



OPINION:
Dipak Gyawali



FACE TO FACE:
Rajendra Kumar Khetan



INTERVIEW :
Scott Skinner

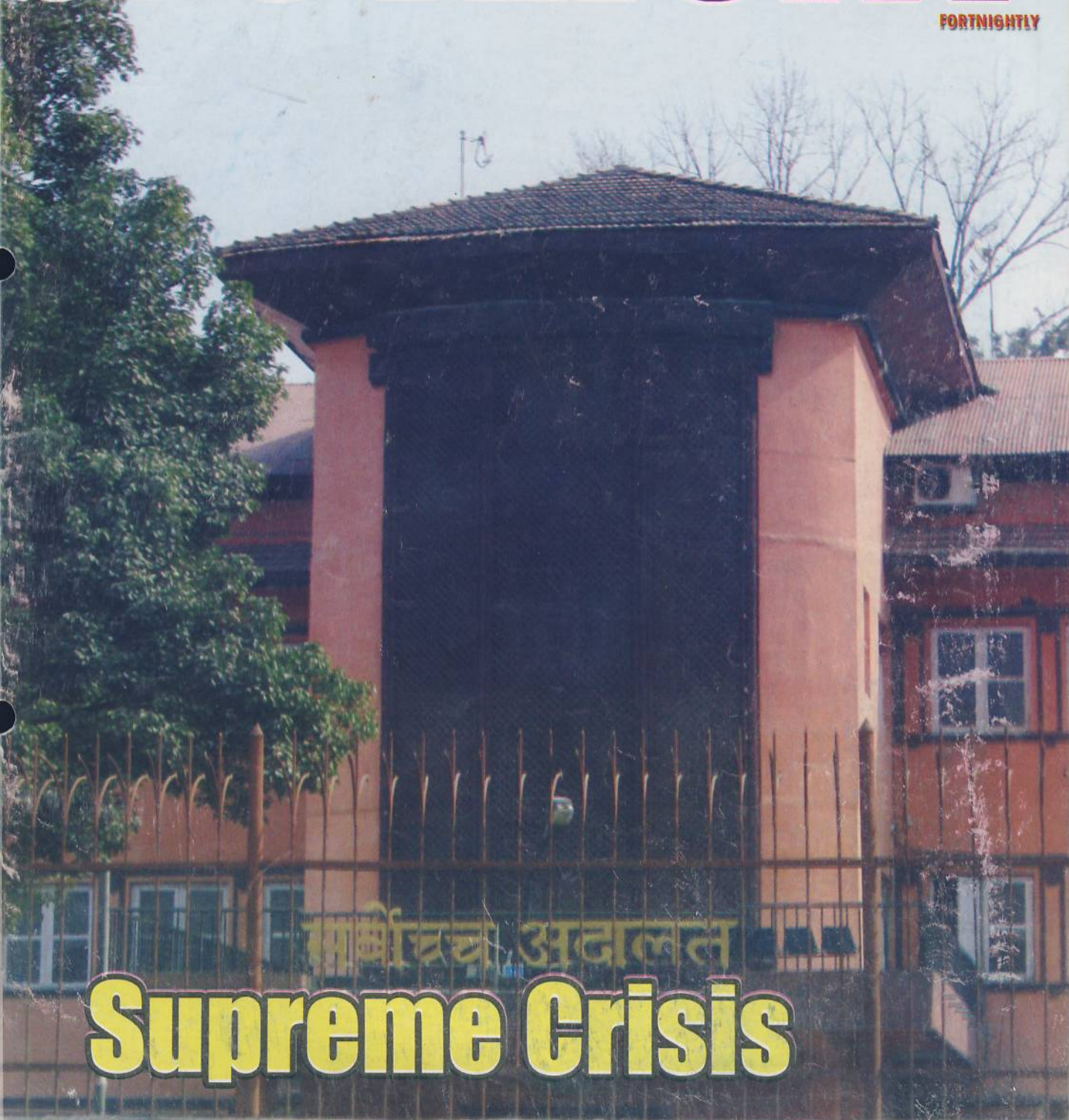
New

SPOTLIGHT

Dec-14-27, 2012

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From The Editor

Democratic institutions, which evolved over the last six decades of democratic experiments and exercises in Nepal, are in the process of demolition one after another. The system of government, the parliamentary system, is now history, with the rise of a consensus form of an unaccountable government. Because of the failure to hold elections, local democratic bodies are in a mess or in the hands of unelected representatives. After the failure to extend the tenure of justices in the apex court, Nepal's judiciary is undergoing the same process now. One may blame this or that person for the present failure, but the fall of an independent of judiciary will be in nobody's interest. Only a stable and strong judiciary can protect the individual liberty and freedom, withstanding populism. Weaker judiciary is always guided by populist pressure. The recent state of judiciary will have a long term implications for an Independent Judiciary. The institution that is giving justices to the common people, however, has failed to give justice to its own justices. Passing through all kinds of jolts and tremors in the last six decades, Nepal's judiciary has always stood against atrocities by the state. In the past, the court always stood to protect the rights; even those involved in terrorism got a respite. Of course, the court seems to have surrendered before the populism and failed to protect individual liberty, particularly on certain cases recently, but that does not mean that it has lost its sanity. We decided to look at the judiciary after the expiry of the tenure of five temporary justices as a cover story. For another story, politics is gradually being constrained by the limited options before the president. As the president has already entered in the game, he has two choices before him. He can pick a prime minister from political parties or nominate a civil society leader.

Keshab

Keshab Poudel
Editor

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Editor and Publisher : Keshab Poudel, Senior Editor: Alok Tumbahangphey, Senior Correspondent: Saroj Dahal, Correspondent: Uma Kanta Khanal, (Jhapa) Abijit Sharma (New Delhi), Reporter: Debesh Adhikari, Niraj Aryal

Marketing Manager : Madan Raj Poudel, Tel: 9841320517, Nabin Kumar Mahajan Tel: 9841291404, Photographer : Sandesh Manandhar

Cover Design/Layout : Hari Krishna Bastakoti, 9841456791

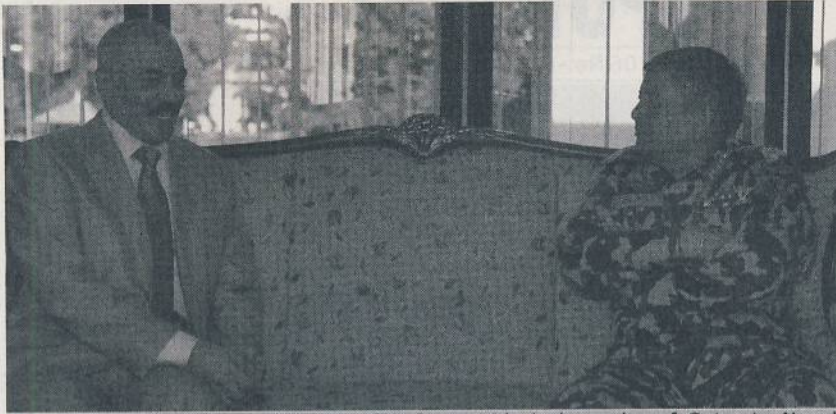
Editorial Office : Tel: 977-1-4430250 E-mail: spotlightnepal@gmail.com, P.O.Box: 7256

Office : Kathmandu, Nepal

Printers : Pioneer Offset Printers (P.) Ltd., Dhapasi, Kathmandu, Ph: 4363624

Kathmandu DAO Regd. No. 148/11/063/64, Central Region Postal Regd. No. 36/067/068

US Library of Congress Catalogue No. 91-905060, ISSN : 2091-0711 (Print), ISSN: 2091-0754 (Online)



Nepal Army Chief General Gaurav SJB Rana with Ambassador of Qatar to Nepal Ahmad Jasim Mohammed Ali Al-Hamar at Nepal Army Headquarters.

Nepal 83rd In Access To Civil Justice: Report

Nepal ranks 83rd among 97 countries in guaranteeing access to civil justice, according to the World Justice Project's Rule of Law Index 2012 report. Strengths in the areas of security and criminal justice were also found.

Released this week in Washington, D.C., the report ranks countries across eight areas impacting on the rule of law: limits on government power, corruption, security, fundamental rights, open government, regulatory enforcement, civil justice, and criminal justice. According to the World Justice Project, the report is the product of interviewing 97,000 members of the general public and more than 2,500 experts in 97 countries.

New Partnership To Improve Nutrition Status

UNICEF and the USAID-funded Suaaharaprogram implemented by Save the Children entered into a new partnership by signing an agreement to consolidate their efforts to address maternal and child under-nutrition aiming at preventing chronic malnutrition in the first 1,000 days of a child's life.

This partnership will support the Government of Nepal's Multi-sector Nutrition Plan (MSNP) with focus on a set of highly cost-effective and essential actions for mothers, infants and children 6-23 months. The partnership will result in coordinated infant and young child feeding activities in six UNICEF and 20 Suaahara districts.

Dr. Karan Singh Returns

Dr. Karan Singh left for India after concluding his visit to Nepal. During his stay, he unveiled the restored 700 year old Lok Kriti Mahavihar in Lalitpur. The monument has been repaired and

restored to its original glory under the India-Nepal Development Partnership. On the Occasion, Dr. Singh called for close cooperation between India and Nepal in promoting the birth place of Buddha in Lumbini in Nepal and places such as Bodh Gaya, Sarnath and Kushinagar in India as part of a Buddhist circuit. Dr. Singh presided over a function at the Indian Cultural Centre, Kathmandu, in his capacity as the President of the Indian Council for Cultural Relations. At another function, he launched the website of the India Nepal Friendship Foundation.

Dr. Ram Baran Yadav, President of Nepal presided over the function. The function was attended by a large number of alumni in Nepal of the Banaras Hindu University, among others.

Japanese Aid For Enhancing Perinatal Care

The Government of Japan has decided to extend financial assistance of 550,084US Dollars; equivalent to approximately 48,902,467 Nepalese Rupees, to AMDA Multisectoral and Integrated Development Services (AMDA-MINDS) under the Grant Assistance for Japanese NGO Projects Scheme of the Government of Japan in Japan's FY 2012. AMDA-MINDS will provide technical and financial supports to a partner agency AMDA-Nepal to implement the Project for Enhancing the Quality of Perinatal Care in Siddhartha Children and Women Hospital (2nd Phase).

EU Grants 8.5 M Euro To Election Commission

The Election Commission of Nepal (ECN), the European Commission (EC) and United

Nations Development Programme (UNDP) have embarked on a new partnership to strengthen the foundations of democracy in Nepal. A four year financing agreement was signed between the European Commission and Ministry of Finance to support the Election Commission's ambitious institutional strengthening reform agenda that is built on its recent successes. A separate project implementation document was also signed between Election Commission and UNDP to implement the reform programme.

The U.S. Government Support of the Nepal Peace Trust Fund

U.S. Ambassador Peter W. Bodde signed a memorandum with the Ministry of Peace and Reconstruction (MoPR) acknowledging a U.S. Agency for International Development (USAID) contribution to the Nepal Peace Trust Fund (NPTF).

During the current life of the NPTF, USAID will support the peace process as a contributor to the Fund and as a participant in the Technical Cooperation Pool for Capacity Development (TC Pool). The U.S. Government is providing \$500,000 to the NPTF to support conflict-affected communities, transitional justice, future elections, public infrastructure reconstruction, and other peace commitments. As part of the TC Pool, USAID will also hire a Gender Equality and Social Inclusion Advisor.

Germany supports Nepal

The German Government continues the successful and long-standing bilateral economic cooperation with Nepal in the mutually agreed focal areas of 'Economic Development and Trade, Renewable Energy and Energy Efficiency, and Health.

Further activities are implemented in the field of infrastructure development and strengthening of the peace process. The German Government will make available a total amount of EUR 37.2 million for new and ongoing programs in Nepal for the years 2012 / 2013. This comprises of EUR 14.0 million for Financial Cooperation and EUR 23.2 million for Technical Cooperation projects. The new commitment was formally communicated to the Government of Nepal by the German Embassy, Kathmandu. This brings the German Development Assistance for Nepal since the beginning of Nepal-German cooperation in 1961 to a total of EUR 1.099 billion.

According to a press release of German Embassy; the emphasis of German Development Cooperation in Nepal remains on inclusive development, poverty alleviation and support for the peace process in all sectors. ■

“Investment Year Has Lost Its Value”

PRADEEP JUNG PANDEY

Vice President of Federation, Nepalese Chamber of Commerce and Industries (FNCCI)

What is the state of private sector amidst political uncertainties?

The environment is not easy for private sector, but we have not lost all hopes. Political crisis has prolonged and nobody wants that. Only on the whims of private sector, it cannot be resolved. Private sector contributes for more than 84 percent of the economy. But the problems faced by private sector have not been addressed. The country hasn't been able to run on a system it should have run.



Where do you see problems in our system?

First, the budget doesn't come on time. Even if the budget is promulgated, the development expenditure cannot be spent properly. Only by bringing the budget on time, a country cannot run properly. On the other hand, even the world economy is facing hardships. However, Bihar, an Indian state, which shares an open boarder with Nepal, is taking big economic strides. So, in such a case, Nepal should have taken a lot of benefits from Bihar, but that has not been the case. The main reason is not only the budget, but also the failure to mend concrete economic policies according to time. For example, the Special Economic Zone Act which the private sector has demanded over a decade ago has not been able to materialize due to lack of favorable policies.

Have the government and the political parties failed completely to win the hearts of private sectors?

Yes, there has been no major attempt to win the hearts of private sectors which contribute 84 percent of the total national economy. Wining our heart means, making investment environment more favorable, and bringing better policies, solving labor issues. We are lacking even in fundamental issues. Importantly, we have not been to invest in infrastructure development.

(Extracts of the interview published in Karobar daily)

UN Official Urges End To Instability

Ajay Chhibber, UN Assistant Secretary General, UNDP Assistant Administrator and Regional Director for the Asia-Pacific concluded his two-day visit to Nepal urging the government leadership to find a way to end the political instability before it begins to affect the entire economy. Expressing UNDP's continued commitment to assist Nepal in its development efforts; he offered to do more—including pushing Nepal's case for more concessional access to climate financing.

Chhibber was here to assess Nepal's development situation. During his visit, he met with Prime Minister Baburam Bhattarai, Deputy Prime Minister and Minister for Foreign Affairs Narayan Kaji Shrestha, Finance Minister Barsha Man Pun, Vice Chairman of National Planning Commission Deependra Bahadur Kshetry, Governor of Nepal Rastra Bank Yubaraj Khatiwada, Officiating Chief Election Commissioner Dolakh Bahadur Gurung, Nepal based international development partners, members of UN Country Team and other senior government officials. During his meetings, he expressed concern over continuing political instability and its potential adverse effects on the economy.

