tharus and most of the Janajati ethnic communities opposed the new constitution when it was passed by the CA-II on a majoritarian basis on 20 September 2015. While Kathmandu celebrated this occasion, the Madheshis, Tharus and various Janajati groups in the Terai observed it as a black day. In the new seven-province model inscribed in the new constitution, the traditional geography of eight districts in Madhesh Province was left untouched. Other than this, the remaining 12 districts of Madhesh were merged with hill-based provinces, shrinking the support base of Madheshis, Tharus and other Janajati groups.

Agitation and economic blockade

In 2012, the Madheshis, who constituted one-third of the country's population, had merely 8 per cent share in government jobs. On the other hand, the hill-based Brahmins and Chhetris whose population was 31 per cent occupied 79 per cent positions (Shah, n.d.).

As the new constitution overlooked the concerns of Madheshis, the UDMF called for an agitation in the Terai region. In the nearly six months of agitation in 2015-16, 50 people were killed and hundreds injured (Sood, 2016). Most shops, industries and business activities in the Terai region were closed, severely hampering the local economy. To diffuse the crisis, the government team held almost two-dozen talks with the agitating UDMF leaders. Then, on 19 Feb 2016 the government unilaterally amended some clauses of the constitution and formed an 11-member political mechanism to demarcate state boundaries. But the logjam remained (Utpal, 2016).

When casualties started mounting during the agitation, Madheshi leaders staged a sit-in (*Dharna*) in the 'no man's land' on the Nepal-India border, including at Birgunj-Raxaul border. This was the safest place for political leaders to continue

their peaceful protests. International law forbade security agencies of either Nepal or India from intervening there. The main motive of the Madhesh-based political parties was not to block the supply of goods but build pressure on Kathmandu to consider their demands.

At the start, only a few political members participated in the sit-in at the Birgunj-Raxaul border. But gradually their numbers began to swell. Thousands of political members flocked to the Birgunj-Raxaul border for the success of the economic blockade. People from villages and municipalities in Bara and Parsa districts provided food to the agitating groups. The blockade curtailed the supply of essential items like cooking gas, petroleum products and medicines into Nepal via official custom points. Consequently, the prices of those items surged in Nepal's domestic markets.

But the supply of essential items from India to Nepal did not stop altogether. Even during the blockade, there used to be traffic jams in Kathmandu Valley and transport services in other parts of the country ran as usual. Some members of Madhesh-based parties taking part in the sit-in during the day smuggled essential items like petroleum products at night. They ferried in essential items mostly on motorcycles from across the border in Bihar. Using unauthorised routes, they dumped these supplies at certain collection centres in Nepal. Such items were then transported to different locations inside the country, including Kathmandu. The irony was that neither Indian nor Nepalese security agencies ever tried to stop the smuggling.

The political members of Madhesh-based parties who had made immense sacrifices during the movement were disenchanted at the behaviour of some of their smuggling colleagues. This was why Kathmandu did not have a compelling reason to heed the Madheshi leaders, and the economic blockade largely failed to achieve its goal. The 135-day blockade ended in a fiasco in February 2016.

Unification of FSPN and RJPN and future of Madhesh

The leaders of the FSPN and the RJPN had long been discussing about unification. What had not materialised for years happened miraculously in a matter of few

hours on 22 April 2020. The two parties announced their merger after the Nepal government introduced two ordinances to amend provisions regarding registration of new parties and composition of the Constitutional Council that makes important constitutional appointments. On 23 April 2020, the leaders of the two parties applied for registration of the newly unified People's Socialist Party (PSP)/ Janata Samajbadi Party (JSP) at the Election Commission (THT, 2020).

Amending the Political Party Act would have allowed for a party split if either 40 per cent of its central committee members or the same percentage of parliamentary party members supported the move (Giri and Pradhan, 2020). Existing provisions allowed party-split with the support of at least 40 per cent members of both the central committee as well as the parliamentary party. Speculations were rife that the ordinance on party split was introduced to break the FSPN, with its 17 seats in the House of Representatives. The RJPN also had the same number of seats in the Parliament. The dirty design failed after the dissatisfied group in the FSPN could not get required support from the parliamentary party. The FSPN saw no alternative except for uniting with the RJPN to thwart such split attempts, and the two parties entered a marriage of convenience.

On 24 April 2020, under pressure, President Bidya Devi Bhandari had to repeal the two ordinances. The ordinances were widely criticized both within the ruling and opposition parties (My Republica, 2020). The leaders of the NC, the RJPN, the FSPN and the Rastriya Prajatantra Party (RPP) condemned the ordinances as unconstitutional and undemocratic (TKP, 2020). The PSP released its manifesto soon after its formation. It said the existing federal structure could not address Nepal's major issues related to identity, self-rule and autonomy. It thus wanted to replace the seven-province administrative model of the country by a 10+1 identity-based model. It wanted strong provinces so that local bodies, such as the municipalities and village councils, fell under provincial jurisdiction (JSP, 2020).

The new party believed in a socialist system in which all citizens had equal access to state resources and power. In this model, people would get housing facilities, besides also securing their clothing, education, health and employment needs so as to increase the gross human happiness. To bridge the gap in income and

opportunities between various sections of the society, the PSP promised to generate wealth by increasing production and ensuring effective distribution. It was also in favour of reservations for marginalized communities, differently-abled people, and minority communities.

To address the growing problem of corruption in public life, the PSP wanted to have an anti-corruption authority called *Jana Lokpal* (ombudsman). Also, to reduce the steep electoral costs that breed corruption, it supported proportional representation. It wanted at least 33 per cent reservation for women in all government organs, including in public administration, civil service, army, and police. In international relations, the PSP prioritized neighbouring countries and at the same time, sought to maintain friendly ties with other countries of the world. It saw economic diplomacy and national interest as guiding forces of Nepal's foreign policy. But as luck would have it, the united party would again split in the second half of 2021.

Peace and stability under the new constitution

Political instability was the norm before the promulgation of the new constitution in 2015. Most governments were toppled before a year. This was so either because a political party did not have majority seats in parliament or even if it did, the party would soon split from in-house rivalries.

A new chapter was added to Nepal's history during the 2017 elections. The UML struck an electoral alliance with the Maoist Centre and together they emerged as a strong force, winning most seats at federal, provincial and local levels. The two communist parties later merged into the Nepal Communist Party (NCP) in May 2018. The NCP had close to a two-thirds majority in the federal parliament. Besides, it formed governments in six of seven provinces and most municipalities and village councils. Madhesh Province was the only exception, where the FSPN and the RJPN jointly formed the provincial government and ruled most local units. The influence of the FSPN and the RJPN, which claimed support not just in the Madhesh but also the hills and mountains, largely shrunk to Madhesh Province.

The RJPN and the FSPN could not do well outside Madhesh Province because of the rupture in relations between the two parties. The RJPN wanted to boycott the elections of local units in 2017 after the new constitution failed to address the demands of the Madheshis, Janajatis, Tharus and other disadvantaged groups. It tried to persuade the FSPN to follow suit. But the latter still took part in the first two phases of local elections and suffered humiliating defeats.

The leaders of the FSPN realized their rifts with the RJPN were proving costly. Similarly, the RJPN rank and file started putting pressure on party top brass to take part in the third phase of local elections. As the RJPN had boycotted the first two phases, several political members had quit the party. Compulsion rather than choice led to the formation of the FSPN-RJPN electoral alliance and its participation in the third phase of local elections, and later in the provincial and federal parliamentary elections. Because of their alliance, the two parties did rather well in these elections, especially in Madhesh Province. Subsequently, the leaders of the FSPN and the RJPN, who had opposed both the NCP and the NC during the Madhesh movement, extended their support to the KP Oli government at the centre. The FSPN even joined the government in the hope that the NCP could be persuaded to amend the new charter and address Madhesh issues.

The RJPN withdrew its support to the government when the demand for the release of its imprisoned elected MP, Resham Chaudhary, was ignored and cases against political members allegedly involved in the Tikapur incident—when eight people were killed in clashes in Kailali's Tikapur—were not withdrawn. And the federal government also failed to amend the constitution. As such, the FSPN not only withdrew its support to the government, its leader, Upendra Yadav, also resigned from the Oli cabinet (Jha, 2020).

In a dramatic development, the NCP and the RJPN closed ranks during the elections of the National Assembly. There were speculations that the RJPN could even join the NCP government at the centre and form a new government with NCP in Madhesh Province by breaking its relations with the FSPN. But this was forestalled when the federal government simply refused to budge on Madheshi issues. The RJPN and the FSPN came together to form the PSP. At a time of

Covid-19, the possibility of any new movement in the Madhesh does not seem to be in the offing. As such, peace and stability are unlikely to be disturbed in the country any time soon.

But people feel terrorized by the way local bodies have imposed taxes. Corruption and impunity are rampant. Because of prolonged lockdown, the economy has suffered, including agriculture, industrial, services and other sectors. GDP growth slumped to 1.5 per cent in 2020 (Sapkota, 2020). Unemployment has peaked. Things could truly get out of hand if even 10 to 20 per cent migrant workers return from the Gulf countries. Peace and stability will not be assured unless these problems are solved.

Conclusion

Madheshi people have been deprived of many opportunities available to others in the country and they have been raising their voice against this discrimination since the 1950s. The Madhesh movements launched in 2007, 2008 and subsequently in 2015-16 were steps in this direction.

Because of their great strength in CA-I, the Madhesh-based parties had a unique opportunity to negotiate and settle crucial Madheshi issues. It would not have been difficult at the time to get two states in the Madhesh region—one in the east and the other in the west—each with a lot of autonomy. But this opportunity was lost mainly because of the lack of visionary Madheshi leaders who were mainly noted for their lust for power.

The constitution promulgated in 2015 could also have addressed the Madhesh issues on citizenship, delineation of boundaries of federal states, population-based electoral constituency, and proportional representation in government organs, but it was not to be. Now, to strengthen democracy and ensure long-term peace and stability, the constitution needs to be amended and issues raised by dissatisfied Madheshi community and other groups should be addressed without any further delay.

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Media in the Democratization Process of Nepal

Ritu Raj Subedi

Mass media and democracy have a symbiotic relationship. The media play a vital role in re-socializing people through the diffusion of information, opinions, and analyses. Professional media can help to generate critical consciousness among the people and inspire them democratic politics.

In the Western world, the media and democracy evolved together. Both took a solid institutional shape and supported nation-building and industrialization process. They also played a crucial role in drawing new political roadmaps and social contracts. By virtue of its influence, the media quickly earned the moniker of the 'Fourth Estate'. This was in recognition of their role in keeping a tab on the three organs of the state — executive, legislature, and judiciary. The phenomenal growth of media and their critical role also allowed countries to embrace the spirit of democracy based on the constitutional culture.

Likewise, in many developing countries, including Nepal, the media became part and parcel of epochal political changes. Media also became an intellectual weapon of the oppressed and that of the voiceless masses. They used the media against the tyranny of the rulers — be they dynastic, elected or oligarchical. In a peaceful period, the media assume the role of a watchdog to ensure the government and elected officials stick to their defined duties and deliver timely public goods and services. In turbulent times, they act as a strong anti-establishment force to expose undemocratic and incompetent conduct of state and non-state forces alike.

In a post-conflict phase, the media are supposed to promote democratic values such as popular sovereignty, social inclusion, and affirmative rights among others. After emerging from a decade-long violent conflict, Nepal recently entered a new political path. In this context, the responsibility of media should not be limited merely to reporting. In contrary, they should also assume some normative role in reconciliation of various sections of society by highlighting people's overlapping values.

