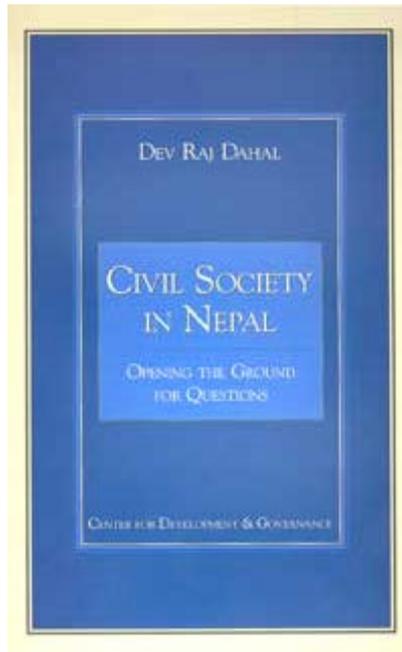


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# Civil Society in Nepal

## *Opening the Ground for Questions*



Dev Raj Dahal

Center for Development & Governance

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## Foreword

**A**ssociational life is the heart of democracy. The idea of civil society captures the essence of associational life of people and motivates them towards social, economic and political cooperation. Democratic communities require a public space-- a space unfettered by the state and market institutions-- to forge solidarity with each other and work for social justice. Without this space, people's ability to overcome the problems of collective action remains unrealized. Thus springs the importance of civil society for both democracy consolidation and development. After the dawn of multi-party dispensation in Nepal, this importance has gained heights in both public debate about democratization and policy discourse. Yet, the inter-penetration of the state, the market and the civil society and their not-so-well-defined legislative frameworks continue to underline confusion pertaining to their respective roles and responsibilities in the empowerment of people and a democratic construction of development.

*Civil Society in Nepal: Opening the Ground for Questions* by Mr. Dev Raj Dahal tries to capture a number of complexities underlying the conceptual baggage of civil society. It aims to bring to the fore the age-old struggle of Nepalese people for social justice, liberty and solidarity and the structural and cultural barriers that the Nepalese civil society faces. Mr. Dahal deals with the role of the civil society in democratization and development in the Nepalese context. This is a unique angle to the issue of consolidation of multiparty democracy- an issue that finds very few academic works in spite of the fact that it is the most burning issue regarding democratization in Nepal. He also focuses his sharp analytical skills in unearthing the prospects for expanding the existing civic space in the country.

A push for democratic development is the essence of politics, but that push depends on how civility grows in Nepalese public life, both among the civic leaders and ordinary citizens. It is hoped that this publication will provide the academic basis for everyone in fostering an environment for a reflective public that can enhance the culture of democracy and development.

Prof. Bishwa Keshar Maskay  
Chairman  
Center for Development & Governance

## PREFACE

A democratic society needs an autonomous third sector between the private realm of business and the public realm of the state. The need will grow—perhaps faster in the days to come—as people increasingly deconstruct their pre-rational primordial ties to enter into rationalized networks, associational solidarity and social movements. This is to facilitate their social mobility and ease their problems brought by market distortions and the deficiency of state policies. The myriad of decentralized voluntary groups, called the civil society, become useful in shaping the core human values-- freedom, justice and solidarity-- as mediating structures between the base and superstructure of the society. Civil societies also facilitate popular participation in the governance and development processes. They influence collective will-formation and the policy culture by empowering community-building projects based on social trust and equity.

A vibrant civil society therefore helps make the institutions and actors of governance accountable to the people and empowers the society to articulate the democratization of human existence. The characteristics of modern public life often hold the possibility of executing a social contract that facilitates a rational pursuit of self-interest, individual self-realization and empowerment. These are the keys to democratic citizenship. A democracy truly immersed in the civil society also fosters the delivery of public good through social solidarity and collective action. In order to grasp the dynamics of modernity, open up the society as well as to address historical and social circumstances of underdevelopment, Nepalese policy has legitimized the civil society domain. The Nepalese Constitution, Plan documents, the Local Self-governance Act and the Priority Reform Action of the government have all embraced its role whether in poverty alleviation, social mobilization or good governance.

I hope the current study opens more grounds for questions about the elements that make up a vibrant democracy than those have been already answered. I would consider the endeavour to have been successful if it whets the appetite of scholars for further research on the role of the civil society in strengthening the democratization and development processes in Nepal. I am indebted to Hari Uprety for helping me enormously in reviewing and editing the manuscript of this book. I would like to express my gratitude to Prof. Bishwa Keshar Maskay for his suggestions in improving the text and contributing to bring out this publication. In their own irrepressible way, my wife Bishnu and kids Tara, Mahesh, Rupesh and Anu have made a vital contribution. For the analysis and interpretation, however, I am alone responsible. This study does not reflect the opinion of any organization I am affiliated with.

Dev Raj Dahal

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## INTRODUCTION

It was the “Third Wave” of democracy of the nine-teen-eighties that sparked off a global associational revolution of minorities, non-governmental organizations (NGOs), civil societies, women, professional organizations, environmentalists, etc causing an authority crisis for the state and, consequently, changing the loyalty patterns of citizens. These associations are at times seen to be cooperating and at others competing with the state- in both the cases influencing its policies. This revolution occurred as a response to the weakening of the state’s credibility, as it was no longer identified with the sole provider of public and common goods. Accordingly, the crucial links between micro and macro processes, between citizens and public affairs and between local realities and universal aspirations assumed deeper levels of interdependence.

With decay in the influence of ideological mass parties to mobilize people and the spread of the values of consumerism and rugged individualism, many states were divested of the ability to maintain a desirable balance among those social values. Governments were instead taking the side of capital against labor, the implication of which has been profound. The public sphere that was getting a thrashing from a retreat of the state was again being beaten up by this promotion of private interest by the state itself-- the state which is supposed to be the supreme protector of public interest. The importance of the civil society thus became clear resulting in the sprouting of organisations all over the world claiming their own place in the vast public sphere that was being left almost empty. “Just as economic globalization is shifting power away from the state towards the private sector, the globalization of human rights movement is shifting power away from the state towards civil society and individuals” (FES-SIPA, 1998:27). Civil society networks espousing the indivisibility, inalienability and universality of rights continue to challenge state-centered nationalism and predatory regimes in favor of a democratic alliance within and across national borders.

The Westphalian system of absolute state sovereignty, characterized by its territoriality, monopoly over institutions, law and power, material and cultural resources, rationalized bureaucratic authority and public sector enterprises, appeared to be shifting to ‘sovereignty of people’. The legislature and the courts thus became the ultimate sources of authority. Consequently, constitutional democracy, the rule of law to ensure equal justice for all and human rights assumed topmost weight in human life in Nepal too. National human rights movements seek to bring their legal and political systems into conformity with the principles underlined in the Universal Declaration of Human Rights 1948. Though not a treaty, its vision seeks to establish common standard of achievement for all peoples and nations. Its principles were incorporated in the Helsinki Accords 1975 which brought human rights abuses in the former Soviet Union in closer scrutiny. Human rights and popular sovereignty established a belief that power must be rooted in the people and holders of power submit themselves to popular will and judgment.

By adhering to human rights treaties the states have placed self-imposed limits on their sovereignty and individuality. Constitutional laws are also being pulled towards cross-border consistency in transactions, such as travel, trade, information and communications and population movements marking a diminution of geography, if not an end of it. The universalization of rights postulated the universalistic criterion for participation and assimilation of people into a global citizenship. The de-traditionalizing effects of modernity further made it impossible to go back to the good old days of village livelihood for the solution of current economic problems of deficit spending, stagnation and high unemployment and, consequently, construct a new identity based on moral foundation, social justice and egalitarian politics. The free play of supply and demand presupposes a free play of the market system in which frontiers hardly stand in the way. Each service that can be digitized and transmitted can be produced and bought everywhere in the world. In this context, only those countries are placed at extreme vantage points that have achieved coherence between national needs and universal aspirations.

The authority of states is suddenly in decline because citizens’ rising unmet demands occasioned a falling political support for the status quo. As the state’s coercive power to tax, set rules and allocate resources to manage its affairs tapered off, the new governance strategy required a new social partnership with non-state actors. This became necessary both for setting the criteria of public policy and a means to achieve the shared benefits at inter-

institutional, interpersonal and inter-generational level. Non-state actors are referred to here as the third sector, civil society, non-profit, voluntary and self-help organizations, Non-Governmental Organizations (NGOs), formal and informal associations of people and their social movements working together as agents of change. The greater the existence of social virtues and civic trust, the better the scope for cooperation among the state and non-state actors. A society with enough social capital in stock to cooperate with others easily mediates individual parochial interests and, hopefully, gives preference to the public and common good. The contribution of social capital to facilitate collective action for social and economic development is enormous. "The theory of social capital presumes that, generally speaking, the more we connect with other people, the more we trust them, and vice versa" (Putnam, 1995: 665). The legal apparatuses "serving as a substitute for trust, entails what economists call "transaction costs." Widespread distrust in a society imposes a kind of tax on all forms of economic activity, a tax that high-trust societies do not have to pay" (Fukuyama, 1995:28).

Following the exposure of Nepalese people into modernity and democracy, the pre-modern and pre-rational social structures of the nation, such as family, religion, community, cultural association, caste and class hierarchies founded on "natural will," have marked a paradigm shift towards modern structures of "rational will," such as the doctrine of rational natural law, social contract, citizenship, constitutional order, solidarity and nationhood. Rational will binds the political power with law and applies equally to all human beings as citizens of a state. It also establishes the autonomy of citizens<sup>1</sup> and provides them private free choice to negotiate a social contract they need. Nepalese societies are highly diverse in terms of human development, socially heterogeneous and vertically segmented into social and cultural divisions. The effects of this historically evolved social asymmetry in the relationship among citizens of different castes, classes and genders, however, has been to postpone the benefits of social modernization from being enjoyed by the underclass. Often, the disequilibrium between the centralized decision-making process and fragmented societies has led to major inequities in the distribution of resources, which has in turn led to growing societal discontent. The social neglect of Dalits, subordination of women and marginalization of indigenous people continue to clog the democratization process. The rights and duties of citizens<sup>2</sup> granted by the Constitution are supposed to protect their sphere of action and strengthen actionable demand. And enacted laws are supposed to be linked with penal norms to surmount the culture of impunity in the country. But this is yet to happen.

All these factors have compounded the weaknesses of the political society in Nepal and kept it from translating the demand for citizenship equality into a politically potent force. Poor performance of governance has limited the inclusion of the variety of social groups into an effective political community. For example, a number of indigenous communities, such as Kusundas, Rautes, Chepangs, etc are not a member of the political community. But still, many civil agencies founded on "rational will," such as the media, students unions, human rights organizations, law society, trade unions, women's associations, professional establishments, citizens groups, consumer associations, etc. are trying to deconstruct the primordial ties for the new connective tissue of human rights, self-determination and solidarity as well as seeking the transformation of the public and private spheres for a negotiated consensus between the society and the state.

Civil association is the "condition of existence of a cosmopolitan state; this is a state conceived of not as a community but as people living in "intelligent relationship" with one another" (Giddens, 1998:3). These agencies increasingly focus on the aspirations of the groups of a society in pushing the idea of "natural rights" which protect the human beings' private autonomy and freedom of choice. Their central motive is to evoke the

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<sup>1</sup> Citizenship is the membership of individuals with the state involving the rights and duties and the realization of their potential while at the same time promoting social goods. It is a process of the formation of national identity and, by implication, peeling off parochialism and primordiality but without losing a sense of historicity, such as national heritage, residence, beliefs, customs and validity claims. The issue of citizenship in modern social science is linked with the enlargement of the public space and the consolidation of common national identity.

<sup>2</sup> Does the meaning of law and order or constitution imply subordination of the weak before the strong? If not, why is the notion of democratic citizenship not institutionalized in Nepal and why is it becoming weaker before party membership, caste, class, ethnicity, religion and regionalism thereby weakening the base of nationalism? It is strong attachment of the people to citizenship that strengthens the state of democracy, not politics of parochialism. The state of Nepal too has to focus on social integration, organization, communication in the society and a fair distribution of the means of livelihood among the people so that their attachment to the state remains strong.

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condition of eternal vigilance on which freedom and autonomy have been founded and given to human beings. Is this transition towards “rational will” conducive to the creation of social capital for development and democratic consolidation? By implication, does it help strengthen the social base of politics? As far as civil societies are concerned, they are grounded in the public space, their apostle is the public and they justify their entire activities in the name of the public. The legitimacy of constitutional state itself is embedded in the virtuous public sphere of civil societies facilitating an organized representation of diverse social interests in development and governance.

In Nepal, where both the political society and economic society have a common utilitarian motive of maximizing power and wealth, the non-profit sectors—a world of the poor and powerless-- are always being forsaken by concrete policy manifestation and by the democratization process. Paradoxically, many of these associations, far from becoming an autonomous sphere, have become a part of the political society --political parties, institutions of elections, special interest groups and the state and, consequently, failed to perform civic functions. They have hardly become helpful in civic renewal and in shaping the political choice of individual citizens. The state has promulgated the Constitution of the Kingdom of Nepal 1990, Social Welfare Act 1992, Ninth Plan Document 1997-2002 and Local Self-Governance Act 1998, its Regulation 1999 and a myriad of other rules and regulations, which define the actions of different social actors including civil society. The endorsement of a number of human rights instruments obviously connects to limits on the state's internal sovereignty and enhances the universal rights of Nepali citizens. But, within those definitions, the behaviors of its members are freely chosen reflecting their individual and collective interests.

The first section of this study deals with the bewilderingly diverse concepts of civil society rooted into different philosophical traditions. The second section sketches the unique historical legacy of civil society and civic activities in Nepal existing side by side with state institutions. The third section defines the contemporary policy framework for the operation of the civil society and the voluntary sector including non-governmental organizations. The fourth section elaborates the complexity of the modern civil society operating in Nepal. The fifth and sixth sections explain the contemporary civil society discourse on democratization and development; and finally, the last section draws a brief conclusion.

## THE CONCEPT

When Cicero deliberated upon *civilis societas* before 400 BC, he was evidently referring to civil society, a society of citizens, who were free and equal participants but had unequal abilities. This excluded the slaves and outsiders. For the Greeks, the civil society embodied in the *polis* emerged as autonomous units between the family and the state. It was formed by faith and concerned with pre-serving a space beyond the bounds of state laws. Shared values, interests, practices and commitments to collective action tied these intermediary units.<sup>3</sup> They acted through the citizens' collective will and conformed to the essence of human freedom. The world of civil society was the world of freedom, predetermined neither by custom nor state laws. Immanuel Kant formulated the concept of *civic union* or civil society and separated its domain into private and public, that is, the domain of virtue and the domain of right (Rundell, 1987:21). G. W. F. Hegel furnished a state-centric view of the civil society, underscoring the extension and entrenchment of state power as the realization of an immanent historical ideal (Lewis, 1992: 35).

Rundell says, "humaneness, for Hegel, is irreducibly tied to society's progressive rational domination of nature and the rational articulation of political life through the development of statehood" (Rundell, 1987:45). He made functional separation of society into two different spheres: "civil society as the systemic domain of *homo economicus*, and the state as the systemic domain of *homo politicus*" (Rundell, 1987:87). The modern version of civil society adds into it a third domain *homo cogitans*, home of knowledge or the cognitive orientation of human beings to the democratization of debate and the rationalization of the sovereignty of people. Each sphere comprises a multiplicity of autonomous institutions and associations.

Karl Marx viewed civil society as a "bourgeoisie space constituting itself against the state" in which the activities of state officials could be criticized through open argument and debate. Antonio Gramsci called it the "hegemony of a class claiming to represent the nation." "The idea of hegemony," writes Raymond Williams, is "especially important in societies in which electoral politics and public opinion are significant factors, and in which social practice is seen to depend on consent to certain dominant ideas which in fact express the needs of a dominant class" (Swift, 1999:50). The modern version of civil society constitutes an "intermediary public sphere between the state and the market" where the ideals of democracy and human rights are realized. Contractual and utilitarian theorists like Thomas Hobbes, John Locke, Jean J. Rousseau and J. S. Mill attempted to entrench individual liberty, social contract and property rights in the state of nature. Liberalism attempted to limit the powers of the state and delimit a private sphere independent of state action. Later democratic theorists have stressed on socialized networks of reciprocal relations and constitutionalization of societies. These different conceptions of civil society have naturally engendered rival accounts of their origin.

After the loss of its traditional meaning, civil society has been seen to correspond to the Habermasian notion of "rationalization of life-world" through the power of the people to imagine, reflect, organize, communicate and act voluntarily for public interest. Argues Habermas, "a robust civil society can develop only in the context of a liberal political culture and corresponding patterns of socialization, and on the basis of an integral private sphere; it can blossom only in an already rationalized life-world" (Habermas, 1997:371). A critical discourse free from state-sanctioned politics is central to the shaping of a new social ordering, public service and self-governance of society. In a democracy, political power is a representative of broad majorities. Today a small number of elite exercise inordinate power with low representativeness, capture the state, tend to set regulatory conditions on the majority and yet work to grant them reasonable public services.

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<sup>3</sup> David C. Korten argues that the origin of civic engagement goes back to the dawn of human community. "People have always organized themselves into tribes and villages and found ways to use available resources and technologies to grow food, harvest water, construct shelter and treat their ailments. Forms of civic engagement are among the most natural and pervasive of human drives" (1998: 4).