IFAD To Support Agricultural Growth

The International Fund for Agricultural Development (IFAD) will extend a loan and grant of US\$39 million to the Government of Nepal to finance the Improved Seeds for Farmers Programme (Kisankalagi Unnat Biu-Bijan Karyakram in Nepali) with the goal of promoting inclusive, competitive and sustainable agricultural growth.



Madhu Marasaini, Joint Secretary, Foreign Aid Coordination Division, Ministry of Finance of the Government of Nepal, and Benoit Thierry, IFAD Country Portfolio Manager for Nepal, signed the financing agreement.

Quality-assured seeds and livestock development means better lives for rural women and men.

With this new programme, the Fund will have financed 14 programmes and projects in Nepal since 1978 for a total IFAD investment of \$198.2 million, benefiting 561600 households.

Nepal-USA Chamber hosted a reception

President of Nepal-USA Chamber of Commerce and Industry Narendra Kumar Basnyat hosted a reception to honor US ambassador to Nepal Peter W Bodde on Tuesday.

Welcoming US ambassador president Basnyat expressed the views that there are ample possibility to increase the volume of trade between the two countries.



US Ambassador to Nepal Peter W Bodde said Nepal has enormous opportunity to turn as a prosperous nation. He said US government continues to support Nepal to eradicate poverty and to enhance its economic capability.

UK announces \$5m to support and consolidate peace in Nepal.

The UK announced a US\$5.7 million contribution to the Nepal Peace Trust Fund (NPTF). The funds, provided under the UK Multilateral Debt Relief Initiative (MDRI), will go to the NPTF to implement the provisions of the Comprehensive Peace Agreement, including support to grassroots peace building initiatives, conflict-affected communities and future elections.

Last year the UK provided \$5.3m of MDRI funds as a contribution towards Government of Nepal programmes on rural electrification and hydro power. In announcing the contribution, Dominic O'Neill, Head of DFID Nepal, said: "Consolidating and building peace in Nepal is a key priority for the Government of Nepal and for the international community, including the UK. These funds underline our on-going commitment to work alongside the Government to help establish peace and stability in Nepal and to build a platform for the kind of longer term development which will improve the lives of Nepal's citizens. We also welcome confirmation that last year's \$5.3m MDRI contribution has been used for rural electrification and micro-hydro power programs. Bringing access to electricity can radically transform the quality of life of people living in rural communities and it demonstrates the huge potential that Nepal has to meet its own energy needs in an environmentally sustainable way." According to British Embassy Press release, MDRI funding is additional to the UK's development programme and annual budget for Nepal. ■

New Nepal's Diplomatic Self-Destruction

By DIPAK GYAWALI



Two events last week brought home again to an increasingly disillusioned public one more dismal failure of Loktantra, this time on the diplomatic front. BBC's popular program *SajhaSawal* discussed Nepal's diplomacy with Kathmandu's cognoscenti of international affairs and former ambassadors who are regarded as the more successful of Nepali emissaries. The core message received was that Nepal's international image is at rock bottom, and the blame lies squarely on its crass political class. A few days later, foreign minister Narayan Kazi Shrestha, in a public outburst unusual even in normless Loktantra, charged the President, the Prime Minister and all senior party leaders of violating diplomatic norms and kowtowing to foreigners. Normless because, in any country with norms (or *maryada*, in Sanskrit), one or the other of the worthies above, accused or accusing, would have resigned from public position long before or after such outbursts. But not in shameless Loktantra!

Apex of Nepali diplomacy is said to be during the reigns of Jung Bahadur, Chandra Sumshere and King Mahendra. BP Koirala's

time in office in 1959/60 was too short to make any impact, implying that a stable regime at home is a prerequisite for effective diplomacy. After all, a diplomat can only represent his government and its inherent strengths, and a weak state invites pity, not respect. King Mahendra was able to receive support for the country's infrastructure development from all four regional and international powers during the height of the Cold War. Jung Bahadur, having squashed squabbling courtiers and tamed an eccentric monarchy, was able to visit Britain and France at the height of their colonial powers as the respected head of a sovereign country. Chandra Sumshere demanded, and received, honours due a head of state unlike all other Indian rulers gathered at Delhi Durbar. Unfortunately, PM Baburam Bhattarai was received in Delhi by a junior bureaucrat as if he were nothing more than a visiting JNU alumnus, leaving all to judge how low the country's standing had reached! Hence it is no surprise that, despite fervent pleas, the Chinese have refused to issue an invitation to Baburam to visit China, and a visiting Chinese dignitary refused to meet Baburam or the President, judging it as pointless.

Nepal's descent into diplomatic nadir began after the demise of the Panchayat regime. Yes, there was then the odd ambassador caught shoplifting (and swiftly punished), but on the whole diplomatic *maryada* was maintained. The first diplomatic destruction was the post-1990 regime unceremoniously doing away with King Birendra's Zone of Peace concept that had been openly supported by 114 countries. India, which had imposed an economic blockade

on Nepal at the time, had not; but by jettisoning the ZoP, multiparty leaders send a clear message to the 114 countries that their support to Nepal during difficult times meant nothing to Nepal's new dispensation. It is no surprise that the international community subsequently began to see Nepal through Delhi's eyes.

Despite a Kedar Mathema in Japan or a Novel Kishore Rai in Germany (where Japanese and Germans have told this writer that they were the best ambassadors sent by Nepal to those countries), multiparty dispensation's emissaries lacked stature or skills to represent the country's interests. One prominent aid giving country was so upset a low level bureaucrat was sent as ambassador that its prime minister, on a short visit to

Kathmandu, refused to meet the party chief who had inflicted that insult! On substance, a bad multiparty blunder was during the activist campaign against the World Bank's Arun-3. When it became clear that the project's economic viability would be compromised by reported Chinese upstream withdrawals for irrigation, instead of Nepal directly dealing with the northern



Former Ambassadors Rai (left) and Mathema

neighbour, it asked the World Bank to do so. One cannot imagine a Chandra Sumshere or a King Mahendra even contemplating such a undignified *faux pas*!

Multiparty blunders just got worse under Loktantra. As with appointments to the university and its campuses or public corporations, ambassadors too were divided among party oligarchs who sent their lackeys abroad as reward for loyalty and a chance to line their pockets. It resulted in an ambassador to the Gulf pocketing dead workers' compensations, in a Nepali ambassador selling herbs restaurant-to-restaurant along the Mekong, and in the ambassador to Brussels asking the foreign ministry to provide an English interpreter. It pins one more 'incompetent' tag on the CA and its much-ballyhooed parliamentary hearing which could not do this simple language skills screening. Loktantra also saw an ignominious defeat of Nepal's bid for chairing the UN General Assembly. Foreign ministry officials mention that had Nepal offered a senior political figure, instead of a retired UN employee, it did stand a fair chance; but it was not a bid Nepal needed to make, both from the perspective of unnecessary costs that come with the honour, nor is such a bid to be made to merely pander to the whims of civil society activists. Similarly, much diplomatic capital was wasted (instead of being used productively to garner support to end crippling loadshedding) in promoting a party leader, who was responsible for criminalizing politics and institutionalizing corruption from Lauda to Darfur scandals, for a Nobel Peace Prize. Such caprices have

only made Nepal's future bids so much less credible.

A nadir has been reached under Baburam: the country's ambassador to Delhi was removed, and it has been over a year and no replacement has been sent since a nominated party hack was not acceptable to Delhi for reportedly fairly correct reasons. The present dispensation's attitude seems to be: why send an ambassador to Delhi when junior functionaries of Lainchour or their disreputable agents can enter the prime minister's residence at will any time or take his wife and daughter to a movie?! At the BBC program, Nepal's former ambassador to Delhi mentioned how a very senior politician requested a separate, one-to-one meeting with India's top leaders, something requiring the expending of much diplomatic capital to organize. It later transpired that it was only to request scholarship to his children! This writer too has heard complaints from senior academics and political cognoscenti in Delhi asking if Nepalis like us cannot do something to prevent senior Nepali politicians, ex-ministers and even prime ministerial contenders coming to Delhi and meeting political operatives stature-wise five ranks their junior, something that embarrasses the Indians but not our Loktantricksters sans any understanding of diplomatic *maryada*.

The Nepali/Sanskrit word for diplomacy is *kutniti*, the understanding and exploiting of hidden policies. When national interests have been forgotten and replaced by naked personal and coterie interests, what sense does it make to talk of unearthing the hidden? When de-industrialization of Nepal has been pursued so vigorously by parties in power since the 1990s, what empty rhetoric is 'economic diplomacy'? Juddha Sumshere understood the need to industrialize Nepal to find jobs for her youth when he organized Nepal's first industrial conference in 1938: New Nepal's rulers prefer to send the youth abroad and wallow in the remittances sent back. Loktantrick political culture needs big money to buy big muscle for a big electoral win, money that can come not from honest industrial investors and the taxes they pay from dividends but from the commission trade of comprador bourgeoisie. It is in the interest of the latter and rent-seeking politicians to instead de-industrialize, create a license raj scarcity and import the essential items of daily need at exorbitant prices. And the party oligarchs (and neo-liberalizing aid industry in partnership) have been only too willing to oblige.

An example of how blithely unaware Loktantrick rulers are of the hidden *kutniti* was brought home to this writer in the last six months: a Track-2 Dialogue between water experts of the Mekong and the Ganga was organized that was initially called Mekong-Ganga Cooperation until it was pointed out that a Track-1 initiative by that name already existed since November 2000 between India and the Mekong countries minus China. Its sixth ministerial meeting was held in September 2012 in Delhi, and it is said that Sheikh Hasina of Bangladesh has complained to her Mekong counterparts that a Mekong-Ganga Cooperation that did not include Bangladesh was a mockery. Sadly, if one asked Loktantrick Nepal's senior party oligarchs what Nepal has done on this issue, one fears the response might be: "What animal is the Mekong?" So much for New Nepal's economic and hydro-diplomacy! ■



Is India Losing Its Lead?

By YUBARAJ GHIMIRE

Chinese Ambassador Yang Houlan said recently that China is taking the initiative for peace and stability in Nepal, and that he is in constant dialogue with his Indian counterpart Jayant Prasad. It was generally taken as a neighbour's natural concern. The unspoken message was louder: gone are the days of India's lead role, which the international community either accepted or kept quiet about, and China is no longer the smaller player in Nepal, often called a buffer state between Indian and China.

A week later, Deputy PM Narayankaji Shrestha, also in charge of foreign affairs, went public about President Ram Baran Yadav and Prime Minister Baburam Bhattarai's "secret meetings" with the Indian ambassador. Shrestha, a vice chairman of the Unified Communist Party of Nepal-Maoist (UCPN-M), is a favourite of party chairman Prachanda. He has been late been urging that diplomats transgress not their limits. His ministry called a US embassy official and warned that visiting high-level US officials should stop the practice of meeting Nepal's army chief without concurrence from the government. He also turned down an EU request for a meeting with the president to lobby for an independent Truth and Reconciliation Commission with powers at par with similar international bodies.

"Will you apply the same standard or restriction should Indian diplomats be wanting to visit the president?" was a Western diplomat's query. Shrestha's outburst and his protest followed shortly. The movements and visibility of diplomats increased in proportion to the failure of Nepal's political actors. On December 7, President Yadav extended the deadline by another six days for a consensus PM. While Bhattarai continues as caretaker PM without being able to hold elections, others have failed to strike a deal on his successor. The UCPN-M insists Bhattarai will not go until there is "unanimity" on the fundamental components of the future constitution which others say should be left to the new legislature-cum-constituent assembly.

It's not only a lame-duck executive, but even the judiciary is truncated with just six judges left, with no parliamentary committee to confirm judges' appointments and those of other constitutional bodies.

For the international community, the prevailing situation matters in different ways. While freedom of religion becomes an important agenda when EU and Scandinavian envoys hold high-level meetings, China seems more keen on emerging as an influential player. For India, the challenge lies in dispelling the impression that Delhi is behind the current state of affairs and therefore linked to the current mess. Interestingly, Nepal's four main parties and its president are still trudging a path not knowing where it leads to. For now, blaming others is the easy way out.

Courtesy: *The Indian Express*



Chinese Ambassador Yang Houlan (Left) and Indian Ambassador Jayant Prasad meeting

SAARC

Elusive Cooperation

Even after 28 years since establishment, the South Asian Association for Regional Cooperation has been struggling to become a viable regional body

By A CORRESPONDENT

In its twenty eight years of regional cooperation, the regional body held 15 summit meetings and several other high level meetings to find out the agenda for regional cooperation in trade. However, the result has been below the expectation. Neither is it moving forward steadily, nor has it stopped.

If one tunes in to the rhetoric of the regional leaders, they have already expressed tons of words of hope and aspiration. In reality, nothing is moving. India, the largest block of the region, prefers a bilateral dealing with each country and small regional forum of countries because this will give it more leverage.

On December 8, the SAARC secretariat celebrated the 28th SAARC



SAARC Secretary General Ahamed Saleem

Charter Day in Kathmandu. Nepal's foreign minister NaryanKaji Shrestha termed it as an important day to remind the era of regional community. SAARC Secretary General Ahamed Saleem stressed the need to make it a viable institution. Foreign secretary Durga Prasad Bhattarai viewed that SAARC can make a lot of change in the region.

Despite these enthusiastic

statements, SAARC is yet to prove its relevance. As even the stronger regional bloc, the EU, is passing through a very critical phase, the coming days for SAARC are not going to be easier either.

"Under the prevailing conditions of South Asia, I don't see any possibility of the South Asian Association of Regional Cooperation (SAARC) emerging as a viable regional community," said professor Dr. Lok Raj Baral.

Formed during the hype of cold war era, South Asian Association of Regional Cooperation, a regional bloc of eight south Asian nations, celebrated its year of establishment with only a few people hailing it for its utility.

Originally, there were only seven members in SAARC, excluding Afghanistan, which was under the then Soviet bloc. Afghanistan was given membership in 2005 Summit. Eight member states in the regional bloc are diverse in terms of geography, culture and ethnicity.

The eight-member South Asian Association of Regional Cooperation (SAARC), whose leaders are supposed to meet this year in Kathmandu, already has nine observers. These are the United States, China, Japan, South Korea, Myanmar, Australia, Iran, Mauritius and the European Union. Turkey is now pressing to join SAARC as an observer.

"Of course, the prevailing conditions are not favorable for survival of SAARC, but the institution will bear fruit in the

Program Against Domestic Violence

SAATHI-Nepal, a pioneer NGO working in the areas of women rights, organised a panel discussions among renowned football players and former chief secretary Madhav Prasad Ghimire on our goal stop violence against women.