Nepal's constitution has recognized the media's role in the country's democratic transformation by guaranteeing 'complete press freedom' in its preamble. Article 19 (1) titled 'Right to communication' reads: There shall be no prior censorship of publications and broadcasting, or information dissemination, or printing of any news item, editorial, article, feature, or other reading material, or the use of audio-visual material by any medium, including electronic publication, broadcasting and printing. 'Nepal is one of those few countries where journalists enjoy complete freedom and rights under the law, even though they face a host of challenges from state and non-state actors while carrying out their duties.

With the above background, this paper explores the co-relation between media and democracy based on historical and current media practices. In Nepal, the media and democratic movements thrived concurrently, helping each other during the time of crisis. It also offers a conceptual framework to understand the media and their multidimensional functions, and then sheds light on the country's tradition of communication-driven enlightenment and history of political struggle. Likewise, it aims to substantiate the proposition that the media have been instrumental in consolidating the democratic system and supporting ethical standards with the Nepalese people. Media concepts such as 'public sphere' and 'mediatization' are also discussed, and the nature and goals of Nepalese media outlets are evaluated.

Concept and impact

News media is an umbrella term for all forms/mediums of communicating news and views to the general public. This communication helps shaping the public opinion and amplifying an issue in terms of focus and audience. Here the word 'media' is used interchangeably with terms like 'communication', 'mass communication', 'journalism,' 'the press,' and 'the fourth estate' to avoid terminological ambiguity even though there may be nuanced differences between these words. It includes different forms of media — print, radio, television and internet — to analyze and validate the chief premise of this article. The media exercise far-ranging social, political, cultural and behavioural influence on a larger segment of the society, a process that can be referred to as 'mediatization' of society. With the expansion of the internet and social media, the media landscape today has become more

complex, fast paced and competitive. Yet, journalism need to uphold a set of cardinal principles — accuracy, truthfulness, fairness, objectivity, independence, and public accountability — which, in consequence, makes it responsive to the society and capable of performing crucial democratic functions. These principles are also crucial in gaining and upholding credibility and to win public trust. Failure to embrace these fundamental values gives rise to trust deficit.

However, strict objectivity in many instances can also become a matter of dispute. The coverage of racial issues in the wake of the killing of African American George Floyd in May 2020 is an instructive example of this point. The incident exposes deep-rooted structural and partly unconscious bias of the US corporate media. Hundreds of journalists working in mainstream media, including The Wall Street Journal, The Washington Post and The New York Times clashed with their own editors and employers on the issue of ‘objectivity’ in portraying the black revolt against entrenched racial discrimination in an advanced and institutionalized democracy (The Economist, 2020). However, the absence of informed choices and objective reporting is creating obstacles to holding those who abuse public posts and authority accountable. Kharel (2012: 167) states that informed citizens make informed decisions, which in turn allows for fair participation of citizens in the public discourse. Such discourses will not only empower citizens but will also contribute to holding authorities accountable within the constitutional framework.

Yet, this productive power of media can be manipulated to create what Karl Marx calls ‘false consciousness,’ and ‘manufactured consent’ (Herman and Chomsky, 1988), and to indoctrinate and tranquilize masses for the benefit of a handful of political and business elites. Under these circumstances, media neither can strengthen civic sphere nor can it provide space got public sphere. In contrast, it can be used to control and manage democracy for political and corporate interests.

Chautari as an ancient public space

To understand the co-relation between media and democracy in the Nepalese context, it is essential to look at how media developed in ancient times and how

they became a social capital and political instrument to usher democracy in the country step by step. Since the distant past, Nepalese society had very unique vehicles of message transmission like '*Katuwal Karaune*' (shouting of messenger), '*Jhyali Pitne*' (playing folk percussion instruments) and '*Shankha Phukne*' (conch-blowing). The messengers used to shout or bang musical instruments in open spaces to draw people's attention. These tools of communication might sound strange to those who were born in the age of television and internet, yet, they too are, accustomed to the notion of spreading the message (McLuhan, 1964). They certainly have become historical but they do provide evidences of indigenous knowledge and communication skills of our ancestors.

These practices helped create meaningful social and cultural discourse. The Katuwals made village residents reliant for important information on village officials and their activity. Most likely, they gathered at the Chautari, a resting spot on a raised platform built with stones around a banyan tree. Usually meant as resting place for travellers, it also served as a meeting place for villagers who shared and solved their problems through dialogue. Village elders and other influential persons used this platform to discuss burning issues and solicit the views of the locals. It resembled what Jurgen Habermas (1989) calls a 'public sphere' where people from all social strata join in rigorous debates to decode the message dropped by its harbingers. This sort of public sphere entailed four elements — participation, communication, connection, and engagement — creating a kind of an informal civil society at the grassroots.

Democratic decree for Gorkhapatra

Compared to its emergence in advanced nations, print media arrived late in Nepal in the absence of favourable political climate, education and supporting infrastructure. The first Rana Prime Minister, Jung Bahadur, brought a hand-operated press from Europe to Nepal in 1851, marking the advent of modern media technology in the country. Named Type Printing Press, it was popularly known as Giddhe Press or Vulture Press because of the trademark eagle image on the machine and became a symbol of modern consciousness (Kunwar, 2018). Though it was used to print only religious texts and government notices, it paved the way for other printing presses in Kathmandu. Pashupat Press operating at

Thahiti of Kathmandu under Nardev Moti Krishna Sharma played a crucial role in the development of Nepalese mass media. In 1898, the press published the country's first magazine, *Sudha Sagar*. Again, on May 6, 1901, it set another milestone by publishing the country's first newspaper, *Gorkhapatra*, under the editorship of Sharma himself.

Set up by a directive of Rana ruler Dev Shumsher, *Gorkhapatra* was not expected to propagate ideological polemics against the despotic regime. However, by carrying news and views, *Gorkhapatra* did raise social, literary, linguistic and cultural awareness that were so essential to educating the masses on democracy, justice and rights. The newspaper mainly sought to publicize the reformist vision of Dev Shumsher who had envisaged developing it into a public media. Astoundingly, he issued a liberal *Sanad* (decree) on what should and should not be published in *Gorkhapatra*. The *Sanad*, further stipulated that the paper should publicize unjust decisions of courts and negligence of government employees and any reports of injustice or violence in the hills or Terai should be published without any indictment of the reporter. But it should not publish our (the Prime Minister's) praise and plaudits (Devkota, 1967).

Dev Shumsher's edict showed a strong democratic and revolutionary spirit. Notably, it was formulated and issued in a period marked by complete absence of freedom of speech and other basic human rights in the modern sense of the term. It is considered the predecessor to the subsequent code of conduct formulated by media organizations in the US and Europe. Dev Shumsher was ahead of his time. But his daring support for the press and gradual introduction of parliamentary democracy was nipped in the bud when his shrewd and autocratic brother Chandra Shumsher unceremoniously removed him from power. For Chandra Shumsher and his successors promoting a newspaper that might educate and incite people to fight against their despotic rulers was an anathema. As a result, *Gorkhapatra* ran into roadblocks after the downfall of its progenitor. The oldest Nepalese newspaper went on to enjoy greater autonomy after the country saw its first light of democracy in 1951.

The initial mission of Nepalese journalism was to promote language, literature, education and industrial activities. Prior to *Sudha Sagar*, Motiram Bhatta had

launched the first Nepalese news magazine titled 'Gorkha Bharat Jiwan' from the Indian city of Benares in 1886. During the 104 years lasting Rana rule, it was beyond imagination to pursue journalism for political ends. People were treated as 'subjects' and deprived of their fundamental rights to association, to walk freely, and to hold public gatherings. It was at the end of the Rana regime that a vociferous anti-Rana newspaper, Jagaran Weekly, was setup. This was launched by noted progressive literary figure Hridayachandra Singh Pradhan in February 1951 to raise political consciousness at the dawn of democracy (The Power News, 2017).

Radio and revolution

As Gorkhapatra was the only newspaper in the country supported by the state, anti-Rana revolutionaries introduced radio. Freedom fighters used to mobilize people against the despotic regime through this means that embraced ideas of democracy and human rights. However, only a few well-off families, mostly in Kathmandu, possessed radio sets to listen to foreign programs. Prime Minister Juddha Shumsher seized even the few available radio sets during the Second World War to check Nazi propaganda, as Nepal had sided with Britain in the war. Relatively liberal Prime Minister Padma Shumsher returned those radio sets to their respective owners at the war's end. As radio had caught the fancy of both the rulers and the ruled alike, the government was under pressure to start a radio service of its own, and it successfully test-broadcasted from Bijuli Adda in Kathmandu in January 1947. However, it sent only radio sounds and no radio frequency, and the medium was limited to disseminating cultural and religious stories in the couple of hours a day it operated.

Again, the first radio service carrying political message was launched in Nepal amid the rising heat of the 1950-51 revolution. A host of revolutionaries, including Narad Muni Thulung, started broadcasting from Bhojpur in November 1950 to organize people against the Rana rule. This was the first time Nepalese heard radio frequency coming from their own soil. Radio contributed to hastening the downfall of the Rana regime after Nepali Congress leader Tarini Prasad Koirala successfully launched the '*Prajatantra Radio*' from Biratnagar. This was renamed Nepal Radio following the advent of democracy (ibid).

Democracy spurs media growth

Nepal's modern political history is a testimony to the fact that media and democracy are interconnected. Democracy supports free and healthy press, which in turn nurtures democratically minded citizens. The Nepalese media sector grew exponentially with the advent of democracy, first in 1951 and then again in 1990. Nepal's first daily newspaper, 'Aawaj', started by Yuga Kavi Siddhi Charan Shrestha on February 19, 1951 carried banner news on the royal proclamation on the establishment of democracy. At least 170 newspapers came into being in the decade between February 18, 1951 and December 15, 1960. The period marked a new era in journalism, injecting fresh energy into the realm of politics, education, culture, administration and economy.

During the party-less Panchayat system, too, a large number of newspapers and magazines operated, with the chief goal of reinstating multiparty democracy and strengthening it in more than one way. They were mostly 'weeklies' that found it difficult to survive the open post-1990 environment, as dailies started dominating the media market. The media developed into an industry, with people's changing tastes and priorities. Professionalism became the new mantra as newspapers, FM radio and TV stations proliferated.

With the ushering of the federal republican set-up in 2008, the country has seen a dramatic growth in online news portals. There has also been a higher level of press freedom. There has also been a higher level of press freedom. Many young graduates have been attracted towards journalism. The Department of Information and Broadcasting, informed that, as of August 4, 2020, a total of 741 dailies, 2,948 weeklies, 2,336 monthlies, 1,127 FM radio stations, 202 TV channels and 1,900-plus online news portals had been registered with the department.

However, the leitmotif of professionalism has been intertwined with commercial interests of media operators, giving birth to the derogatory phrase '*sahuji patrakarita*' (business-centric journalism). Of course, growing investment in the media sector contributed to professional growth of journalism. But it also started weighing on media's editorial freedom and autonomy as investors sought

to develop media houses into profitable commercial ventures with little or no attention to financial security and professional dignity of working journalists. During the Covid-19 pandemic and the resultant lockdowns, the irresponsible attitude of private media houses was there for all to see—with more than 2,000 journalists laid off across the country (The Rising Nepal, 2020). Subsequently, the government has been urged to announce relief packages for affected journalists. Mimicking big business, media houses have seemingly resorted to the self-centric tactic of privatising profits and socialising losses.

Journalists can hardly be expected to fulfil their duty if they do not feel safe about their jobs. Working journalists, who often work round the clock, have been deprived of reasonable remuneration and job incentives. A study found that around 32.3 per cent journalists in private media houses do not receive the minimum monthly wage of Rs 24,300 (\$202.47), while 25.8 per cent do not have appointment letters (KC and Puri 2017: 2-3). This unpleasant scenario calls for the establishment of public media, owned and controlled by common people. However, an adequate institutional set-up would need to be in place so that public media can operate freely without the interference of government, political parties, market, and geopolitical actors.

