

The National Newsmagazine

# SPOTLIGHT

Jan 19-25, 2007

संसद भवन

## Interim Constitution Promulgated

Arms Management : Preliminary Phase Begins  
British Film Festival

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**SPOTLIGHT**

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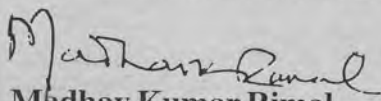
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**I**f Falgun 7 or February 18, more than five decades ago sounded the death knell of the century old despotic oligarchy, Magh 1 or January 15, a few days back, struck the final nail in the coffin of monarchical authority in Nepal, or even heralded the end of 238 years old Shah dynasty. Both dates have assumed historic importance. There would be no dearth of charlatans who would take credit for the epoch making revolutions. But the irrefutable truth is, as all knowledgeable people will agree, Nepal's friendly neighbor in the south – India- is the prime factor who engineered the revolutions on both the occasions. Of course, she was most ably supported by the heads of the government of Nepal in the respective periods- prime minister Mohan Shamsher Jung Bahadur Rana and King Gyanendra Bir Bikram Shah Dev.

Whether Falgun 7 has proved to be a red letter day or whether Magh 1 would prove to be a black letter day, let the historians decide. We would not like to venture our opinion. But if we are to go by the lessons learnt in this period, we will venture to say that the poor millions of Nepal have been left very far behind any development, if any. And if there is any truth in the dictum 'morning shows the day' we will not hesitate to opine that Nepal faces very dreadful and uncertain future. The public agitations of last year that restored not only the dead House of Representatives but also the discredited politicians have initiated some new trends in Nepali politics. No rule of law is needed to govern the country. All one needs is the support of powers that be that pull the strings, whether in the region or in the big world. And these powers know fully well which side of their bread is buttered. And if the government of the country continues in the hands of politicians who are always guided by alien forces and who are obsessed with the feelings of vengeance and witch hunting, which direction the country will go is hard to tell. At this juncture, when totally new elements – the CPN (Maoists) – have entered the mainstream of Nepali politics, political atmosphere in the country has become even more fluid. The violent leftist forces are still calling the shots all over the kingdom and peace and security is still an unknown commodity. There is virtually no law and order prevailing. And the prime minister is not only sick but unable to exercise his authority. The growing impatience in the leadership of the CPN (Maoists) to have firmer grip on the administration of the country is generating serious misgivings in the minds of their opponents. Consequently, the Maoists too are facing a difficult and up hill task. Bursting out decades of long pent up resentments of discriminations amongst the terai people- the Madhesiays- need to be addressed urgently and justifiably. That many of their grievances are just and must be met. Since it is no secret which powerful forces are at their back, it will not be an easy matter to resolve. Even the regressive forces have started to flex their muscles. And in the coming days they are sure to gather strength and cannot be counted out totally. In such a delicate situation a government which have no popular mandate, whose constituents are not only at loggerheads but playing tug of war of power and pelf keeping the ensuing elections in mind and whose integrity and nationalism are always suspect, are planning to embark upon distributing citizenships and holding of elections to the constituent assembly, both very fiery issues that can pose grave dangers and engulf the country in a civil war. As such, at this critical time, it becomes the bounden duty of all the patriotic forces of the country, without any distinction of where they come from or to which community they belong to, to join hands to save the country from going to destruction or disintegration by defeating the evil designs of all anti-national forces. If the Nepali people want to survive, they have to know, once for all, who are the anti-national forces and root them out.

  
**Madhav Kumar Rimal**  
Chief Editor & Publisher



## Monarchy And Election

The cover story "Monarchy in Constituent Assembly" (SPOTLIGHT January 12) indicates that putting monarchy in a test of popular election for a country like Nepal could be counterproductive. Perhaps that is true. It will further divide this country if the old institution is put through the rigors of overly-politicized exercise. Better would have been to let the institution function as a figurehead. However, given the level of bitterness among the domestic political forces this does not seem possible. Let us hope the country will not be injured any further.