Moderated by president of SAATHI-Nepal Bandana Rana, various speakers including president of All Nepal Football Association Ganesh Thapa, member secretary of National Sports

long run given the regional situation," said Madhuraman Acharya, former foreign secretary and currently executive director South Asian Center for Policy Studies (SACEPS).

Out of eight members, Afghanistan, Bhutan and Nepal are landlocked and Sri Lanka and the Maldives are sea locked. Surrounded by India, largest members of the block, Pakistan and Bangladesh are the other two big members.

India shares its border with Nepal, Bangladesh, Bhutan, Pakistan and Sri Lanka and the Maldives with sea. The whole connectivity of the region is dependent upon India as all the regional members need to get access from India to conduct affairs and without India's role the regional bloc cannot move.

Although China was given just an observer status, it also shares borders with India, Nepal, Bhutan and Pakistan. China is interested to join the block as a member but it has been given the status of an observer as other nations like South Korea, Japan and United States.

"India's smaller neighbors, for example, want to see China play a larger role in the economic development of the region and take a more active part in the SAARC process. Beijing, in turn, has invested considerable diplomatic, political and economic energies in promoting a South Asian regionalism of its own imagination. Delhi's own strategic instinct has been to limit the role of China in SAARC," said India's strategic analyst C. Rajamohan.

For the last twenty seven years, SAARC's pace has been too slow. From South Asian Free Trade Agreement to South Asian Development Fund and South Asian Open University, it has made little progress. The challenges ahead for SAARC are to prove its utility in the region as other regional blocks. ■



Council Yubaraj Lama, former national soccer team captain Raju Shakya and Hari Khadka expressed their commitment to work to protect women from violence. ■

SUPREME COURT

Justices Denied

After the termination of the tenure of five temporary judges of the Supreme Court, which is constitutionally the final body to interpret the constitution and protect the rights of the people, and the retirement of some of the permanent judges earlier, the apex court is virtually rendered into an empty house of court. Had chief justice Khil Raj Regmi, who headed the Judicial Council, a body mandated to recommending the judges and ensuring appointment through the then existing hearing committee, taken the initiative earlier, this situation would have been safely avoided. Despite some of his remarkable decisions regarding the tenure and the role of Constituent Assembly, the chief justice could not demonstrate his judicial skill and acumen to deal with the situation keeping the Supreme Court alive with sufficient justices in it. Many blame the lack of vision and foresight on the part of the judicial leadership as pushing the Judiciary, which has a relatively stable history, into the course of uncertainty

By KESHAB POUDEL

Chief justice Khil Raj Regmi, Attorney General Mukti Pradhan and law secretary Bhesh Raj Sharma reached the President's Office in Shital Niwas in the evening of December 5 (Wednesday) and handed him an ordinance for amendment of the Judicial Council Act. This was the first attempt the chief justice made to prevent a looming judicial crisis. However, the President declined to issue the ordinance, considering its legal and constitutional matters. The chief justice made another attempt Thursday morning to woo the President in favor of the ordinance. However, both of his attempts failed to bear any fruit.

The issue of parliamentary hearing could have been easily tackled at least for the temporary justices. The path adopted through ordinances dragging presidential institution was a wrong step selected. That invited criticism from his own community.

Although the cabinet passed the ordinance to skip the process of

parliamentary hearings for appointment of judges and decided to send it to President on Tuesday (December 4), leaders of the opposition political parties blocked it, insisting on a package deal.

Sources close to the President confided that even before chief justice Regmi-led team reached the President's Office, former prime minister and CPN-UML leader Madhav Kumar Nepal sent a message to the President's advisor through a former CA member, Agni Kharel, not to issue the ordinance. Nepal argued that there was the need of obtaining a package deal. Similarly, NC leader Sushil Koirala and even UCPN-Maoist leader Pushpa Kamal Dahal Prachanda approached President and requested him to hold the ordinance.

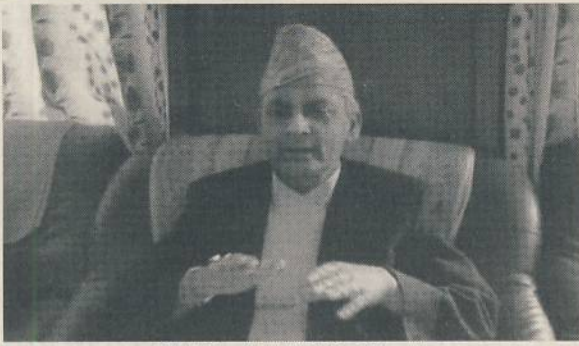
Constitutional experts and lawyers objected to this from the very beginning. Constitutional lawyers argued that the issue of appointment of justices will be resolved only through invoking article 158 of the Interim Constitution.

Blame Game

This was not a sudden, isolated incident. Everyone foresaw the crisis would appear as long as the mandatory provision of hearing for appointment in apex court existed. However, nobody is taking the responsibility for this grand failure. The symbol of justice seems to be rendered helpless inside an empty court house. "One has to take the responsibility for the present situation as it has not happened suddenly or overnight," said advocate Kumar Regmi. "The judicial leadership should speak to the people."

Of course, the judicial leadership is solely responsible for this. However, a group of former members of CA - who are waiting to take revenge against the court for its decision barring the extension of their tenure - ganged up against any move to extend the tenure of justices.

Present chief justice Khil Raj Regmi's predecessors were also responsible for the present state of judiciary. It was his



Chief Justice Khil Raj Regmi

predecessors who included the name of temporary judges in parliamentary hearings. The court also had found enough time to correct the situation. But, nobody did anything about it. The burden of indecisions fell on chief justice Regmi. The mistakes of justice Regmi is his failure to promote temporary justices as permanent when the parliament was still functioning.

"The chief justice- who has taken the oath to preserve the independence of the judiciary and uphold its supremacy- seems to have failed to protect the tenure and appointment of his fellow judges," said a lawyer.

At a time when all state institutions of Nepal have been going through a series of crisis, the present crisis of judiciary should not surprise many. Given the nature of the political crisis Nepal has been passing through, one individual can minimize the damage, but he or she cannot stop do away with it completely.

Senior advocate Radhe Shyam Adhikari argued that one of the solutions would be recess appointment by Judicial Council. It would be sent for approval when the parliament resumes again. "In the absence of parliament, the Judicial Council can appoint the justices," said



President of Nepal Bar Association Prem Bahadur Khadka

Adhikari. This is also the least damaging way."

Friendless Court

The court has no friends to defend it. UCPN-Maoist does not believe in independent judiciary and influential members of CPN-UML lobby against it. Members of Nepali Congress, the sole believer in an independent

judiciary, are not happy with the court for some of its judgments including the decisions against the extension of the CA tenure.

Former chairman of the Constituent Assembly Subas Chandra Nembang, who was against the current chief justice Khil Raj Regmi's decision terming the extension of tenure of Constituent Assembly unconstitutional, reportedly made efforts to preempt the chief justice. This was the reason as soon as the cabinet passed the ordinances all those who were against Regmi put up a united effort. They were lobbying from behind screen to make sure that the president should not sign this extra constitutional request for issuing ordinance.

"By sending the ordinance to remove the clause related to parliamentary hearing, Judicial Council has tried to play a sub-ju-dice case. If the court start to violate the subjudice case, how can the court question on the sub-ju-dice issue involving others?" asked advocate Agni Kharel.

Petition to Retain Case

Earlier advocate Achyut Prasad Kharel filed a petition in the Supreme Court with a demand to remove the clauses of hearing for those who were appointed following the similar process. However, the division bench headed by justice Ram Kumar Shah and justice Girishchandra Lal gave a split order, allowing the case to go to a larger bench of minimum of three judges.

However, there is no third judge included to join the bench and resolve the issues. Since chief justice Khil Raj Regmi and justice Damodra Prasad Sharma are ex-officio of Judicial Council, they cannot hear the case and justice Ram Kumar Shah and Girish Chandra Lal cannot be a part of larger

bench. There remain two judges, Kalyan Shrestha and Sushila Karki, who could not make for the three judges bench.



Bharat Raj Upreti

"Notwithstanding this sub-ju-dice case related to the very issue of rehearing of the judges, why and how the Judicial Council which consists of chief justice and senior most justice of the court, recommended amendment in the Judicial Council Act superseding the constitutional provision and practice of rehearing of the very temporary justices shall remain a debatable constitutional question," said a senior advocate and constitutional lawyer on condition of anonymity.

Empty Court

Temporary justice of Supreme Court Bharat Raj Upreti tendered his resignation a week ago knowing that his tenure would not be extended. However, justice Professor Dr. Bharat Bahadur Karki, Tarka Raj Bhatta, Vaidyanath Upadhyaya, Gyanendra Bahdur Karki and Kamal Narayan Das waited till the last minute facing humiliation. "One can only express sympathy to those justices who dared to face humiliation till the last date," said a lawyer.

After the resignation of justice Upreti and expiry of tenure of the five temporary



Agni Kharel

justices, six permanent and one temporary justices have been left in the Supreme Court. But, justice Prakash Osti seems to be hoping against hope to have some miracle for extension of his tenure. No matter how much the amount of humiliation, he seems to be ready to face it. Justice Osti's tenure will end on January 22.

"The present crisis in the judiciary is



Chief Justice Regmi (Left), President Dr. Yadav and Vice-President Jha File Photo

the failure of judicial leadership,” said president of Nepal Bar Association Prem Bahadur Khadka. “The constitutional provision cannot be changed just by amending the law.”

Lone Judiciary

In the past, lawyers and politicians always backed the court at the time of crisis. However, nobody is there to defend it now. Some lawyers stayed away for political reasons and a large number of others decided to be neutral.

Lawyers and politicians argued that Nepal's Apex Court, which has a proud history of defending individual liberty, has lost its utility as the institution even ignored many internationally recognized principles of justice and liberty. The court is paying the price due to the surrender of judges before populism by punishing offenders by ignoring universal norms of justice and liberty.

On Wednesday, the full bench presided by chief Justice Khil Raj Regmi dismissed the review petition filed by Nepali Congress leader Khum Bahadur Khadka, who is now in prison on corruption charges. Although review petition related to corruption offences earlier are still pending, Khadka attracted priority attention of chief justice. Under a populist pressure, Nepal's judiciary has in recent months done nothing to protect the individual liberty. In corruption case, Nepal's judiciary has blindly upheld the accusation made by investigative authority.

“What is the use of judiciary if it fails to impart justice to individuals? At a time when all indicted criminals and war

lords are moving freely challenging court's order, democrats have lost the faith on court when it denied to accept a petition for review,” said a lawyer.

With the demise of Constituent Assembly on May 28, 2012, the demolition of institutions is continuing. Promulgated under the dicta of “eight political party”, the flaws of the Interim Constitution is gradually demolishing

democratic values, principles and modern democratic institutions, which were established in six decades long democratic exercise, one after another. Nepal's prolonged political instability has left nothing intact.

“It is a great lesson to learn, if one wants to learn; if you fail to protect the constitution, the very constitution cannot protect you. No matter how many constitutions, you could or would write. Of course, one can solely blame the chief justice for the present crisis but other political actors too are equally responsible for the present state of judiciary. Along with some individual bad decisions, the court has also made many decisions in the past and recently to defend Nepal's interest.

From Maoist insurgency or through parliamentary declaration or through Interim Constitution, efforts, however, are being made to weaken the Independent Judiciary. Has the long game plan to weaken the independent judiciary finally materialized? ■

धूमपान र मद्यपानबाट
टाढा रहौं, सुखी र
स्वस्थ जीवन
बिताऔं ।



नेपाल सरकार

सूचना तथा सञ्चार मन्त्रालय

सूचना विभाग

FOREIGN POLICY

Narayankazi-Speak

Petty political remarks by deputy prime minister and foreign minister Narayan Kazi Shrestha at a time when important foreign affairs related events are taking place reflect his immaturity in dealing with Nepal's foreign policy

By A CORRESPONDENT

Led by chief of Nepal's Armed Police Kosh Raj Wanta, a high level security team recently returned after completing bi-lateral security talks with the Indian counterparts.

According to the APF, the two-day meeting discussed various issues like terrorism control, illegal weapons, drug trafficking, border security, crimes, fake currency smuggling and exchange of related information. APF said it was a goodwill visit and meeting was expected to adopt a new tradition and trends



Foreign Minister Narayan Kazi Shrestha

related to bilateral security concerns. Director General of India's SSB Pranay Shay led the Indian team.

Other members in the team were DIGs Sushil Kumar Shrestha and Sailendra Khanal of APF, SSP Rajesh Shrestha of APF, DIG Surendra Bahadur Shah of Nepal Police, Director of National Investigative Department Dev Raj Bhatta and Joint-secretary Sambhu Prasad Ghimire of Home Ministry.

Similarly, a three-day Nepal-India border talks concluded in New Delhi recently. Border talks are being held after the secretary-level talks in the Indian capital in January last year.

Similarly, Nepal has sent the proposed new transit treaty to India as

Nepal-India Transit Treaty is going to expire on January 6, 2013. Nepal has urged India to renew the bilateral Transit Treaty by adding five new trade and transit routes so that the country could start use of routes considered important for giving impetus to trade with other countries, including Bangladesh.

Existing Nepal-India Transit Treaty is set to expire on January 5, 2013. The treaty has a provision of automatic renewal, however, either side needs to

approach the other for renewal if it wants to add or remove certain provisions.

"We have already sent a request to India for renewal of the Transit Treaty with changes," said a senior official at the Ministry of Commerce and Supplies

(MoCS). The ministry through the Ministry of Foreign Affairs (MoFA) has also requested the southern neighbor to hold secretary-level talks so that negotiations on changes that Nepal has sought could be concluded soon for timely renewal of the treaty.

India in February 2011 had given its nod to open those routes as well. However, the two sides have not yet finalized modalities for operationalizing these routes. "Through the secretary-level talks, we hope to finalize operation modalities. It will pave the way for inclusion of those transit routes in the bilateral transit treaty," said the source. However, India has not responded to Nepal's call yet.

Although foreign policies are the strategies used by governments to guide their actions in the international arena and foreign policies spell out the objectives state leaders have decided to pursue in a given relationship or situation as well as general means by which they intend to pursue those objectives, day-to-day decisions made by various arms of government are guided by the goal of implementing foreign policies.

Although the security team returned following discussions with the Indian side agreeing to improve better coordination in curbing criminal activities in border areas and sharing information, Nepal is yet to announce its position on equally important transit treaty.

When Nepal is on the way to finalize many dealings with its southern neighbor on issues related to Nepal's vital interests, Nepal's foreign minister and deputy prime minister Narayan Kazi Shrestha got involved in petty disputes.

He accused president Dr. Ram Baran Yadav and prime minister Dr. Baburam Bhattarai of not inviting him in the meeting with top politician Dr. Karna Singh from India recently.