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Modern society has three basic components “capital, state and then people with all their associations and organizations, constituting civil society” (Galtung, 1996:152). Civil society is a multitude of autonomous human associations, identities, networks and movements forged for the sake of protecting themselves from the arbitrary and unjust decisions of the holders of power and wealth and promoting their rational self-interest. The art of association is the core feature of civic spirit. Political and economic societies are the dominant parts of human lives, yet both contain a common utilitarian propensity: the political society seeks to maximize power while the economic society seeks to maximize wealth. Both leave off those territories, which do not produce profits. In such a situation, who takes care of the non-profit sectors? The obvious answer is civil society. Civil society’s identification with the non-profit sectors situates it alongside the spirit of human beings and establishes that political and economic systems ought to be secondary to voluntary human relations. Besides this, the civil society brings democratic dialogue to the public and explains what democracy and development mean in the different cultural and civilizational milieus and how they are realized at personal and public levels. There are a number of reasons that establish the relevance of civil society in the contemporary world:

First, the trinity of freedom, social justice and solidarity forms the core values of civil society. These values represent the three generations of the Universal Declaration of Human Rights—civil and political rights (first generation), social, economic and cultural rights (second generation) and the rights to development, self-determination and international cooperation (third generation). These rights purport to set a condition for human beings to lead secure and creative lives reasonably mediated by human consciousness, reason and free will of citizens. The power of civil society springs not from the intimate sphere, such as family and relational network, but from secondary associations and public communication. Its associational autonomy and its potential to protect the rights of the public make the state susceptible to democratic governance and responsive to citizens’ needs and aspirations. The sovereign ground of rights is the basis upon which human beings struggle for freedom— for liberation, entitlements and social opportunities. A number of development agencies have considered civil society central to their work in governance. Because, the term “civic order is used to mean that people are civil to one another (that they do not demonize their opponents, are willing to compromise, conduct reasoned rather than impassioned discussions) and/or that a society should maintain a fabric of mediating institutions to protect individuals from the government” (Etzioni, 1996:14). As people with different cultures meet, they develop trust and cooperative relationship to sustain and promote their shared interests, values and solidarity.

Second, a civil society comprises small bottom-up associations, which are accessible to citizen’s participation thus making it attractive for more and more citizens to public life. The idea of participation is extremely important for the liberation of people from docility, oppressive silence and domestication. It also stimulates them to talk, argue and take part in areas of their concern. The stronger the civil society, the more responsive it makes the state and the market to popular needs and aspirations. This is why democratic states are deeply rooted in the associational life of its citizens. This, accordingly, results in the decentralization and democratization of the state and corporate power while freeing the civil society from the hegemony of both. According to Ernest Gellner, “Civil society is that set of diverse non-governmental institutions, which is strong enough to counterbalance the state, and, whilst not preventing the state from fulfilling its role of keeper of the peace and arbitrator between major interests, can nevertheless prevent the state from dominating and atomizing the rest of society” (Gellner, 1995:32). Sustained engagement of citizens in the institutions of governance through a vibrant civil society helps transcend the monopoly of economic and political power by certain class or caste of society and enforce the accountability of leaders to the grassroots units of self-governance.

Third, civil society tries to mediate between the general and particular interests, between the base and superstructure and between the political and economic societies for the welfare of the majority of citizens who are poor, powerless, deprived and alienated from the mainstream democratic and development processes. It tries to protect them from the risks brought about by the society’s growing dualism, facilitates collective action and underscores governance reform for a well justified allocation of public resources. Because, the class, caste and gender discriminations, shrouded by the basic realities of power and wealth asymmetries in society, continue to cause social exclusion, poverty and inequality and produce intractable contradictions in human life. Civil society, thus, invents a language to communicate the problems people face and outlines a number of overlapping

programs for the people to socialize, mobilize, build coalitions and exert pressure on the government and corporate sectors to make steady advances in the right direction.

Fourth, the civil society captures a vision of conscious opposition to authoritarianism, domination and exploitation of citizens and provides an opportunity to mobilize “counter-knowledge” and draw on “the pertinent forms of expertise to make its own translations” (Habermas, 1997:372). The struggle of the civil society, however, cuts across gender, class, regional, ideological and professional lines and, therefore, bears the social integration and communication potential. Does civil society muster a kind of consensus for evacuating the irrational orthodoxy of “isms” and ideologies<sup>4</sup> that prevent rational communication? Perhaps yes, because it establishes the autonomy of human beings from all forms of utopia and despotism. It, therefore, deals with the problems associated with the growth of social capital. In this sense, civil society is more value-based than other units of human life for it captures the imagination of ordinary citizens, their daily concerns and necessities and circulates those elements in policy articulation.

Fifth, a civil society seeks to influence state policymaking, helps in shaping public opinion and collective will formation. These are essential elements for the moderation of public policies as well as to trigger the dialectics of social transformation. Consolidation of the civil society is the key to creating independent civic community, healthy polity and inclusive development, thereby constraining the government’s exercise of discretionary authority- especially its potential abuse of power in national decision-making while increasing the power of the society. Thus, it strengthens the social foundations of democracy and human rights.

Sixth, civil society builds a commitment to the protection of the social sphere and public good by removing plenty of constraints from the realization of constitutional rights, economic and political entitlements and opportunities for civic empowerment. Isolation, suppression, denial, exclusion and deprivation of people from civic freedoms are the very anti-thesis civil societies purport to adjourn. “The public sphere is not conceived simply as the back room of the parliamentary complex, but as the impulse-generating periphery that surrounds the political center: in cultivating normative reasons, it affects all parts of the political system without intending to conquer it” (Habermas, 1997:442). To that end, it envisions a non-conformist political culture in which a plurality of interests is adjusted to societal structures in an immutable process of self-production. It thus links ethics to politics and underpins policy coherence by contributing to reverse the unjust economic and social structures that are responsible for institutionalizing powerlessness, poverty, inequality and dehumanized life. Decay of public life is a threat to democracy.

And finally, a civil society gives impetus to a community building project within and across the national borders to both universalize individual and national life and motivates the citizens, governments and the states towards regional and international cooperation. Yet, an agonizing question comes to the fore: how can identity politics of the state, the core of national sovereignty, be maintained in the civil society’s drive to universalize social, cultural and political life? The answer is, according to Michael Walzer, “demonstrating nationalism,” democratizing the political and economic decision-making and humanizing the agencies of governance.

Political community fructifies on civic virtues and its sphere is defined by freedom. The fulfillment of the economic necessities of citizens is the responsibility of democratic governance. So the structure of governance matters. Neither can absolute individual autonomy in politics support democracy nor does the valorization of market provide a sense of solidarity among citizens for self-direction. Walzer, in fact, says that “a large number of citizens drop out of the market economy.” Can civil society thwart this drop out? Perhaps yes, but only if the quality of democratic political culture provides psychological and material energy to vibrant civil institutions and makes them capable of delivering public goods and services to the needy. The game of market competition requires clear rules, norms and procedures as well as impartial arbiters but also skills, training and preparation of people to meet future challenges. While civility makes democracy possible, the continuous engagement of citizens in civil society associations makes both market dropout and “posturing nationalist” sentiments downright impossible.

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<sup>4</sup> Critics argue that ideology is a deceptive way of perceiving the world and justifying one’s own actions. It offers people the mirage of reality, betrays their conscience and helps to legitimize their actions the real interest of which can be cloaked in the well-crafted slogans and phrases. Ideology thus tries to create a link between the reasons of the state and the reasons of human life.

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One school of thought eloquently advocates the need for state intervention for the strengthening of civil society and direct engagement of citizens in economic activities. The other, however, slightly differs from this notion and asserts that civil society de-linked from the market economy becomes a “critical theory”<sup>5</sup> and only evokes a kind of utopia. Civil society does not necessarily stand opposite to either the market or the state rather, in many cases, it has served as a sphere of social inter-action comprising all associations and publics, institutionalized by laws, especially citizenship rights that stabilize social integration. This seems to be an inversion of Gramscian echoes that see civil society as an independent social order operating without legal and political coercion of the state. According to the viewpoint, through the institutions of civil society, the ruling class manufactures consent and exercises cultural hegemony over the general society by claiming to represent the nation.

Civil society’s fundamental political concern is the creation of good governance—political self-governance, economic self-direction and social inclusion-- which is also capable of resolving the disparities between the rich and the poor, the male and the female and organizations and aspirations. This resolution is essential to stave off the eternal contradiction of human life according to which the whole engulfs the parts in its scheme. Sustained education of citizens to meet the goals of human rights and democracy in the future and the maximization of citizens’ participation in community make decision-making transparent. The experience of domestic political scene of many developing countries shows that it is the civil society that has opened the possibility for reform-oriented politics.

Communitarian thinkers like Amitai Etzioni, Robert Bellah, Werner Peters etc strongly parade the importance of civil society in a democracy. At a time when civic virtue is at a loss because power elites and opinion leaders enjoy too many rights and too few social responsibilities, any broadened concept that includes the remaining millions of voiceless people demands an acceptance of democracy as the only principle of political organization. In that sense, democracy becomes a universal paradigm. A good society can hardly be conceived of when the system defends only rights-based groups and dismisses human rights and common social concerns as irrelevant thereby allowing the market to systematically damage the human connections of nation-states, such as individuals, families, neighborhoods, schools, voluntary associations and public places. A new way of looking at the role of the state to stabilize community is, therefore, essential. The community is otherwise exposed to the full force of market materialism. There will be much harm if economic rationality alone dominates all other spheres of social activity, evaluation and judgment. Because rationality does not transcend history and social context. Certainly not.

The growing rationalization of the economic sub-system and the primacy given to it in spite of its potential to dominate all other spheres have led to a kind of context-free individualism thereby producing unwarranted attrition in the life-world. A good society cannot be built outside a modern state that provides space for civil liberties, political organizations and constitutional existence. Those outside it can only face autarky, tribalism, ethnic and religious wars or homogenization. Therefore, deep reflection is needed to deal with the invisible hand, reform industrial policy, redefine the role of state, create viable institutions of social security, campaign for a high level of compulsory public education and to execute modernity<sup>6</sup> and social justice. Evidently, the relationship between the state and the market seems dialectical. In this dialectical process, the majority of the poor is eagerly looking for an orientation in a difficult process of transformation.

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<sup>5</sup> Max Horkheimer explains critical theory saying that its “content consists of changing the concepts that thoroughly dominate the economy into their opposites; fair exchange into a deepening of social injustice; a free economy into monopolistic domination; productive labor into the strengthening of relations which inhibit production; the maintenance of society’s life into the impoverishment of the people’s. The goal of critical theory is to transform these social conditions and provide a theory of the historical movement of an epoch that is to come to an end” (Kellner, 1996:312).

<sup>6</sup> “Modernity can be conceptualized as a process of societal and cultural differentiation and pluralization propelled by and revolving around a series of developmental logics or dynamics which may be located within each of the differentiating spheres. These developmental logics or dynamics include the general capitalization of social life; industrialization; the autonomization of art; and democratization of the debates and conflicts concerning the sovereignty of civil society and persons as autonomous beings. This last logic, associated with the emergence of public sphere, interacts and clashes with the developmental logic of the state and its tendency to absorb society” (Rundell, 1987:2).

The motive of democratic policy is to achieve social justice. This means a strategy of exerting social control over the market is essential to increase the efficiency of the economic system and the attainment of social welfare. In an era of globalized market competition, economic vision must capture an essence of teamwork, social trust and popular spirit. An efficient high performance of the workplace must embody four crucial elements: sharing of production profits, employment security, a sense of group cohesiveness and guaranteed rights of the voters, workers and consumers. Sensible economists have already begun to admit that competitiveness rests on the entire environment including the role of the state, society and culture. Both the market and the state on their own are not able to increase the productivity that many, who argue for their intervention, advocate. Samuel Bowles and Herbert Gintis have proved empirically that this is not the case. They in fact emphasize the economic value in 'trust'. The authors have successfully brought a third element in the productivity debate and discounting the notion that either the state or the market alone can increase productivity. "Both strands of political economy have overlooked the critical role of communities as governance structures" (Bowles and Gintis 1998: 9). This means civil societies have to be ready for a new vision to do away with the huge social and economic deficiencies of the present system and put all the checks and balances of democracy in a proper perspective. This also means that economic and technological decisions have to be politicized whereby political intervention creates more room for individual enterprise and bequeaths to the idea of a more effective social justice. A modern state must set individuals in the social context and activate them to productive power without leveling the strongly idealizing role of the civil society to appeal to reason.

A civil society thus articulates the notion of social law, which enhances a non-static type of solidarity and economic transactions not wholly determined by market forces but that also take into account the egalitarian aspects of prosperity. Is this a new spell of modernity? It should be. Many concepts of modernity that laid confidence in universalism, holism, grand theories, reason, scientific knowledge and moral progress in the past have started parting with the original interpretations. For example, many political parties of the world today allow "politics of interests", a dominant form of public life, which has nothing to do with the democratic values the public upheld until recently. The social thought of post-modernist thinkers rests on historicism—that knowledge is time-bound and context-laden. The intellectual position of post-modernist thinking is derived from a critique of hegemonic discourse of modernity and a demand for cultural relativism, diversity and flexibility—whereby multiple political voices and representation make inroads into the center of power.<sup>7</sup> Will the concept of civil society be able to cope with the emerging challenges brought about by the internationalization of economics and politics, ethno-nationalism, immigration, minority conflicts and reactive re-tribalization? It certainly cannot evoke a uniform response. The political consciousness of civil society to transcend the bounds of citizenship, nationalism and national identity is paving the way for the emergence of post-national society.

Regional cooperation, many think, will serve as an insurance policy against the uncertainties of the future caused by social, economic and technological internationalization. But, the Southeast Asian crisis of the late 1990s expunged the utopian possibilities of the primacy of economics in social and political life and indicated that without embedding democracy in the economic structures, progress remains spurious. This shows that regionalism does not necessarily solve every social problem. In fact, it could result in social chaos, if pursued recklessly as the Asian crisis did. Still, that has not stopped regional cooperation from advancing. After the growth of regionalism in South Asia "many of the appurtenances of nationhood associated with the right to work, to trade, to seek capital and human development, will increasingly come to be accessed within a regional context defined by seamless borders" (Sobhan, 1997:58). In many African countries, "the decline of weak predatory states and autocratic rule has opened opportunities for the formation of civil society" (Lewis, 1992:32). They are handling difficult situations with the construction of national culture, state authority, national identity, social cohesion and the promotion of peace, human rights, democracy and market economy. A number of Latin American countries are reeling under the burden of democratic construction of the state and the market. Their focus is on a strategy to overcome external dependence. They are trying to link democracy to a wider area of social consensus. Western Europe is coping with the challenges of the regional integration process while Eastern

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<sup>7</sup> "The post-modern condition is characterized by the death of autonomous subject and the emergence of new moral ideals and free-floating emotions; the fragmentation of codes and discursive heterogeneity without a clear norm; a nostalgic perception of history which legitimizes pastiche as an aesthetic form and a conception of reality as the reproduction of simulacra through the visual power of computers and media, which abolishes any sense of alternative collective projects for dominated groups" (Archetti, 1996: 655).

#### 14 Civil Society in Nepal

Europe of the necessary democratic reforms. Many left parties in those countries are in the process of democratization and struggling to maintain their identity in a world of pluralism.

The vision of Europe offers scope for diversity and opportunity, a confederation rather than a model of hegemonism. It is shaping their cosmopolitan vision, but without unhinging their bi-national and multi-national existence and even without rending the citizens' social and cultural roots. On the whole, there is a call for a "return" to modern politics, to palpate with the powerlessness of citizens and converse with their aspirations, necessities and cultures.<sup>8</sup> In the process, civil society needs to conform to the essence of post-modernism and respect the cultural relativism and the needs of state power, which are crucially relevant for the empowerment of citizens.

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<sup>8</sup> Dauderstadt, for example, argues that "The long-lived dominance of liberal (and conservative) policies and the one-sided emphasis on market integration have created a deficit of democratic control in Europe, particularly over market processes. The social role of the European Union--full employment, social justice--is relatively underdeveloped in spite of certain amendments, above all since the 1997 Amsterdam Treaty. The more unsatisfactory the outcome of market-led development--i.e. rising unemployment, poverty and inequality--the more serious is this situation" (2001:1).

## THE NEPALESE LEGACY

Nepal's history treasures the importance given by the society to civic institutions, knowledge, skills and spirits.<sup>9</sup> The emergence of civil society is historically linked with the rise of the notion of public space, a space rationally governed by the interest of the public. During the *Vedic* age (around 2000 BC), the age of knowledge and enlightenment, it assumed the character of critical discourse, thus linking rational knowledge to human life. Civic life in Nepal had grown with the *vedic* age when *dharma* (institutional duties and role), *shastras* (moral and legal treatises) and *shastartha* (philosophical discourses) shaped the cognition and character of the subjects and monarchs, defined the governing norms of the society and polity according to *barnashram dharma* and oriented them towards public welfare. Knowledge, then, was not at all non-political. There was an instrumental connection between the scholarship of *rishis* and *munies* (sages and ascetics) and the *barnashram dharma*.

The *rishis* and *munies* upheld the capacity for oversight of governance, performed the functions of interpreting *dharma* and *shastras* and instilled duties of monarch and subjects towards the promotion of collective goods, such as virtuous conduct, promotion of *sanatan dharma* (eternal moral duty) and culture, loyalty to the state and attain the knowledge of the cosmic order. *Sanatan dharma* in that sense is not religion, for religion is the essence of differentiation connected with particular sects. The Hindu treatise Bhagawad Gita states that those who are actively engaged in the welfare of all beings, attains the *brahman* or *mokchha*. In the West duty is the derivative of individual rights while in the Vedic tradition the *dharma*-mediated ethical system embedded individuals in a web of moral and social duties and relationships. It was designed to beef up the ideal potential of the order of creation. A duty-based society naturally fostered co-dependency and minimized the potential for social conflict as it does in the rights-based societies of the West. Unlike modern seminars conducted in private spheres, hotels and vacation spots and restricted to professionals and experts, the discourses then were conducted in public places, opened to all and were autonomous of power considerations. Knowledge and information were public property. The discourse was largely attached to the social context, oriented towards the functional needs of society and the state and was governed by the underlying practices. The disposition of power and knowledge thus constituted an inextricable harmony in human conduct.

The Buddha's teachings of *Pancha Sheela* that evolved around 2,500 years ago laid down five rules of life—refrain from killing, stealing, adultery, alcohol drinking and lies—which corresponds to the great five sins of the Hindus. The Hindu--Buddhist religions that grew in the cultural repository of *dharma* emphasized the need to dissolve personal ego for enlightenment, Buddhist by *nirvana* from the wheel of existence --birth, disease, decay, old age, death and Hindu by attaining *brahman* or *mokchha*, both denoting salvation of life. Both the religions claim that no one can attain salvation without performing virtuous and supreme conduct in his/her life.<sup>10</sup> Each is based on the theory of *karma*, denoting that good action lays positive result while bad action negative. The *karma* principle is based on the simple theory of cause and effect. Buddhist economics revolves around the concept of simplicity and "right livelihood" which in turn is a function of right action, by implication, refraining from actions that causes suffering to others (Uprety, 1996: 121). Civic life of the then settlements also drew its legacy from Rajarshi Janak of Mithila whose scholarship and statecraft were primarily devoted to *dharma*-- care, justice and righteousness of all human beings. Lumbini in the southern part and Gandak region

<sup>9</sup> Many authors claim that civil society is Western in origin like democracy or constitution. Now it is used worldwide. This means, argues, Goran Hyden "civil society will come to have many faces. There will be a struggle between the "universal" and the "particular," between the ideas that human values and norms are shared by all regardless of race and religion, and the idea that these norms and values are determined by specific cultures" (1998: 42).