Nepalese media as 'public sphere'

The autonomous media constitute an inclusive public sphere which can create conditions for deliberation on the issues related to public policy and their formulation and reformulation. In this regard, Nepalese media have served the tasks required for 'democratic innovation and preparing grounds for consolidating modern components of democracy such as political parties, civil society and the electoral system. Nepali media have provided civic awareness to citizens about changing nature of politics, equipped them with participatory information, stimulated active engagement and fostered meaningful dialogues (Dahal, 2019). However, there is still much more to be done. In fact, to build a vibrant public sphere Nepalese media should trigger constructive debates on key national and social issues thereby creating a true public sphere (Habermas, 1989: 136).

In that regard, Chautari is the perfect example which is akin to Habermas's notion of public sphere that are open to all irrespective of their identity and status in the society. These may not be that relevant in so called modern society but they still have relevance in Nepal's context. For example: during the peace process they served as a means of communication between the government and the rebels, supporting to implement ceasefire, code of conduct and improve human rights situation.

In addition to this, Nepalese media brought to light the true costs of the conflict and benefits of peace. Their role in constitution-drafting (2008-2015) was praiseworthy, too. They gave space to divergent views of political parties, civil society, experts and international organizations at the time of constitution writing. Nepal successfully transitioned into a republican, federal and secular state from the unitary Hindu monarchy. Likewise, the media were instrumental in catapulting marginalized groups such as Dalits, Madheshis, Janajatis, Aadibasis and women into the centre of politics, forcing mainstream parties to incorporate inclusive provisions in the constitution promulgated by the elected Constituent Assembly on 20 September 2015.

In 2020, Nepalese press took a unified stand on the issuance of a new Nepalese map that included Limpiyadhura, Lipulek and Kalapani in the country's north-western region, which have been encroached upon by India. The media disclosed the plot behind the massacre of Navaraj BK and his five friends in Rukum West in a shocking exposure of entrenched caste-based discrimination. They have, similarly, exposed corruption and government's shortcomings in its Covid-19 response, and neglect of popular mandate.

Does mediatization decrease the democratic space?

The media not only feed people information and help them form opinions but also influence political communication and decision-making. No political actor or institution can overlook their importance. The media exercise big influences in executive, judiciary and legislature whose decisions often reflect the views, assertions and attitudes of influential newspapers and television channels. Many times, the government had retracted its unpopular decisions following

media uproar. The media critically and objectively weigh the pros and cons of government decisions. Elected representatives, government officials, politicians, civil society members and other professionals from their opinions based, to a large extent, on the leading media outlets' projection and explanation of events. The media thus hold the key to understanding the political, economic, educational, technological and cultural transformations that we are witnessing in our times. To comprehend its ubiquitous impact on every aspect of modern life, media theorists have coined the term 'mediatization' (Mazzoleni, 2008a). The mediatization of society indicates overwhelming influence of media over social life. There are others who argue that the 'term' helps grasp media's role the transformation of democracy established democracies, something described as a 'meta-process on a par with other transformative social change processes such as globalization and individualization (Hjarvard, 2013; Kriesi and others, 2013; Krotz, 2007 and 2009).

Yet, scholars agree that mediatization is a long process that amplifies the media's spill over effects on political processes, players and institutions. The media is also influencing Nepali society hugely.

Mediatization of public sphere has impelled Nepalese politicians to talk more with media persons than to their electorates. In today's information society, it is not uncommon for the media to hold great sway in politics, law and business, thereby reinforcing their social hegemony (Dahal, 2019). In this regard, Mazzoleni and Schulz (1999) conclude that mediatization has shrunk the political space: It is a process by which politics has lost its autonomy, has become dependent in its central functions on mass media. In contrast, it has become continuously shaped by interactions with mass media.

Mediatization has given rise to what Thomas Meyer and Lewis P. Hinchman (2002) call 'media democracy' (Meyer and Hinchman, 2002) where political elites submit to mass media's formulas in the hope of salvaging their public images. They further argue that media thus colonize politics, and the politicians' self-interest turns them into accomplices. Their concern is that media democracy has replaced 'deliberation — once the lifeblood of democratic public life—with pseudo-plebiscites.'

Paradoxically, people's obsession with the media has resulted in an unhealthy situation, stifling free debates on key topics. Minimising mediatization of politics, culture and economy is vital to prevent the shrinking of democratic space. With greater emphasis on civic culture and constitutional behaviour, it is possible to minimize the negative consequences of mediatization. However, this would require the media to act as true watchdogs and not monolithic agencies, and to impart true, objective, and factual information to readers/audiences.

Vehicle for civic education

One of the media's main democratic functions is to enhance civic citizenship. The idea of civic citizenship can bridge the gap between leaders and masses with regard to social responsibility, political participation, law and order, governance and service delivery. Moreover, media can spread civic education and make citizens aware about their rights and duties. Nepal's constitution spells out 31 fundamental rights but four duties. As a rights-oriented approach risks turning citizens into aspiration-driven rebels. Therefore, it is necessary to inform them of the state's capacity to meet their desires for a life of dignity in the foreseeable future. Building a robust civic space is a part of the broader democratization process that tempers people's discordant identities based on caste, gender, class, ethnicity, religion and region, and develops civic identity.

The media's civic role can nurture civic culture to tame fundamentalisms of various shades: market, ideology, ethnicity, and religion. The media can bring together conflicting voices by offering them informed and democratic choices and by transforming people into civic actors with critical knowledge to solve social problems. The media thus have the social responsibility of creating an inclusive platform, which makes it possible for everyone — including passive, impoverished and alienated people — to enter the national democratic and development discourse, and learn from international experiences.

Social media a threat to democracy?

Online portals and social media platforms have brought about a revolution in human communication, dramatically changing the media landscape and

the way people interact. Ubiquitous internet connectivity has helped them traverse geographical boundaries, divergent cultures and ideas. This has not only empowered groups but also individuals who can exploit the new media for both creative and destructive purposes.

Social media sites like Facebook, Twitter, Youtube and TikTok have broken the monopoly of big media run by business tycoons and brought power from newsrooms to streets. These days, anyone with basic IT knowledge can produce and post powerful videos targeting irresponsible leaders and corrupt individuals. In fact, a person can challenge a government or the state or a political party by circulating very explosive views that can appeal to the masses (Subedi, 2018). Such unparalleled power of social/digital media was beyond imagination just a few years ago. At the same time, the circulation of fake news and paid disinformation has harmed democracy, as common people lack the tools to fact-check such contents. Disruptive elements can abuse social media for character assassination of public figures, challenge the legitimacy of elected governments, and tip election results.

Social media users have also fuelled communal and religious hatred and tension that can easily spark tensions in a multi-cultural society like Nepal. They are tempted to live in 'echo chambers', feeding and fuelling partisan and polarized news and views. The netizens unconsciously generate 'false consciousnesses through the dissemination of fabricated news, impelling readers/viewers to develop misleading perceptions on burning issues. Thus, the use of social media as creative, critical and inclusive platforms is limited. In Nepal, netizens living in the virtual world and citizens living in the visual space must share common societal values and norms so as to overcome the voices of social media.

Former UN Secretary General Kofi Annan praised the internet and social media as unprecedented global forces for citizens' emancipation but, at the same time, he criticized them for 'merely providing another battlefield for the surreptitious manipulation of public opinion. He cautioned that one should not believe everything they read and that is a need to check sources (Anan, 2018).

Conclusion

The media have been a key actor in political socialization, civic competence-building, and institutionalization of democracy. A strong democratic culture can be established if the media not only take on a constructive role but also ensure that their analysis is objective and they are reporting impartially on events. objective analysis and reporting of the events/situation. The day the media turns a blind eye towards public institutions, democracy will start decaying. Likewise, if the media disseminate only negative report of governance, people will become disenchanted with the existing system. In the same vein, if they become partisan and are mainly driven by certain interest groups, situation may also not be conducive to consolidate democracy.

Similarly, free press is a vital component of a functional democracy. But the notion of free press and freeness should not be abused by those who wield power in society. In a country like Nepal that is under constant political churn, free press can be bone and bane depending upon the role it plays. That said, today, the sanctity of the free press has been largely wrecked by the rise of fake news which have become a handy tool to divide popular sentiment and swing voters' mood in today's highly digitised world. The media being a part of cultural industry does generate soft power – which carries the capacity of making and unmaking of not only the political system but also the society at large.

Here are few things that Nepalese media need to strive for in the changed context:

Build civic national identity: The Nepalese state consists of multiple macro identities based on castes, classes, genders, ethnicities, regions, religions and occupations. The media need to coalesce divergent identities into a common civic identity based on constitutionalism. This can happen when media mobilises and build bonds across generations and a series of horizontal institutions such as civil society, human rights bodies, NGOs, federations and community-based groups. Similarly, Nepalese media can also nudge the government and opposition parties to maintain check and balance rather than being divided along partisan lines. This can also contribute towards rooting democracy in a real sense of the term.

Dismantling elitism within political parties: The media should constantly keep an eye on political parties, particularly the ruling ones, to check possible misuse of power. In Nepal, many political leaders have become *nouveau riche* by using politics as a means of gaining power and wealth. The rise of the elite class within the parties stunts their democratization process. Journalists must expose such elitism, bourgeoisie and feudalization of political parties, while nurturing inner-party democracy.

Ensuring media's public ownership: Only a powerful public media can perform the above-mentioned tasks and protect the 'public sphere' from commercialization, commodification and vested geopolitical interests. Media ownership by interest groups, political parties and profit-minded business magnates erode their credibility and capacity to defend the public as democracy is based on the consent of the governed.

Abiding by law and code of conduct: We need free and vigorous media, which, however, should not be given a *carte blanche* to do whatever they like. The media must be governed by laws and strictly abide by a code of conduct and professional ethics that meet widely accepted standards befitting a functioning democracy. Only then can it serve the people, and foster democracy, consensus and social cohesion.

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The Impact of External Democracy Support

Arjun Bahadur Ayadi

Programmes for democracy assistance have emerged as a key area of international support after the end of the Cold War as an endeavour to support democracy from outside. Multiple actors have been actively engaged in the process and have contributed significantly to strengthening democracy in many countries around the world. Nepal's democratization process, too, has benefited from these actors' engagement. External support for democracy became more visible after the regime change in the 1990s and its intensity increased even more after the end of the Maoist insurgency in 2005-06 with more actors entering the country. These actors were committed to supporting the Nepalese state with two challenges: (1) taking the peace-process to the logical end and (2) creating new political institutions within the context of the political change. Since it was simply not possible for the Nepalese state to deal with these challenges at the time, this external support was needed.

In regard to democracy assistance initiatives from external actors two approaches can be distinguished: While the first one is seen more from the perspective of initiative for democracy building, the second comes in the form of support/assistance – mostly financial – for institution building. Both approaches have their own merits and demerits and may be found either working separately or together, depending upon the state of democracy. While in some countries one may observe entire initiatives taken from outside, in other cases we can observe the support taking rather the form of strengthening democratic institutions. In the context of Nepal, it's mostly the second part which has played an important role in the democratization process. However, in order to reflect on the dynamics of such support, we will need to revisit the context and historical background as well.

Nepal remained isolated to the outside world until the early 1950s with its external interactions and engagements extremely limited. Nepal's official engagement with her immediate neighbours – India, Tibet, and occasionally

China – were also not frequent. Yet, it has remained a buffer state for its more ambitious neighbours – China and British India due to its geographic location. The situation, however, changed after 1950, when the Rana oligarchy was overthrown and Nepal began expanding its foreign relations. However, it became more complicated for the country to have a strategic balance in its engagement in the bipolar world that emerged after 1945. Nepal, in fact, had limited choices: it could neither go against the policies of her big neighbours nor too seriously affect policies of any other nation(s). In addition, it did not have the means to enforce an active and relatively independent policy nor could it stay neutral (Levi, 1957: 237).