"I am fed up with the present state when Foreign Ministry's role in dealing with foreign affairs was completely undermined. President Dr. Ram Baran Yadav and prime minister Baburam Bhattarai met foreign dignitaries without any knowledge of the Ministry. Recently, the president invited Indian leader Dr. Karan Singh in Shital Niwas without our knowledge. Similarly, prime minister Dr. Baburam Bhattarai met Indian ambassador without any knowledge of the Ministry."

In his hour long intimate off-the-cuff with selected media personnel, Minister of Foreign Affairs Narayan Kazi Shrestha did not mention anything on bilateral border talks, transit treaty, and security meeting.

Having spent almost all his political career as an "underground" worker of CPN-Masal, a radical communist party, foreign minister Narayan Kazi Shrestha, who is also from prime minister Dr. Bhattarai's home district, seems to be naïve in foreign affairs. ■



President's Exercise of Article 38 (1): A Constitutional Necessity

By ANKIT DHAKAL

To break the persisting political deadlock, the President called upon the political parties to recommend a proposal within the 29th of November to select a Prime Minister based on "political consensus" drawing authority from Article 38 (1) of the Interim Constitution of Nepal, 2007. The provision entitled **Constitution of the Council of Ministers** states, "*The Prime Minister shall be selected by political consensus and the Council of Ministers shall be formed under the chairpersonship of the Prime Minister.*" This has led to a controversy between those seeking to further extend the deadline for consensus building (confirming the use of Article 38.1) and those questioning the constitutional legitimacy of such an exercise by the President. For the nascent institution of the President replacing monarchy from Nepal, these questions are of the greatest importance to the stability of the entire system in days to come. It is therefore something worthy of legal analysis in the interest of upholding the Interim Constitution and the future of the very system.

Two constitutional provisions need careful examination in this regard. First, one must look at the status and accompanying duty accorded to the President by the Interim Constitution of Nepal. According to Article 36 (A) of the Interim Constitution, the President shall be the Head of the State and in that capacity, his main duty shall be to protect and abide by the Constitution. Apart from granting the status of the Head of the State, the provision explicitly sets out the primary duty of the President as far as the constitution is concerned. As the vanguard of protecting and abiding the Interim Constitution, the President is under an obligation to check conformity with the Constitution.

Keeping this in mind, one must now consider the spirit of the Interim Constitution. As has been mentioned in the very preamble along with reiteration in provisions to follow, it is further clear that "political consensus" is central to spirit of the present Constitution. Now applying this to the specific situation of selecting the Prime Minister, as mentioned above, Article 38 (1) of the Interim Constitution emphasizes on political consensus as the first method of solving the question of choosing the Prime Minister. The President was therefore under a constitutional obligation to call upon the political parties to sort out their differences and work on political consensus in order to select the Prime Minister. It was with the intention of upholding and protecting the spirit of the Constitution emanating from a prime constitutional duty, that the President sought consensus on this issue from the political parties.

It must further be noted that the other method of electing

the Prime Minister has been enshrined under Article 38 (2) of the Interim Constitution. According to it, the same shall take place through an election by majority of members present in the Parliament, if consensus is not possible. Without doubt, this provision (Article 38.2) has become redundant since the twin dissolution of the Legislature-Parliament and the Constituent Assembly on the 28th of May, 2012. In the absence of the Legislature-Parliament from the mentioned date, the question of electing a Prime Minister through the manner outline in Article 38 (2) is not a possibility.

Furthermore, the question of reviving the dead Parliament even for a limited period of time to elect a Prime Minister does not arise as the matter should have been settled before completely dissolving the said institution. It would be a grave constitutional blunder to consider the revival of the

Legislature-Parliament on any grounds post the dissolution of the Constituent Assembly, as it will be *ultra vires* the Constitution. This is because Article 83 of the Interim Constitution dealing with tenure of the Legislature-Parliament states that, "*Notwithstanding anything contained elsewhere in this Part, the Constituent Assembly shall also act as Legislature-Parliament as long as the Constituent Assembly remains in existence...*" It is amply clear from the given provision that the existence of the Constituent Assembly is a vital precondition to the life of the Legislature-Parliament. Since the dissolution of the Constituent Assembly has already occurred, any move to

revive the Legislature Parliament would be unconstitutional by virtue of Article 83 of the Interim Constitution.

It is only through the analysis of relevant constitutional provisions along with the spirit of the Constitution that, the President's call for consensus among political parties to select the Prime Minister can be understood. It cannot be denied that the Interim Constitution is based on giving priority to consensus and this is the very spirit of the said Constitution. The current majoritarian government, which has been limited to the role of a care-taker ever since the dissolution of the Constituent Assembly, should grant primacy to the spirit of the Constitution i.e., make way for a consensus government capable of leading the nation to a fresh election. In this light, the President was merely carrying out a constitutional duty in seeking consensus among the political parties and hence, there is no ground for questioning the constitutional/ legal validity.

Advocate Dhakal, is currently pursuing M.A. in International Law and Human Rights at United Nations Mandated University for Peace- Costa Rica.



President Dr. Yadav



President Dr. Yadav (Left) and PM Bhattarai

POLITICS

Limited Options

Given the present situation, president Dr. Ram Baran Yadav's options seem limited

By KESHAB POUDEL

UCPN-Maoist leader Prachanda quietly met CPN-UML president Jhalnath Khanal at his residence Swayambhu in the evening of December 10 (Monday) and he expressed his willingness to compromise on every issue.

Khanal warned Prachanda that time was running out. "If your party still sticks to power, you must prepare to pay a costly price," Khanal reportedly told Prachanda who also met president on Wednesday (12 December) morning.

Prachanda's commitment expressed to Khanal did not last for ten hours. Addressing party cadres, Tuesday, December 11, Prachanda asked to prepare and fight another battle to defeat the old mentality.

Maoist leader Prachanda, who was regarded as a ruthless commander and strong strategist during the insurgency, recent statements is full of contradictions. Opposition leaders have already questioned Prachanda's

credibility.

"He is no more trustworthy. Nepali Congress will not bow down to him and UCPN-Maoist," thundered Nepali Congress leader Arjun Narshing KC.

Despite several rounds of bilateral and multi-lateral talks, Nepal's political parties have failed to find a consensus candidate to submit to president Dr. Ram Baran Yadav to replace present prime minister Dr. Baburam Bhattarai. Given the present political scenario, consensus candidate seems unlikely even if the president issues another extension.

Options before President

If political parties fail to submit a consensus candidate, the president has a very limited choice. He will have to nominate somebody else to lead the government and hold free and fair elections or to allow present care taker government to continue. That the president's office issued the notice seeking the new consensus government

cannot justify continuation of the present government for indefinite period of time. As the president has already entered in the game, he has two choices before him. He can pick a prime minister from political parties or nominate a civil society leader.

"The president has to take the country before the time of dissolution of Constituent Assembly by prime minister Baburam Bhattarai. I am not calling for the revival of dissolved CA. Only the president has the key to end the current constitutional deadlock," said CPN-Maoist leader Dev Gurung.

As a guardian of the constitution, he cannot wait and watch the political game helplessly without forming a new government to hold the new elections. "The president should dismiss this incapable government and appoint new prime minister on the basis of consensus," said former prime minister Surya Bahadur Thapa in interactions with selected media persons.

Given the on-going political disputes, any kind of political consensus will be unlikely in the near future. Four major political parties are yet to show any sign for political compromise. The current disputes among political parties maximize the possibility of forming a government under a neutral civil society leader.

Since the dissolution of the Constituent Assembly in May 28, 2012, Nepal has already missed the elections date proposed for November 22, 2012. As political polarization is widening further, it is unlikely to hold the elections in April 2013. Prime minister Baburam Bhattarai has already hinted at the possibility of postponement of the elections even in April 2013.

Along with the political crisis, constitutional crisis is likely to deepen too. If the political parties fail to suggest the new name, the president will need to make a move. President Yadav has already made it clear that he will abide by the constitutional role.

In the last six decades, Nepal has landed in more or less similar kinds of political situations where for the faults of the political leaders, the constitutions always suffer a setback. ■



Survival Of Kyoto Protocol

By BATU UPRETY

Climate change-induced disasters are increasing and have largely affected the people and their livelihood. Climate change was realized nearly three decades back, and legally-binding instruments - the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol (KP) - were adopted in 1992 and 1997 respectively. The Convention and the Protocol provision for taking necessary actions in addressing the on-going and emerging threats of climate change.

Parties to the Convention and the Protocol meet every year and decide measures for their effective implementation. Recently, Parties met at Doha, Qatar, from 26 November and to 7 December 2012, and have made many decisions to implement the Convention and the Protocol. As this author mentioned in the previous article, there were

seven sessions at Doha namely: (i) 18th session of the COP (Conference of the Parties to the UNFCCC); (ii) 8th meeting of the CMP (COP serving as the Meeting of the Parties to the KP); (iii) 37th session of the Subsidiary Body for Implementation (SBI); (iv) 37th session of the Subsidiary Body for Scientific and Technological Advice (SBSTA); (v) Ad-hoc Working (AWG) on Long-term Cooperative Action (LCA); (vi) AWG on Further Commitments for Annex I Parties to the KP; and (vii) AWG on Durban Platform for Enhanced Action (ADP).

Major Decisions

Doha conference was successful in closing the AWG-KP and the AWG-LCA, and streamlining the work plan for ADP. The KP Parties decided for 8 years second commitment period (CP2) which obliged the developed countries to cut greenhouse gas (GHG) emissions. It saved multilateral climate change regime. Non-CP2 Parties are not allowed to participate in the flexible

mechanisms. Annex I Parties committed to reduce GHGs emissions by 5.2 percent at 1990 level during the first commitment period (2008-2012) and this time, they agreed to reduce only 18 percent in aggregate by 2020 at 1990 level. It is not in line with IPCC Fourth Assessment Report which urges to reduce at least 25 - 40 percent to restrict global temperature rise to 2°C. Another decision is related to 2 percent share of proceeds (Clean Development Mechanism, CDM)



Climate Activists in Doha

which will go to the Adaptation Fund. The AWG-LCA also completed its work and any remaining issues might be further negotiated in SBs.

The ADP work plan has been agreed upon with two additional sessions in April-May and September 2013 besides during the SBs meetings. The work stream 1 will consider the balanced approach to enhance adaptation and mitigation while exploring a range of actions that can close Pre-2020 ambition while the work stream 2 will concentrate its work to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all parties by 2015 and to be implemented from 2020.

Decisions on matters related to LDCs, National Adaptation Plan (NAP) formulation, financial resources (LDC Fund, Special Climate Change Fund, Adaptation Fund, and Green Climate Fund), Clean Development Mechanism (CDM), national communications, Article 6 of the Convention (education

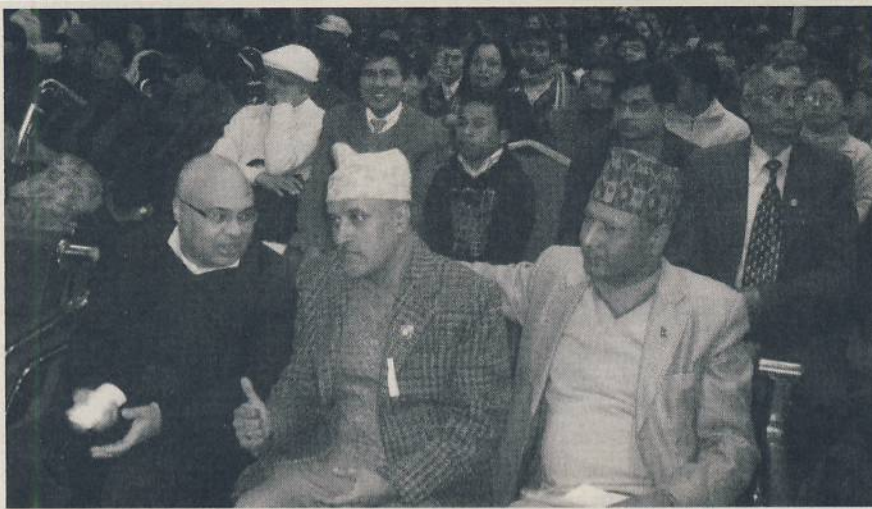
and training) etc have further relevancy to Nepal. One of the decisions on 'Guidance relating to the CDM' is that 'only Parties that have ratified a second commitment period of the Kyoto Protocol may continue to participate in ongoing project activities under Article 12 of the Kyoto Protocol'. Similarly, decision on NAP is to provide funding from the LDC Fund to meet the agreed full cost of activities to enable the formulation of NAP in LDCs. Another decision was to prepare for the setting up by next year's Conference of an "international mechanism" to help developing countries deal with loss and damage caused by climate change, and so on.

Climate change negotiation is becoming complex in the recent years. Although Doha Conference could not deliver as intended, what has been achieved is one step forward to implement the climate change regime.

Dream to Reality

The 2010 dream to make Nepal as the Chair of the LDC Coordination Group on UNFCCC process materialized in May 2012 during the SBs meetings in Bonn. In Doha, The Gambia handed over the chairmanship to Nepal on 5 December 2012 which will be applicable from 1 January 2013 till 31 December 2014. Almost all speakers from LDCs including Nepal well appreciated the leadership of Pa Ousman Jarju, the current Chair from The Gambia. Some of the participants also proposed Pa Ousman to function as the 'Special Envoy' of the LDCs on climate change regime.

Nepal has now additional responsibility for chairing, coordinating and negotiating on behalf of 48 LDCs on climate change regime. Nepal should take it as a challenge and maximize all opportunities not only to benefit 48 LDCs but also Nepal - a mountainous and land-locked natural capital rich country but highly impacted by climate change phenomena. This is a 'low hanging fruit' and our proactive actions will determine the future of climate change in Nepal. ■



DIFFERENT JOBS EXPO

Disabled No More

By successfully organizing the first Career Expo for Persons with Disabilities, AIN has shown that INGOs will be reaching where no public and private sectors are working

By A CORRESPONDENT

Tourism entrepreneur and president of Hotel Association Nepal Shyam Sundar Lal Kakshapati has demonstrated that persons with physical disability can also work effectively as the other physically able persons. Kakshapati started hiring hard of hearing people as the staff of one of his Nanglo Restaurants and today his is a pioneer venture to provide jobs to persons with disability.

When Dr. Bharat Pradhan decided to hire blind people to run the reception of Kathmandu Model Hospital, some of his colleagues showed skepticism. In five years, the blind won the hearts and minds of other staff by providing the most efficient services.

The experiences shared by Kakshapati and Dr. Pradhan were the main attraction of the first Career Expo for Persons with Disabilities. The first such job fair was organized by AIN, Federation of Nepalese Disabled Association, Ministry of Women, Children and Social Welfare, Federation of Nepalese Journalists, Merojob.com and Federation of Nepalese Chamber of Commerce and Industry. Hundreds of persons with disabilities took part.