<sup>10</sup> Vedic scriptures elaborate four different types of human conduct: a) *bad conduct* hurts others and inflicts anguish and pain to them; b) *normal conduct* is meant to regulate and sustain personal and family lives without hurting others; c) *virtuous conduct* is designed to help others by means of promoting voluntary services, such as establishing resting places, inns, schools, hospitals, digging wells, constructing water spouts, and uplifting the poor and powerless sections of society; and d) *supreme conduct* is attained by performing Yagna, protecting earth, heaven and the cosmos.

and Kathmandu valley in the north are often regarded as the cradle of Nepalese civilization that emerged much earlier than the founding of the Lichchhvi state (Acharya, 1998: 9-23). This indicates that the tradition of civility is not an alien concept in Nepal.

Several religious and social cults, including the *deos* cult, founded around temples and monasteries have formed a widely known public space for rational contest of ideas and action. Buddhist *bihars* (monasteries) and *sangha* (mass organization), Hindu temples, *gurukuls* (voluntary schools run by the community) and the *panchali pratha* (local arbitration system) were the fountains of reason, lore, culture and civilization. As these ambient factors were embedded in the cognition of citizens of those days, the socialization and acculturation process was spontaneous and sustainable. It made life flourish together. The *guthis* of today demonstrates the resiliency of the *gosthis* of the Lichchhvi state and resonates the continuity of cultural consciousness and associational life of the Nepalese. By definition, *guthi* is a group of people founded as a community based on extended families, clans and lineage groups for the promotion of their general social, cultural and economic interests. It is also an endowment of land or other property for religious, cultural and philanthropic purposes and being sustained voluntarily, not only for entertainment but also to stimulate collective consciousness of the community as well as to broaden an individual's connections with the society and the state. The Buddhist *suttas* situates individuals in the historical and social context and links their fate to the fate of the community.

The advent of Jayasthiti Malla (1380 AD) marked the codification of a stable social life in Nepal which was defined by caste orderings. The Malla kings had extensive interest in promoting literary societies, constructing roads, arts and aesthetics, temples, *pati pauwas*, (resting places), irrigation works, public *dharas* (water sprouts), temples, preservation of *gampa* land, etc. which provided a powerful spiritual basis for social and culture sentience. They evolved the *panch kachhahari* (council of five elders) for the arbitration of conflicts and adjudication of justice. After Prithvi Narayan Shaha unified the country into a modern nation-state, Nepal, in 1769, he articulated the pluralist social space of the nation, *Nepal char jhat chhatis barnako phulbari ho*, in his state-craft as imagined in his *dibya upadesh*. In this philosophy of governance, he not only preached the highest standards of purity in public life and private conduct but also accepted the cultural autonomy and ideas of all social and cultural organizations. Land grants to different sets of citizens, economic mercantilism and the Hindu caste universe existing in the Nepalese societies then underlined the ability of the state to penetrate society and organize social relations to acquire the necessary state-society synergy.

The accession of the Rana regime to power through the blood-drenched Kot Massacre of September 1846 too did not dare intervene in the local social and cultural spaces. Based on local social and cultural propensities, villages were autonomously run by tribal heads having their own claim to local resources and their own system of rights. But, they made the state a captive of the aristocracy and bureaucracy and were ruthless to dissension, thus preventing democratic ideas from entering the social milieu. The public space that was ingeniously designed to capture all forms of social behaviour was limited to being only cultural relics of the past rather than the effective vehicle for articulating ideas. Their authoritarian style of governance fostered a political culture of clientelism. Rana rulers treated the citizens as *raitis*-- the subjects, not the public. In the process, they not only institutionalized their family aristocracy but also centralized political power and wealth in a way akin to an *ancien regime*. In the complicated maneuvers and counter maneuvers of political elites, the monarchy succumbed to political paralysis, although it was still a powerful center as it signaled the continuity of legitimacy, tradition and stability in the political annals of Nepal. It was the Ranas who made certain that they were the ones who gained from the situation to the fullest extent.

The Rana regime, however, systematized a full panoply of laws, the *Muluki Ain* (the Civil Code) in 1854, and amended and edited it in 1910, to regulate the behavior of people and dispensed justice on the basis of caste ordering. Moreover, they also initiated social engineering—*Sanskritization* of non-*Sanskritic* groups and communities, introduced reforms in the governing institutions (especially the administration and the army), fostered the process of *Nepalization* of language and culture, applied modernity, executed social reforms (such as abolition of the slavery system, the custom of *sati pratha* or widow burning, etc) and secured the sovereignty of the nation during crucial periods. The Ranas customarily inherited a system of governance based on the exclusion of Dalits and untouchable groups from the public realm and the subordination of women in society. This basic nature of patrimonialism destroyed the difference between the public and the private spheres and roles and

weakened the power of the public to aggregate, articulate and communicate their interests. The centralized state penetrated both the economy and society and harnessed them to the needs of regime survival. In this context, the then civil society formed in Nepal and by the Nepalese in India constituted a mobilized associational arena for the political opposition of Rana rule and for the creation of a competitive, participatory regime.

But the basic nature- pluralistic and diversified- of the Hindu-Buddhist society provided a fertile ground for a liberal institutional structure in Nepal. During the anti-Rana movement, Madhav Raj Joshi founded the *Arya Samaj* (civic society or a society of noble people) in 1909 to free the Nepalese from superstition, social prejudice and conservative thinking. It aimed to abolish discrimination against women, child labor, child marriage and to legitimize widow marriage, initiate social reforms and lead the society on a rational course. The Rana rulers jailed him for that. In 1918, Tulsi Mehar, Amar Raj and Bakpati Raj tried to revive *Samaj* but could not. On the initiative of Siddhi Charan Shrestha, a *Malami Guthi* was set up, but that too suffered from the Ranas' iron hands. In 1920, Subba Krishna Lal Adhikari wrote *Makaiko Kheti* (Farming of Maize) which satirically portrayed the Rana policy of sycophancy towards the Britishers ruling the rest of South Asia then. The satire also hit at the subjugation of native citizens by the Ranas that resulted in the wretched conditions of peasants and workers of Nepal.

In 1926, the *Kamadhenu Charkha Pracharak Mahaguthi* emerged as a modern form of social organization. In 1937, Sukra Raj Shastri with Kedar Man Byathit, Ganga Lall Shrestha, etc. as members constituted the *Nepal Nagrik Adhikar Samiti* (Committee for Citizens' Rights). Its objectives were to inspire public consciousness through the explication of Hindu religious treatises and lift the veil of oppressive silence in the nation. When Sukra Raj was explaining the teaching of the classical treatise, *Bhagbad Geeta*, at Indra Chowk, in Kathmandu, he too was booked, grilled and later hanged. All these activities were carrying forward the demand for a political state in which free citizens have the right to public office and participation in decisions about the issues of public importance. The springs of indigenous knowledge thus formed the origins of rebellion.

Prem Bahadur Kansakar and his friends established *Prajatantra Sangh* (Democratic Association). Daya Bir Singh Kansakar formed the *Paropakar Sansthan* (Charity Association). A number of literary societies had been formed inside and outside the country for the renewal of the interest of the citizens in public life and liberation of the oppressed. These societies were based on the approved knowledge of that period and, therefore, constituted an important device to rectify the deviant behavior of rulers and subjects. In a sense, they tried to vitalize the relationship of the public to *dharma*-mediated knowledge for public awakening and action.

The Sanskrit school of Kathmandu in the name of *Jayatu Sanskritam* fluttered anti-Rana flags in 1947. The proponents of *Jayatu Sanskritam* movement were Purna Prasad Brahman, Sribhadra Sharma, Kamal Raj Regmi, Rajeshwor Devkota, Gokarna Shastri, etc. They wanted to modernize the syllabus of Sanskrit teaching by including history, politics, geography and other contemporary subjects, enlarge the scope of learning and animate the spirit of ethical life, political modernization, nationalism and general human welfare. Likewise, in 1947, a workers' strike broke out in Biratnagar with professional demands. As political parties were banned in the nation, they were operating from India, cohering their activities with the Indian nationalist movement to dislodge British rule from the sub-continent and to establish democracy in Nepal. Greater demands for political freedom brought the downfall of more than a century old rule of Rana oligarchy in 1950 and multi-party polity was established in Nepal. The energies of people thus had set the locomotives of history in motion.

In the democratic experiment of the 1950s, there was no radical consciousness of modernity at both the elite and mass levels to free themselves from the legacy of the Rana rule except abstract democratic opposition to it. A faint vision of progress, derived from the Enlightenment and Westernization, occasionally figured in the writings and speeches of political leaders, poets and scholars. An Interim Constitution was promulgated in 1951 reflecting a power sharing among the king, the Ranas and the representatives of political forces. The Constitution became a principal ingredient for the enfranchisement of citizens and the constitutionalization of societies. Yet, the cult of leadership and erosion of civic institutions, including the political parties to reach out to remote and deprived areas, owing to ferocious internal bickering, unnerved the performance legitimacy of the system. The monarch's concerted public relations campaigns in anchoring nationalism internally and the geopolitical

maneuvers externally gave him a political edge over the rest of the political forces allowing him to take over the reins of power thus dislodging the multiparty rule that had turned truly chaotic.

In February 1959, a parliamentary Constitution had been introduced replacing the Constitution of 1951. Yet, a constitutional culture which could hold and claim the deep allegiance and faith of people in a democratic culture did not evolve. Owing to the patrimonial character, the leadership remained weak in developing democratic citizenship and civic culture. Leaders dissociated themselves from the populace and began to forge alliance with the aristocratic, business and the technocratic sectors of the political economy and began rationalization, centralization and nationalization of planning and organizational processes. A strong parochial orientation of political leadership, relying on clientelism as the mode of citizens' loyalty, rendered the social base of politics too narrow for it to be of any use to those advocating participatory politics. As leaders were more inclined to satisfy the claims of their own interests rather than the expectations of their populace, in due course, it unfolded a series of political drama, chaos and tragedy. It was these factors that prompted the King to invoke tradition, order and nationalism, and revive state authoritarianism in December 1960. He abrogated the parliamentary system in the country. The "reasons of state" held primacy over the fundamental rights of citizens after that.

After the collapse of the elected government, a monocratic Panchayat system was innovated under the Constitution of 1962 allowing active rule by the monarch. The Panchayat polity not only sought to acclimatize the hegemony of "a system without choice" but also assumed control over the commanding height of the political economy and private sector activities. With the strengthening of the public sector and cooperatives, the state gained enough control to influence the market, investment, money circulation and development strategies. This was deliberately designed to resist local and foreign monopoly while modernization of the economic structure was still in an incipient stage. Such a strategy was rather expected to assist a transition toward economic self-reliance. While civic institutions suffered discontinuity, the bureaucracy, police and aristocracy strengthened their organizations and expanded their tentacles in the society to exercise social control.

The Panchayat polity banned political parties, but allowed three major openings for political organization: First, creation of a number of class-based organizations, such as youth, women, workers, ex-servicemen and peasants, for the articulation of general societal interest and muster a cloak of legitimacy. Second, unlike the Rana regime, Panchayat expanded the sphere of government, enlarged the elite base of the system and initiated the process of social mobilization of citizens at the grassroots level. This was done through local government institutions and Back to the Village National Campaign, notwithstanding the division of Panchas into liberal and illiberal camps and the frequent maneuver of extra-constitutional forces known as *Bhumigat Giroha*. Academic and independent research opportunities were integrated into the national political economy. A number of professional associations often collaborated with intelligence agencies of the government and reported about the anti-system activities. The Panchayat's command over educational and media institutions, however, remained relatively relaxed and, therefore, they provided the critical breeding ground for political parties.

Overall, the Panchayat system tried to de-politicize the citizenry by banning party activities. Politicization was limited to mustering their absolute support for the polity. The system tried to remove ideological extremism, popularized the idea of the welfare state and a mixed economy as best suited to the nation's geopolitics and set in motion the *Nepalization* process in order to neutralize the ideological currents of capitalism and communism from spilling over from the neighborhood into the country. And finally, after the referendum of 1980, began the decompression of the most authoritarian features of the Panchayat regime. Thus began the toleration of some opposition and direct involvement of citizens in the macro-politics. The outcome of the referendum especially exposed the national power of political elites to democratic competition. The post-referendum politics opened a division within the supporters of the Panchayat, pitting the hard core loyalists against soft-liners who were close to the banned political parties and several demand-articulating organizations.

The increasing resilience of the social and civic institutions and activities, such as literary societies, underground publications, students unions, teachers unions, human rights organizations and social and cultural associations of citizens revived the power of the public to a rich associational life. Besides, there were other cycles of opening that facilitated the participatory process at the local level. Especially, due to the lack of

coherence, stability and effectiveness within the coalition of the ruling class, the liberal Panchas were associated with the civic organizations which provided positive incentives for horizontal solidarity for reform-minded forces and acted as a buffer against the negative sanctions from the state authorities. The global wave of democratization helped the Nepalese to confront the realities of power and organizational control in 1990. And, the success of the People's Movement in 1990 helped to establish multi-party democracy, constitutional monarchy, sovereignty of people and human rights of citizens—all being the source for the emergence of a modern legal-rational state.

Social pluralism—61 ethnic groups and 82 languages existing in the nation—have acted as a psychological insurance policy against extreme repression by one group on another. Yet, the powerful set of social relations cemented by *affno manchhe* (cronyism) networks and organizations have set an atmosphere of political decadence. This trend seems incompatible with the democratic state and civil society as they subordinate citizens' rights to the clients' benefits in a pre-civil and uncivil manner. Such a condition requires a state-civil society synergy for democratic development. The civil society, in this context, helped articulate the bedrock of popular interest and priorities in public policy transcending excessively individualistic, non-political and non-historical rationality of human life favoring intellectual planning of the society on rational grounds.

## THE POLICY FRAMEWORK IN NEPAL

The Society Registration Act 1960 was the first legal instrument that legitimized the private sector involvement in development. Yet, the overall patronage was provided by the state. In 1977, the Society Registration Act was amended and renamed the Association Registration Act which included clubs, public libraries, literary societies, self-help groups, NGOs and cultural groupings where the Chief District Officer would register, guide, direct, control and supervise them. The lack of solidarity among relatively autonomous organizations of the society, an economically statist nature of development strategy and a patrimonial governance subordinated public institutions to the central government for initiative, creativity and material support.

The Constitution of the Kingdom of Nepal 1990 defines the chief objective of the state-- to promote conditions for the welfare of citizens on the basis of the principles of "open society, by establishing a just system in all aspects of national life, including social, economic and political life, while at the same time protecting the lives, property and liberty of the citizens." Under the new dispensation, the Social Welfare Council, which replaces the pre-1990 Social Service National Coordination Council (SSNCC), was reconstituted and the Social Welfare Act 1992 was promulgated with the mandate to facilitate, promote, mobilize and coordinate the activities of NGOs. Due to the lack of a coherent Civil Society Act and confusion of the government regarding its nature and functions, civil societies of Nepal are being treated as NGOs and many of the non-governmental sub-systems are still left un-constitutionalized.

But, unlike NGOs and INGOs whose *de facto* and *de jure* operation in Nepal requires their registration with Social Welfare Council, civil societies operate under a diffused mandate and many of them work as informal organizations without any need for registration at all. For example, trade unions are registered with the Department of Labor, students unions with the university, private consulting firms under the Department of Industry, a few civic organizations with the Social Welfare Council, etc. Despite the diffused character, the state-centric approaches to Nepalese development have been complemented by a reinvigorated importance of societal factors. The demand for the autonomy of the civil society thus lends support to human rights and popular sovereignty embedded in the Constitution of the Kingdom of Nepal. By the same token, the Constitution recognizes that the source of all legitimacy lies in the democratic law-making process.

There were 94 International Non-Governmental Organizations (INGOs) and 10,475 NGOs registered with the Social Welfare Council as of March 26, 2000. According to the Finance Ministry, there are 30,000 NGOs out of which about 8,000 are active in the various sectors of development. But, there are far more INGOs and NGOs operating in the country and increasing the prospects for the rich associational life of citizens. The Eighth Five-Year Plan document had prematurely read a farewell to the nation-state and overestimated the capabilities of non-state actors in governance. Accordingly, the rise of the Nepali Congress government in 1991 adopted neo-liberal economic policies in spite of the party's pro-left bias, got preoccupied with economic efficiency, market competition and rational choice. This it did, regardless of its implications to the crucial mediating structures of the society and the life-world of the majority of the population who lived below the poverty line and required basic needs for survival rather than market efficiency. The Communist Party of Nepal-UML government of 1994 gave continuity to these policies thus making the traditional left-center-right distinction largely irrelevant, except for its proclaimed program of economic devolution under a "Build Our Village Ourselves" campaign. The subsequent coalitions and the later NC majority government have continued with the same economic policies. In 1991, a high-level Administrative Reform Commission (ARC) made recommendations for decentralization of power to local governance units, down-sizing of the state, privatization of public sector industries, restructuring and reform of the civil service, de-bureaucratization of development, deregulation of economic life, emphasis on private sector initiative, etc.

The Ninth Five-Year Plan Document (1997-2002) appears more concrete in legitimizing the space of NGO and civil society movements in Nepal. The document upholds the ideal of empowering local bodies and aims at making administration people-oriented by involving the government, NGOs, civil societies, the private sector and locally elected bodies in social mobilization. Its key considerations are: enabling people to shape policy decisions, enhancing a sense of political efficacy, developing opportunities to enforce their claims, getting benefits and developing their stakes and interests in local governance.