Today, Nepal may have little significance in world politics of its own, but it certainly provides considerable strategic leverage for others. Taking cue from its location between the two rising and competing powers of Asia – China and India – Nepal becomes important for the Western powers to strike a strategic balance in the region. Thus, we can see, at least, three actors simultaneously interplaying with each other in the region and whose impacts certainly are felt in Nepal. While Nepal's relations with India have many dimensions, its relations with China does not necessarily stand on the same footing. In fact, before the arrival of China in Tibet, Nepal's contacts with the north were primarily limited to Tibet – even though it had been paying tributes to the Chinese emperor. It was only after Nepal established diplomatic relations with China in May 1956 that the official engagement increased. This came at a time, when Nepal began diversifying its external relations through diplomatic ties with various countries. Nepal's engagement with external actors further increased with the revival of multiparty parliamentary democracy in 1990. The multiparty democracy also allowed international actors to increase their influence on Nepal's political and socio-economic agendas.

Against this background, this paper will assess the impact of the engagement of external actors in democracy promotion in Nepal. In doing this, it will become apparent that the democratization process has certainly benefited from outside support, but it also has suffered in recent years. Though, external actors should not be held responsible for the entirety of Nepal's challenges in context of the democratization process as domestic actors do have their own share and role

in this regard. There is an established trend that for any unsucces, we tend to blame others – external actors – rather than fixing our own house. This, however, does not mean that external support is immune from criticism as there is a saying 'he who pays the piper will call the tune'. Also, considering Nepal's strategic importance, major external powers both from far away and from the neighbourhood have always tended to influence its domestic politics.

Heightened geopolitical interest

Nepal's location between its two big neighbours has always been a decisive factor in its external relations. In the words of Prithvi Narayan Shah, the unifier of the modern Nepal, "This kingdom [Nepal] is like a *Tarul* [yam] between two boulders." Shah was of the view that a high-level of friendship should be maintained with the Chinese Emperor. Friendship should also be maintained with the emperor who controls the Southern neighbour but cautiously (Acharya and Nath, 2004: 45). This view dominates Nepal's political psyche and the Yam-metaphor is still very influential in handling its external affairs.

The communist takeover of China in 1949, however, has brought a different momentum in the region, during a time when the Cold war was building up. Both factors have increased the engagement of Western powers particularly that of the US in the region. While Nepal's two neighbours – China and India – were divided into two different camps, Nepal, for its part, was undecided as how best to move ahead with its domestic and foreign policy. Yet, Nepal tried to cope with this new paradigm by establishing diplomatic relations with various countries and diversifying its international engagements. King Mahendra, after coming to power, further diversified Nepal's foreign affairs to lessen its dependence on both China and India. Nepal also moved away from the policy of special relations and closer to a policy of 'equidistance' with its neighbours (Brown, 1971). Along with the establishment of its bilateral relations with major powers, Nepal also became a member of inter-governmental and multilateral organizations. Likewise, the most significant foreign policy instrument that Nepal adopted during those turbulent times was the 'Zone of Peace' proposal floated by the late King Birendra. This proposal was recognised by more than 100 countries, yet, it was dropped in 1990 after the arrival of multiparty democracy. This certainly was

helpful to balance and expand its relations in the neighbourhood and beyond during the Cold War. As a result, “in one decade Nepal was transformed from... one of the world’s most closed societies to... one of the more accessible of the small states in the Third World” (Rose and Scholz, 1980).

External actors in post-2006 democratization process

Democracy in Nepal was first introduced in 1951, but it was short-lived due to the internal wrangling between the political parties. Later in 1960, King Mahendra seized power through a putsch and introduced the party-less Panchayat system of governance that lasted for thirty years. It was the Third Wave of democratization that was sweeping across the world which also brought democracy to Nepal. The mass movement for the restoration of democracy in 1990 was successful and Nepal entered into a new phase of democratization that was accompanied by a certain euphoria – both inside and outside the country. However, its endeavours to consolidate democracy were shattered by the Maoist insurgency that began in 1996 and ended in 2005/06. During this period Nepal witnessed frequent government changes. This overall political instability became a matter of concern not only for China but also for India. Thus, India and other actors started to engage in mitigating conflict in Nepal. Moreover, the government of Nepal also sought external support to deal with the Maoist insurgency.

During this time, the debate on the role of external actors in Nepal's political process started building up. One focus of these discussion was the signing of the 12-point agreement in November 2005 in New Delhi, which was thought to have brought all political forces together and ended the decade long Maoist insurgency. After this, a comprehensive peace agreement was signed in 2006. The government of Nepal also requested the United Nations to send its mission to monitor the peace process, the United Nations Mission to Nepal (UNMIN). Nepal was also pleased to receive other actors who could contribute to the peace process. While the peace process certainly benefited from this outside support, on multiple occasions the involvement also faced criticism. Outside actors were accused of not only being involved in facilitating meetings as well as supporting integration and rehabilitation process of ex-Maoist combatants through financial

means and conducting dialogues, but also in setting the agendas (Khatri, 2012). This, somehow, was not taken well by many Nepalese and the support was often seen from the perspectives of outside actors trying to influence the process in line with their own interests.

Many blamed external actors for trying to exert leverage on political parties, think-tanks, and societies to fulfil those interests. They were also blamed for vertically dividing political forces on key issues during the first Constituent Assembly (Khatri, 2012). As mentioned earlier, immediately after the 2006 peace accord, the United Nations Mission in Nepal (UNMIN) was deployed with a limited mandate to assist and move ahead the peace upon Nepal's request.¹ In fact, UNMIN was successful in building trust between the Nepal Army and the Maoist combatants in the beginning. However, its later role became so controversial that the mission had to leave the country prematurely.

Similarly, the role of Nepal's immediate neighbours, India and China, was also not free from criticism during this time. While India has been blamed for inciting regional unrest, China, for its part, had certain reservations on some political agendas that came with the political change of 2006. Moreover, China was not really interested in strengthening democracy in Nepal, by contrast, it was interested to put a regime in place which would serve its interests. Also, both India and China, one after the other, have been using Nepal for their own strategic interests. As Nepal is being considered a buffer state between them political developments in the country that are genuinely internal issues often attract foreign interest.

Likewise, the role of the United States is no less important in Nepal's democratization process. The country has been one of Nepal's important partners for development since the 1950s. However, at times the relationship

¹ The mandates given to UNMIN were: a) monitor the management of arms and armed personnel of the Nepal Army and the Maoist army, in line with the provisions of the Comprehensive Peace Agreement, b) assist the parties through a Joint Monitoring Coordinating Committee in implementing the Agreement on Monitoring of the Management of Arms and Armed personnel (AMMAA) of both the Nepal Army and the Maoist army, c) assist in the monitoring of ceasefire arrangements, and d) provide technical support to the Election Commission in the planning, preparation, and conduct of the election of a Constituent Assembly in a free and fair atmosphere.

gets complicated, especially when developmental aid is used or suspected to be used to further geostrategic interests in the region. During the Cold War the US identified Nepal as strategic partner, not only to keep communism at bay, but also to contain increased influence of other emerging regional powers. This approach has continued till today. Scholars argued that it was the fear of increasing communist influence over third world countries that primarily motivated the US to provide aid to Nepal (Khadka, 2000).

During the Maoist insurgency, the US focused on the need to restore democracy and build civil society in Nepal. It continued to back the monarchy as well as political parties to counter the CPN-Maoists. During her 2005 Nepal visit, US Assistant Secretary of State for South Asia, Christina Rocca, said, “we want Nepal to be a peaceful, prosperous, and democratic country where civil liberties and human rights are protected”.² The US opposed the 12-point agreement between the Maoists and the seven political parties. It also reprimanded King Gyanendra for his declaration of emergency in February 2005 but did not put him under pressure to restore civil liberties. Yet, when the monarchy was sidelined, the US played it very safe and acknowledged that it has been working “very closely with the Indian government” to resolve the crisis in Nepal (Onesto, 2006). Americans, however, remained suspicious about the Maoists for a long time and even stuck to their position when the Maoists emerged as the largest political party after the Constituent Assembly election in 2008. The United States did not remove the ‘terrorist tag’ from the CPN-Maoists.³ Still, the United States have continued its moral and political support and solidarity to the political and constitution-writing process in Nepal and welcomed the promulgation of the new constitution in 2015.

Unlike the US, EU members do not seem to have a major strategic interest in Nepal. Most of EU member states including the Scandinavian countries were mostly found to have been involved in humanitarian and conflict resolution programmes in Nepal (Nayak, 2009: 43-44). Moreover, they were also more

² Christina Rocca Delivers Remarks at the Institute of Foreign Affairs, Federal Document Clearing House, May 10, 2005.

³ Tom Casey, Deputy State Department spokesman, reiterated on May 14, 2008 that the Maoists had been on the ‘terrorist exclusion list’, which bars its members or associates from entering the United States.

interested in engaging in line with their socio-cultural values in context of these programs. The European Parliament also sent several missions to Nepal since 2006 to support the democratic state-building process. However, support from the EU was also seen rather critical, primarily because it was blamed for ‘inciting ethnic agendas’ (particularly the Scandinavians) and for the alleged involvement in religious conversion.⁴

Apart from this, multilateral and bilateral donors also contributed immensely towards democracy promotion. However, they too, were not free from criticism, being blamed for prompting a parallel economy, political structures, and political and social agendas based on little knowledge of the country (Bhatta, 2013). They also tend to promote urban-based NGOs and civil society as part of their work who are often seen as rarely understanding the local issues and problems in more remote parts of the country. These NGOs are often blamed as being primarily led by urban English-speaking elites and for being focussed on their own economic interests (Bhatta, 2013). Critics claim that this not only contributed to the marginalization of the state and its institutions but also the decision-making process was hijacked by non-state actors and interest groups who were not really accountable neither to the state nor to the society.⁵ As a consequence, the genuine external initiatives to support Nepal’s democratization process became controversial in more than one way.

Democracy assistance: For what?

There are good and bad examples of democracy assistance programmes. Their form and intent might differ based on the foreign government’s or the donor’s motivations, ranging from foreign policy to humanitarian support and developmental cooperation. The approaches have also been changing over time. For example, after 9/11 democracy assistance became a focus in the fragile and less-developed countries as a component of the global security

⁴ It is difficult to provide figures on the aggregate amount of democracy assistance provided to Nepal by these states and their agencies. In general, according to McFaul (2007), the United States and the European Union jointly spend approximately 1.5 billion dollars on democracy assistance annually all over the world.

⁵ During the first Constituent Assembly different caucus groups (Women caucus, Janajati caucus, etc.) were formed by funding interest-based groups and NGOs in order to put pressure on the Constituent Assembly to heed their demands.

agenda. Approaches like state-building and democracy-promotion guided by more security imperatives. In addition, development objectives have become intricately fused with geopolitical interests in the current international political context.

In Nepal, democracy promotion has constituted a significant part of developmental assistance in the past two decades. And while these initiatives are certainly well accepted, they still become problematic when the assistance is used to set political and social agendas. With regard to democracy support from outside in post-conflict societies electoral assistance becomes one of the most prevalent focus areas. In fact, electoral assistance is one of the oldest and most widely accepted forms of democracy assistance both in political and financial terms (Burnell, 2000). It includes building capacity of the institutions involved in the electoral process,⁶ developing instruments for election monitoring, training of electoral observers, and supervision of electoral processes. In the context of Nepal, support coming from the international community was crucial particularly during the first Constitutional Assembly (CA) election. Many organizations like International Institute for Democracy and Electoral Assistance (International IDEA), the United Nations Development Programme (UNDP) through its Electoral Support Project (ESP), and International Foundation for Electoral System (IFES) have assisted in the electoral process. Their support contributed to improve Nepal's electoral system design, train officials on polling and counting process, ballot production, voter education, and voter registration support for marginalized communities. But such assistance has also been criticized for their partiality and imposing of interests.