"I am proud to start the venture to support the cause of people with physical disability. Though they have certain physical disability, they are showing courageous results," said Kakshapati,

while addressing a large number of job seekers.

The enthusiastic participants took part in the fair waiting to register their names with merojob.com, a co-organizer.

"Although recent census results put the physically disabled persons at just 1.9 percent, our estimate is that there are 15 percent of the population with one or the other kind of disability," said Dipak Raj Sapkota, country director of Karuna Foundation and organizer of the fair.

"I was moved to see that the loudest applause and the most lit-up smiles that the people with disabilities gave was to Shyam Kakshapati of Nanglo Bakery Cafe. No surprise, really — when you think about it. Shyam dai has single-handedly provided many jobs to those with disabilities at his various Nanglo outlets," writes Ashutosh Tiwari in his facebook wall.

Nepal's renowned poet Vijaya Bajimaya, a person with physical disability, was very happy to see the career expo and the people's participation in it. For this grand program to make success, Dipak Sapkota, country director of Karuna Foundation and chair of Disability Working Group of AIN spent almost three months. Journalist Gajendra Budhathoki handled the publicity wing.

According to the report, the disability job fair attracted close to 800 disabled

job-seekers and a large number of persons with disabilities attended the fair. Meena Raj Panthi, Sudarshan Subedi, Shailendra Giri, Shyam Kakshapati and so many others put in their hard work to make the fair a success.

Chief secretary Leela Mani Paudyal backed the expo. "As the chief secretary of the government of Nepal, I will assure you that the government will make every possible effort to support the cause of persons with disability," said Paudyal. "The government will be friendly to the cause of people with physical disabilities."

Enabling Expo

Despite her education background and skills, Sarita Lamichhane, a visually impaired woman in her mid twenties, in pitch-black shades, is educated, smart and full of vigor. Despite her skills and smarts, this woman seemed to find no job she wanted. For people like Sarita, the Career Expo for Persons with Disabilities, the first Nepali job fair targeted specifically to the disabled population, might provide just that opportunity.

The federation claims that around 15 percent of the total population is differently-abled in some way while the 2011 Census has put the number at two percent.

Many people appeared overwhelmed when Chief Secretary Leelamani Paudyal committed to building disabled-friendly roads. Most current infrastructure, including government offices, public toilets and bus service, pose difficulties to the disabled. "A handsome salary at a well-reputed office does not make any sense if the office is inaccessible," said Amrita Gyawali, a Bachelor's student in psychology at Trichandra College, who is physically-impaired.

At the expo, organized by the Ministry of Women, Children and Social Welfare, the Nepalese Chamber of Commerce and Industries, the National Federation of the Disabled Nepal and Association of INGOs of Nepal and Nepal Federation of Journalists, more than 1,500 people with various kinds of disabilities came to look for employment opportunities. Many of them registered with merojob.com, an employment website. Most seemed excited that there was finally some initiative aimed at making the disabled population self-sufficient and independent. ■

"Nepal Does Have Future For Youth"

RAJENDRA KUMAR KHETAN is a well known industrialist of Nepal. Chairman of Khetan Group, Khetan spoke to Debesh Adhikari on various contemporary issues. Excerpts:

The government recently brought another partial budget and the full budget still looks out of sight. So what are the effects of failure to bring the full budget on the economy?

The budget is very important for the country, in the sense that it brings a lot of development to the grass roots level. But if you look at it from the macro point of view, basically it is a balance sheet between the expected income and expenditure of the government. People have made a fairytale out of the budget and are expecting a lot of things from it. In fact, it is not good. Budget should be limited to income and expenditure. It is important, but rather than limiting it to what it is, the budget became social and it became a sort of fashion, became populist. So, it is basically an income and expenditure of the government and nobody should be able to stop the government from bringing the budget at any time of the year.

What are the implications of current political deadlock in the economy?

If you look at the economy, lots of things have been now decentralized. There is no direct impact of the budget to the economy. The economy has been impacted for a long time with three basic things: first, the lack of electricity, second, the trade union attitudes and, finally, the sense of insecurity. If these three things are addressed, then there is nothing much for many to do with the political deadlock. And, these three things are beyond the approach of any budget or any government. It should be more politically solved by the top brass.

The government introduced the investment year. But as we are approaching towards the end of the year, it is on the verge of failure. What should the government have done to make the investment year more successful?

Investment year can always go on. It may be not limited to one year; it can be of five years. What we do is we always introduce such plans like investment year or visit Nepal year at the end of the year. For example, if 2014 is an investment year, then we announce it at the end or middle of 2013, whereas it should have been announced two years before. And in two years, we can do our homework and make 2014 a success. However, it can be for a long period, there is nothing wrong with that.

Investment year is not a failure also, it can go on. But the big question is that are we ready for inviting investment? Are we, the local investors, ready for investment? There is no electricity, no security; there is corruption and trade union militancy. If these four things are not solved, then we local investors are not ready, then how will the foreign investors invest?

What is the state of manufacturing industry in the nation? Why are you leaving it?

I'm also leaving it and many people are leaving it. Those who are doing manufacturing are mostly based on banks. It's not their money. It is because we don't have competitiveness as

our size of economy is very small, size of production and market is also small. India and China are manufacturing in very large scale, so they are more cost effective than us. There are lots of loopholes at the customs, which makes foreign goods even cheaper. Manufacturing is not possible in Nepal.

Unfortunately, a few policy makers at the government level are also discouraging industry and supporting imports.

Service industry also has its share of problems. What should be done to make it more transparent?

Service industry is already more transparent than any other sector. But the issue is that there are no proper laws or by-laws and the regulators define them in their own ways. They try to bully the private sector as a milking cow to please their political masters, which is not fair. Everybody is suffering from it. Even they try to differentiate with what the law has prescribed. They bring by-laws which are against the law. In such cases also, the government is keeping mum and has stayed quiet. Why is this? There should be some reason and there is definitely a reason.

Service Industry has its backbone in technology. Where do you think Nepal stands when it comes to technology?

Technology in Nepal is not bad. Especially in terms of software, we don't have our hardware and we can't compete also. We can only contribute to using those software and computers. Building, using and servicing by technology is doing very well.

How do you see the penetration of technology in the society?

Nowadays, internet has become a household product. People are using smart phones for their needs and have laptops. It was in 1998/99, when Nepal Telecom Corporation (NTC) launched mobile, I was among the first ones to use dial up from mobile and check emails along with Anup Rana and Ambica Shrestha.

Today, if someone saves enough money then their first choice is buying a smart phone. Due to smartphones, my laptop usage has decreased by around 90 percent and my smart phone usage has grown by 200 percent. The only thing is that NTC's quality is not good and Ncell is very expensive.

What sort of future do you see for the young generation that is coming up in the midst of all this political turmoil, provided they stay in the country?

It's far away: 5 years or 10 years down the line they have future. They have to create a market for themselves. Nepal is still dynamic and uprising country. It will take some time, but they have a great future. ■





The Country Caught In 'Chakrabyuha'

By BIPIN ADHIKARI

A book entitled *Chakrabyuha ma Chandra Surya: Rastriya Surakshya ra Swadhinata ka Chunautihar* [The Sun and the Moon Caught in Chakrabyuha: Challenges of National Security and Independence], which was released in Kathmandu on 30th November 2012, has become the talk of the town for its candid analysis of modern Nepal and its plight.

Written by Saroj Raj Adhikari, a journalist working with *Kantipur Daily*, 'Chandra Surya' is the shorthand expression for the mighty historical Nepal which has now been caught in what is described as 'Chakrabhyuh' – a multi-tier military formation (also known as "Padmavyuh" in the Mahabharat epic). The strategy was used in the epic battle of Kurukshetra by Guru Dronacharya, who became commander-in-chief of the Kaurava army after the fall of Bhishma Pitamaha.

The author deals with three main issues in the book. Firstly, he describes the series of international crimes that Nepal has witnessed in its land over the last few years. They include the assassination of Mirza Dilshad Beg, Kamal Singh Nepali, Majid Manihar, Shaukat Beg, Jamim Shah, Yunus Ansari, and Faijan Ahmed. The author states that they were all killed with the involvement of external actors. He believes that the former Crown Prince Paras could also be the next target. Secondly, the issue of crumbling national security and excruciating geo-politics that Nepal is struggling with has been described at length. The book tries to unearth harsh realities of modern Nepal, its pre-planned political changes, the structural anomalies, the problems of decision-making, and the national stakes that are being ignored by the government. The third part of the book analyses what Adhikari believes as the search for the

Nepalese version of 'Lhendup Dorjee' – the Sikkim politician who played a historic role in his country's accession to the Indian Union. All these chapters are interrelated in their approach and conclusion in that Nepal is in crisis and the reason is mainly conspiratorial and external.

Written in journalistic style, Adhikari quickly puts the main points in each of his chapters in the first couple of sentences of the first paragraph. He

Even though Adhikari has covered wide-ranging issues of modern Nepal, he does not write on the Constituent Assembly and its demise in the framework that he has developed for this book. For the issues that it has covered, this is a book that all the politicians and anybody who has interest in contemporary security issues must read. ■



is always clear, to the point, and unbiased. In a language that will have far reaching impact on the citizenry, the author has expressed his view on national security and issues that have been created over it in recent years. It is the study of the threat, use, and control of Nepal. In the preface to the book, Adhikari makes it clear that the main part of the book is concerned with national security issues. This is precisely the reason that the indivisibility of the country, its sovereignty, and independence are inseparably linked in his analysis of national security and the geo-political issues which come to be linked up. The book is full of references that show how India and China are linked with the political course in Nepal.

NEW SPOTLIGHT

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EDUCATION

Govt Seeking Control

By A CORRESPONDENT

If the activities of the Ministry of Education over the past few months are any indication, the government appears all set to control the education system. Although Nepal has a very bitter experience of government control in education in the past, nobody understands the rationale behind the Ministry's recent decisions.

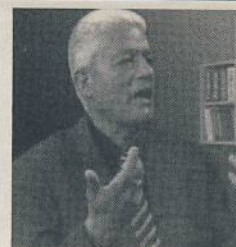
After the resignation by vice-chancellor Suresh Raj Sharma from Kathmandu University, the first successful institutional model of private-public partnership, the future of university is now virtually in the dark. According to media reports, founder of the University Sharma tendered his resignation following frequent interventions by the present government. He resisted interventions even during the direct rule of King Gyanendra, but he quietly decided to quit this time.

The government is interfering not just with university matters and aspects of

curriculum, it is moving into the education sector step by step. The recent guidelines of the Ministry of Education for Private Schools is another case of intervention in the internal affairs of the schools. These acts raise a question as to whether the government continues to support private investment in the education sector or not.

"There is the need of uniformity in the size of the books used by community schools and private schools," said Diwakar Dhungel of the Curriculum Development Center. "Due to differences in book size, the students have been facing a lot of problems. From this academic year, the row on the size of the book and price will come to an end."

Schools have expressed reservation over this. "This is merely another intervention in the internal affairs of private schools. How can we decide the sizes? The sizes of the book depend on



Dr. Baburam Pokharel

the subject of the book and the publisher. The prices also depend on the quality of papers and printing," said Dr. Baburam Pokharel, founder

principle of VS Niketan School and president of Public and Boarding School Association Nepal.

Badly hit by frequent strikes and disturbances caused by the activities of student unions of various political parties, the quality of private boarding schools is sure to crash. "This is a good decision of the government. Parents have been demanding to reduce the size and weight of the books," said Suparvat Bhandari, president of the Guardians Association. Bhandari has been heading the organization for the last two and a half decades.

Similarly, many private boarding schools and colleges have also shown that only a liberal education policy can uplift the quality of education in the country. Private boarding schools' contributions, therefore, are immense in the education.

HANUKKAH

Festival Of Lights

The Israeli Embassy in Nepal celebrated Hanukkah, the Jewish festival, highlighting its importance for small countries

By A CORRESPONDENT

In the presence of people from all walks of life, including the government officials, leaders of various political parties, diplomats, heads of international organizations and media personnel, Israeli Ambassador to Nepal Hanan Goder-Goldberg lit a candle in his residence, celebrating the Jewish Festival of Hannukah.

Addressing the gathering, the Israeli Ambassador said this festival gave a message for small countries to resist hegemonic empires and protect religion, culture and sovereignty. "The story of Hanukkah is not just a story of national liberation and freedom, but it also speaks of a struggle for human rights and the dignity of man," said ambassador Hanan Goder-Goldberg.

Hanukkah is an eight-day Jewish celebration that commemorates the rededication of the Holy Temple in Jerusalem at the time of the Maccabean Revolt of the 2nd century BCE. Often

called the Festival of Lights, the holiday is celebrated with the lighting of the menorah, traditional foods, games and gifts.



Israeli Ambassador to Nepal Hanan Goder-Goldberg

Evidently, Hanukkah this year corresponded with the 64th Anniversary of the Universal Declaration of Human Rights. This year, the Human Rights Day fell on Hanukkah, "when the Jewish people celebrates the triumph of freedom of religion and expression and the liberation of its ancient homeland; whether it is Jewish communities in Eastern Europe or Christians in the

Middle East, the threat to human rights and human dignity is intolerable. "The Hanukkah Story

Happy Hanukkah



Nearly 2,200 years ago, the Greek-Syrian ruler Antiochus IV tried to force Greek culture upon people in his territory. Jews in Judea - now Israel - were forbidden their most important religious practices as well as study of the Torah. Although vastly outnumbered, religious Jews in the region took up arms to protect their community and their religion. Led by Mattathias the Hasmonean, and later his son Judah, the Maccabee, the rebel armies, became known as the Maccabees.

After three years of fighting, in the year 3597, or about 165 B.C.E., the Maccabees victoriously reclaimed the temple on Jerusalem's Mount Moriah. Next they prepared the temple for rededication — in Hebrew, Hanukkah means "dedication." In the temple, they found only enough purified oil to kindle the temple light for a single day. But miraculously, the light continued to burn for eight days. ■

"Peace Corps Supporting Nepal"

SCOTT SKINNER

Twenty American Peace Corps Volunteers, the first since the organization suspended its operations in Nepal in 2004, are back again. As this year marks the 50th anniversary since the Peace Corps arrived in Nepal in 1962, former Peace Corps Volunteer SCOTT SKINNER spoke to KESHAB POUDEL about his experiences and contributions in Nepal. Skinner served in Nepal between 1962 to 1964 and visited the country frequently. Excerpts:

Following a suspension of operations, the Peace Corps Volunteers program has started again. How do you look at this?