Accordingly, the law, Local Self-Governance Act 1998, highlights the importance of NGO and civil society involvement in the local governance and development process. The Local Self-Governance Acts encourage the formation of NGOs and civil societies at the local level, with the approval of the Village Development Committee (VDC) or the municipality, and involve them in local development projects by allowing them to “identify, formulate, execute, maintain and evaluate,” those projects. On July 2, 1999 while addressing the joint session of Parliament, His Majesty the King had stated, “The government equipped with fresh popular mandate shall lay even stronger foundations for developing Nepal into a prosperous and egalitarian nation by the beginning of the next century through political stability, good governance, conscious civic society and peaceful democratic exercise.” The “Priority Reform Action” of His Majesty’s Government of Nepal, Ministry of Finance, articulates the “strengthening of links with civil society organizations representing their autonomy and enhancing accountability of the civil society to increase development effectiveness” (HMG, 2000:7). These associations are expected to provide considerable disposition of knowledge, information, resources and services outside the state purview and are counted upon to serve as an anchor to the transformation of the passive patron-client relations into an active citizenship.

The proliferation of associations and networks is considered as a dynamic catalyst for the advancement of democracy and a crucial bastion for the sustenance of democratic governance. Are the emerging civil societies in Nepal rooted in the real needs, experiences and aspirations of Nepalese citizens or do they constitute only a response to donors’ aid packages and aid conditionalities? Are they operating under the vision articulated by the Constitution of the Kingdom of Nepal or imprisoned by outside models of governance and development? There is a lack of institutionalized partnership of civil society with the state and the functional boundaries of these societies are, therefore, very porous. As a result, politics in Nepal is dominated by a myriad of interest and pressure groups, which are, consequently, enervating the organizational base of strong political parties as aggregator, articulator and communicator of public and political interests. Freedom and development—the fundamentals of a balanced transition from economic growth to social justice—are keys to establishing legitimacy for modern governance.

## MODERN CIVIL SOCIETY AND NEPAL

Nepal is a polytheist Hindu state. The legitimacy of the Nepalese state, therefore, rests on its embeddedness in society which can “either cede a measure of its autonomy to the state through voluntary consent, or withhold it, thus denying it any sense of legal or moral standing” (Fox, 1995:6). The limits of government are well defined in the Constitution and the fundamental rights acquired by citizens. The government is also subjected to the judicial process, parliamentary review, scrutiny of the press and the public that constitute the civil society. The institutions of representation, such as the parliament, political parties and civil society mediate the activities between the public and the state and help in the democratization of both. In this vein, “we find that the civil society has to contribute even in empowering the state in the interest of social transformation, if by em-powerment we can mean building the capacity and legitimacy of the state to address the issues of social concern” (Panday, 1999:131). Recent experience shows that Nepalese civil society confronts a variety of pressures from the citizens to address the complexity of development functions. Many of the formal and informal organizations working in the civic space and exerting pressure for democratization of the political society and the development process can be categorized as such:

- **Economic Society:** Federation of the Nepalese Cham-bers of Commerce and Industry, Nepal Chamber of Commerce, *Dhikuties*, Private Business Houses, Cooperatives, Petty Traders’ Association, Financial Institutions, Nepal-India Chamber of Commerce and Industry, Nepal-German Chamber of Commerce, Nepal-US Chamber of Commerce and Industry, Consumer and Users Groups, Association of Economic Writers, Association of Bankers, Management Association of Nepal, Hotel Association of Nepal, Nepal Advertisement Agency Association, Nepal Overseas Exporters’ Association, Federation of Community Forest Users’ Group of Nepal, etc
- **Social and Cultural Associations:** Guthi, *Mithila Samaj*, *Manka Khala*, *Newa Khala*, *Nepal Tamang Ghedung*, Tharu Welfare Society, Thakali Welfare Committee, *Kirant Yakthung Chumlung*, Depressed People’s Upliftment Platform, Rodhi among Gurungs, etc.
- **Educational and Informational Institutions:** Auto-nomous research institutions and universities, academies, Federation of Nepalese Journalist, Communicator’s Group, Nepal Environmental Journalist Association, Editor’s Guild, Nepal Press Institute, Nepal Institute of Mass Communication, Nepal South Asia Center, Nepal Foundation for Advanced Studies, Center for the Consolidation of Democracy, Institute for Integrated Development Studies, etc
- **Promotional and Protective Interest Groups:** Nepal Trade Union Congress, Democratic Confederation of Nepalese Trade Unions, General Federation of Nepalese Trade Unions, Student Unions, Nepal Teachers’ Association and organization, Federations of Village Development Committees (VDC), municipality and District Development Committees (DDC), Nepal Bar Association, All Nepal Lawyers’ Association, Nepal Medical Association, etc
- **Relief and Development Associations:** NGOs, Self-help Groups, Federation of NGOs, Maiti Nepal, Nepal Red Cross Society, Rotary Club, Lions Club, Anti-T. B. Association, Family Planning Association of Nepal, Netra Jyoti Sangh, etc
- **Advocacy Groups:** Nepal Federation of Ethnic Groups and Nationalities, Nepal Dalit Association, Women’s Pressure Group, Indigenous societies, Legal Aid and Consultancy Center, Paribartan Nepal, TEWA, etc.
- **Civic Groups:** Human Right Organizations (such as, Informal Sector Service, Human Right Organization of Nepal, Amnesty International-Nepal Chapter, INHURED International, Child Workers

in Nepal Concerned Center, Kamaya Concerned Group, etc), Election Observation Group, Transparency International, Nepal Law Society, Political Science Association of Nepal, Sociological and Anthropological Association of Nepal, Intellectual Councils, etc.

- **Public Trusts:** Pashupati Area Development Trusts, King Mahendra Trust for Nature Conservation, Lumbini Development Trust, Madan-Ashrit Memorial Trust, Mana Mohan Memorial Foundation, Ganesh-man Foundation, B. P. Koirala Foundation, Tank Prasad Acharya Memorial Trust, etc.
- **Private Philanthropic Associations:** Bhupal Man Singh Foundation, Buddha-Gandhi Foundation, Madan Puraskar Guthi, etc.

Will this multitude of civil societies help promote context transformation and rectify the great maldistribution of resources and power in the Nepalese society? Beyond doubt, a polycentric institutional arrangement in service delivery reduces the cost of development and facilitates the logic of social transformation. The transformation of political culture from parochialism to civic virtues, sectarianism to social trust, prejudice to modern rationalism, dependency to self-reliance and individualism to solidarity is a long-term process. Two key indicators of this value transformation are: the level of education in the country and the quality of mass media. Ironically, the access of the majority of people in these two resources is minimal, as functional literacy constitutes just about 20 percent in the country. As a result, the process of democratization has remained short of making any substantial dent in the lives and hopes of Neety, therefore, bears a great significance for the underclass to link their democratic struggle to the means of raising civic consciousness, integrate them to social transformation and improve the quality of their life.

The Nepalese trade unions have been struggling for social rights, such as expanding employment opportunities for workers, establishing dignity in their work, implementation of the labor act, an increase in the amount of minimum wage and developing welfare schemes for every one including better working conditions. They are involved in training their members on leadership, organization, management, membership drives and are also providing skills for free collective bargaining, co-determination and elimination of child labor practices in the country. The Federation of Nepalese Journalists has been serving as a critical partner of citizens and playing its role of a guardian and watchdog vital to governance. It has been educating, informing, liberating and empowering them from docility, thus giving them voice to be heard and heeded to in public and policy matters.

If media pluralism and press freedom have begun to expose official malfeasance, authoritarianism, corruption and criminalization of politics on the one hand, they themselves have evolved a partisan political culture on the other. Partisan media cease to become a genuine forum of public debate, and become concerned with the pursuit of profit and cultivation of politicians' images. Meanwhile, less commercialized and relatively independent media portray public life laced through scathing cynicism of a political system which is abound with cronyism and corruption. Moreover, independent media have also been publicly offering alternative perspectives and monitoring the performance of public leaders, exerting democratic pressure and providing institutional oversight to check the cycles of abuse of state power. A free press and a vibrant civil society can serve as a vehicle of freedom so essential for a life worthy of human beings and implement their own code of ethics upon themselves.

Several human rights organizations in Nepal have continued to involve themselves in research, publication, lobbying and organizing activities against the wanton violation of human rights by the political parties, the state machinery and recently even the Maoists. There are some positive features in the Constitution, for example, death penalty has been abolished and a Human Rights and Foreign Affairs Committee has been constituted in the Parliament. Ironically, most of the human rights provisions are non-actionable and non-justiciable and, therefore, the state elites remain less obligatory in the inclusion of those rights into concrete policy, programs and instruments. The laws of the land have not been fully utilized as an instrument of development planning and social change in Nepal. In concrete terms, therefore, there has been inadequate institutionalization of Constitutional and human rights despite the promulgation of Human Rights Commission Act 1995, and the formation of Human Rights Commission in May 2000.

A popular Nepali aphorism, "Law for the Poor, Immunity for the Rich," reveals that the law and rules have failed to become the impersonal procedures that all citizens at least find acceptable. Those who suffer human

rights violations are often the powerless members of society and their last resort to redress the cycles of victimization are human rights organizations. These organizations have been working for the liberation of the *kamaiya* and *bandha* (bonded) laborers living in the “exile of human civilization.” The right to life, labor, freedom and self-determination of these laborers is controlled by their masters through a segmental system of exclusion thus depriving them the human capacity to exercise reason in public life.

Similarly, the ways, the custom, laws, authority and power were designed in Nepal to demean the life of the Dalits. Dalit federations and organizations, once oppressed by authoritarian politics, have entered a process of self-organization and have been struggling to overcome the effects of centuries of social and economic neglect and discrimination. Neither have laws been able to change social attitudes, nor has morality been legislated to make law enforceable. They have been seeking equal treatment, abolition of untouchability, clamoring against the violation of their fundamental human rights and seeking to conceptualize the state in the culturally neutral language of space so that democratic processes mediate between the system and the life-world. The most effective civic organizations, such as human rights organizations, bar associations, students unions, teachers unions, trade unions, etc. are effectively organized. They have established local chapters, broadened the base of their organizations, increased the participation of their members and garnered social capital by drawing citizens together in interpersonal relations concerning solution of their problems.

All Nepal Lawyers Association, Nepal Law Society and Nepal Bar Association have been demanding judicial fairness, good ties between the bar and the bench, the rule of law and legal reforms for the consolidation of democracy. Women’s associations have been calling for the breakup of the patriarchal order of life, establishment of inheritance rights and abolition of the *deuki pratha* (traditional offering of girls to temples). They have been additionally demanding strict curbs on girl trafficking, gender equality and empowerment, and are seeking representation of broad majorities in political power. The demands of associations of sociologists and political scientists include the institutionalization of social justice, good governance and transformation of the society, economy and polity. Private Foundations and Trusts have also proliferated to facilitate this process. However, members of the civil society have been representing sectoral interests. This implies that these civil societies are not propagating a system of education for a shared sense of national identity and the common authority of law. Only the state spells out its claim to represent the entire society by standing above the dominant interest groups.

Can the civil society claim integrity and accountability in the same way as one anticipates from the elected government? Perhaps it is too early to answer the question, as genuine civil society is yet to evolve in Nepal- a civil society that is for, by and of public concerns. Dependent civil societies are not without self-ironies. For example, their dependence on markets, the Northern donors and the government have weakened their capacity to push for a self-generating notion of people’s self-development, retrenched the ability of their leadership to transcend the negative effects of exogenous norms and prevent organizational fragmentation. This frustrates the efficacy of the civil society in delivering common goods and creating social opportunities. Critics of the civil society adduce several weaknesses: over-concentration of civil societies and NGOs in urban areas, extreme politicization along partisan lines, shortage of dedicated volunteers, poor membership base, overlap of activities and senseless competition for clients and patrons. They argue that if the funding dries up, a majority of non-indigenous civil societies would suffocate with the lack of aid oxygen. Resentments against civil societies or NGOs in Nepal have mounted because they lack the attributes of autonomy and voluntary participation and are accountable to none. They have been blamed for indulging themselves in incitements and campaigns without a thought on their effects. Especially, the left political parties have criticized the role of civil societies and NGOs fearing their ability to create a “petty bourgeoisie as neutralizer of people’s war.”

## CIVIL SOCIETY AND DEMOCRATIZATION

Does democracy need an autonomous civil society? If it does, how does civil society serve the needs of a democracy project? To what extent have the Nepalese civil societies been able to link the public struggle to the democratization of decision-making? Have they been able to contribute to the democratization of the state and society, in general, and private sectors and NGOs, in particular? The insurrection of people's power against the government and the system appeared in three distinct phases in Nepal: 1950, 1979 and 1990 but they have all come with a single vision- for the establishment of multi-party democracy. The democratic vision thus did capture a purpose in public life and appeared intellectually, morally and socially appealing; for it was thought to be a cornerstone of modernity in which citizens have a choice for the rational pursuit of self-interest.

None of the movements, however, did carry the potential of a revolution. For a revolution four basic criteria must be met—radical and decisive breaks with the tradition of patrimonial governance and the substitution of authority based on traditional legitimacy by a modern and secular one yet still based on constitutional principles; rapid social mobilization provoking an erosion of ascriptive and particularistic values in favor of modernity and social justice; timely political institutionalization for the stabilization of the transition process; and the fundamental transformation of the nation's authoritarian political culture to a democratic and participatory one. Time alone, it seems, does not free a political culture from the grip of the past and transform domination into the rule of reason and law. Democratic reconstruction requires a vast process of social learning and energy for civic concern and action. Citizens must have faith in themselves as agents of history and learn democracy by practicing it.

The termination of each political movement into a political contract between the representatives of civic forces and customary power and their mutual adjustment in the body-politik of the nation has been the culprit behind the eternal postponement of a genuine devolution of power. And, transformation of the political culture has a similar story to tell. As a result, the demand for democratization and the realization of human rights<sup>11</sup> by ordinary citizens and intellectuals has remained largely unmet. The apostles of the movement—the Nepali Congress party and the United Left Front had outlined their perspectives on the restoration of multiparty democracy and succeeded in it. But the inner contradictions of pro-democracy forces in the post-democracy phase contributed less to progress and more to the crisis of politics leading to reformist illusions and leftist radicalism. The relationship of politics to public life thus stood essentially manipulative and propagandistic where the public played no role in it except to exercise their power of electoral choice. Considering that electoral manipulation and malpractices are rampant, even voting is not carried out with policy in mind. Votes are cast either because one belongs to a party or because the charisma of some particular leader is appealing. Hence, individual voters do not consider themselves as a part of the nation, but as a member of a particular party and carry out their entire public life inside that sub-culture. As a result, the consciousness regarding national culture twists from torment to pain. The purpose of the public while fighting for democratic rights in each regime has had distinct motivations. For example, during the Rana regime, the democratic fight was against a hegemonic social class of the state. During the Panchayat, it was against the primacy of the political class of the system and now it is against party-cracy, the leadership and the pressures of interest groups that constitute the new political class.

Even criminals could be whitewashed into dignified citizens if they were willing to wear party colours. The post-1990 governments successively showed that they could issue amnesties even to culprits of the past and

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<sup>11</sup> So far Nepal has ratified the following international instruments of human rights: (a) International Covenant on Civil and Political Rights 1996; (b) International Covenant on Social, Cultural and Economic Rights 1996; (c) Convention Against Torture and other Cruel Inhuman Degrading treatment or to her such punishment; (d) Convention on the Elimination of All Forms of Discrimination Against Women 1979; (e) Convention on the Child Rights 1989; (f) Convention on Slavery, Abolition of Apartheid, Prevention and Punishment of the Crime of Genocide, Elimination of all forms of Discrimination, etc; (g) Ratification of ILO Conventions, especially those regarding minimum wages, freedom of association and collective bargaining, equal pay for equal work, elimination of discrimination in employment and profession, minimum age of employment, tripartite consultation, etc.

welcome them into public positions if they served the party interest. They have tolerated new crimes and chosen silence over injustice to victims. A culture of fear continues to pervade the Nepalese society and law and order has become a major preoccupation of each government. An independent study team identified three major obstacles in the way to Nepal's democratization: first, extreme polarization within and between political parties and other institutions; second, lack of civil service neutrality, which serves to undermine the decision-making process for development; and, finally, a weak democratic culture" (IDEA, 1997:xi). In factionalized political parties, leaders of diverse party factions compete for power and positions regardless of public purpose resulting in governmental instability, poor governance and lawlessness. Democracy, peace, development and human rights in the nation have thus been disemboweled. Social and political movements of people continue to loom for social power against the hegemony of the new political class.

A rationalization of social, economic and political pluralism establishes inseparable links with freedom and modernity and tries to construct civil attachments of the bulk of the citizens to nationhood, the political society and the key institutions of governance. But in the case of Nepal this has not happened. The existing issues of poverty, ethnicity, language, Dalits, gender rights, girl trafficking, and ecocide have been burdened with additional ones like centralization, mis-governance, more official corruption, the Maoist problem, Bhutanese refugees, autocratic tendencies of democratically elected leaders, weak accountability to democratic pressures, effects of economic liberalization, etc. These problems have even assumed the form of a complex web that has the potential to cause national crises. Instead of democratization, crises could be occupying a central place in the future discourse of the Nepalese civil society. Paradoxically, the national leaders seem bewildered due to their own weaknesses and have turned away from the core matters to chew over narrow, derivative issues and have maintained a selfish indifference to public concerns. The emerging national political class—the major part of the force for democratic struggles of the past—has developed a symbiotic relationship with the bureaucracy and the business world and lost interest in social transformation. Unable to manage the contradictions at the political level, Nepalese leaders are swamped by piling problems emerging from both above (globalization) and below (popular aspirations) and are seen to be losing credibility and legitimacy. Unregulated money not only has swayed elections but also affected the course of national development and the space for democratic politics. Corruption and compromise of power have contributed to the birth of the new political class whose political and economic privileges separate them from the needs and concerns of the general public that they claim to represent. And, their crimes go unpunished. An underlying assumption is that once the infra-structure of democracy is established they satisfy the expectations of citizens and the dynamics of the polity is established from within the society. Paradoxically, due to a lack of professionalism and explicit standards in political leaders, civic order remains conflict-prone causing the present crisis of governability.