Similarly providing assistance to political parties is especially required where they are in the stage of formation to enhance their capacities to institutionalize democracy. Yet, there are some problems when donors selectively support certain political parties to fulfil their objectives (Randall, 2007). Four key areas of international assistance and engagement have been identified in regard to the political parties: support for policy dialogue, support for social inclusion, political engagement, and technical assistance.

⁶ Support to electoral administration embraces a range of activities including support to legislative reform, technical equipment, organization and logistics, voter registration, and monitoring and observation. Large parts of overall support have been devoted to building the capacity of electoral commissions through funding, training, technical support, and provision of equipment.

In the context of Nepal, after 2006, major political parties are bestowed with responsibility of taking the peace process towards conclusion. For that, they have had to engage various actors. Political parties also needed to organise various policy dialogue initiatives which were centred around the peace and constitutional process. On many occasions, these initiatives were supported by external actors. While some of them provided financial assistance, others for their part, were also engaged in reformulating the agendas as well for the future political course. In some cases these agendas were perceived as going against the established norms of the society and have been interpreted as 'social engineering'. The experience from Nepal suggests that external support should still allow local actors to take the lead as well as for local ownership. Too much of influence might not only be counterproductive, but also create tensions between locals and external actors or their partners.

The parliamentary support programmes is another aspects that requires significant attention. In fact, support to the parliament has recently become a favoured form of democracy assistance programmes. Major part of such assistance is rather technical in nature. Yet, there are examples where support also came to organise workshops, trainings, and seminars for parliamentarians and the parliamentary support staffs. The main objectives of these was to develop procedural rules, support to develop parliamentary committees, capacity building of support staffs for parliamentary work (secretariats), training to organise parliamentary hearings, funding for research capacity, field visits, and consultations with civil society to seek their opinions on various policy issues. In the context of Nepal, there were organizations who provided technical assistance in the course of writing the constitution. They worked in close collaboration with the CA and its various committees, informal women's caucus, indigenous people's caucus, political parties, and other governmental and non-governmental partners. In, principle, assistance was to provide technical support, as said earlier, this was also criticised for external agenda setting.

A positive example is the United Nations Development Program (UNDP) Supporting Participatory Constitution Building in Nepal (SPCBN) that provided infrastructure and logistical support to the CA Secretariat, and increased the capacity of CA members, staffs, advisors, and other key stakeholders. Through

SPCBN, the UNDP also established the Centre for Constitutional Dialogue (CCD) with the support of a consortium of donors, including Denmark, Norway, DFID, Switzerland, and USAID. The CCD served as a resource centre and a neutral space for dialogue between CA members and political leaders and acted as an open forum for deliberations on constitutional issues. It also helped promote public participation in the drafting process. It housed a library, training facilities, and provided a venue for public lectures, seminars, orientations, and workshops on constitution-making issue.

The judicial support to enhance democratic functions and establish rule of law was another area that constituted a major part of international democracy assistance. Support in this sector has been rapidly increasing in Nepal in the past two decades. There are multilateral, bilateral, and international organizations who are providing such assistance. The international assistance to the judicial sector displays some of the same weaknesses seen in other sectors. Part of the assistance here focussed on providing support in the form of technical solutions rather than supporting a reform package which could otherwise have contributed in delivering justice efficiently. Judicial officers have been blamed for being more interested in travelling abroad in the name of 'trainings and learnings' rather than fixing the issues at home. Moreover, such trainings were also blamed for bringing external blueprints for judicial reforms. The classic example in this regard is the replacement and amendment of the civil code in the name of modernization, which certainly does not fit with local reality when it comes resolving various family related cases.

Aiding civil society organizations (CSO) has become a top priority in development assistance from early 1990s and a major chunk of democracy assistance programs has come into this area in Nepal, Such an assistance from outside has certainly contributed to a quantitative growth of CSOs but not necessarily their qualitative growth. There are many scholarly articles explaining assistance provided to Nepal's civil society to strengthen democracy. These studies indicate that another class of elites who have nothing to do with democratization but definitely with the project build around this area. Such support was also criticized for lacking domestic legitimacy and imposition of donor agendas instead of appreciating local values and political dynamics (Bhatta, 2013). Over time, donors have also begun to

question the wisdom of marginalizing the state in favour of supporting civil society as a parallel structure. While it is undoubtedly true that international assistance through civil society is important for Nepal, the question remains in as much as to what extent it has contributed to strengthen the quality of democracy.

Providing support to the media when a wave of democratic reform was sweeping around the world in late 1980s and early 1990s, international donors started developing innovative programs for democracy promotion. Among others, they realized that independent media are a crucial element in building a functioning democratic system, and assistance to the media became an integral part of efforts to strengthen democracy. In a broader term, the goal of this kind of assistance was to develop a free, reliable, professional as well as editorially and financially independent media sector so that it can act as a 'watchdog' and uphold democratic principles (Becker and Vlad, 2005).

In Nepal, different bilateral and multilateral agencies are not only actively engaged in media development but are also providing significant financial support to fund some of their programmes to disseminate messages and strengthen democracy. This was important while Nepal was writing a new constitution through Constituent Assembly and many people were not aware of the process then. Media also played a crucial role in generating awareness about democratic rights and responsibilities over the period of time.

The international assistance also has led to the proliferation of media outlets in Nepal. These outlets also played an important role during the Constituent Assembly election by disseminating information to the wider public and break down some of the rather technical issues that were hard to grasp for common voters. It was in the later phase before the CA elections that the media assistance programme started getting criticized for developing their own communication empires and reporting issues which they find suitable for them. However, the new political set up also gave an opportunity to all the communities to voice their views and perspectives about politics, society, and culture. This also created tensions since this was in some instances interpreted as attempts to create conflicts with minorities. One of the reasons for this was that some programs failed to balance the concerns of different communities. In

consequence, international NGOs and donors were accused of manipulating the media. Moreover, donors have been alleged for supporting media to reflect their developmental concerns rather than those of the people on the ground. Lastly, media programs often taken the form of short-term and project-based support rather than strategic support and, therefore, fall short of making a difference.

Conclusion

Democracy support from outside had both positive and negative aspects in Nepal. While external assistance has played a crucial role in strengthening democracy through institutional approach the last couple of decades, yet there also has been some problems. Though, external support alone cannot be made responsible for the shortfalls of Nepalese democracy in general. Local actors always have been driving the political processes and problems often arise when local elites try to influence and hijack support for their own interests. However, democracy support can also run into challenges, especially when it is too closely designed along donor's interests and fails to take the local realities into account. Such an approach is also short-sighted, since democracy assistance under these conditions will not be productive, nor will it be sustainable.

Overall, it can be argued that external assistance is necessary to establish 'institutions' - the hardware - but their legitimacy and sustainability depends on the 'values' - the software. The discussion also indicates that external democracy support has limitations. Surely, donor agencies can push for democratic reforms and provide resources to strengthen domestic capacity and build a constituency favouring democratic change. Yet, the democratization processes need to be driven from within and supported by domestic key actors. After all, especially in a democracy, choosing the political system should be left to the citizens. Therefore, donors will also need to give some free hands and avoid dominance over key stakeholders, since it might create legitimacy issues and affect accountability and sustainability.

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Digitization and Changing Landscape of Social and Democratic Life in Nepal

Rajib Timalisina and Roshan Pokharel

Thomas Piketty believes inequality is an inherent character of capitalism. He argues that increasing inequality endangers social cohesion and democratic functioning (FES, 2019), and the same applies to technological advancement. Digital technologies—from artificial intelligence to block chain, from robotics to virtual reality—are transforming the way we live and those who control the most powerful technologies are increasingly able to control the rest of us (Susskind, 2018). Eleven of the 20 richest people listed in the 2020 Forbes magazine are related to powerful global technology and media companies, and among the overall listed 2,095 billionaires, almost one-fourth are tech-related. The question of inequality arises not only in reference to the wealth of these super-rich, but also with where and how they pay taxes. Piketty's premise is not taxing to destroy the wealth of the wealthy but to increase the wealth of the bottom and the middle classes; only then can democracy be sustained and our society be made inclusive (FES, 2019). If we replace the concept of taxation with access and use of digital space, an even bigger picture of inequality comes to the fore.

The digital world or technology is a continuation of existing socio-political-economic relations of our life and digital spaces that reproduce power structures of our society. Digital spaces are attracting global attention as important tools to empower people as citizens and professionals. Additionally, digital tools are cheap and effective means to manage services in emergencies (Jennings and others, 2017). But lack of understanding about who has access to digital tools and the minimum literacy to use them makes a significant difference. Between 2019 and 2020 internet users in Nepal increased by 315,000 and there are now almost 10 million social media users (Kemp, 2020). This amounts to 35 per cent social media penetration. In such a context, this chapter aims to discuss the following questions:

- 1) How are digital technologies contributing to fostering or sustaining democracy in Nepal?

- 2) What challenges does rapid digitization pose to democracy?
- 3) How is democracy practiced in digital platforms in Nepal at present?

The changing political economy resulting from the Covid-19 pandemic is considered crosscutting for the analysis. Overall, this chapter has seven sections. The first introduces overall context. The second deals with methodological and theoretical questions. The third section briefly introduces the digitization process in Nepal. The concept of 'civic-tech' is discussed in the fourth. The fifth section analyzes the contribution and challenges of digitization in fostering or sustaining democracy in Nepal. The sixth is about the use of digital spaces in relation to democracy. The final section concludes the chapter.

Theoretical Framework and Methodology

Theoretically, this chapter builds on the Digital Literacy Global Framework (DLGF) by UNESCO (Law and others, 2018) and 'understanding of democracy' developed by Interparliamentary Union (Bassiouni et al., 1998). Digital literacy has gained international interest as new technologies purportedly empower citizens (Ferrari, 2012) and deliver better public services (Law and others, 2018). The Sustainable Development Goals (SDG) aim to ensure minimum competence in digital literacy by 2030 (GEM Report, 2020). Recent developments in qualitative tools supplemented by new online and digital techniques have changed the dominant research traditions in social sciences.

Methodologically, this chapter builds on an eclectic approach. The findings are based on authors' experience. Most of the data in this chapter are gathered from digital media ethnography, in what is a digital form of conventional secondary data or desk-based study. The use of qualitative tools based on technological advancements is an important aspect of this chapter.

Technological change has often made previously intractable problems and bottlenecks in research solvable. Indeed, the political economy of online and digital methods, not always apparent in day-to-day practice, is perhaps the most complex aspect of future methodological developments too. The increasing availability and tractability of online tools and sources make for a more research-

literate and research-inclined orientation of non-academic users (Lee, Fielding and Blank, 2017).

The authors conducted semi-structured interviews during the pandemic to gather primary data on recent developments on digitization and democracy. A total of 14 people were contacted via telephones and internet-based voice services. The respondents ranged from policy makers, media persons, to researchers familiar with Nepal's digitalization and democratic contexts. This empirical exercise gives a 'live experiment' insight into methodological thinking in present-day digital worlds (Lury and Wakeford, 2014; Sumiala and Tikka, 2020). By doing so, we aim to understand vis-a-vis world's ongoingness, relationality, contingency and sensuousness in all its shapes (Sumiala and Tikka, 2020).