I am happy to know that after a few years of disruption, Peace Corps Volunteers are back again in Nepal. This is great news. There are hundreds of former Peace Corps Volunteers who also share my feelings. As a large number of former Peace Corps are lobbying for Nepal, the present set of volunteers will be permanent ambassadors or lobbyists too. They will like Nepal like us and support in future for Nepal's development and prosperity.

What inspired you to join Peace Core and come to Nepal?

I was in my last year of college and I was in the office of the Dean where I saw the brochure of the Peace Corps- Nepal in which I read about Nepal and Nepali people. When I read it, on the spur of the moment, I decided that I should go to the place. I had a little knowledge about Nepal because I also watched the documentary about US expedition of Mt. Everest. What struck me was the beauty of Nepal from Kathmandu to all the way to Mt. Everest base camp. I decided to go as an adventurer. I was not an altruistic and I was young man. So I decided to come to Nepal as adventurers.

What can volunteers learn and what can they contribute to Nepalese society?

Working as a Peace Corps volunteer is win-win situation for Nepal. A volunteer also learns a lot of things from Nepal. They also use their knowledge and share it with local people. After living in Nepal, they will develop a great deal of attachment with the country. Even after returning to US, Peace Core volunteers love Nepal and Nepal is in their hearts. For instance, I have been frequently visiting Nepal and I am trying my best to support Nepal. We are running a project in Bhetetar of Dhankuta district supporting to construct a school. I returned to Nepal in 1984 or twenty years later. Kathmandu has changed and there were hotels and restaurants. There was Kathmandu Guest House. Thamel was still small. Peace corps volunteers are lobbyists of Nepal in US. They always support Nepal in any crisis.

What have you learnt from volunteerism?

The village changed my life completely. I developed patience and I learned not to worry in life. I learned much Asian philosophy of life. One thing we want to do through Phulmaya Foundation is to focus on agriculture education. Government in Nepal is encouraging farmers to use chemical

fertilizers to grow more products. Farmers followed them, now the soil has lost fertility and the yield has gone down. As farmers are unable to use more fertilizers because of money, we are encouraging farmers to follow organic farming. We are urging farmers to grow herbs with great values. I like Namze village of Dhankuta.

How about your family members?

My two sons and my wife Marry like Nepal very much. They are very strong walkers. They continue to maintain my connection with Nepal. My two sons have already visited Nepal and one of my younger son and his wife even went to Khumbu for trekking with me just a year ago. They also stayed a few days in Namje village in Dhankuta. They learned to live in a village with subsistence farming and no fancy food. That was very valuable village. My elder son has already visited Nepal twice.

How was Kathmandu when you first came to Nepal?

When I came to Kathmandu as third batch of Peace Corps Volunteers in 1965, Kathmandu was a very different city and Nepal was cut off from the rest of the world. It took us almost a week to land at Tribhuvan International Airport from Washington DC. It was very beautiful and organic city. Every house was surrounded by its own small green garden. It was incredibly beautiful place. I have very strong memory of that. It seemed that there were very little change in two-three hundred years before. It was like a small medieval small village. I was struck by incredible beauty and peacefulness. Kathmandu itself had almost no hotels. We were put in Royal Hotel. Other Hotel is Yak and Yeti Hotel. There were almost no vehicles and most of the vehicles belonged to UN, diplomatic missions or government offices and some elites. You could safely ride bicycle even up to Bhaktapur.

Where did you serve as a Peace Corps volunteer?

I was placed in Chainpur, of eastern region. After four days in Kathmandu, we flew to Biratnagr on the way to Chainpur. We took a jeep in Biratnagar to Dharan and we stayed a night there. Next day our journey to Chainpur began. Very early morning we got off and we walked toward Dhankuta. It was quite a long trip. We arrived in Dhankuta at dark. Next day we hiked again and it took a three more days to reach Chainpur. We were accompanied by Mike, who was a Peace Core volunteer in Dhankuta for two years and stayed there for two more years. He was our guide to Chianpur. We saw some jute factory and green forest in eastern Nepal. There was a British Gurkha camp in Dharan.

How do you describe Chainpur?

Chainpur was a very beautiful Newar Village. There were many Shakya families, famous for brass utensils. It was very beautiful at same elevation as Kathmandu. It was quite a prosperous village producing a plenty of rice. There were some wealthy land owners who had land in Terai. Chainpur has not much changed as it is still an old and beautiful city. There is now electricity and water tap but water is yet to be supplied to

each household and there is disruption in electricity supply. Chainpur looks more or less same. One of the reasons is that it is not a district headquarter as it moved to Khandbari during Panchayat days. Chainpur used to be one of the major strongholds of Nepali Congress Party. It was punished for its support to Congress. Although people live in poverty, they are quite happy.

How did you maintain your communications with your parents?

Oh! Don't talk about that. We had only one option for communication and that was to airmail letter. I had no communication from Chainpur to my family for two months. My parents did not speak to me for two years. There was Post office in Chainpur and postman was very friendly but they didn't have stamp. Because of this, my parents did not hear about me for two months. My parents called to State Department about my whereabouts. They thought I was disappeared. Later, I air mailed a letter to Peace Corps Office and they then sent it to America along with film. My parents were able to see my picture of Nepal only after three months. They saw the picture of women carrying Gagri (bucket) and people selling brass at Hat Bazar. I had no radio and other means of communication to know the world events. We were in isolation. If there was any health emergency, we were supposed to go to nearby Army Post from where we could send message through wireless of Nepal Army.

What did you do in Chainpur?

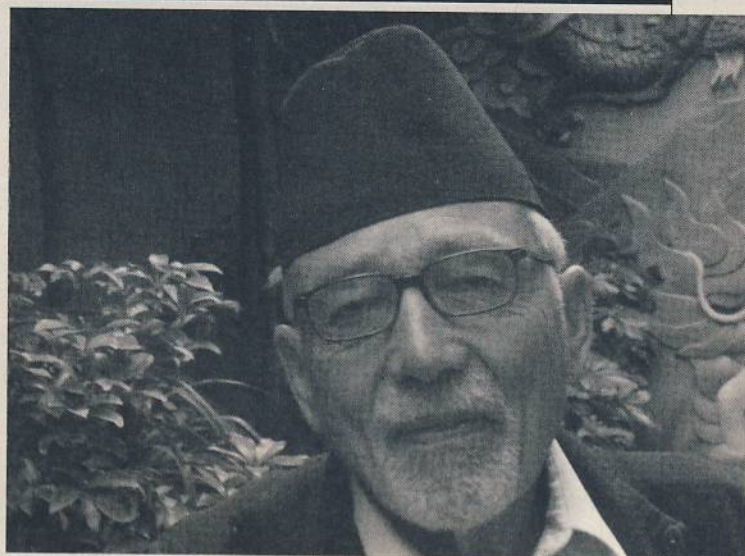
I was a high school teacher. I was sent to teach English in Sri Saraswati High School, but I also taught at primary school. We taught mostly conversational English. English was a difficult language at that time and very difficult to learn in school. It was learnt by talking to people. Students had to struggle with this because it was a strange language. Interestingly, there were more holidays than the school days. Some holidays were up to six weeks. In such long holidays, we used to go for trekking.

What was the quality of local English teachers?

So far as English teachers were concerned, there was only one English teacher who had not found anybody to speak English for about three years. Although he had a master's degree in English from India, he never met English speaking people. Along with English, there were very few teachers in other subjects also. Now I can see a lot of English schools in Kathmandu. English was very difficult during that time. We tried to teach them. I had also my volunteer colleague Cheery Back and we lived together in a small house provided by local school. It had a thatch roof with two small rooms, kitchen and a toilet. We had also kerosene stove. We made tea and bread and eggs in the morning. I never had particular type of student that I can say very good but what I can say is that some were very smart.

Where did go for lunch and dinner?

We had lunch in one of the Brahmin's house in the market. We had huge plate of rice but tiny plate of tarkari and achar. No meat and only meat on holiday. We had gheu (butter), the rice with gheu is good. English part of the education is difficult. We tried to teach them.



What different things do you notice now?

I can see tourism is flourishing and I find a lot of Nepalis speaking English. Nepal is cheaper and very friendly to foreigners. Nepal always welcomes tourists. I like Nepali people very much. Over fifty years, I have seen a number of changes in Nepal but the people are still the same to me. They are complaining and not much complaining about hardships. Most of the people are in Nepal not born when I first came. Nepali people are easy. I like scenarios of Nepal. Not only mountains, mountains and cultural things all are there in Nepal. I also enjoyed watching rice paddy, forest and people and mixed landscape. I have never been tired. My home Vermont is also similar to Nepal. We too have hilly terrain, small villages and mixed terrain like that of your country.

How are you supporting Nepal now?

When I did the trip in 1997 with my friend Patrick Biggam together, we have set up a small foundation to support Nepal. With an idea of Patrick Biggam to support Nepal in education sector, we have started the Foundation named Phulmaya Foundation. Patrick Biggam wanted to contribute in education in Nepal through the foundation. Many tourists come to Nepal and they want to do help and Biggam is one of them. Biggam asked me to help him in his mission. We started to raise the money, not a big money, to support Nepal.

What is the annual contribution?

We collect six-seven thousand dollars a year. We raised money to build the school in Namje of Vedetar VDC of Dhankuta district. We also met other former Peace Core Volunteers who worked in Nepal in our mission. A former volunteer Rajiv Goyal helped us to raise more money to build school. We have already built two beautiful school buildings there. We used local products. We don't want to build a concrete block. We get support from Nepali origin women from Canada Priyanka Bista who supported us to design the building using local raw materials. She was an architecture student. She lived two months there. She made design for the two schools. Now we are focusing towards agriculture. Most of the land in Namje is plotted for building the houses and they are leaving the village. Originally, we wanted a school in Chainpur. ■

Lost Right To Vote

By ABHISHEKH ADHIKARI



The preambles of the Interim Constitution and the Constitution of 1990 have declared the supremacy of the people. The Interim Constitution starts with the following words with sober meaning and insights. The phrasing "We, the people of Nepal, with inherent sovereignty and state authority" implies that every Nepali citizen is sovereign and has state authority.

The supremacy of the people cannot be denied in a democratic republic. Their right to vote, however, is getting lost in the tussle between the political parties and the intricacies of law. It has been more than four years since the election of the Constituent Assembly was held in 2008. The people originally mandated the lawmakers to draft the constitution in two years. Following complicated legal analysis done by the judges and politicians, the term was extended for another two years. The judges and leaders of political parties read the people's minds and tried their patience.

Every Nepali is highly spirited about the election. However, the election is not going to be organized soon. The political wrangling and intricate legal hurdles are cited as reasons inhibiting the election. The Baburam Bhattarai-led caretaker government failed to conduct the election previously scheduled for Mangsir 7, 2069 (November 22, 2012). The government had announced the election in the midnight of May 27, 2012, when the first elected Constituent Assembly ceased to exist. The expectations of the people that a free and fair election will be conducted have now been shattered. The demise of the Constituent Assembly without delivering a constitution was the first blow to the hopes pinned on elections.

As the crisis deepens, the politicians depriving the people of their right to vote and choose their government leaders. When they should have been

championing the cause of election for the local bodies and the parliament, the politicians are deep in mistrust amongst themselves and showing the inability to forge a consensus, which is the basic value of democracy. The fragility of democracy in Nepal is being realized more acutely now than ever before. It has not been institutionalized. Every careless and reckless move by the politicians is seen to be hurting democracy. The people's right to vote is increasingly at peril.

Chanting slogans and giving

an unfortunate situation for Nepal and Nepali citizens. The mandate of these leaders who are thinking of sketching the future of Nepalese at large is over. They have to realize this and allow Nepali citizens to choose their new leaders.

The citizens are mere spectators to the so-called practice of democracy we are living in. The dissatisfaction and frustration of the people can be seen at the random assaults they have made on the leaders at the helm.

The right to vote empowers citizens and strengthens democracy for which blood was shed. It is so essential that Nepalese are given to practice and experience the values of democracy for the institutionalization of democracy, for their liberation, for their better future, for their involvement in choosing leaders of their choice and for the pursuit of happiness.

Right to vote is also a constant warning to the leaders that they be disciplined and follow what they preach. A periodic

election is a must. A periodic election eradicates corrupt, inefficient and inept leaders and gives opportunities to the right persons to lead the country.

Nepalese cannot compromise this invaluable right bestowed by the constitution and the spirit of the people's movement. The leaders have to realize this and pave the way for an immediate election in the country. Not holding an election soon is playing with the basic rights of the citizens. This is not good for Nepalese. This not in the interest of Nepal, nor is it good for the aspiring leaders themselves. It is difficult to understand why leaders at the helm are playing this unfortunate game. Nepalese cannot suffer for the inefficiency of the current leaders who are at the helm. The problem is who is going to guarantee the people their inalienable right.

Adhikari is a Lawyer



speeches in mass gatherings about values, rule of law, democracy, constitutionalism, supremacy of people, adult franchise and so on and so forth are not sufficient to resurrect the prospects. These values have to be realized by the people at large. People have to experience them. They are in jeopardy as the preachers of democratic norms are themselves not committed to implementing them.

Nepalese have seen only the glimpses of democratic values, but most of the time they have seen dead democratic practices. The democratic values exist only in the constitution and other books and heard in the speeches of their inept leaders.

The right to vote and exercise the fundamental value of democracy is being eclipsed by the leaders who have proved to be incapable of working together. It is



INT'L MIGRATION DAY

Role Recognition

As country falls deeper into political crisis, large number of Nepalese are heading to foreign countries for employment

By DEBESH ADHIKARI

The International Migration Day, which has been celebrated on 18th December every year since the last decade, is coming closer for this year, giving a good reason to assess the contributions made by millions of Nepalis outside the country to their family, society and nation as a whole.

As the country falls deeper into political crisis, the economy is suffering. So many people are forced to go out of the nation in search of better opportunities. The number of workers going abroad has gone up significantly in the recent years. According to the department of foreign employment, some 1,228 Nepalis go abroad every day.

According to National Census 2011, 1.9 million Nepalis were abroad when the census was carried out between June 17 and 27 last year. Unofficial figures show a much higher number of migrants workers. The number of female migrant workers alone is expected to be around 6 lakhs.

According to the data of the Department of Foreign Employment, a few months back, some 1.5 million Nepalis were believed to be working in Qatar, Saudi Arabia, the United Arab Emirates, Kuwait, Bahrain, Oman and Malaysia.

As such large numbers of people are working abroad; remittances have

become an integral part of the country's economy. Remittances roughly make a quarter of the total Gross Domestic Product (GDP) of the nation.

Not only in terms of economy, the migrant workers have contributed a lot in the developmental aspects as well and are playing an important role in achieving the Millennium Development Goals (MDGs) for the country.

"Remittance needs to be analyzed in a disaggregated manner, especially in terms of impact and use of the remittance received from both men and women," said Sharu Joshi, Program Specialist, UN Women.