The king was, thus, compelled by the crises to invoke Article 43 (3) of the Constitution of the Kingdom of Nepal. It provisions him to grant advice to the council of ministers on political matters. Accordingly, in 1999, considering the unhealthy political situation in the country, the King had asked the then Prime Minister the following questions:

- What is the nature of the Maoist problem? If this is political in nature what kind of consideration is to be given by the concerned political parties? What kind of political, economic, social and media linkages and background does it have?
- Should administration genuinely serve as a neutral body or subordinate itself to political party, especially the ruling party?
- Should corruption, commission and financial irregularities be governed by law or not if it is affecting the society and the state? Is it right to make public corporations recruiting grounds for party workers?
- While running the administration of the nation, does the government have the responsibility to give equal treatment to all the Nepalese or to give priority to its own party workers? Should the administration, police, the Royal Nepalese Army, and the Department of Investigation play an impartial role in the interest of the nation or not? What is the state of national peace and security? What are the initiatives on language and other controversies?

- Should the government, while facilitating the flow of information on events, be objective or not? Does disinformation or information flow along partisan lines serve the national interest or not? Should the media undertake public responsibility and stay above personal, partisan and factional interest while facilitating the free flow of information, or should it not?

These queries are self-explanatory and expose much of the structural deficits that underlie for those wanting to steer democracy consolidation and attaining good governance. On March 1, 2000 on the occasion of the opening of Seventeenth session of parliament, His Majesty the King instructed the parliament to reach concrete agreement regarding free and fair elections in the future; promulgate act on political parties and seek a solution to the Maoist problem. Commissions on all these areas had been formed and reports submitted for legislation and action. For over a decade, the imperatives of democracy consolidation were enough to silence the critics and victims of the ruling elites. Now the veil has been lifted and popular discontent against the mis-governance is burgeoning in the discourse of Nepalese civil society. This should give enough to convince the new generation of leaders to provoke real change from within the establishment through a series of structural, manifest and suppressed conflicts within political and social forces.

The Constitution has recognized the centrality of people in both governance and development. Sovereignty of people, a multi-party system, constitutional monarchy and fundamental rights of citizens are the inviolable tenets of the constitution.<sup>12</sup> Accordingly, the exercise of popular sovereignty is expected to establish greater human rights to people, secure their autonomy, and build their capacity for rational choice and moral self-realization. The singlemost important factor of democratization in Nepal is that political consciousness has been awakened. People know that civic and human rights are attainable goals. There has been a resurgence of “political entitlements associated with democracies in the broadest sense—encompassing opportunities of political dialogue, dissent and critique as well as voting rights and participatory selection of legislators and executives” (Sen, 1999:38). But in the absence of enthusiasm for consolidating those gains, there is every likelihood that they will just be squandered away by the short-sightedness of politicians. Is Nepal’s democracy, which is couched in a proxy model of representation rather than one where people have direct legislative power, conducive to equal representation of all those affected? Can it still muster a negotiated consensus? The modern vision of participatory democracy envisages basic changes in macro-level political institutions, values and processes and entails the operation of a rational economy. It expands the scope for a civil society capable of delivering public service and resource management at the sectoral level.

State sovereignty is a crucial bedrock upon which citizens daily wage their struggle for the realization of their citizenship rights. This means sovereignty is a critical means to reconcile with legally enforceable individual rights. Additionally, owing to the uneven level of political allegiance to the values, institutions and practices of democracy and to the normative and legal order of the Constitution by different political parties,<sup>13</sup> the procedural

<sup>12</sup> Is there a scope for negotiating a social contract in the fundamentals of the Constitution? “Contract which each generation must review in order to know if it continues or rectifies preceding history, giving preeminence to the contract. This is the preeminence of future generations over those of the past” (Kriegel, 1999:10).

<sup>13</sup> The spectrum of Nepalese political parties regarding their faith in the constitution and their ideological positions can be underlined as:

**Centrist Political Party:** As a centrist political party Nepali Congress (NC) has conformist inclination to the constitution. Founded by late B. P. Koirala in January 1947, the NC is one of the oldest modern political parties in Nepal after Praja Parishad. It played a key role in the establishment of multi-party democracy in the country in 1950 and 1990. The issues of leadership, ideology, governance, relationship with other political parties, etc often hit the coherence of this party. The party documents uphold constitutional monarchy, nationalism, democracy and socialism as the core elements of its political ideology.

**Center-Left Political Party :** Nepal Sadbhavana Party (NSP) was established in April 1990. It, too, believes in the constitutional process but appeared to be at loggerheads with each government that came to power in Nepal after 1990 on the question of citizenship rights of the people of the Tarai. Its avowed ideological goal is to establish a “democratic socialist society.”

**Liberal Political Party:** Rashtriya Prajatantra Party (RPP) which finds present constitution acceptable but opposes the NC and left opposition alleging them to be unsuitable to the nation’s delicate geopolitics. RPP was established in 1990, manned mainly by the important personalities of the Panchayat regime and registered as two parties at the Election Commission in the names of RPP (Thapa) and RPP (Chand [now Rastrabadi]). The RPP documents parade nationalism, liberalism, democracy and development as its ideological base.

**Leftist Political Parties:** The Communist Party of Nepal Unified Marxist-Leninist (CPN-UML) lent only “critical support” to the Constitution. It split on March 5, 1998 and a separate party called Nepal Communist Party Marxist Leninist (CPN-ML) was registered

approaches to democracy adopted by mainstream political parties remain ineffective in the management of political stability. Once the constitution no longer becomes able to draw all political parties into its regulatory framework, the materialization of the rule of law becomes difficult. The political elites, the machinery of authority (bureaucracy, police and army) and the institutions of public opinion (media, academia, civic organizations and pressure groups) do not seem properly attuned to foster civic order and develop a firm attachment to the sense of nationalism. The question of transforming the clientelistic voting arrangements into a democratic one has been shelved and, consequently, the extensive system of patronage stretched far and wide. The incapacity of the rights-granting authorities to ensure the quality of citizenship for different groups suggests that the struggle for human rights is a very much unfinished project in Nepal and the legitimacy of law has yet to establish its moral and political validity.

The contemporary civil society of Nepal emerged from oppositional politics. The movement, therefore, assumed the task of fostering democratic rights of the people and the creation of a responsible government. A fundamental rethinking on the interaction between citizens and the state has begun to evoke the potentialities slumbered in the spirits of the people. And with the promulgation of the new constitution, the articulation of their voice through free and fair election and meaningful choices in the selection of their representatives became a core of the governing process. After the restoration of the multi-party dispensation, Nepalese citizens have exercised their political choice in three national and two local elections. Yet, the question of establishing an efficient government with adequate power to realize people's shared purpose has remained unanswered so far. A decade of multi-party democracy witnessed eleven governments—interim, majority Congress, minority CPN-UML, cohabitation and coalition (critics call collusion) of the entire mainstream political parties and again the majority NC government. Yet, none have provided any sense of security, stability and peace in the country. In terms of the legitimacy of governance, Nepal's polity can hardly be called 'institutionalized' even after over ten years of multiparty rule.

A society-centered view of the civil society welcomes the expansion of political participation of the people in public activities, such as peaceful protests, election campaigns, discussion of political matters, voting, contesting election, monitoring of the electoral process and participation in its actual outcome. These activities are central to citizens' engagements in political activities for the creation of a national political community. In line with these objectives, the new political dispensation widened the franchise—lowered the voting age from 21 to 18 and increased the number of representatives in the parliament from 125 to 265. Women's representation in the local bodies also increased to about 20 percent, while at the central level decision-making it hovers above the five percent ceiling fixed by the Constitution. Their representation at the DDC level is almost nil. This is a fundamental lacuna in the way of the transformation of entrenched gender relations. Women's organizations and some donor agencies are seeking to help women gain access to education, credit and ownership of property and natural resources so that the masculine dynamics of Nepal's politics is fundamentally transformed.

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in the parliamentary secretariat. The CPN-UML believes in the People's Multi-Party Democracy endorsed by the party's second general convention while the CPN-ML believes in New Democracy. The Communist Party of Nepal was at first founded by Puspa Lal Shrestha in 1949 with an aim to establish a communist regime in Nepal. In the 1970s the communist party suffered from fissiparous tendencies. On January 6-8, 1991 the radical faction, CPN (Marxist-Leninist) and moderate faction CPN (Marxist) merged into what is now called CPN-Unified Marxist Leninist. The party documents uphold Marxism-Leninism as the "guiding principle" coupled with the establishment of a "democratic republic of independent, sovereign and secular people." Currently both the parties are making efforts to reunite.

**Movement Oriented/ Anti-System Political Parties:** The Communist Party of Nepal-Maoist (Maoist) and Maoist National United People's Front (NUPF) have no faith in the Constitution and, therefore, their participation is directed to expose the inherent weakness of the parliamentary system. Both the parties, however, participated in the local and national elections to expose the "hollowness of the bourgeoisie system." A slightly moderate posture is taken by Nepal Peasant and Worker' Party (NePWP) which had participated in all the elections to utilize the benefits of what it calls "bourgeois democracy."

**Revolutionary Party:** Communist Party of Nepal (Maoist) is waging a class-based people's war since February 1996 for the radical transformation of the Nepalese society, polity and the state. It is struggling for the establishment of a New Democracy in the country and has confrontationist orientation. The people's war movement got intensified in the local elections of Spring 1997. The CPN-Maoist worked as the *Samyukta Jana Morcha* or United People's Front of Nepal (UPFN) in overt politics, took part in the parliamentary election of 1991, won 9 seats and became a third force in the parliament. Its overt objective was to expose the weakness of parliamentary system.

The second issue of democratization is political institutionalization. A well balanced distribution of legislative, executive and judicial powers, with their mutual checks and balances and the management of independent and effective counter-vailing watchdog agencies to restrain the arbitrary use of power and authority of the executive, is fundamental to the institutionalization of the rule of law. According to Samuel P. Huntington an institutionalized polity must be “adaptable, complex, autonomous and coherent.” An independent judiciary has been constituted in Nepal with the capacity to protect citizens’ fundamental rights, nullify unconstitutional acts of the legislative and executive branches of the government and to improve the quality of justice in the country. The *right to information* couched in the Constitution establishes transparency in the functioning of public institutions. There are other constitutional bodies, such as the Constitutional Council, Commission for the Investigation of Abuse of Authority, Election Commission, Office of Auditor-General, Public Service Commission, etc. In spite of these constitutional arrangements, a constitutional culture has yet to evolve and two of Huntington’s criteria- “autonomy” and “coherence”- in the functions of constitutional bodies have been left unrealized. In the promotion of a system of democratic governance, reciprocal interactions between the state and society and the innovation of an institutional culture of sustaining democratic rules and procedure are presupposed. But despite clear constitutional provisions, the boundaries among the Nepalese state, the polity, the government and ruling party remain blurred and, therefore, the institutional arrangements required to promote accountability, responsiveness and the rule of law are constrained by the paternalistic political culture of power elites. As a result, the executive, the legislative and the judiciary have appeared weak in carrying out their missions.

Owing to the inability of a rent-seeking political and bureaucratic class to stand above the vested interest groups of the society and segmentation of civil society organizations along partisan lines,<sup>14</sup> autonomous collective action remains weak. As a result, the requisite institutional checks and balances in the polity are missing. The negative effect of this political culture on institutional performance has thus damaged the base for a secular policy process. This is the reason people are deprived of even classic public goods, such as law and order.<sup>15</sup> Moreover, in a number of cases, such as privatization of public enterprises, corruption cases, fulfilling the public’s right to information on Arun-111 hydro-power project etc., there was widespread perception that judicial impartiality and independence were compromised. The growing culture of violence in the society and a lack of rule of law have sapped both civic tradition and democratic norms from governance. The structural problem of the Nepalese state is that it is externally dependent on foreign aid for its modernization and development and internally on an influential section of the dominant political and economic class, bureaucracy and police. The dependency thus imbues governance with the values of status quo and, consequently, unresponsive to citizens’ concerns. This influential section has a propensity to play a free-rider’s role in the common space of the powerless ones with impunity seeking to achieve private profit over the general interests of society. “The conflict and crisis of legitimacy in Nepal are the byproducts of failures of leaders and parties either in the government or out of it. Lack of confidence, vision and direction of change seems to be producing political crisis, raising the issue of the credibility of the system as a whole despite many positive developments that have taken place since 1990” (Baral and Rose, 1998:219).

The third issue of democratization is the decentralization of power, resources, authority and decision-making from the capital city, Kathmandu, to District Development Committees (75 DDCs), municipalities (58) and Village Development Committees (3913 VDCs)—the grassroots units of self-governance. Envisaging a change in the political process, from top-down to genuine grassroots participation, the Local Self-Governance Act 1998 was enacted and the roles of civil societies legitimized so that they can build constituencies for

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<sup>14</sup> For example, each political party has its own trade union, students union, teachers’ union, human rights organizations, women’s organization, etc formed and captured by powerful persons who use them as vote banks rather than giving them a sense of self-governance. The representative authority within the party structures has been captured by factional coalitions built for seeking private opportunities. And two critical functions of political parties—democratic will-formation and political socialization, especially preparing the young people for citizenship, have not been properly addressed by them.

<sup>15</sup> On April 30, 2000 Prime Minister Girija Prasad Koirala while addressing his party cadres and economists confessed that “the major reason behind lackluster development performance in the post-democracy decade was selfishness among the political parties.” He said, “all the political parties including the Nepali Congress of which he is the president, just concentrated on the interest of the party and cadres, and have not cared about the country.”

collective action. It is a version of local democracy, a method of deepening the democracy by extending its principles to all spheres of society and empowering people to change their social conditions. These societies have created a kind of pluralistic space for the aggregation, articulation and communication of public interests and nurtured a process to transform the people (*janata*) into citizens (*nagarik*) and citizens into public (*chetansil barga*). If the principles of subsidiarity—carrying out the necessary public functions by the public at grassroots level—can be executed, it not only enables people to understand, shape and organize their own lives according to their own priorities but also to improve accountability and transparency.

There are structural and cultural limitations to devolution of power. For example, in many areas such as policy-making, functional jurisdiction, law, rules, financial matters and official appointments, the central secretariat at Kathmandu and the ministries hold absolute prerogative in any public matter. And even seemingly equitable distribution of executive means could have devastating effects on the democratization process. The constituency development fund is a good example. Through it, efforts to retain (even increase) privileged political access to economic resources has been made by the MPs thus fostering the politics of patronage. Besides, the fund empowers the people's representatives (legislature) with executive powers as well. Unless a mechanism of democratic control over informational and economic power is evolved, a public hearing system established, "parliamentary committees go to the people" and the functions of all the parliamentary committees are fully utilized in seeking to establish and strengthen the "national integrity" system, de-centering of power alone hardly contributes to a liberal political culture. Only similar patterns of political socialization can strengthen liberal politics. The legislature is a vital point of public access to government, and its effectiveness is key to the building of the political community and a self-governing entity. Drawing individual citizens and major interest groups into the policy-making process can make popular needs known, the policy process scrutinized and the constraints on policy making and budgeting realized. Public confidence in leaders bolsters the image of the system while a lack of it causes deficiencies in its legitimization. The attitude of the majority of Nepalese leaders is feudalistic, family-bound and paternalistic rather than democratic and participatory. This has weakened the democratic basis of legislators' communication with, and accountability to, the concerns of the constituency. Such a top-down, seemingly feudal, political community is a hindrance for political participation for the majority. The lack of autonomy at the grassroots in Nepal has been made known. Local government federations have been calling on the central government for a "consultative mode"<sup>16</sup> of agenda-setting, planning, decision-making and shaping organizational behavior. They want mutual accountability enforced and have been asserting their right to local autonomy which is grounded on concrete material preconditions.

The fourth issue of democratization is tying the leadership at the top to the concerns and needs of those at the bottom of the society. Such accountability would inspire people to take personal responsibility for exercising their citizenship rights and duties. The basic problem in the way of truly democratizing the political system in Nepal is that authority rests on the personal power of leadership rather than with the institutions. Authority is thus not a routine feature of the legitimate political process. Party workers have a tendency to join particular factions within parties rather than remaining just party loyalists with unquestioned support towards those leading that faction. Such allegiance holds as long as there is personal benefit in supporting a leader and gives way as soon as someone else does the job better. This is also the pivot of longstanding political instability in Nepal where governments are formed and unraveled without any justification. Only the vast majority outside the ruling class is the losers in this game. Party principles and democratic processes mean nothing in such a flux. And the leadership devoid of a sense of group power and enough authority to bring recalcitrant party leaders to book defies the expectations of people and their own party manifestoes. It is this condition that has forced the executive leadership to suffer from the credibility gap between promise and performance. The lack of proportion between their public and private roles and between national purpose and the imperative to build their constituency are all byproducts of the same syndrome.

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<sup>16</sup> Former president of DDC Federation Madhav Poudel asserts that the Development Committee Act of 1956 is still in effective operation in Nepal. More than 137 institutions created under this act are active, for example, National Sports Council, Employment Promotion Center, Social Welfare Council, Committee for the Relief of Natural Disaster, etc which undermine the spirit of Local Self-Governance. Additionally, 51 national Acts militate the prospects of local autonomy.

“After experiencing the style of governance of six prime ministers from a broad spectrum of political parties within an eleven-year period, the Nepalese people are still at a loss in judging their leadership quality since there appears to be little difference between them, other than their personal life, the degree of their interest in self-aggrandizement of wealth and the circle of coteries around them” (Khatari, 1999:20). The deep-rooted ego of public leadership and their increasing alienation from the electoral constituency, once elected, made voters look like disposable elements. The race for “sheer power by the leadership has considerably weakened the prospect for stable government as well as its capacity to implement its policies in a sustained manner” (Khanal, 1997:147). Why is democratic advice so elusive for public leaders? Even the society surrounding the leadership lacks the social strength of public power.

The possibility for civic coalition for collective action remains frozen, thus perpetuating the landlord-tenant relationship throughout all spheres of public life. A critic argues: “when the people see the government, which to them means the executive, flouting the law with impunity, and the legislature and judiciary cooperating, the more aggressive and articulate sections of the civil society, too, flout them to serve selfish interests” (Panday, 1999:111). The state is, therefore, under stress to protect the rights of the minorities and the marginalized and to put a tab on exclusionary aspirations by means of binding them to a common political space and orienting them towards a common destiny, common aspirations and common responsibilities (Panday, 1996:4). Because the electoral system legitimizes the hegemony of the majority, competitive elections alone do not ensure freedom, accountability and the rule of law. The state’s capacity for social regulation suffers from its own steering deficits. Popular sovereignty embedded in the Constitution espouses the notion of proportional representation as opposed to the winner-take-all zero-sum game. The first-past-the-post system of election has already exposed its weaknesses in establishing a truly representational politics and the Nepalese now see politics in highly confrontational terms in which winner imposes its will on the rest. The Nepalese civil society, therefore, has taken up the issues of electoral reforms so that majority rule is tempered by minority rights. The issue goes beyond the left-right-center trichotomy. The aim is to make citizens conscious and able to imbibe the values of transformatory politics, such as inclusiveness, participation, empowerment and transparency.