For ethical reasons and in order to safeguard respondents, this chapter does not disclose the identity of informants, including names and organizations of information providers. Instead of names, respondent codes are given while citing primary data.

Digitization in the Nepalese context

In the 2006-2020 period, Nepal was full of stories about natural disasters and political turmoil. The decade-long armed conflict has ended and the parliament was restored in 2006. Since then, the political economy of Nepal has been ever-changing. This period witnessed multiple layers of transitions, such as from unitary to federal, monarchy to republic, and Hindu to secular state. The series of political and social movements in the southern plains, far-west and other parts of the country, fluctuating constitution-making process, rise of populism, urban-centric youth movements and protracted political transition were other key developments. Despite those political conditions, the last decade was fertile for digitization. The geographical coverage of telephone lines was 50 per cent in 2006 (Nepal Telecom Authority, 2006), and 45 per cent in 2001 (Nepal Telecom Authority, 2003). The coverage reached 100 per cent in 2019. According to a Nepal Telecom Authority report, telecommunication penetration rate in 2006 was 3.55 per cent (2.03 per cent fixed line and 1.52 per cent mobile penetration). In 2020 July, mobile penetration reached 123.90 per cent (37,017,815 mobile

subscribers) and internet penetration 72.98 per cent (17,478,992 mobile data and 43,24,353 internet subscribers) (Nepal Telecom Authority, 2020). The increase from 2,86,355 mobile and 48,000 internet subscribers in 2006 to 37,017,815 mobile and 4,324,353 dedicated cable-based internet subscribers in 2020 can be considered Nepal's success story (Nepal Telecom Authority, 2020).

While existing data on mobile and internet penetration rates in Nepal suggests increased coverage, there is an extant disparity in internet access. The Annual Status of Education Report shows that while 71.9 per cent of the households have mobile devices, only 57.4 per cent female household members have access to them (ASER, 2019). The increasing digital divide between privileged and marginalized members of the community is similarly visible.

Nepal at any time might have to deal with multiple crises: school closures due to Covid-19, localized flooding in the plains and landslides in the hills, and financial crisis in the working-class population. Alternative education, particularly online lessons, has been controversial. While some experts argue that they offer a cheap and effective tool to reach a wide swath of people, others think they are discriminatory as many families are unable to access them (Ghimire, 2020). Yet in times of crisis, the significance of digital tools and the extant digital divide become even more evident. There's no doubt that the spread of Covid-19 and lockdowns triggered greater digitization of public services such as banking, shopping, advertising and marketing. Since 2018, several internet-based companies have been serving in Nepali market: ride-sharing companies like Tootle and Pathao; food-delivery companies like Foodmandu and Bhojdeals; e-commerce sites like Hamrobazar and Daraj; and several online clothing stores. The emergence of digital space-linked startups and business ideas has made people's lives relatively more comfortable.

Regarding the digitization process, all we have are datasets on input level information such as mobile users, internet subscribers, smartphones users, data of technical equipment sales, among others. We lack deeper analysis on Nepal's "digital readiness"—especially those taking aspects like gender, geography, income, and ability. However, it is obvious that such analysis and datasets would be important to design appropriate policy responses. They can be used

to design emergency preparedness programs that reflect ground realities for e-governance, e-commerce, and digital cash initiatives, all of which ultimately support the country's inclusion and democratization processes as well.

Concept of civic-tech in Nepal

Rumbul (2017) defines “civic-tech” as innovative use of technologies for common good. Many scholars assume that “civic-tech is built to do good, it makes people feel safer and secure, and civic-tech builds interfaces that are easy for everyone to use”. In Nepal, these assumptions are untested (Based on an interview with respondent ‘107’ on 2 August 2020). The general understanding is that technological innovation can enhance public service delivery when fundamental digitization is achieved and when the majority of people have access to digital technologies (Timalsina, 2016). This situation is referred to as “civic-tech” where technological innovation facilitates civic-knowledge or civic-access to improve conversations among government, policy makers, public institutions, citizens and other stakeholders, as well as to make public services easier and smoother. Since 2006, Nepal has seen many uses of civic-tech, for example, mobile wallets, bank ATMs, and online tax entry and payment. At the same time, there is a lot of fear and uncertainty on civic-tech topics in the government (Based on an interview with a former Minister of Science and Technology on 15 July 2020).

Despite some success stories, civic-tech approaches in Nepal have as often failed. For example, between 2015 and 2020, 10 different apps and technologies were developed by different government entities under the Ministry of Home Affairs. The list included a traffic app, a police app, a drug portal, and a disaster report portal. The failure of the Traffic Police App shows how digital platform or app development is not enough. Of the 14 respondents for primary data collection, nobody had used any of those apps or had one in their mobile phones. Most of the time, public offices are spending lots of money on apps or platforms just because they can or because there is a room for corruption (Based on interview with respondent ‘103’ on 25 July 2020). Little effort is made to make them fit the Nepalese context. Almost all respondents agree that if our intent is to help citizens access public services, we should focus on identifying the content they want and that it should be available in an accessible language.

Sometimes, it makes sense to focus on existing social media platforms or to create an integrated platform for different public services rather than develop separate apps/platforms for each task. The portals and apps directly linked with public service delivery such as Nepal Gov Portal, Hello Sarkar, Traffic Police App, Company Registrar, Taxpayers Portal, Postal Service Tracking, Passport Application Portal, Driving License Application Portal, etc. can easily be integrated and made more citizen friendly. The underlying principle is “the government should not just substitute outside tools, and outside tools should not substitute government tools” (Based on interview with respondent ‘101’ on 15 July 2020 in Kathmandu).

If our public offices have datasets, the philosophy should be, “make sure the open data is not wasted and that people are able to use it” (Based on the interview with the former Minister of Science and Technology). The more open the government or public office data, the easier public life becomes. The government can open data at three levels, as per its sensitivity: i) within the government or public organizations, ii) with specific third parties under licensing and agreements, and iii) open it for all. These conditions make people and civil society organizations trust the government more and collaborate on its digitisation efforts. In this case, ‘data democracy’ is strengthened as well.

Contribution and challenges of digital spaces to ‘democracy’ in Nepal

The book *Democracy: Its Principles and Achievements* by Inter-Parliamentary Union (Geneva) focuses on access, participation, opportunity to speak, and being heard, which further leads to exercise of citizen rights under conditions of freedom, equality, transparency and responsibility, and with due respect for the plurality of views and in the interest of the polity (Bassiouni and others, 1998). With that in mind, telephone and internet penetration data in Nepal show a strange increase in the number of people accessing mobile and internet services, allowing for more citizen-conversation and an easy means to reach the masses. Or it would be difficult to reach communities in short time spans. Now, technological innovations have eased and hastened both vertical and horizontal communications, and contributed to democracy-building by providing citizens with a platform where they can take part and speak.

“As an ideal, democracy aims essentially to preserve and promote the dignity and fundamental rights of the individual, to achieve social justice, foster the economic and social development of the community, strengthen the cohesion of society and enhance national tranquillity, as well as to create a climate that is favourable for international peace” (Bassiouni *and others*, 1998). From this perspective, the contribution of digital evolution on fostering or sustaining democracy has been mixed. On the positive side, more than 10 million people are connected via social media (DataReportel, 2020), and communication has never been easier. However, Nepal performs poorly in using digital technologies for greater transparency, corruption control and promotion of democratic values. Public offices are weak in responding to or handling citizen grievances, thereby undermining democratic governance (Based on interview with respondent ‘107’ on 2 August 2020).

Other than responses, social protection is also crucial. There is little state protection for whistle-blowers. In other words, public offices and resources are controlled and often misused by bureaucrats and politicians (Based on an interview with respondent ‘109’ on 5 August 2020). When a whistle-blower comes out in an online space, people start to ally or criticize the whistle-blower rather than pressing the concerned public entity to take remedial measures (Based on an interview with respondent ‘111’ on 14 August 2020). Some policies offer legal protection, but they are inadequate. In practice, there is almost no protection (Based on an interview with respondent ‘103’ on 25 July 2020). Whistle-blowing has evolved internationally from the Watergate scandal to the Panama Papers to leak sites like Wikileaks. In Nepal, whistle-blowing has been made easier by the anonymity offered by digital platforms. Conventionally, the state had more power and could easily stop the flow of printed papers or movement of people. Now power has shifted to giant technology companies, some of which are more powerful than the states.

Digital companies in Nepal are very powerful as well. While public discussions mostly center on the power of digital and social media platforms, we should also consider the power of digital carriers or those companies providing digital platforms. It may surprise many that the annual turnover of two companies (Nepal Telecom and Ncell Axiata) was equivalent to one-tenth of the national

budget of the Government of Nepal in 2019 (Ministry of Finance, 2020). The two telecom companies (Telcos) have been among the taxpayers in Nepal since 2010, and their combined annual transaction comes to almost 10 per cent of the national budget. Their tax payment schedule affects national budget disbursement. Similarly, these two companies hold personal data of over 25 million Nepalese people, voices and conversation records of all our calls, as well as records of our movements through GPS tracking. Nepal has no protection or privacy law to prevent the misuse of this data.

The digital spaces are just the extension of our social and political relations in a virtual form. During the Covid-19 pandemic, digital spaces have made service-delivery easier. At the same time, many fundamental democratic values are being compromised. Among these, three are worth mentioning here: authentic information flow, accountable government, and effective public service delivery.

Democracy is sustained by the free flow of authentic information. When the Covid-19 pandemic started and people were forced to stay indoors, the flow of information took its own course. The reach of the print media was limited and people started depending on social media for news. Information on social media is not necessarily always from authentic sources (Based on interview with respondent '103' on 25 July 2020). New technological tools allow just about anyone to transmit information, a task that was until now reserved for mainstream media houses and established organizations. Social media was filled with news on Covid-19 medicines, vaccines, transmissions, deaths, and other related issues. This information was often ambiguous and from questionable sources (Based on interview with respondent '107' on 2 August 2020). That in turn contributed to unnecessary fear, anxiety and paranoia.

Similarly, even government bodies and officials were supplying differing information (Based on an interview with respondent '101' on 15 July 2020). One recent example is the information shared on Nepal-India border issues on Indian news channels and its reactions in Nepalese social media. Most information and posts promoted neither facts nor open discussions. Rather, fun materials such as memes, cartoons, Tiktok clips, fictional stories, satires, and hate-speech were shared on social media (Based on interview with respondent '109' on 5

August 2020). Lack of authentic information promotes disinformation, ultimately affecting the fundamental values of democracy.

Second, a democratic government is also an accountable government. One feature of accountable governance is the use of civic spaces where the public discuss their concerns, and government mechanisms receive and address those concerns. But it appears that the rulers do not want to hear about people's concerns, much less address them (Based on an interview with respondent '101' on 15 July 2020). We saw 15 different protests in May-June in Maitighar Mandala, in clear proof that the concerned authorities are not listening to the citizen voice coming from proper channels (Based on interview with respondent '109' on 5 August 2020). This is unbecoming of a democratic and responsible government.

Third, many small-scale innovations have been effective in preventing natural disasters and human trafficking, and even in reducing corruption in public service delivery. However, large-scale deployment of social media and internet technologies in information flow, governance and development requires recognition of how real-world hierarchies and power dynamics impact access to and utilisation of such technologies. Ensuring fundamental services are within the reach of the general public is crucial for effective democracy. The Covid pandemic suddenly disrupted supply chains and transferred most services to digital spaces (Based on interviews with respondents '101', '104', and '109').