"I have been earning well and I'm sending money back to my family. The money I have earned here is making the

lives of my family better back home," said a migrant worker.

However, not all the migrant workers have good story to tell. Some have suffered to the extent of losing their lives while being on the foreign jobs.

Some 669 Nepalis lost their lives in 2011 in the Gulf countries alone and the cause of deaths ranged from accidents in the workplace to suicides, stated a Himalayan Times report.

Jobs in foreign nations are not easy and are challenging both physically and mentally, for both men and women. On the one hand, they have to work tirelessly, day and night, to earn handsome amounts, pain from being far away from the family just aggravates their plight.

The difficulties faced by migrant workers who have gone abroad through the illegal channels are even higher. Although the hardships faced by those migrant workers make the headlines regularly, but the news stories are just a tip of an iceberg.

"I wonder if money is everything. How will I be able to compensate for all those years that I would lose being away from my husband and specially from my children who need me the most?," said Sabitri Devi Sivakoti, a migrant women, who is among many who are forced to go to foreign employment leaving their family behind.

The migrant workers' plight is not yet fully recognized by the government and no effective move has been taken by the government for the betterment of those who are working abroad. The government should definitely take some steps in the upcoming international migration day for the wellbeing of migrant workers and recognize their contributions in a manner which befits them all. ■

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COOPERATIVES

Under Threat

At a time when Nepal's 32 commercial banks have made progress in cutting down their investments in the real estate sector, cooperatives and finance institutions are in trouble

By A CORRESPONDENT

With the recent news about bad loans of three finance companies and a few cooperatives, thousands of depositors had reasons to worry about. The situation of cooperatives is further bleak as they failed to return the money to the depositors.

Last week Kathmandu District Court sent three promoters of a local cooperative to prison following their failure to provide a guarantee of 2.5 five million rupees each for a bailout. Police brought them to the court after the local people filed complaints against them. In another incident, local people filed a complaint in the Cooperatives Division in Kathmandu seeking to investigate the whereabouts of their money.

According to Registrar of Cooperatives, there are over 5,000 cooperatives operating throughout the country. Many of them are not in a position to refund the money deposited by small depositors now. The situation is not good with finance companies. According to Nepal Rastra Bank sources, some half a dozen finance companies are in serious financial troubles.

Recently updated notice of Nepal Rastra Bank's department assigned to regulate bank and financial institutions showed that 32 commercial banks of A category, 90 development banks of B category, 69 financial companies of C category, 24 micro-finance organizations of D category, 16 cooperatives with limited transaction and 30 micro-finance non-governmental organizations and two others are registered with NRB.

With the regular supervision and strict terms and conditions, the institutions registered with Nepal Rastra Bank are considered safer and more secure than those cooperatives registered with the Registrar of Cooperatives.

At a time when the majority of cooperatives and financial institutions are facing financial crisis due to overinvestment in the real estate sector, the exposure of commercial banks to the sector has come down by a third in the last one and a half years.

Since the end of 2008, lending to the real estate sector started surging when

land prices started rising overnight. At one stage, by July 2010, commercial bank loans to the real estate sector topped Rs 63.26 billion, up from Rs 49.99 billion in October 2009.

After looking at such a scenario, Nepal Rastra Bank, in September 2010, instructed all banks and financial institutions to bring down their realty credit exposure to 30 percent of the loan portfolio by mid-July 2011 and 25 percent by mid-July 2012.

To further control haphazard lending, the central bank also asked banking institutions to put a 60-percent cap on loans issued against real estate. This barred borrowers from obtaining loans in excess of 60 percent of the fair market value of real estate pawned as security. But, at the same time, to avoid genuine homebuyers from feeling the heat, the central bank fixed the home loan cap at two-third of the value of the real estate pledged as collateral.

So far these prophecies have not come true, as banks that were previously resisting central bank instruction, did not have any option but to gradually cut down their lending to the realty sector. Since then there have been improvements.

The latest data show commercial banks now hold Rs 67.65 billion in real estate loans, which is 10.4 percent of total loans issued by them. This amount also marks a decline of 31.6 percent from that of January 2011 when real estate lending had reached its peak.

Now, even banks that were overtly exposed to the sector have reduced their exposure to below 25 percent level. At the same time, outflow of home loans of up to Rs 10 million has been picking up, with the total amount expanding from Rs 30.83 billion in October 2011 to Rs 37.83 billion this October.

"It is good to know that commercial banks have slashed the portion of assets that could have generated grave problems, while giving priority to genuine people who want to purchase home," said Nepal Rastra Bank spokesperson Bhaskar Mani Gyawali. Even so, the situation is not good as a large number of bankers used their investments in realty sector in the form of draft. ■



Hydro Power And Equity—Need To Be One!

BY JENIK RADON /KABITA SHRESTHA

A reality bite. Nepal is one of the richest countries in water resources with 6,000 rivers flowing from the increasingly climate-change challenged Himalaya mountains down to India, with estimated hydro potential of 83,000 Mega Watt, but yet Nepal is faced with economic wrecking 14-18 hours load shedding a day, especially in the winter.

Moreover, peak power and energy demand is growing annually, which will exacerbate economic, as well as social, problems well into the future. Nevertheless, a sign of relief to heal Nepalese need for electricity has been witnessed with the signing of agreements for hydro-development projects. But there is a serious legal controversy surrounding these contracts. Are these hydro contracts commercial contracts or are they treaties under Article 156 of the Interim Constitution? Also, the ancillary and critical question is whether they need political ratification and acceptance by the parliament?

Any attempt to address these questions requires a review of the provisions of the constitution. Article 156 (2) (d) of the Interim Constitution clearly states that any treaty or agreement on natural resources and their use requires ratification of, accession to, acceptance of, or approval ("approval") by a two-thirds majority of the total number of the then members of the Legislature/Parliament. However, the proviso of that Article states that if any treaty or agreement is of an ordinary nature, namely one which does not affect Nepal extensively, seriously or for the long term, its approval can be by a simple majority of the members present. The proviso raises legal questions and in turn potential legal challenges, which has been answered by the Supreme Court.

A literal reading of term natural resources would include water resources, certainly in Nepal where water is the major natural resource of Nepal. In a leading hydro case-West Seti case, the Supreme Court of Nepal clearly stated that energy itself is not a natural resource but a commodity derived from natural resources (water), which is not the same as the sharing of water. So, hydro contracts do not fall under the jurisdiction of Article 156 of Interim Constitution.

Further Section 35 of the Electricity Act 1992 and Section 12 of the Water Resources Act 1992 empower the Government of Nepal to enter into a contract with any domestic or foreign person to develop water resources. The court also stated that a power purchase agreement, a commercial agreement has not created any international obligations or rights under international law. Hence, hydro contracts are ordinary agreements between two parties, which do not have direct impact on national sovereignty and integrity.

Also, the Government of Nepal as a contracting party has the legal right to enter into a contract with any national or foreign company. But this does not mean that environment or social issues can be overlooked or dismissed.

Recently, the Arun III project, first contemplated in 1994 but delayed because of its significant cost and endless controversies, has been awarded to an Indian owned-state power producer. Although this is good news for Nepal, the project's development will inevitably result in environment and social impacts which need be studied in-depth before construction even begins. Moreover mitigation policies and programs must be established.

An environmental impact assessment ("EIA") for such a project is a mandatory and indispensable provision under the Environment Protection Act, 1997. Similarly, Electricity Act, 1992 states no substantial adverse effect is imposed on the environment by soil erosion, floods, landslides, air pollution, etc. Thus, an EIA, with local input, needs to be prepared by independent experts to ensure minimum impact on the environment and optimum level of development. In fact, the EIA should be binding on the developer and any failure to adhere with the EIA should have serious legal consequences for the developer, including if a major violation, cancellation of the license to operate.

Moreover, an EIA and a social survey will help to better understand the potential impact on local communities, as well as the environment. In particular it will identify potential adverse social effects, such as family displacements and the scale thereof; any submergence

of fertile agriculture land; any loss of personal assets, including homes and agricultural land and destruction of bio-diversity. Compensation will be needed to restore the lives of the people impacted to at least the standard and quality of living before the project, including for example enduring longer commutes to jobs and schools.

It should be self-evident that compensation must be part of a mitigation plan to minimize and offset negative impacts. These plans should be based on fair and just, and holistic, compensatory principles. The Electricity Act, 1992 clearly permits the acquisition of land for hydro projects. Section 16 (2) of the Land Acquisition Act 1977 provides that in determining the amount of compensation for land to be acquired by Government of Nepal, a compensation fixation committee shall consider the price of the land, the value of the crops, houses, etc and the losses which the impacted person will suffer as a result of the relocation. That Section is critical as it mandates a holistic approach to compensation, not a narrow buy-sell market approach.

In practice, the Government of Nepal has ensured fair compensation for the actual value of the land acquired but not the full social costs contemplated by clause c of Section 16 (2).

Moreover the mitigation plan should minimize all adverse socio-environment impacts; promote forest conservation; and preserve bio-diversity and religious monuments. Further there should be suitable and respectful resettlement of displaced families. In fact all related social costs should be borne by the hydro-dam developer as part of the cost of the hydro development.

Social-economic assessments of these hydro-projects are clearly mandatory as well as social responsible. They should be envisioned and implemented under the motto "development with a human face". Hydro development yes. Justice yes. One can have both only if the people who bear the impact burden are not forgotten.

Radon is Professor at Columbia University, New York, Advocate Shrestha is at Nepal Law Campus, Kathmandu

SOCIAL MEDIA

Happening Place

Social media are bringing changes in Nepal

By DEBESH ADHIKARI

Pushpa Basnet, who won the CNN hero of the year title, was the talk of town recently. Facebook pages were flooded by the news of her winning the award. She received an overwhelming attention and strong reception in the social media. She was awarded and a hero definitely deserves all the attention for what she has done. All her accomplishments were greeted by many common Nepalis in Facebook or Twitter.

Social media were a completely unknown thing if we only go back a decade or so. But now they have changed the way we communicate and spend our time.

Not only have they changed our external habits, social media have changed the way we think. Changes can be clearly seen in the societies which have been able to get a taste of these addictive networks. Even in Nepal, where technology has much strides to take, the effects of social media are very high.

Social media have become so much powerful that after spending a few minutes on them, we can know not only what is happening in our friends' circle but everything major that has happened around the globe. Along with the news, we can get updates from the celebrities we like, interact with them directly.

We can also play games when we are bored or learn new things; everything that a general person can do on internet is getting possible within the social networks.

Not to forget the troll pages that keep us entertained when we are really tired of serious stuff.

Be it a news break, an announcement, business promotion, political campaign, joining hands for a cause or supporting others, everything more or less nowadays depends on social media.

It is getting more and more challenging to find people with access to computers and internet that don't use social media directly or indirectly. As the penetration of social media is increasing day by day, it is getting difficult to stay away from them as well.

simple status update gets them popularity and gives them chances to remain on the limelight.

Tradition media, on the other hand, are also being forced to depend on this relatively newer media for the audience.

Social media are seen as more valuable by business organizations as a place where their business can take off. A newly started company starts its business with a Facebook page. Not only



From commoners to celebrities to business houses or to other organizations, social media have changed the way the world operates.

Rabindra Mishra, editor of BBC Nepali, is one of many who use the social networks extensively to try to bring some change in the society by promoting his non-profit organization, Help-Nepal network.

Anil Shah, CEO of mega bank is another big-name in the Nepalese society who uses social media to raise awareness among people for a better change and for a better future.

The list goes on and on.

Birthdays are celebrated on Facebook, achievements are cherished on Facebook. Friends are made; relationships start and sometimes, unfortunately, also end due to Facebook.

Social media have been too lucrative to miss even for celebrities. For a celebrity it is very easy to stay as a center of attention in the day to day life of their fans with social network presence. A

for starters, maintaining Facebook page has become a need for both profit and not-for-profit organizations.

Some years down the time line, people used social media just to be connected with their known ones. But now, the dimension of these networks has completely changed.

Social networks are now no longer informal channels to stay in touch with other people. It is a place where everything happens.

There are certain times when the glimpses of the power of these networks were seen even in Nepal. Some time back, a Facebook movement gained a lot of popularity and expectations were raised to exploit the true potential of social media.

The true powers of these special networks are yet to unfold as they are increasing the grip over everybody's life with each passing moment. It is getting impossible to think outside the social network. ■

MOVIE REVIEW

The Hobbit - An Unexpected Journey



"Like butter that has been scraped over too much bread" was how JRR Tolkien described the supernatural world-weariness of Bilbo Baggins in the opening chapter of The Lord of the Rings.

This phrase, incomparably Tolkien-esque in its syntactic neatness and semantic beauty, is also a perfect description for the first instalment in Peter Jackson's three-part adaptation of The Hobbit, which I now fear is doomed to be referred to as a 'prequel' to Tolkien's fantasy magnum opus.



The Hobbit: An Unexpected Journey barely leaves the driveway. The film lasts for 11 minutes short of three hours, and takes us to the end of chapter six in Tolkien's original novel, which falls on page 130 of the official movie tie-in edition. That's half an hour per chapter, or one minute and 20 seconds per page. The work of the sombre Hungarian auteur Béla Tarr, whose grinding tale of apocalyptic poverty The Turin Horse ran to a mere 155 minutes, feels nippy by comparison.

This film is so stuffed with extraneous fuff and flummery that it often barely feels like Tolkien at all - more a dire, fan-written internet tribute. The book begins with the unimprovable ten-word opening sentence: "In a hole in the ground there lived a Hobbit." Jackson, by contrast, starts with an interminable narrative detour about a mining operation run by a team of dwarves, involving magic crystals, orc armies and details of dwarf family trees that are of interest, at this early stage in what is supposed to be a family film, to almost nobody.

Jackson has also chosen to shoot the film at 48 frames per second rather than the industry standard of 24. The intention is to make the digital special effects and swoopy landscape shots look smoother, which they do. The unintended side effect is that the extra visual detail gives the entire film a sickly sheen of fakeness: the props look embarrassingly proppy and the rubber noses look a great deal more rubbery than nose. I was reminded of the BBC's 1988 production of The Lion, the Witch and the Wardrobe, and not in a good way. (Courtesy: The Telegraph)

Kathmandu International Art Festival (Kiaf) To Exhibit Till 21st Of December

Siddhartha Arts Foundation (SAF), organizer of KIAF 2012, is hosting 87 artworks from 31 countries with the theme of Earth | Body | Mind at 11 venues around Kathmandu Valley. Exhibiting venues were inaugurated during the first week of the Festival in the presence of international/national artists, patrons and supporters of the Festival. This mega art event is the largest nonprofit exhibition in the sub-continent dedicated to the critical issue of climate change and the ecology. The mission of the festival is to establish Kathmandu as an international art hub, to address critical social issues through the medium of art and to train the next generation of art managers, according to the organizers.