The task of deepening the democracy in society has remained arduous as there is no sense of respect towards the political opposition and, consequently, opposition political parties resort to multiple strategies—parliamentary, extra-parliamentary, extra-constitutional, anti-systemic and revolutionary oppositions—to make their concerns heeded to. A major issue of democratization in Nepal has been to find a way to bring these multiple forms of opposition into democratic competition. A democratic polity can only be institutionalized under the rule of law established by the consent of the governed, through the implementation of a social contract between the government and the governed. The un-institutionalized competition for power, the source of the “crisis of legitimacy” of governance in Nepal needs to be transformed. This will require a critical mass of civil society actors who are free from the shackles of past habits, who regularly make self-critical scrutiny of their efforts and have adequate skills to coalesce around a core set of institutional goals to see the institutional equilibrium in perspective.

The institutions of accountability, such as Public Account Committee of the Parliament, Auditor-General’s Office, Commission for Investigation of Abuse of Authority and even Special Police Department, have often called for the support of civil societies in order to beef up the national security system of the state and the financial integrity system of the government, political parties and public institutions. In contrast, civil societies have been calling for the autonomy of watchdog agencies to increase their own effectiveness and enhance the performance of political leaders and parties. The difficulty of moving from an electoral to a liberal democracy lies in “implementing the accountability provisions essential for a democratic process. On the one hand, while the executive in the Nepalese system have pervasive discretionary powers of patronage in recruiting workers, which has already polarized the bureaucracy, on the other, institutions with the mandate to ensure public accountability do not have the resources or authority to carry out their functions” (Khatari, 1999:17). Political stability in Nepal requires the resolution of this paradox.

The fifth issue of democratization is the application of the “third wave” technology to social and political life. New waves of technology, the media and increased information flow have transformed the institutional culture of the political society situating the constitutional life of the Nepalese in a universal perspective. Instant

communication is one instrument that brings people together in one milieu, mobilizes activity and introduces new management styles. These all correspond to new adaptations and new social policy. Information is necessary to make meaningful political choices by the people of diverse social and geographical origins and open up the dialectic of contradictions existing in the Nepalese society. This is helping the people emerge from the culture of silence to become conscious citizens- makers of their own history. In a way, the post-modern forms of social movements of human rights, consumers, workers, women, etc. are stirring up the Nepalese society and, consequently, fostering a kind of identity politics. In Nepal, identity politics symbolizes an expression of unsatisfied social needs. Globalization may be homogenizing the world, but it is also throwing into question traditional ideas about home, national identity, social justice and political freedom. These opposing forces require a new thinking in the social context. Succumbing to pressure from only one direction, e.g. globalization forces, may make things harder for the smaller communities whose identity politics may take the violent turn. A new process of individualization has begun in working style, life, culture and politics which is less characterized by the traditional notion of public and political life. If citizens claim their rights based on their citizenship—being a member of the state—how can the state fulfill their rights when the government upholds an ideology of state minimalism thereby facilitating the extension of the market in every aspect of human life? There is clearly a need to adopt new policies with each new technology that has such a profound effect on the society as is being witnessed today. In this context, how can the civil society be expected to shape social interests of the citizens, check the power of the financial elite and decision-makers and open multiple avenues for active engagements of citizens, voters, workers and consumers in a democracy consolidation project? It is difficult to answer straight away, because the goals of democratization are the same only the means of doing so change with changing technology. It is important not to confuse the means with the ends here.

Democracy exists within the nation-state. It is the only legitimate space to define citizens' opportunities and prevent outside encroachment. As bearers of rights, citizens enjoy government protection as well as protection against the intervention of the government. If this space is subjected to economic deregulation without creating the necessary competitive edge, it is bound to erode the spheres of government action and citizens' opportunities, allow outside exploitation of the nation's resources, culture, nature and people and ultimately lead the country and people to powerlessness and insecurity. A spiral has already set in whereby people are breeding individualistic strategies of survival with no command of their government, thus weakening the conditions of governance even further. In this context, the state of Nepal must respond to the demand for an equity that transcends the logic of mere market economics into the social arena.

This takes us to the sixth issue of democratization- the extension of economic democracy into the life of Nepalese people by realizing the constitutional guarantee for their *right to work*. With a per capita income of US \$ 210, Nepal lies at the bottom of world development statistics. Out of the 162 countries listed in the human development index it ranks 129<sup>th</sup>. According to official figures, more than 42 percent of its people live below the poverty line devoid of basic economic needs like food and clothes. Such abject poverty, in a fundamental sense, is the violation of human rights and, accordingly, freedom from poverty is the leitmotif of people's *right to development*. "Poverty is a principal and probably the principal obstacle to democratic development. The future of democracy depends on the future of economic development" (Huntington, 1991: 311). If economic activities are governed according to democratic principles, economic security and freedom can be guaranteed for everyone. Poor citizens can enjoy better economic opportunities for participation in gainful activities. The poor stakeholders "can exercise control directly, by participating in its decision-making process, or they can exercise control indirectly, by setting constraints on the decisions that can emerge" (Archer, 1995:39).

The thousands of consumer committees or user's groups at the VDC, municipality and DDC levels, small cooperatives, producers' networks etc. constitute a module of economic democracy ensuring the accountability of participation, goods and service outcomes and a system of mediation between capital and labor. "Economic freedom is a prerequisite for political freedom. By enabling people to cooperate with one another without coercion or central direction, it reduces the area over which political power is exercised" (Friedman, 1990: 2). Poor citizens of Nepal continue to prefer that the state fulfill their economic needs while the rich and powerful are bent on the deregulation of economic life. People see state institutions as necessary instruments for enforcing fundamental rights, enacting legislation, restraining potential conflicts, mediating public policies and

coordinating the actions of the institutions of governance. A well thought out legislation that limits the socially-destructive impact of market dynamics helps to pre-vent the growing criminalization of the economy and put a tab on the exclusionary effects of unequally distributed social power.

The Nepalese marketplace has yet to serve as a meeting point for all the citizens as majority of them are languishing in poverty, unemployment or dropped out of the market because of exclusionary economic policy. In contrast, it is repressing political choices and bridling social action. Similarly, the excessive reliance of the state on the external world for development has weakened the prerogative of the parliament on public policy formulation and, consequently, stripped it of ownership of those policies. The donor-driven economic model has also pulled the non-state forces of society towards dependency and disempowerment. This condition continues to weaken internal political expression of the citizens as political activities are confined only in Kathmandu and some other urban nodes. This has enforced a political culture of silence among the citizens of backward regions and rural areas where the concept of civil society is rarely heard, let alone their presence felt. As elected officials and government functionaries have squandered their credibility and authority on partisan politics and hypocritical posturing, the condition has favored the Maoists to engage themselves in the public vacuum. This “democracy free zone” was left by the political disengagement of mainstream political parties. It is the gap between promise and performance of development strategies to secure minimal equity that has enabled dissidence to gather strength, called into question the very legitimacy of democratic regimes.

The favor done by each government to powerful interest groups, especially the bureaucracy, political and business sectors, not only has prevented a sound market-oriented development but also continued to erode the electoral-parliamentary legitimacy granted by critical minorities, Dalits and other social movement groups. As their loyalty to clients preceded their competence to enforce citizens’ *right to work*, the prospects for democratizing development has been considerably weakened. “The economic dependency of non-property owners means that their political right is appropriated by a citizenry from which they are excluded” (Rundell, 1987:33). Industrial downsizing, deregulation, privatization and globalization have aggravated the situation of the socially excluded. The growing economic crisis has thus posed enormous social costs for the state, as mounting political conflicts have not only consumed away the benefits of reforms but also gnawed at the base of state power and dislodged politics to a highly confrontational situation.

The seventh issue of democratization thus concerns with restoring the value of politics as a public sphere, which is autonomous, free, rational and critical. The public sphere transcends the rationality of self-interests and strengthens its representational quality. Only political power is representational and, therefore, any effort to undermine this sphere would lead to a devaluation of politics and politicians. True representational politics helps in liberating people from social and economic irrationality of human hierarchy, self-seeking individuals and associations and preventing the transformation of the society into organized interest groups along partisan lines. Nepalese civil societies are struggling to protect politics as a public sphere and the government as the only democratic instrument of people’s power as the public sphere is a necessity even in societies that do not profess economic egalitarianism, let alone those whose constitution commands them to. “The public sphere was crucial for the democratization of Western society, inseparable from the rise of the modern nation-state and capitalist economy” (Tucker, 1998:171).

The primordial considerations of leadership, however, often contest with modernity and democracy. The mainstream political parties<sup>17</sup>— the centrist Nepali Congress Party, leftist CPN-United Marxist-Leninist and CPN-Marxist-Leninist parties, liberal Rastriya Prajatantra Party and Nepal Sadbhavana Party and many smaller anti-system parties-- have not been able to genuinely integrate the citizens of diverse origins into their political organizations, maintain internal coherence and facilitate the transition towards a participatory democratic process. Internal disunity in each political party has reduced the possibility for its stability and output efficiency. As a result, the parliament appears as an extension of mere party functions and appears weak in either representation or legislating laws that benefit every community. Despite a pluralistic and competitive arrangement for the

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<sup>17</sup> Critic of Nepalese politics Prof. Lok Raj Baral accurately captures the core political feature of Nepalese political parties: “Power being the ultimate goal, political parties in Nepal, except for the revolutionary Maoists, who are mounting their violent movement with a declared mission of liquidating the class-based multi-party system, are neither ideological nor clean and effective in governance” (Baral, 2000:188).

representation of diverse social interests, the hierarchical, centralized and top-down forms of party organization has not been able to meet the desired objective. Even civil society organizations, supposed to bring about checks and balances in the public sphere, have been subordinated to the political society and the state.

For example, untouchable castes, which together constitute about 20 percent of the population, have been effectively excluded from being represented in the House of Representatives. Similar problem has been faced by a number of indigenous minorities whose capacity to define their political basis is unevenly distributed leading to various conflicts, identities and loyalties. The ideological issues dividing the left, center and right notwithstanding, it makes little difference which political party controls the reins of government as the mainstream political parties are captured by factions and parochial coalitions devoid of any public or national purpose. Even parliamentary politics has become highly confrontational. Liberalization<sup>18</sup> and globalization of the 90s are ideologically homogenizing all the mainstream political parties into catchall types and depoliticizing their roles. This also marks a beginning of the synchronization of class and caste politics and the elimination of political questions from public life, such as legitimacy, transparency and accountability in their functions. As a result, political parties, their leaders and party manifestos have become decoupled from the policy making process.

A large majority of citizens mainly from the rival factions of the ruling party, opposition parties and independent intellectuals feel that the government is not “theirs,” and claim no sense of ownership and belonging to its policies and initiatives. This denotes that no matter which political party is in the government, it does not have a basis of popular support, public image and national character. And, consequently, it resorts to authoritarian methods to maintain its position and its policies often become controversial. The perennially weak executive is thus compromised in policy formulation, policy legitimation and policy execution apart from the role it plays in destabilizing democracy. Unimpeded personal power and party connections continue to impair the functions of many of the institutions of the society and government resulting in the severe authority crisis. These have weakened the neutrality, impartiality and morale of the civil service and created a treacherous nexus between access to money and power, which has contributed to the breakdown of regulatory institutions. Unless the civil society, especially from the intelligentsia, media and judiciary, act with a sense of urgency a deeply rooted culture of corruption and impunity will undermine Nepal’s economy, impoverish its people and tarnish the independent image of the nation.

The eighth issue of democratization is continuing the socialization of people into basic concepts and values underlying the constitutional order, civic knowledge and responsibilities. Men and women need to be equipped for life in public affairs and be made able to think of public good. Such socialization enables people for active participation in self-governance, establishes the institutional culture of democracy and facilitates conflict-resolution and the peace process. Robert D. Putnam claims that civic virtue is essential for a successful democracy and anticipates parallel linkages between civic virtue and effective governance. Without civility, and education for democratic citizenship, a pluralist society can degenerate into a raw state of nature. To make participatory democracy meaningful, the citizens should be informed of their rights and responsibilities, their relationship with the family, community, schools, local self-government, the media, the state, the heritage of the nation’s composite culture, sovereignty, national unity and integrity of the country. The role of the civil society lies in getting across the ideas of elections, representation, majority rule, minority rights, constitutionalism, etc. to the people and prepare them to transform themselves into public (Adhikari, 2000:84-92) through education, participation and integration within a democratic system.

The rights of citizenship have suffered as the class and caste inequalities generated by the liberal political economy have limited the egalitarian effects of democracy and provoked the symptoms of alienation, exclusion and rebellion among certain groups. This is because they have suffered from the wrong socialization by the political leaders and party schools. As a result, polarized emotions and conflicts overtake the culture of rational argument. Such attitude has implications on the integration of both society and the system. In a number of cases, such as the Tanakpur Treaty, Labor Act, Citizenship Act, Work Permit for Non-Nepalese etc., arbitrary decisions

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<sup>18</sup> According to media report, in Nepal, statistics are ideologically designed to serve the logic of the government’s orientation to the market system and, therefore, continues to weaken the development contract underlined in the Constitution.

of the government had crossed over bounds of constitutional democracy, debates raged on even after the political blunders were corrected by the verdict of the Supreme Court deeming them unconstitutional. Had proper civic education been provided to party workers, they might have stopped their parties from making the political follies in the first place.

As the traditional concept of social security provided by the family, society and the state have become weak owing to economic liberalization, citizens have begun to redefine their identity with primordial institutions, such as language, ethni-city, locality, religion, etc. They have begun seeking to re-define and re-negotiate the social contract with the family, community, the state and international institutions. The social movements of Dalits, Women, ethnic groups and indigenous communities have been aiming to establish an inclusive democracy in which the conditions to enjoy equal rights and privileges of citizenship<sup>19</sup> and ensure freedom from fear and want are available. The growing demands and movements of these groups challenge the rationalistic basis of the state and, consequently, the functions of regulatory bodies, such as the bureaucracy and police are facing a constant “rationality crisis.” The Maoists have seen a parallel in these movements with their own defiance of the system and have been supporting the cause for ethnic consciousness and the dialectics of resentment. The image of the state as a guarantor of economic and social opportunities has appeared utterly deficient. As a result, the legislative, the executive and a number of constitutional bodies remain unaccountable to the rule of law and discretionary authority has become a norm in Nepalese governance. “A lack of normative political culture can be the basic cause of a legitimacy crisis” (Pye, 1971:158).

As the historical evolution of caste system created the hierarchical social order, the plural system of authority and power have found it difficult to operate and seek solution for the poor, marginalized and deprived population. Moreover, growing factionalism in each party and frequent alteration of governments have also impoverished the base of political stability in the country and weakened the essential conditions of the representative process. And the autonomy of civil society organizations, so essential to correct these anomalies, is undermined by their subordination to party politics. And party leaders often entrench themselves indefinitely in organizational power, become unaccountable to the democratic process of leadership selection and transparency to their members. Trade unions, human rights organizations, women’s groups and NGOs are distinctly vulnerable to this tendency. A number of civil societies and NGOs being created by donor resources have reinforced this culture. Through the infusion of aid, donor countries have created a sub-culture in the system, which is controlling the key areas of monetary and financial field and has a strong interest in the maintenance of the elite status quo. Similarly, the process of privatization and deregulation has paralyzed the incentive for genuine economic independence for national productive forces to make any headway.

The existence of diversity, politicization, polarization and factionalism has also enfeebled the Nepalese civil society institutions reducing their ability to set and pursue distinctive, autonomous institutional goals and bargain

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<sup>19</sup> Civic education is a key to democracy. There is a surge of interest about civic education worldwide. The primary concern of civic education is to create *civic culture* committed to deepen democracy in public and private life. The three realms of civic education are: *socialization* (awareness of social responsibility), *humanization* (responsibilities beyond borders) and *participation* of citizens in public life (social transformation). With the dawn of democracy in Nepal, the importance of civic education has increased. Efforts are being made to teach several hundred students from different schools (private and public) in the program intended to acquire civic knowledge and skills and to develop their virtues for their role in public life. We have designed our curriculum accordingly under the title “Contemporary Nepalese Society” involving:

- *Principles of Democracy and Knowledge About Constitution* (political structures of the nation, rule of law, limits to power, balance between tradition and modernity, etc.)
- *Rights and Responsibilities of Democratic Citizenship* (civic knowledge, civic skills, civic virtues and leadership, majority rule with minority rites, protection of public good, etc.)
- *Social Dynamics and Social Change* (technology, ideology, education, forces of production, etc.)
- *Risks of Nepalese Society and how they are Solved* (lingering conflicts leads to violence, affects productivity and weakens public life, a risk-free society is essential for democracy, social peace and harmony)
- *Social justice and human rights* (three generations of human rights, economic resources and endorsement of those rights by the nation)
- *Transformation of people into public* (social and ecological rights, decentralization of power-horizontal and vertical, election, role of media, political parties and political education (it is essential part of civic education), civil society and social organizations).

and negotiate with the economic and political societies and international regimes, by means of social coalition and collective action. These bodies have been increasingly acting as interest groups thus conceptually evacuating that public sphere upon which democracy is supposed to be consolidated. Bearing resemblance to the government and political parties, they also face an acute shortage of transparency and accountability in their functions.