That we have alternative platforms is certainly reassuring. While increasing numbers of households have access to internet-enabled mobile phones, the question is: who in the household gets to use them? And who has sufficient skills to use them effectively? Even though increasing numbers of people live within a range of affordable internet services, it is important to question if we are providing the poor and marginalized people access and skills to go online. And when they decide to go online, do we understand the level of their digital literacy so as to design user interfaces that suit their needs? Answering these questions is critical to bridging the digital divide, and ensuring that the benefits of innovation and technology are widely distributed.

We also have to consider fake news issues. In recent days, a major point of discussion on Nepalese media is how to see the role of technology in dealing with the rapid spread of fake news. Academically, terms 'misinformation' and 'disinformation' are probably more accurate than 'fake news'. The debate has four sides: publishing platforms (such as social media, regular media, or websites), the content creators/authors (who publish or post such information), consumers (the people who receive it), and regulatory bodies (such as the government). The conversations mostly focus on either fact-checking at consumer level or regulating/controlling the digital space.

The ability of consumers to fact-check depends on their critical thinking, awareness and foundational learning. Though, fact-checking is not enough, it does have a big role, and technology companies and mainstream media must be aware of this. Some scholars argue that Facebook and other platforms are publishers and need to take editorial responsibility to tackle misinformation on these platforms. At the same time, other scholars see the danger of authoritarian imposition of the company's editorial policies or the government's regulatory policies. The crucial fact is that when concerned authorities make information timely and publicly available, consumers do not need alternative sources. But for this the mainstream media should improve the quality of the published information. News is not about popularity/reach (quantity), but about providing genuine information (quality).

Practice of democracy in digital spaces and the way forward

From the discussions above, it is evident that there is a big difference between pure populism, or direct democracy, and a democratic system that looks to end deliberation and reflection as well as accountability (Sunstein, 2017). Scholars often forget the intimate relationship between free speech rights and social well-being that such rights often serve, and the difference between our role as citizens and as consumers. With the growth of digitalization in Nepal, we also see rapid changes in internationalization of local issues, increasing resistance movement, easier organization of workers from different sectors and industries, politicization of civic-tech, and more power and influence for for-profit companies.

But intense market pressures have potentially destructive influence on both culture and government. We can easily distinguish two groups: those asking for regulation of speech in digital spaces, and those opposed to regulation (Sunstein, 2017). The election-focused campaigns and increasing use of digital platforms have led to an argument that the traditional political parties will have to compete with the 'digital parties' and 'individual candidates'. Yet, this raises a question how does a 'digital savvy' differ from previous party types, such as the mass party at the height of the industrial era, or the television party of the post-industrial era (Sunstein, 2017)? A number of other issues related to the understanding of political parties are to be explored: their motivations and social composition, their ideology and values, their forms of organization and participation, the nature of their decision-making, and the changing nature of leadership.

Another challenge in Nepalese society is that people are putting out private information in public forums. Open data and digital spaces are only infrastructure. There is also government data, public data, corporate data, personal data, school data and other types of data. This space also needs publishers, content-generators, consumers, transmitting partners and other stakeholders. The challenge is to create sync between these stakeholders to use them for public good.

We generally assume those who have access to technology have access to information. But the ability to grasp the meaning of information is even more important. And the risk of people accessing misinformation is high. Civic-tech without digital literacy is not a force for empowerment or social change. Still, there are many who see the internet and social media as synonymous. So as responsible global citizens, the people who are empowered, connected, and already using tech have a responsibility to work with the unempowered and the minorities.

Public office bearers should use as many digital channels as possible to get to hardest-to-reach areas. For example, notices can be suitable for those with better literacy, short messaging service (SMS) is relevant in some parts of the world, and voice messages or multimedia messages (MMS) are more useful for the less literate. Ultimately, using what we already have in the community is more likely to work. That's why mapping easily-available platforms in the community should

be prioritized rather than creating new apps/portals for different services. This will make best use of digital innovation and strengthen democratic values.

Conclusion

Democracy is sustained by the flow of authentic information and accountable government. Digital spaces have created opportunities to rapidly reach larger masses with authentic information, while also increasing the risk of misinformation and disinformation. In democratic systems, everything emanates from the perspective that public servants work for the people. The more government and public offices open data, the easier public life becomes. Right across the country, both vertical and horizontal communication have become faster and easier and they increase ease of accessing digital spaces. Weak accountability and lack of digital rights related laws threaten democratic values. Lack of authentic and timely information and consumers' failure to fact-check make them vulnerable to misinformation and disinformation.

The Covid pandemic has shown that the mainstream media should improve the quality of their information, rather than only looking to be more and more popular. We have to remember the intimate relationship between free speech rights and social wellbeing. Of course the growth of digital space has also contributed in internationalization of local issues, increasing resistance movement, easier organization of workers from different sectors and industries, politicization of civic-tech, and more power and influence of for-profit companies.

As Thomas Piketty argues with regard to taxation whose objective in a democratic society is to take contributions from the wealthy and give to the bottom and middle classes. Likewise, as responsible global citizens, the people who are empowered, connected, and already using tech have a responsibility to work with the unempowered and the minorities.

Digital innovations have their effectiveness in governance in both normal and abnormal circumstances. Especially in crisis, the significance of digital tools and the extant digital divide become more evident. Using only raw internet penetration rates to inform policy-making may leave behind the hardest-to-reach populations.

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Young Perspectives on Democracy

Let's Build Unity in Diversity

A Millennial's Perspective on Nepal's Democracy

Prashamsha Simkhada¹

Millennials in Nepal are introduced to the concept of democracy through their parent's experiences. A millennial myself, I learned about the times when there was a single party system and freedom was either curtailed or limited. During that time, our parents fought hard against monarchy and restored democracy through the people's movement. Likewise, our parents also heard similar stories of their parents fighting against the Rana oligarchy. We, the people of Nepal, have fought for democracy in many forms and those stories of struggle for democracy are littered everywhere and even taught in school textbooks. We have faced many regime changes during the last seventy years. Yet, for many reasons, democracy in Nepal has not grown strong roots.

Nepal did witness some sort of democratic political stability whilst monarchy was there, but it could not be as inclusive as it should have been, at least, from the political standpoint. Likewise, when political parties came into power, they too could not address Nepal's political, social, and economic issues. Perhaps, this could be the reason, why Nepal was immediately caught up by the Maoist insurgency during 1990s. The earliest memories of majority Nepalese millennials are shaped and engraved with armed revolution. While some heard about it from the news, others lived with the insurgency. Yet, there are others who were affected by the conflict directly or indirectly. During the same period, freedom was curtailed, and the monarch tried to impose active rule over citizens. Meanwhile, the insurgency gained momentum and infighting between the political parties for the power weakened Nepalese democracy.

For the millennials, the time after the Comprehensive Peace Agreement signed in 2006 was a new political chapter where they could experience more freedom

¹ Prashamsha Simkhada holds a Masters in Conflict, Peace and Development Studies from Tribhuvan University. She has five years of experience in the development sector in Nepal. She has worked as a project officer for Hamro Samman Project, supported by USAID and UK Aid at National Network for Safe Migration. Her areas of interest are governance, migration, non-violence, peacebuilding and gender.

than before. The second people's movement of 2005/06 also brought new governance structures based on republicanism and federalism. This lived experience gives some glimpses of democracy to Nepalese millennials. But the issue at stake here is: Are millennials and youths actively upholding democratic values and standing as vanguard for democracy? It would certainly contribute to bring Nepal's fragile democracy onto the right path, but it does not look so as of now.

I feel that in Nepal we lack clear democratic orientation that can truly transform people's lives. We somehow have taken democracy and freedom for granted. We get complacent with the passing of time and repeat the same mistakes again and again. The lack of retrospective analysis of various significant historical events is evident when our present action to ensure implementation of democratic values is not guided from our past learnings/mistakes. Here, I think we need to introduce civic education in school curriculum. We need to teach the generation 'Z' and the next generation about democratic values and principles. We need to create an inclusive society and there should be concerted efforts to end systemic discrimination against anyone on the basis of caste, gender, ethnicity, race and other forms. We need to find unity in diversity, considering the diversity that our small country hosts. As society becomes more progressive, we need to watch out for those who still prefer the status quo. The dissenting voices should not be silenced but an environment of coexistence should be built through dialogue. The voices of diverse groups should not be overlooked if democracy is to prosper. The various social movements that have taken place over the years should be taken as an opportunity to rectify problems that exist in our society and polity through dialogue.

Paradoxical as it may be, there is a growing nonchalance towards democracy among Nepalese youths. Youth are averse to politics and consider it dirty. Part of the problem might be related with perpetual political instability that Nepal has undergone over the years. Political parties have failed to meet expectations of the Nepalese people. By contrast, the ruling and opposition parties have created multiple fiascos and left the future of Nepal and its citizens in jeopardy. This led to the decline of democratic values. Corruption, nepotism, and impunity have become widespread. The economic development agendas are sidelined for

profiteering. Lack of economic opportunities forced Nepalese youths to migrate to foreign lands. Still, there are many opportunities to be harvested, if the right education is provided to our youths. If we really want to protect democracy, aversion from politics must be replaced with enthusiasm. For this politics needs to give hope to the people and we should change the extant political practices.

The nationalistic wave that has gripped many parts of the world, in recent times, has certainly brought fresh challenges for democratic pluralism and Nepal is no exception to this. It has led to the rise of populist politicians across the globe. Their divisive politics is bound to have serious consequences for democracy everywhere including in Nepal. Considering that the country has just adopted federalism and does not boast strong institutions to safeguard democracy, we also need to be more alert than ever before. We need to develop strong civic bodies and a non-partisan press to prevent and protest every form of despotic actions that can endanger or curtail our freedom. Civil society must be vigilant to raise their voice to steer the discourse from political instability towards development agendas. For this our local governments formed under the principle of subsidiarity and elected by local citizens must be able to function in full capabilities. This will not only ensure institutionalization of federalism but also lay foundations for inclusive democracy which is a step for peace and prosperity.

This time around, let us hope that we can learn from past mistakes and will not let history repeat itself – so that inclusive democracy becomes reality in Nepal. We also need to focus on building sound institutions of the state which can truly contribute towards this direction. We should develop a culture of consensus that can promote national interests and end the culture of power-centric politics. And as for millennials, we should not be complacent and take democracy for granted, neither should we be complicit to forces that undermine democracy. The onus of safeguarding democracy is on us now and we should prepare ourselves take the lead. Last but not least, as a millennial I hope that we will not have to come out in the streets to demand democracy the way earlier generations had to.

The Future of Democracy in Nepal

*Adwait Baral*²

When we talk about democratic development in Nepal, most of our history lessons point towards 7th of Falgun, 2007 B.S (18 February 1951). This was the day when the 104-year rule of the Rana oligarchs came to an end and Nepal began its journey towards modern democracy. Since then, Nepal has experienced various types of democracy in various timeframes. For example, Nepal adopted 'Panchayat system', which basically was a rule of absolute monarchy where political parties were banned. Yet, it was identified and is sometimes still identified as the democratic system that suits Nepalese soil the most. Likewise, Nepal experienced parliamentary system in various forms: from constitutional monarchy to the present republican system.

That said, the discourse on democracy in Nepal is often limited to democracy as a political system, while other aspects such as the socio-economic conditions are largely ignored. The writer here agrees with a two-fold understanding of democracy: political liberty in regard to governance, and civil liberty in regard to individual freedom. Yet, an exemplary democratic system would be the one which strikes a balance between the political system as well as the social and economic system. Rule of law, political and legal constitutionalism, representative government, and people's participation in policymaking as well as implementation are important elements for institutionalising democracy. Only together they can meet some of the aspirations of the people, even if not all.