MOVIE PREVIEW

Dabangg 2

Genres: Action, Social
 Producer: Arbaaz Khan
 Director: Arbaaz Khan
 Cast : Salman Khan, Sonakshi Sinha, Sonu Sood, Vinod Khanna



Dabangg 2 is an Indian masala film directed, written and produced by Arbaaz Khan. It stars Salman Khan and Sonakshi Sinha in the lead roles, with Prakash Raj playing the role of the main antagonist. It also has Vinod Khanna, Deepak Dobriyal and Nikitan Dheer in supporting roles. It is a sequel to the 2010 film Dabangg and is set in the city of Kanpur. The distribution rights were sold to UTV Motion Pictures for a price of 140 crore, the highest for a Bollywood film till date.

Release Date: 21-Dec-2012

Matru Ki Bijlee Ka Mandola

Genres: Comedy
 Director: Vishal Bhardawaj
 Cast : Imran Khan, Anushka Sharma, Shabana Azmi, Pankaj Kapur, Arya Babbar

Fox Star Presents a VB Production: 'Matru Ki Bijlee Ka Mandola'. The movie is set in the rustic surroundings of a village in Haryana. Matru ki Bijlee ka Mandola is a comedy-drama about Harry Mandola (Pankaj Kapur), a wealthy industrialist who loves his drink, his daughter Bijlee (Anushka Sharma) and the unusual bond they both share with Harry's man Friday, Matru (Imran Khan). Much to her father's delight, Bijlee is all set to marry Baadal (Arya Babbar), the son of a powerful politician Chaudhari Devi (Shabana Azmi). This alliance which is far from just being a simple union of two young people becomes the seed for a story that brings twists and turns in the lives of Matru, Bijlee and Mandola.



Release Date: 11-Jan-2013



Actress Manisha Koirala, who was recently diagnosed with ovarian cancer, underwent a successful surgery in New York on Monday.

Bill made to establish the National Law and International Relations Study Academy Act, 2066

Purpose and aim of the bill

This "National Law and International Relations Study Academy Act 2066," can be understood to have been formulated to allow for the Kathmandu School of Law, which has been providing qualitative high level education of law since the last ten years to be evolved into an internationally acclaimed high level and qualitative study and research centre to teach Nepali national laws, judicial systems and philosophies, international relations and international law, diplomacy, general studies, defense analysis, humanitarian laws and human rights, constitutionalism, management and good governance, in the context of the absence and the need for such an institution in Nepal.

1. Keeping the contributions made by the Kathmandu School of Law in upgrading the education of law in the last ten years in Nepal, the fame it has gained due to such, and the infrastructure it has been able to build, this proposal to establish the Kathmandu School of Law into an Academy is in itself a positive step.
- 1.2 In the context of the more than adequate experience and legal provisions in high level education, university, academy establishment, management and operation and the fact that the Kathmandu School of Law itself has by itself also conducted studies of international relations, experience, and the necessity of the country [Nepal], this bill which has been proposed has all the aspects that need to be there in a bill, i.e. the bill is itself a complete bill. Although there might be agreements or disagreements about the objective of the bill and what the bill is trying to address or manage, in general the bill has been made correctly.

2. Analysis of some of the articles in the proposed bill:

The following are the analysis and suggested corrective measures to address some of the weaknesses in the articles of the bill, made with the intention of bill and making it as practical and easy to implement as possible, while supporting and taking the positive, correct provisions positively:

Article - 2

It should state that "Academic Council" refers to the Academic Council as per Article 12 instead of Article 11. Besides this the definition is correct.

Article - 3 Establishment of the Academy: Although it is stated that the Academy will conduct high level research in the following subjects it might be appropriate if general studies, defense analysis and management, and good governance are removed from the courses offered in the Academy.

Article - 5 In the bill, regarding the structure of the proposed academy the provisions is very wide and intensive. The organizational structure presented here is suitable more for a university than an academy, which may not be very appropriate? The proposed structure could potentially create complexities in the future and therefore must be made more practical and affordable.

Article - 6 The subjects in the proposed provisions regarding the academy's work, responsibilities and rights are too intense and ambitious. It might be more appropriate to be focused on academic research and investigation. It is not necessary to mention seminars, conferences and meetings in the Act. Looking at the proposed provisions it seems as though it has been proposed to allow the Academy to be involved in what non government organizations do as well. It will be appropriate to remove provisions that enable the proposed

Academy do works along the lines of NGOs.

Article - 7 Looking at the proposed provision regarding the formation of the senate, it does not seem to represent on the basis of a federal structure. There must be provisions to include those persons and organizations in the senate who are established in the courses that the academy aims to teach or investigate in.

In the context of the proposed provision to form the senate on the basis of wide spread representation, potential hurdles and challenges must be kept in mind, and the senate formation process kept in a way that represents the subject areas as well as the objective of the organization. Provisions regarding the nomination process of members by the senate must be further defined.

Regarding observing, the provision in 4 of Article 7, entailing that the observer only be someone who has worked in the legal sector, is incorrect. It will be appropriate to have provisions to allow any person established in the academic sector to be invited as observer.

Article - 8 (e) Regarding the Senate's work, responsibility and rights, can the academy provide honorary citations? It might be relevant to re think this provision. It might not be appropriate for an academy to confer honorary degrees/ citations.

In the provision provided in Sub-section G, it might be more appropriate to state that "if asked/ demanded by the Nepal Government, necessary suggestions, can be given.

Articles 9 and 10 It should be proposed that "as the works, responsibility and rights of the Conservation Committee are extremely important the vice chancellor should be present not just as an observer but as a participant.

Article 16 The proposed provision is ok. However the proposed necessary qualification and sectors for the service commission chair and members should be widened so that individuals involved in academics in the academy can also be incorporated. For example provisions allowing security experts in the post of the chair or members should be provided.

Articles 17 and 18 There is nothing much to say about these two articles. However something must be said about whether educational organizations as per the objectives of the Academy can be just in Kathmandu or elsewhere as well.

Article 19 As the Chancellor is the main and the most important official of the Academy and the personality of the chair plays an important role in increasing the status and trustworthiness of the academy, the provision entailing the qualification of the chancellor must clearly state that the chancellor can only be an established, capable, and qualified individual.

The provision stating that only those individuals who are graduates and have worked in the legal sector for a minimum of 20 years can be qualified to be the chancellor is not appropriate. There should be provisions allowing individuals who are qualified and capable, senior and with strong academic qualifications to be chancellor and not someone who is political party worker or someone who is answerable to the political parties or with such mentality.

Regarding provisions relating to the chancellor, instead of what is proposed, there should be provisions for the country's prime minister or chief justice to be the chancellor of the Academy.

Article - 20 Provisions allowing the vice chancellor to be established as a responsible and authorized official is correct.

Article - 25 Nothing much needs to be said about provisions entailed in this article. However because it allows the highest authority of the academy the senate to appoint the chancellor

it should also allow for the senate to remove the chancellor in case of wrong doings or irresponsible actions.

Article - 36 The provision allowing other educational institutions that are conducting courses that the academy is also conducting, to be incorporated into the academy does not sound mature or practical. Although it might be appropriate to keep such a provision by amending the act based on the future progress of the academy, it might seem a little hasty as at present the Kathmandu School of Law, which is itself a college, is being developed into an academy.

Article - 42 It will be more appropriate to have the Ministry of Education as the contact ministry rather than the proposed Ministry of Law and Justice.

3. Some policy level and practical suggestions to the concerned agency (Legislative Assembly) regarding the proposed bill

3.1 It is necessary to hold serious discussion as to the relevance, purpose and practicality of legal provisions allowing an educational institution that has been in operation for only the last ten years and is affiliated the Purwanchal University, to conduct such diverse courses and operate nearly at a university level and as an "academy".

3.2 It is not a great thing to just open an academy. There should be legal provisions for its sustainability as well as its use. 3.3 B e f o r e deciding on whether Kathmandu School of Law can be developed into a university level academy it has to be determined whether it has acquired national and international fame and whether it has the necessary physical infrastructure and capacity.

3.4 Are the human resources produced from such academies the need of Nepal? Does Nepal have the capacity to utilize the produced human resources from such academies? How are other educational institutions producing human resources in

similar subjects? The concerned agencies and sectors must be aware of this. Only if laws are made with adequate basic knowledge will this be effective.

3.5 The trend of proposing bills like this (proposed by UML CA member Bhimprasad Acharya) in the Legislative Assembly, to ambitiously establish a college, campus, or school as an academy giving it a wide range of legal rights, should be analyzed because such a trend might encourage other colleges and schools to follow the same path, creating demands for other academies to be created. The Legislative Assembly should be aware of this.

3.6 Instead of having separate bills allowing schools and colleges to given wider rights and working areas and establish themselves as "research academies" it might be more appropriate to give schools and colleges desiring of growing into a research academy and with the capacity to do so, to be allowed to do from within the University Act itself.

This investigation and suggestion paper was prepared by associate professor Ganesh Dutta Bhatt for the Nepal Constitution Foundation with inputs from women, indigenous peoples communities, Dalit, Madhesi, youth and other pressure groups. The Foundation is grateful to Dr Surya Dhungel, Dr Ramkrishna Timalina, Dr Bal Bahadur Mukhiya, Basanti Shrestha, Ghuran Saha, Sarita Rayamajhi, Rukmani Maharjan, Anita Joshi, Radhika Mahat, Lalbabu Yadav, Santosh Ranamagar, Subodh Babu Chiluwal, Soni Raghubanshi, Suman Acharya, Shirshak Ghimire, Jenny Gurung, Abhishek Adhikari, Phurpa Tamang, and Dr Bipin Adhikari.

This research has been supported by The Asia Foundation and opinions expressed in this report are of the authors and don't necessarily reflect of The Asia Foundation. ■

Travel Medicine in Nepal

By **BUDDHABASNYAT, MD**



Travel medicine is usually thought of as prevention and treatment of diseases in Westerners who came as tourists to the developing world and fall ill. In reality though, travel medicine is more than just preventive measures and treatment of traveler's diarrhea. Travel medicine has now developed into a busy field of medicine which encompasses fever in the traveler, jet lag, respiratory and dermatological illnesses in the traveler to name a few areas. And of course for us in Nepal altitude sickness is an important part of travel medicine as many tourists come here to trek in the magnificent Himalayas. Travelers may face not only altitude sickness problems at high altitude but also hypothermia, frostbite, sunburn and other illnesses that a travel medicine doctor has to be familiar with.

But there is a significant portion of travel medicine that deals with what is called pre-travel advice for travelers including obtaining vaccines against various illnesses like yellow fever, hepatitis A and B and typhoid fever. Pre-travel advice usually takes place in the country of origin and this advice is meant to medically prepare the tourist for their destination. Then there is also post-travel issues that may be of importance.

Post-travel assessment of problems in the traveler is clearly more interesting for the clinician as it requires certain sophisticated knowledge of infectious diseases in the geographical area visited by the traveler. And there are certain vulnerable groups called VFRs (visiting friends and relatives) who were born and lived in places like Nepal for many years, but now are permanently settled in a Western country. Amazingly, this group (VFRs) is notorious for falling sick during or after their visit to their native country.

Experts hypothesize that the VFRs immunity to common

infectious diseases like gastroenteritis and typhoid wanes after a long stay in the West. Hence the predisposition to problems. More importantly he or she may not be properly vaccinated unlike other regular, non-VFR tourists against prevalent diseases here. Some even drink the contaminated Kathmandu tap water trying perhaps, to prove that they are true sons of the soil. This is "going native" in a big way! Being sick during vacation is no fun for either the guest or the host. Furthermore some become sick and are hospitalized with diseases like typhoid fever on return to their adopted country and are presented as a cautionary tale on medical rounds in Western hospitals. This is a bit embarrassing, as a physician who had migrated from here found out after visiting Nepal (without taking health precautions) during Dasain and being sick with typhoid on his return.

So if you have Nepali friends and relatives settled in developed countries wishing to visit you, it may be important to suggest to them to visit the local travel clinics there for advice or look up websites like the centers for disease control (CDC) or the WHO for vaccinations and other precautions necessary before their visit to Nepal.

Another important point is that busy clinicians in Nepal hardly ever obtain a travel history from the patient. With Nepalis being more mobile (labour migrants, for example) than ever before, taking a travel history is important. So if you travel to Africa and come down with a flu-like illness, you probably have the dangerous kind of malaria unless proven otherwise. You might have to tell your doctor of your recent visit to Africa regardless of whether the doctor asks you or not. ■

BHIM BAHADUR TAMANG Simplicity & Conviction

Although Bhim Bahadur Tamang left his house and family members a long time back, his presence as a committed liberal democrat remained with Nepali Congress forever

By A CORRESPONDENT

Unlike Suhil Koirala, late Krishna Prasad Bhattarai and Shailaja Acharya, Bhim Bahadur Tamang was not a bachelor. Father of two children, late Tamang stayed away from his family with full conviction to liberal democracy till his death.

Living in a room provided by senior advocate and Nepali Congress former MP Radhe Shyam Adhikari, saintly and altruistic NC leader Bhim Bahadur Tamang remained in the same house until he passed away at the age of 78. Many see the NC leader as unselfish and concerned for the welfare of others.

Tamang was living at the house of law expert and NC former lawmaker Radhe Shyam Adhikari since 2054 BS. He used to



live a simple life in line with Gandhi's ideology. Tamang was the permanent resident of Dolakha district.

Tamang was jailed time and again during the struggles for democracy. He was one of the three candidates for the party presidency, along with Sushil Koirala and Sher Bahadur Deuba, in 12th National General Convention.

तपाईं इच्छा गर्नुहोस्...
हामी पूरा गर्नेछौं ।



न्यूनतम वार्षिक ब्याजदर

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- कर्जा अवधि २० वर्ष सम्म
- अनिश्चित ब्याजदरको जोखिमबाट मुक्त
- तेश्रो वर्षपछि मात्र ब्याजदर floating हुने
- कर्जा भुक्तानी समान मासिक किस्ताको आधारमा (EMI basis)
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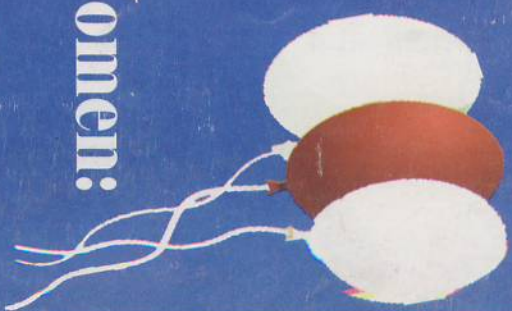


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