Similarly, the growing influences of human rights organizations, NGOs and civic associations in Nepal have advocated vigorously against the role of the state in democracy in the same way as neo-classical political economy opposes the state's role in the growth of a productive society. In a number of cases, both the sectors—neo-classical political economists and NGO, human rights and civil society activists— have simultaneously entered into the anti-state discourse. The state's consequent over-reliance on policing the citizens, at the same time reducing its social contribution, has led to a growing chasm in the political order which has eroded the force that binds constitutional law with patriotism. The Nepalese state is thus facing the erosion of its *autonomy* with the growth in the number of autonomous groups, associations and civil society organizations. Similar is the case with its *sovereignty* which has been adversely affected by the entry of Nepal in a number of international regimes on the one hand and the rising ethno-politics within the country on the other. Nepal has thus subordinated itself to the international regime as a consumer of alien paradigm. But, this has not led to the strengthening of the civil society either. A growing body of academic works suggests that NGOs and civil societies in Nepal have neither been able to prevent the growing atomization of the family and community, nor disciplining the state elite for transparency and accountability, nor even attaining massive societal empowerment. In a sense, these trends have posed a challenge for the rule of law, as politics is made to assume irrational turns. Besides, the gap between the rule of law and politics itself is widening.

Similarly, the centralization of political authority in Nepal has debased the autonomy of voluntary associations and made the Nepalese citizens increasingly dependent on the centralized, patronage-based and paternalistic authority, whether that authority is aristocracy, oligarchy or elected government. The Nepalese tendency towards centralization, which started out as a familial and cultural act, has permeated into the decision-making structure. Nonetheless, NGOs and civil society with their diverse conglomeration of functions, such as relief works, advocacy, education, small-scale development projects, etc. seem responsive to the passions, choices and interests of the public. Some of them have achieved success in controlling wasteful expenses in rituals, waging anti-alcohol campaign in the countryside, running informal education, basic health care, waste disposal and providing local services while others are struggling to bring legal reforms and evoking aspirational politics.

## CIVIL SOCIETY AND DEVELOPMENT

Does the civil society facilitate the right to development? How does civil society constitute a public space which allows regular discourse to establish people's right to democratic development by improving public policy contents? "Development is a comprehensive process directed towards the full realization of all human rights and fundamental freedoms" (UNDP, 1998:4). Of late, mainstream donors working in Nepal and the Nepalese government have realized that public debate with civil societies is a necessary precondition for determining the mode of decision-making to be pursued for development projects and those important areas requiring national consensus and political legitimacy. An articulation of contending perspectives for national development projects and the definition of an overall perspective of development were expressed in "Nepal Development Forum 2000." What appears less discrete, however, is whether the Forum was formulated to reinvent the indigenous vision or to absorb donors' criticism and imperatives or even to widen public access to policy making. The Constitution on the other hand was conceived as a means to realize a development culture.<sup>20</sup>

However, it is not entirely clear so far whether civil society principles are applied to mediate between development and democracy in Nepal, or to help the people recapture policy sovereignty to self-determine national development goals through a newly constituted discourse. Or, is it just a replication of the hegemonic discourse conventionally adopted by the Development Council, Finance Ministry and National Planning Commission? These agencies have indeed served as legitimizing instruments of the executive and donor agenda in the past and could now very well be countering the ideology of planning riding on the neo-liberal project. Critics, for example, argue that "the usual discourse on the respective roles of the state, the private sector and civil society actors is confounded by the role of donors who now seek in policy discourses and decisions to be politically equal and active participants" (Panday, 2000:4). The possibility of autonomous national construction is thus exhausted and left many questions unanswered, for example, who should be accountable for policy failures. The roles and responsibilities of different social actors remain unclear and the central methodological issues of authority and voice un-addressed. Skeptics point out that accepting limited self-criticism and crafting some space for clientele-type of civil society in no way constitute a participatory discourse on development. Such discourse needs to reinforce social solidarity to enable the state to care for the well-being of all citizens through the provisions of public goods and services.

There is a "reciprocal relationship between underdevelopment and civil society; the lack of liberty in civil society reinforces the poverty produced by economic underdevelopment and vice versa. Poverty saps the vitality of civil society, but the lack of democratic participation reinforces poverty" (Pereira, 1993: 336). A fresh search for coherence between human rights (also constitutional rights) and development policy is therefore necessary. The search should aim to transcend the primacy of economics so that the logic of economics and politics is not allowed to produce poverty. This poverty-enhancing effect needs to be mellowed down by the role of civil society as a rational agency to humanize the development process. Partnership with decentralized voluntary groups facilitates to address the diverse needs of the society. The definition of human rights is thus enlarged and taken beyond the control of the rich and powerful. As an alternative to bureaucracy, which is detached from democratic mass activities but prone to exercise control on the lives of people, genuine civil society seeks ways to improve government's policies toward the poor, excluded and vulnerable groups. Bureaucratic rationality, like market rationality, aims at short-term maximization of benefits of established structures, their interest relations, power, domination and competition. While the civil society rationality aims at fulfilling the needs of the needy and increases their chances to survive and prosper as they influence the content of policies directly. Civil society organizations try to liberate people from self-interest groups located inside the state who mobilize the constituencies of the poor and marginalized through the market mechanism.

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<sup>20</sup> A development culture here means the ideas, opinions, values and attitudes of people about development which they carry with them in their lives and overcome the problems of collective action.

One grim fact about the market is that the resources at its command limit the choices of the majority of poor. And its cash profit motive draws it into conflict with democratic regulation of the state. The fear of anarchical tendencies of the market-- that keeps no one safe from the unlimited freedom of capital-- has motivated many developing countries, including Nepal, to inquire into the ideal possibilities of executing *people-centered development*. Is this a return to the legitimacy of multiple cultures, wisdom and relativism of knowledge treasured by the people or a conservative reaction to the incomplete modernity project that Habermas calls "a capitulation to the apparent failure of the emancipatory content of that project?" Or, is it an effort "to give a voice to the victims whose cries have long been muted by the fiery rhetoric and empty slogans of development?" (Shrestha, 1997: Preface).

The crucial link between people-centered development and the *right to work* has already been couched in the Nepalese Constitution. "Employment is the key to obtaining food, housing, health services and education, in addition to providing self-respect and self-fulfillment" (Brown and Halweil, 1999:9). Job creation, however, requires huge investments in animal husbandry, agricultural, industrial and service sectors, not just seeking lives on the basis of market transactions. The Nepalese government has pledged to allocate public resources to key priority areas: "poverty resource programs, employment pro-motion, agriculture, irrigation, social sector development such as education, health, drinking water and gender, rural infra-structure such as roads, electricity and agriculture markets, natural resource management and projects of facilities maintenance and improvement" (HMG, 2000:1). These sectoral priorities are essential to offset market failures, market distortions and market dropout of the poor but by no means sufficient for a sound economic performance.<sup>21</sup>

The intrinsic tendency of the market to de-couple the economy from human rights, social accountability, gender justice and the natural environment inevitably demands rectification by countervailing social forces. These forces, like civil societies, come to the defense of the people, culture, nature and the nation and retain democratic control on the social surplus for the society to exercise. Civil society organisations and NGOs have emerged vibrantly in response to the vacuum created by the crisis of the Nepalese welfare state. There is also another factor: the availability of funds from the donor community at the same time. This growth in the civil society organisations is "expected to absorb and neutralize the unequal distribution of social positions and power differentials resulting from them, so that social power comes into play only insofar as it facilitates the exercise of civic autonomy and does not restrict it" (Habermas, 1997:175). And, civic autonomy is necessary today if only to help reduce the rampant poverty and inequality as it has become urgent to contain their likely effects on future generations.

Nepal's planning and development process has thus far appeared to be a "conditioned reflex" of global development concepts and praxis, rather than one that evolved indigenously. The process needs to echo "the silent voices of development in a form that is generally free of the constraints imposed by a typical social science approach" (Shrestha, 1997: Preface). An in-depth reflection on it over the last five decades indicates the downright failure of each plan in achieving such a target. The uneven development brought about by the Plan has translated into an uneven access of people in the resources of the state. The resultant regional imbalance, ecocide, widespread poverty, unemployment, income concentration, agricultural decay, heavy rural-urban migration, unplanned urbanization and marginalization of the citizens should be self-explanatory. The paternalistic planning, executed from the top, has neither helped to de-tribalize and de-stratify people, nor erode the base of feudalism by eliminating gross violations of human rights like the bonded labor system, let alone provide the majority of people the requisite freedom and social justice.

The development paradigms applied in Nepal, like Poverty alleviation through modernization, rural development, community development, basic needs, trickle-down, growth theories and structural adjustment, have epitomized a tacit faith in the sincerity of the "modernized elite," "government officials," "planners" and "development agencies and experts" and their sense of justice and fair play. Contrary to that faith, the evaluation of plan failure and foreign aid have not served any guide to decision-makers for a better future course of action. Because the planning elite neither identified with, nor suffered with, not even fought for the liberation of the poor

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<sup>21</sup> Economic performance depends on "the structure of economic governance: the rules of ownership, forms of competition, norms, and conventions that regulate the incentives and constraints faced by economic actors, and hence that determine the nature of coordination failures and their feasible solutions" (Bowels and Gintis, 1998:5).

in their life-context. The exogenous theories, technologies and methodologies and their half-baked application to build infrastructure have had poor linkages with human development. The failings of these statist strategies indicate that an economy cannot not grow without social support, freedom of information, speech and organization. It has become common knowledge that the development of the information society has made the *right to information* even more critical to the functioning of a society, its democratic governance and even private sector management. The use of the latest fad in development—economic liberalization—in the 1980s and the 1990s, vigorously pushed by the post-1991 governments, presumptuously rejected the social options of choosing to assign a major economic role to the public sector. It was liberalization optimism that masked *comprador* power, so obviously monopolistic and centralized, that made the soft-state even more vulnerable. Rather, it abandoned the principles of *subsidiarity* and democracy for the sake of order. The criticisms of this policy have already been drafted by civil society organisations, federation of local authorities, trade unions and media, therefore, taking the policy debate to a highly moral sphere.

The use of economic liberalization—premised on the belief that economic stagnation can only be resolved by freeing market forces and greater competitiveness—in policy has led to asset-stripping rather than wealth-creation. It has helped the rich and powerful to plunder the common wealth of the nation and take it out of the country. An independent privatization review has revealed that “past privatization transactions have been unsuccessful. There is no transparency and accountability of the process, there is influence of vested interests; there are allegations of corruption and financial irregularities; there is no accountability in the utilization of proceeds; and the interests of workers have not been protected” (Ghimire, et al, 2000: Executive Summary). The policies have been accused of fostering poverty, unemployment, social contradictions, and lawlessness. Growing economic crises in the periphery has eroded the penetrative, extractive and distributive capabilities of governance and the development of the periphery has been choked off completely. Due to the continuity of the existing traditional power structures, legal barriers, lack of access to resources and gender imbalances, the bulk of inputs provided to rural people were captured by better off sections of rural communities (Paudyal, 2000:3) having access to the corridors of power and a nexus in the district head quarters and the capital city, Kathmandu.

The project of structural adjustment requires the rural periphery of the nation to restructure itself to meet the demands of the center, even if that restructuring implies repression of the demands of the poor and asset concentration (especially land,<sup>22</sup> civic and economic institutions) in a few hands, then so be it. It is such rural neglect that leads to unnecessary deaths (550 died in Humla-Jumla in 1998 due to hunger), disease (4000 persons died in the country 1999 due to an epidemic of Viral Influenza) and rural wretchedness. Unequal power relationships in the periphery presents a case for “different development”, other-wise national power elites remain as apathetic as ever to the needs of people for improving education, health and other essential public services to pull themselves out of poverty. The periphery does not have change agents. Its indigenous know-ledge, values and institutions are ignored, dismissed and treated as mere impediments to rational progress. As a result, the conditions for polarities along the fault lines of society are hitting the fragile unity of the nation. The retreat of the state at such a time has created tension between neo-classical policies of the government and the constitutional protection of the deprived segment of population in the periphery of the society bringing the government at loggerheads with the Constitution frequently. In fact, the downsizing of the state caused the shrinkage of the very market that was purportedly being promoted as these policies impacted heavily on the agrarian sector, the largest sector of the economy. This led to the urgent necessity of cultivating the state capacities in order to achieve a vibrant political life. The need was particularly felt by sensible civil society organizations.

Development, therefore, did not alter the human condition of the majority of people. Why did this happen? One obvious explanation is that Nepalese planners and policy makers were either not thoroughly socialized in concrete forms of national life, or situated far apart from the historical time and space they were supposed to be in. Clearly they were not attuned to listen to the sub-cultures’ world-views, multi-layered realities and the

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<sup>22</sup> The distribution of land and asset is highly skewed. The bottom 40 percent of the agricultural households operate only 9 percent of the total agricultural land while the top 6 percent occupy more than 33 percent. The concentration index is 0.54, reflecting a highly uneven distribution of resources (Shakya, 2000:4). The richest 20 percent of the persons earns 44.8 percent of income while the poorest 20 percent earns 7.6 percent of the income in Nepal. Nepal’s human poverty is 51.3 percent.

respective interest positions of the people of diverse social origins. But a more plausible explanation is this: obsessed with a culture of paternalism rooted in the monopolization of authority and knowledge, caught up in the network of government power and with an eye on donors' money, they seemed inversely related to the pressures of social complexity and social diversity. Consequently, they missed the required coherence between proclaimed public policies and the real life-context, between law and politics, between organizations and aspirations and between social integration and system integration.<sup>23</sup>

Nepal's largely agrarian economy-- producing and export-ing primary commodities and relying on a low level of capital, technology and cheap supply of labor with a weak national accumulation process—is not conducive to a vigorous pursuit of the market. Nepal's agriculture survives rather on subsidies than on market products like cash-crops. Even without the neo-liberalism being adopted the Nepalese economy was impoverishing the material condition for maintaining and sustaining the institutions of governance. Chronic poverty was hindering the spread of national political consciousness and stalling public action by the poor even before such policies came about. But as a result of the pro-market policies, poverty mounted to unexpected *proportions*, because of high concentration of the means of production in a very few hands and a super-exploitative economic base. The uncontrolled population and its pressure on agricultural land took poverty to a height of *greater complexity*, because of the deficiency of official economic policies to fulfill basic livelihood of majority of population. Poverty also grew in *intensity*, on an everyday, inter-caste, inter-gender, inter-regional and inter-generation basis. The single most long-term goal of the Nepalese government now is to lower the level of poverty in both absolute and relative terms, from the current 42 percent people living below the poverty line to 10 percent by the year 2015. Is this an achievable target without the creation of a virtuous state capable of mustering support from the entire stakeholders of the society?

A virtuous state (DFID, 1997:9) not only guarantees the realization of people's rights but also sets an enabling frame-work within which the market, the state and the civil society moderate each other's policies. The state coordinates and cooperates with the civil society to offset market failures and sets the macro-economic conditions for economic growth, environmental preservation and social equity. Creation of a virtuous state is, therefore, essential to make civil society come out of its own inertia and serve as a mediator between the donor communities and the state authorities. An imperative for a "global partnership to harmonize programs, policies and practices to meet the accountability and learning needs of donor and recipient countries alike" (Wolfensohn, 1999:8) has been acutely sensed by the mainstream donors exactly when the economy is being globalized. Accordingly, there has been continuous discourse by the civil society about the improvement of aid interventions, the assessment of aid impacts and the accountability of aid funds to augment generalized reciprocity between the state and civil society. This is expected to reduce transaction costs, solve collective action problems with less and less fear of defection and free riding of development actors, encourage institutional partnership with the private sector and voluntary organizations, and compensate the market failure by serving as a buffer against unfair outcomes of market competition.

A new thinking on the reorientation of foreign aid has begun, whereby

- Firstly, *social equity, gender justice, environmental sustainability and governance concerns*,<sup>24</sup> especially focusing on democracy, human rights, decentralization and strengthening of civil society, assume supreme importance. One central issue for the poor is security from threat and violence. They need access to justice.
- Secondly, there is a greater demand by taxpayers of developed countries to the *delivery responsiveness* of aid money in the recipient countries. It premises on the *accountability* of donors and the recipient governments towards empowering the poor at the grassroots level. Many donors have started incorporating anti-corruption conditionalities in their working agenda. Another side to the conditionality

<sup>23</sup> In a budget meeting with donors organized by Finance Ministry on August 7, 2001 Finance Minister Dr. Ram Sharan Mahat admitted that "weak and unnecessary delay in implementation, monitoring and financial irregularities are the major obstacles in achieving the development targets."

<sup>24</sup> "At its most fundamental level, we might argue that the legitimacy of the interest of the external community in the governance of any other country in the world is already established in the foundations of many international treaties and conventions. The Universal Declaration of Human Rights is, perhaps, the best example of an international acceptance of this legitimacy" (Goudie, 1998:4).

coin is the high degree of dependence of recipient countries like Nepal in financing the development process. Conditionality tied to development assistance has already established linkages with external stakeholders. An absolute autonomy in national policy exercise is little likely now as it can evoke a fear of aid cut-off that may spawn serious political implications for the regime in power. That is why each government wants to live under donor patronage. But, paradoxically, the donor-driven policy agenda remains devoid of national ownership and, consequently, suffers from half-hearted implementation (e.g. liberalization). In this context, the demand of taxpayers of developed countries for accountability might be expected to improve the efficiency of aid money.

- Thirdly, development cooperation management also requires the recipient country to claim *ownership of the program*<sup>25</sup> at the central level and popular ownership at the local level. Therefore, enhancing the capacity of the government to formulate and execute sound public policies becomes a key to good governance. In numerous cases, due to weak policy processes, many sound policies hardly go into development programs and projects. These programs are, therefore, bereft of budgetary dispensation and proper balance in resource allocation between the rural and the urban sector of the political economy. In this context, regaining ownership means recapturing the autonomy in policymaking and developing the interest of stakeholders to participate in a policy culture rooted in the real needs of the Nepalese. It is commonly believed that the poor record of development performance in Nepal stems from the deficiency of governance rather than weakness of policy.
- Fourthly, development cooperation requires a *partnership culture* between the government and civil society so that local feedback is reflected in the policy process and thus a participatory development process is set in motion. A partnership culture brings in high dividends on coordinated approaches to policy, strategy, resource allocation to priority sectors, revenue raising and implementation.
- And finally, according to new standards of development, financial stability should combine with a *resilient re-distributive mechanism through a social safety net* so that the poor people can acquire a stake in development, a development which remains flexible enough to adapt to changing circumstances. There is a clear need to seek departure from what did not work in the past and bridge the credibility gap between policy content and performance.