Nepal's democratic journey has been a tedious one. The transition is taking longer than expected. It even took nearly a decade to draft and promulgate the constitution through a Constituent Assembly. The constitution has engraved a number of issues, inter alia, federalism, socialism based on democratic norms and values, commitment towards multiparty democracy, civil liberties, fundamental rights, and full freedom of the press. It contains all the provisions of a modern

²Adwait Baral serves in Nepal's Judicial Service. He is currently working as a legal officer at the Ministry of Economic Affairs and Planning, Bagmati Province. He also has an experience of practicing in family law and property law. He yearns to serve the legal fraternity with the knowledge and experience he has and will acquire.

democracy. What would matter for Nepal now, is obedient implementation of the constitution which would require active citizens that aspire to make a positive positive change in society.

The extant constitution provides enough room for people's participation in governance at various layers of state affairs. It also underlines the need of inclusive participation in governance and incorporates three generations of human rights. All these provisions certainly provide an optimistic outlook.

Manifestos of political parties in Nepal never cease to include ideas of ensuring social justice ensured through the democratic system. Also, the successive government through their periodic plans and policies have principally expressed their commitment towards social justice. They certainly have realised the fact that social justice creates conditions for having an egalitarian society as it provides cushion to those underprivileged groups through differential treatment from the state. However, this can only happen when both procedural and substantive part of democracy are well taken into consideration.

Nepal's legal framework does ensure various aspects of procedural democracy such as periodic election, separation of power, remedy for infringement of fundamental rights, and their constitutional organs and bodies which can ensure accountability as well. Provisions have also been made to ascertain that substantive democracy is ensured from procedural means, parts of which can be found in the electoral systems adopted at various layers such as proportional representation, compulsory allocation of seats for women and dalits at the local level. One certainly can find some sort of concrete institutional mechanism in place but there is still a great deal of problems in regard to implementation. Neither the stakeholders have seriously taken these factors into consideration nor the government limiting the democratization process to certain layers of society. Perhaps, there is a need that civil society organizations take responsibility to ensure true implementation. In addition, Nepal could also learn good practices from mature and successful democracies in this regard.

Democracy can only be strengthened when people are more active in their roles towards society and become more vigilant towards government functions.

They play an important role by making an accountable government. Equally important in democracy is that those who exercise authority must maintain high moral character and be accountable. Corruption, abuse of authority, culture of impunity, and criminalization of politics and politicization of crime are posing major threats to our democracy. If we could check and get rid of them properly, this alone, would be a big contribution to consolidating our democracy.

Representation: Only in Spirit?

*Rojina Shrestha*³

Does casting a vote in election ensures representation? This question requires immediate answer? No doubt, representation is at the core of any democracy as it sets the basis for everything. Yet, what is important is the nature and composition of representation that determines the quality of democracy. The electoral mechanism is decisive for how a democracy fares both in spirit and practice when it comes to representation. This essay, therefore, deals with the question of how representation has been dealt with in Nepal and its role in institutionalising democracy.

The lack of political and democratic awareness among the people is a major reason for why the electoral process is limited. Participation in the election process can only be meaningful when voters make conscious decisions. Voters can influence politics when they discuss among themselves about the nature of politics, participation in the election in tandem with protest behaviors in the event of politics not going well. People who engage in political discussion acquire both democratic and political consciousness, while those who protest have democratic consciousness. However, those who participate in the electoral process often lack strong political consciousness. In the context of Nepal, only a small section of the people is involved in political discussions. People in rural areas do not necessarily engage in such discussion and this is even more the case for women and working-class people. So, even when voters turn out is high, political consciousness among people might be on the lower side.

Furthermore, in the case of Nepal, what we can see is that the youth is highly disinterested in the politics of the nation and most of the votes they cast seem to be unconscious choices. The disinterestedness is fueled by a lack of knowledge. The school curriculums do not address these issues, and the practice of politics in the country has led the youth to believe that it is nothing more than a dirty

³ Rojina Shrestha is a student of Law in Nepal Law Campus. She has participated in various moot courts and debate competitions. She strongly believes in international human rights and looks forward to learning more on its implementation in national level.

game. Consequently, the main aim of representation – to reflect the will of the people – has fallen behind.

Moreover, even if we consider people might have made conscious decisions, such decisions in many cases are not completely their own. Most of the times, it is the political parties and their leaders who set the rules of their participation in the electoral process. This is precisely the reason why we get a similar type of leaders and policies every time. Even if the people are dissatisfied with either of the candidate, at the end of the day one certainly is going to win. This stagnant political set up does not provide sufficient choices and little better options to the people. Perhaps, we need to find an alternative mechanism to get rid of this dilemma.

Moreover, whenever we think of representation, inclusion is an important factor. The main reason Nepal had to go through the ten years long revolution was that the people's movement was to ensure the inclusion of minorities and less advantaged people in the polity. This movement certainly brought a more inclusive constitution. Nepal, now, has a proportional representation system which, in principle, ensures representation of those who could not directly win the election. However, the purpose of this system has not been as transparent as it should have been. In contrast, it was hijacked by the parties and powerful leaders.

There are also some problems with those who are supposed to represent the people and their concerns and interests. At many times, they have gone against them. For example, Nepal saw representatives making laws against the popular will such as the Guthi Bill, the Media Council Bill, the Citizenship Bill and the Contempt of the Court Bill. Consequently, these bills often have brought people to the street. The frequent issuance of ordinances on many issues is another factor that needs to be taken into consideration. During the Covid-19 pandemic there was little done from the part of elected representatives. Accountability, indeed, makes democracy healthier. The provisions of periodic election are a test of accountability for elected representatives. However, such periodic elections can and will only serve the interests of the people when they make conscious choice in electing their leaders.

Nepal's experience with democracy so far is not encouraging, mainly because it has been practiced in a way that only served the interests of certain classes. That said, there is still a chance to spring back to democracy with full colors. Yet, this can only happen when citizens are active and conscious. Citizens should be aware of what it means to choose their representatives and children will have to be taught in the schools about the essence of democracy as well as the true meaning of representation. This in turn, will produce politically and democratically aware young voters and activists. Older voters should also be made aware by informal education programs which can be done in two phases. A long-term program to educate people about the details of democracy and the roles of people in it, which in turn should be backed by voter's education program when elections are just around the corner. The election campaign should give a clear idea about who can be elected and what can be the consequences from that choices. Similarly, there has to be policy debates, which are completely missing in Nepal, so that voters can make their right choices based on policies and programs.

Likewise, political parties should allow new faces to come into politics which can bring about positive changes in society. We also should introduce None of the Above (NOTA) policy, which would allow voters to reject candidates as well. This would help addressing the issues of the stagnant political system and provide better alternatives for the transition of power. The splurge of money during the election period to gain the votes should be discouraged to revive the democratic spirit.

By keeping these factors into consideration, we can develop a well-integrated mechanism where people can be the watch dog of democracy and government. They also can have their true representatives in politics. Political and democratic consciousness among youth is increasing day by day and more of them are coming into politics. Yet, their consciousness is coming through various programmes which are not sufficient in themselves. Perhaps, there should be more engagement from the state and its institutions to spread more knowledge about democratic spirit and values. Then only we can have system that is "of the people, by the people and for the people".

About the Authors

Chandra Dev Bhatta is a political scientist trained at the London School of Economics and Political Science, Birmingham University in the United Kingdom (UK). He has held Research Fellowship at the George Warren Brown School of Social Work, Washington University in St. Louis, USA for two years. He has deep interest in *Dharmashastra* and political economy of international relations and geopolitics of South Asia. He is currently working for the FES Nepal Office.

Pitambar Bhandari is an Assistant Professor and Coordinator at the Department of Conflict, Peace and Development Studies (DCPDS), Tribhuvan University. A PhD candidate under the same university, he was involved in the peace process of Nepal and has closely studied the practices of democracy in Nepal. He is also an Associate Researcher at the Peace Research Institute Oslo (PRIO) where he is exploring the ethics of humanitarian negotiation. His research interests include conflict and peace, power politics and regime change.

Kashi Raj Dahal is a senior constitutional expert and former Secretary of the Government of Nepal. He has also served as the Chairman of the Administrative Court of Nepal. He has been involved in framing various laws related to the media, civil service, and federalism, among others. He also served as the head of the high-level Administration Reform Suggestion Committee that recommended government to build an efficient, effective and accountable bureaucracy in the new setup.

Krishna Hachhethu is a political analysts and Professor of Political Science at Tribhuvan University. He was a visiting Scholar, at Wolfson College, University of Oxford, United Kingdom. He has been an international observer for provincial elections in Sri Lanka in the year 1993 and UN Observer for General Elections in South Africa in the year 1994. He has conducted extensive research on politics and governance in Nepal and South Asia.

Uddhab Pyakurel holds PhD from Jawaharlal Nehru University, New Delhi and is currently serving as an Associate Professor at the Kathmandu University. He is also associated with various democracy forums such as South Asian Dialogues

on Ecological Democracy, *Vasudhaiva Kutumbakam* and Network Institute for Global Democratization. His areas of interest includes poverty, people's participation, social inclusion/exclusion, state restructuring, micro-credit, gender, democracy and elections.

Jeevan Baniya is a PhD in Political Science from the University of Oslo, Norway. He is the Assistant Director at Social Science Baha, an independent and non-profit think-tank organization. He has provided advisory and technical support to the Ministry for Labour, Employment and Social Security, National Human Rights Commission Nepal, International Labour Organization, Center for Policy Research and the United Nations University. His academic interests include public policy, governance, democracy, development, state-society relations, labour and migration, disaster, gender and social inclusion.

Amit Gautam is a social science researcher affiliated with Social Science Baha. He has experience of working with several collaborative research projects pertaining to governance, conflict and disaster management. His research interests include governance in developing countries, political economy and conflict management. He holds a master's degree in international Relations and Diplomacy.

Meena Poudel is a sociologist and has a PhD from UK's Newcastle University. She has over thirty-year history of development works, research and feminist activism on issues affecting lives of social excluded and politically marginalized groups in Nepal and various parts of Asia, western Europe, and North Africa. In recent years, she is engaged more on exploring various aspects of lives of vulnerable populations to and experienced various forms of migration in Asia and North Africa.

Santosh Pariyar is an independent writer and civic activist. He is also the coordinator of the gender program in K and K International College and is associated as a visiting faculty in Department of Political Science, Ratna Rajya Campus.

Hari Bansh Jha is an economist and currently serving as an Executive Director of Center for Economic and Technical Studies. He is also a visiting fellow at Observer

Research Foundation. Formerly a professor of economics at Tribhuvan University, his areas of interest include Nepal-China-India strategic affairs, border issues, conflict and peace, international migration, child labour, and human trafficking.

Ritu Raj Subedi is Deputy Executive Editor of The Rising Nepal, the country's oldest English broadsheet daily. With a master's degree in English literature, Subedi has been in journalism for the last 25 years. Also, a columnist of The Rising Nepal, he has published articles in national and international newspapers and digital media.

Arjun Bahadur Ayadi holds a PhD from Jawaharlal Nehru University, New Delhi and is currently an Associate Professor at the Mid-Western University, Surkhet. His areas of interest include civil society, social and political movement, and democracy.

Rajib Timalsina is an Assistant Professor at the Department of Conflict, Peace and Development Studies, Tribhuvan University. He is serving as a co-director of citizen-led assessment model in Nepal called Annual Status of Education Report in Nepal (ASER-Nepal). He is also a non-violent communication practitioner and currently supporting a 'culture of peace in schools' project in Kathmandu.

Roshan Pokharel is an advocate and internet rights activist. He has served as a board member of the Internet Society Nepal Chapter. He has advised government institution, private and international organization on internet governance, cybersecurity and digital media culture. He is currently serving as the Director of Democracy Drinks - an initiative to strengthen democracy informally.

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Nepal Office

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Responsible:

Jonathan Menge | Resident Representative

 <https://nepal.fes.de/>

 FESNP

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