The traditional paradigm of equating development exclusively with economic growth has pushed back the knowledge boundaries to include the “enhancement of human dignity.” The universality of human nature is responsible for postulating human rights as requisite ingredient of any development strategy for any culture or nation. In the same vein, the right to development is a human right—a right that each individual is entitled to by virtue of being a human being. Its roots can be traced to the Greek stoics, “who believed in universal natural law; and the Enlightenment philosophers, who believed that freedom was a natural condition and that the purpose of government was to serve and protect citizens” (IHT, 1999:8). Despite the universality of human rights, local situations, needs, values, institutions and priorities of many countries do not bear common characteristics and social means and resources are not equally available for even citizens within the same country. Post-modernists, therefore, believe that needs have to be best assessed locally as it does get affected by the changing conditions of real-life, rather than on causal relationships among project objectives, inputs and outputs or on a cost-benefit basis.

The Declaration on the Right to Development 1986 and the Vienna Declaration and its Program of Action 1993 have expunged the long-standing dichotomy between economics and politics and required aid agencies to

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<sup>25</sup> The real question of ownership has been critically dealt by Dr. Devendra Raj Panday. He says: “careerist donor representatives thrive pushing one governance project after another that may look good momentarily but which may be neither productive nor sustainable in the long-run. The more insensitive of them do not mind even projecting themselves as the source of inspiration (but not accountable) of such programs, seeking accolades from their headquarters. By virtue of incentives they provide their hosts with the help of traditional technical assistance tools (e.g. a pajero, foreign tours, and so on), they may even be able to “buy” local ownership for their projects. In essence, however, when such route of donor intervention is followed, no body actually may own the project and no body held accountable” (Panday, 2000:6). Similar views have been echoed by Dr. Meena Acharya: “Dependency on donors for meeting even the minimum resource needs of the state, community including NGOs, and the private sector (minimum investment needs) has led to donor intervention in all aspects of policy making as well as the political process” (Acharya, 1999:2).

use human rights within an integrated framework of development policy. "The inseparability of rights was agreed at the World Conference on Human Rights in Vienna in 1993. The more interesting current question may not be about hierarchies, but rather about entry points and sequencing" (EDI, 1999:6). The right to development also establishes the need for states to have the accountability to formulate domestic consensus for a National Human Rights Action Plan aiming to improve the well being of the people.

Accordingly, in 1997, the United Nations Development Program (UNDP) consented to integrate human rights into the sustainable human development agenda while the UNICEF is already executing rights-based policies in the developing countries. A *right to development* discourse is also underway in Nepal and the local office of the UNDP has begun to assist the Nepalese human rights organizations as well as the government for the inclusion of this paradigm into government planning through national capacity building. The right to development postulates that human rights standards can be implemented by development agencies in much the same way as environmental standards.<sup>26</sup>

It also seeks to build a development partnership for co-production<sup>27</sup> and bridge the knowledge gap among the donors, native development professionals, non-state actors and that of the larger public for policy harmony and policy concertation. Achieving development requires not only basic needs satisfaction of the people but also entitlements and long-term social opportunities for their self-realization, self-determination and identity. Execution of pro-poor policies to increase the available resources needs to be coupled with plan and account for their use in regard to policy. Additionally, there is the need for open consultation with the stakeholders, assistance in institution-building, strategic management (combining sectoral, geo-graphical, community interests and those of the most deprived) and technical backstopping at the local level designed to achieve these objectives. But in the case of Nepal, despite the promulgation of Local Self-Governance Act 1998 and Regulations 1999, the devolutionary processes continue to suffer. And, the federations of Village Development Committees (VDC), municipalities and District Development Committees (DDC) have been calling for the abrogation of many laws and regulations that have made the local bodies devoid of requisite power, resource and authority.<sup>28</sup> In this context, how can the state as duty-bearer muster the maximum available resources to capture the diversity and complexity of development? Mean-while, how can civil societies, being non-party to international treaties, aspire to extend their commitment to the right to development, build "protective security" (Sen, 1999:38), craft a social safety-net for the vulnerable sections of the society and make them participants in the development process?

A relief approach to development, providing the less well off citizens essential goods directly, is generally unsustainable, because the bulk of the affected is too large. It is also because these people's access to anti-poverty instruments is deficient and the distribution methodology is not backed by the existing production process. Similarly, the political conditions required for the implementation of anti-poverty programs are very weak, caused partly by a lack of political will, partly by political instability and partly by the absence of policy coherence and action. Add to this the webs of power built around kinship, lineage, authority, status, self and patronage that have created structural and cultural barriers to people's participation and policy execution. As a result, the distributional politics typically becomes status-quo oriented thus subordinating the broader level of community, public and national interests by those in authority. Nepal's dominant private sector is made up of the comprador

<sup>26</sup> This standard include: conducting situation and impact analyses of development projects; setting goals and standards; supporting and writing of action plans for legal reforms; establishing a coordinating structure; developing priorities and strategies; fostering civil society; providing monitoring of compliance; offering aid to redress to those badly affected by poverty; targeting the disadvantaged or excluded groups; facilitating participatory review processes; and assisting to create an enabling environment for their full satisfaction.

<sup>27</sup> "Co-Production implies that citizens can play an active role in producing public goods and services of consequences to them" (Ostrom, 1999:347).

<sup>28</sup> Former president of DDC Federation, Madhav Paudyal, argues that the way National Planning Commission (NPC) is functioning is not like a professional think tank but more like an executive agency of the government. In the development management of the nation it has a number of implications: first, the plan formulated by the NPC does not dovetail with the spirit of local self-governance. Second, on project implementation most of the development works have been undertaken by ministries and only a few have trickled down to local government. Ironically, ministries have opened their branch offices in the districts. Third, there are no clear standards, measures and laws regarding the allocation of national budget. It is done arbitrarily on the basis of personal connection and patronage. The work performance and evaluation of those civil servants, who execute national development works, is done by the center. Therefore, no monitoring is done at the field level. This has caused corruption, delay in work and a lack of achievement, etc see, Interview in *Budhbar Weekly*, March 8, 2000.

class which often conspires against the natural emergence of entrepreneurial industrial elites. Until 1990, the state sought to compensate for this weakness by assuming a direct role in industrialization, import-substitution, export-promotion and diversification. After that, in the liberalized context, their coalition with politicians, has challenged the role of state, initiated de-industrialization in the country and promoted consumer capitalism. After downsizing, the small size of the state means that the democratic government has little bargaining power with which to confront the private sector. Many necessary reforms, such as the introduction of the Value Added Tax, progressive property tax, etc. have, therefore, been opposed by this sector.

Only context-sensitive policies formulated by stakeholders bear the potential for large-scale participation to exploit the development potential as it takes into account the social and national problems. It is, therefore, vital to direct substantial resources towards such policies and enable individuals, families and communities to establish and maintain an adequate economic base to meet their survival necessities. The efficacy of civil society organizations and NGOs comes into play here. It can be seen in such areas as conducting local dialogues, raising awareness among the citizens through social communication, mobilizing local citizens for priority setting and program execution, organizing users or consumers into groups for demanding and utilizing services, adopting an integrated approach in service delivery, encouraging local voluntary works and completing the programs at a low cost and in a short time by developing local capability. In the Nepalese context, the government has crafted a policy framework to involve Forest Users' Group, women's organizations, dalit associations, savings and credit cooperatives, community organizations, etc in local planning and implementation.

A few NGOs, such as Swablaban, have been providing micro-credit facilities to the poorest people and even the growing sub-class of poor without collateral. They have been contributing to their savings, helping to improve rural income and employment opportunities, providing banking services and using instruments that can build their self-confidence, raise the living standards and ensure sustainable livelihoods. This approach has also served as an alternative to traditional dependence of citizens on local elites for credits, wages and agricultural inputs. A number of initiatives, such as the Private Sector Lending Program, Grameen Banks, Production Credit for Rural Women, Intensive Banking Program and Small Farmer Development Program have also been designed to alleviate poverty at the sectoral level. These initiatives, however, suffer from in-built deficiencies. For example, these are not backed by strong commitment, democratic control, long-term organizational development, indigenous resources and a capacity to formulate proper strategies to help those at the rock bottom of the society to become participants in the institutional resources of the state.

None of these programs have been linked to the poor people's rights to education, land and natural resources. Neither do they talk about making them participate in public life –like involving them in the project cycles of development. If individuals are denied the minimum standards of livelihood, economic compulsion works as a force to undermine their freedom and self-dignity. Can that force be brought under law by the civil society to forge crosscutting bonds of solidarity<sup>29</sup> and coordinated actions? Perhaps yes, if the struggle for basic needs satisfaction implies the search for quality in life. A substantive agrarian reform, involving free education, land redistribution to the landless poor, tenancy reforms and labor-intensive development programs, is needed as precondition for a people-centered, participatory, empowering and sustainable human development. Only a few countries have attained rapid economic growth and reduction in poverty levels without first developing the agricultural sector.

The officially sanctioned Build Our Village Ourselves, Rural Self-Reliance Program, Participatory District Development Program, Remote Area Development Program, Constituency Development Program<sup>30</sup> and the annual grants allocated to local self-government institutions should aim to capture the utility of these approaches

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<sup>29</sup> Solidarity is the tendency to affiliate, form bonds and cooperate with each other for the attainment of shared goals. It is one of the marks of identification of human life. In human society, solidarity means commonality and personal empowerment because each member of the society performs an important role. The principles of solidarity combine shared understanding, mutual learning and change. Solidarity is a relational tie of concern, a tie essential for an individual's self-development at different layers—personal, national, regional and global and a democratic guarantee against exploitation.

<sup>30</sup> Rural development expert Durga Poudyal argues that the implementation of all these programs by central level agencies instead of building the capacity of local governance for self-reliance has created their dependency on the resources of the center. See, *Swabalamban*, Dec. 1999, p. 18 (in Nepali).

so that powerless people are enabled to exercise their fundamental rights. A number of sectoral programs are constituency oriented, not balanced among the regions and people and, consequently, suffer from partisan and patronage politics thereby polarizing the whole development process. The successive failures of the state-centric and market-mediated dominant models of development in alleviating often appalling levels of poverty, inequality and injustice are reflected in class, caste, gender and regional differentiation which is being structured into the institutional life of the citizens. This trend has contributed to an increasing inequalities in the access to health, safe water, roads, energy, communication, power, wealth, knowledge and basic human rights for the majority of citizens, thus effectively locking the poor below the deck to drown or jump ship by migrating to avoid existential risks.

Consequently, a refreshed need has arisen to approach the problem of poverty more sensibly. Can “BP with the Poor,” “Ganesh Man Peace Campaign” “Self-Employment Opportunity for Youth” “Women’s Awareness Program” and the “National Volunteer’s Service,” that is in the offing, capture the complexity of life of the majority of people? These can be useful, argue the representatives of federations of local authorities, provided they are executed by locally elected authorities, rather than politically appointed non-poor persons. What is also needed is the empowerment of self-help organizations of the poor and adjusting economic growth strategies to a pro-poor policy framework. In order to avoid the luxury of every government trying to reinvent new projects and programs to meet its own party’s “political rationale”, rather than sustaining the old, a broad-based consultation process among the major stakeholders of the society on development policy is a must. A weak consultation process results in non-commitment and hardly any awareness among the stakeholders regarding the goals of policies (e.g. the official goal of poverty eradication within 20 years is unknown for the locally elected authorities and party people). Improving knowledge in key priority areas is thus a necessity if public goods are to be produced at all.

Because of the weakly targeted programs, the bulk of benefits have trickled down to the politically relevant population, not the degradingly poor. This has been the case with the allocation of jobs, land, water, seeds, credit and technology. The poor remain, as usual, passive onlookers. Self-organization of the poor is weak—organizations in which they share some sense of identity and claim ownership over it. Without such organisation, development projects and programs can neither capture the welfare of the existing poor nor of their future generation. Also essential are efforts towards liberation of the political, economic and psychological energy of the poor for self-development. In this model, the reigns of governance rise from the bottom towards the top, at the same time realizing the sovereignty of the people and their right to development. Education, health, nutrition, housing, etc become incomplete if the tangible foundation of self-organization of the poor is absent, as they would continue to be susceptible to the resistance of the coalitions dominated by the anti-poor. “The development of the political capabilities of the poor should be an important objective of anti-poverty policy” (Moore and Putzel, 1999:5). Unless a majority of the poor Nepalese attains a collective capacity to use their intrinsic potential for production and meet their basic needs, they cannot escape from the centralization of power, chronic poverty, inequality, dependency, alienation and the harsh life.

In the past, the rise of modernity would reject the diversity of social and cultural traditions and life-worlds. It did not see any possibility either in defining opportunities for endogenous development or in making the poor participants while mobilizing the institutional resources of the state. At a conceptual level, this modernity contained an economic logic, offered a scientific justification to the political motive of the power elite. It purported to create an autonomous sphere for the economy-- devoid of democratic control, tried to confine the social and political life of the citizens within the criteria of market rationality and efficiency and established the primacy of professional experts, who were motivated by nothing except to serve the dominant interests of society.

It’s effects: the majority of poor could never make it in such a scheme of things. The rationality did not recognize their presence because they neither had the means nor adequate knowledge and power to become competitive. Now, with the advent of post-modernism which does justify the plurality of life-forms, indigenous visions, multiple structures and cultures, it has been recognised that a lack of freedom to the poor is a problem of development. An indigenous process of development requires a sensitive partnership of development actors with the people. These actors need to be genuinely motivated to learn from them about their needs and priorities,

institutionalize that learning process and help them in achieving the goal of social progress and better standards of life in a larger freedom.

## CONCLUSION

There exists a form of democratic vitality in the Nepalese society. Both the normative framework of constitutional democracy and the government by law legitimize open and serious discussion about civil society, popular sovereignty and human rights in the nation. But, how is the sovereignty of people realized and the tension between citizenship rights and human rights managed? Can this situation be expected to draw consensus about democratic practice and the right to development? How can minorities participate in a system of competition monopolized by the beneficiaries of state power? How is the state separated from governmental power, because the state is supposed to act as a representative of the entire people rather than just the political constituencies represented by the government? Or, by extension, how can the government be made representative of the entire people, motivated to protect their human, ecological and social rights? How do civil societies, democracy and development produce the synergy necessary for nation building?

Nepal does not have a neutral mechanism for formulating political decisions in general, a mechanism whose mature decisions are trusted by all quarters so that it can come up with workable policies. The principles of the constitutional state and the system of rights have yet to evolve a practice of protecting the moral integrity of its members. The gradual retreat of the public space and collective goal-setting mechanisms has therefore resulted in the subordination of the conscience of the nation for private benefit. It is this that continues to make politics incompatible with morality. In this context, the legacy of the native, voluntary, self-help and charity sectors and altered political conditions in the country are expected to give a dose of continuity to civic institutions and activities in Nepal and inspire the people to struggle for value-based politics. The tendencies of mainstream political parties, as exhibited by their leaders' faith in privatization and economic liberalization, have rendered a *minimalist role* for the state reducing its control over economic policy options. This condition is responsible for inciting the citizens, consumers and workers to collaborate for contesting the authority of the political and economic societies and search for public and common goods. An avenue for social movements of people for the expansion of political and public spheres has thus been opened.

Development provides material preconditions for equal status among legal persons and helps in the actualization of their citizenship and human rights. The eroding capacity of political parties as mediating structures between the state and the society is to be blamed for spilling societal discontents into the streets. One can gauge these effects by the increasing frequency of social movements (Dalits, women and right-based organizations), movements faced by those facing political alienation (ethnic groups, moderate left parties, smaller political parties, minorities), movements related with rebellion (Maoists) and the gradual retreat of the state from the society. There is a high degree of social, economic and political inequality in the society rendering consolidation of democracy difficult, as each government rationalizes authoritarian measures for its own survival and to fulfill the imperatives of the polity. A process of liberation requires a search beyond the government's efforts in material production, socialization and social integration. Legislative enforcement to social change can be done only with the help of NGOs and civil society organisations. Here, emphasis needs to be given on coalition building across the boundaries between the civil society and the state.

In the case of Dalits, the bonded laborers or *kamaiyas* and destitutes, many post-modern forms of civil society organisations assert that these socially constructed ills ought to be subjected to deconstruction in order to open a space for their participation and transform their identities. A new form of social integration, implicit in the practices of the people to create an ideal social order, must be built to enfranchise them as sovereign citizens. Their own capacity to use social organisations for political action is feeble, therefore, civil society groups are expected to illuminate them with insights to dispel social stereotypes and promote horizontal social integration processes. Despite their decisive electoral clout, poorer and marginalized citizens still lack political power and influence in the decision making process. One critical factor in determining their political participation is education, while another is changing their model of organization and coalition with like-minded groups and, still,

the other is an effective mode of communication to the policymaking community. Their post-liberation from poverty is a phase that presupposes their reha-bilitation, social and economic opportunities for “dialogical” interaction and political participation. This phase also establi-shes the legitimacy of the civil society sector to complement the state and private sectors, offering a new channel to introduce social capital and democratic approach. The civil society is expected to serve as a symbol of change for creating a modern, democratic and just state where the rich and powerful are no longer above the law and where grassroots efforts to build social capital grow. Such a state allows people to lead lives free of want and insecurity to become masters of their own destiny.

The more the dominant institutions of governance are removed from the web of needs and concerns of citizens, the better the scope there will be for voluntary associations and civil society. By linking up to the global associational revo-lution for democratic transformation, the civil society organi-sations in Nepal have been providing the impetus for a number of local initiatives and creativity. Local NGOs and citizens’ organizations at the grassroots level are thus becoming institu-tional partners in planning, interacting, monitoring and influencing public policies on governance. At the same time the pattern of donor assistance is also shifting from aid to the state to aiding the NGOs and civil society organisations to strengthen their capacity. The new aid pattern has been justified by good governance imperatives which requires a bolstering of the strength of local intermediary bodies. It is also expected to help set constrains on the state’s tendency to resort to arbitrariness in decision-making and action. Some donors are even providing linkages to elevate the marginalized and deprived groups through a civic mechanism to enable them to defend their identities, cultural rights and properties.

In such a climate, is it possible to bring the diverse civil society on to a voluntaristic platform so that it engages itself in social action to promote democratic development in Nepal? Certainly yes, if civic groups are organized and geared towards responding to the diverse needs of the people and controlled by and for them. Such an orientation could surely provide them the wherewithal to confront long-term issues of sustainable human development and good governance. Only then can the right to development find its utility in the organization of the state, its democratic polity and civil society- a situation that would ensure self-realization and self-determination.

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