*Rishav Gartaula*  
Old Baneshwore

## Timely Move

● decision to put the institution of monarchy under the CA election is a timely move ("Monarchy in Constituent Assembly" SPOTLIGHT January 12). It is the need of hour to settle the issue of monarchy through popular mandate. The CA representatives will be elected by the people based on their policy and agenda. One of the primary agenda the prospective CA candidates will put forth is the one concerning the issue of monarchy. As such, people will get to cast their votes by considering all these factors.

*Bijaya Gurung*  
Kaushaltar

## Heal The Nation

The call for self-determination and ethnic autonomy and sundry other demands have slowly started to hit at the ● integrity and sovereignty of this country ("Monarchy in Constituent Assembly" SPOTLIGHT January 12). The activities of Janatantrik Terai Mukti Moreha, Kirat Workers Party and similar other outfits are very disturbing. Quite clearly, these activities could lead to the disintegration of the country. Especially at a time when the nation is headed for the elections of Constituent Assembly, such activities and such demands could lead to unanticipated catastrophe. For those who say that the country should become federal or have ethnic autonomous region, they should understand that the real world is very different from what their ideological belief or utopian dreams push them towards. There are all

kinds of elements in the society and however much good-intentioned, their idea of autonomous regions could soon spiral out of their control and become a full-blown separatist movement – after all what exactly the right to self determination means if it does not allow you to secede? The right to self determination that they are advocating today will undoubtedly turn into the right to secession very quickly. Look how the countries like Iraq and Afghanistan are suffering. Let us not go into that dangerous path. That will not lead to new Nepal.

*Kebal Nepali*  
Kathmandu

## Democracy Diverted

When the people of Nepal rose up against the dictatorship of royal regime in the April of 2006, they were demanding a new peaceful, democratic and prosperous Nepal ("Monarchy in Constituent Assembly" SPOTLIGHT January 12). They had not expected their leaders to trample upon the very norms and values of the nationhood. By opening up the Pandora's Box, the Nepali leaders are now faced with daunting challenge of meeting seemingly impossible demands coming from a secessionist movement in Terai to all-encompassing inclusion and federalism. The leaders do not look capable enough of dousing the flames of fire that they have ignited.

*Purna Limbu*  
Dhapasi

## Dictatorship In The Offing?

The article "Dictatorship of Eight Parties" (SPOTLIGHT January 12) was very interesting. It showed how the political leaders have now hijacked the democracy of the people. In the pursuit of power and ideology, leaders are outright disregarding the fundamental rights of the citizens. The interim constitution appears to be no more than a document cementing the power of the current ruling alliance plus the Maoists. These developments indicate that the country may be headed from fire to the frying pan.

*Jivan Bastola*  
Harisiddhi

## Monopolizing Democracy

It appears that the eight parties are going to monopolize the democracy and freedom, which the people of Nepal had fought for and reclaimed just a year ago ("Dictatorship of Eight Parties" SPOTLIGHT January 12). By writing their name in the interim constitution and by inserting provisions that warrant their understanding on each and every occasion, the eight parties have exposed their intention. The Maoists must be grinning from ear to ear for achieving this feat even before the holding of Constituent Assembly elections.

*Ramita Shrestha*  
Balaju

## Statue Uncovered

Following your write up two weeks ago, the statue of King Prithvi Narayan Shah seems to have been uncovered, but only so reluctantly ("Unity is Strength, SPOTLIGHT January 12). The government made a very unwise move by canceling the public celebrations of National Unity Day and Prithvi Jayanti. They are trying to delete a part of Nepalese history – the part that is so very vital since it was during the time of Prithvi Narayan Shah that the modern state of Nepal was unified. How can any civilized society deny their very national identity and integration? In these times of madness, it is useless to talk about things like nationalism, patriotism and sovereignty.

*Hikmat Karki*  
Dhumbarahi

## Thapa Arrested, Refuses To Cooperate

Former Home Minister Kamal Thapa has demanded that he be properly summoned by either the Parliament Secretariat or by the parliamentary probe committee. Thapa, who had been produced in the parliament by the police on Saturday (January 13), said that he will continue to refuse to cooperate with the parliamentary committee until he is detained. "I am currently being detained. And I will not cooperate or record my statement until I remain under arrest. First they should release me and then summon me properly. Then after, I am willing to cooperate," Thapa told reporters. Earlier, Thapa was brought before the parliamentary committee formed to probe the killings of Nagarkot and Belhari during the royal regime. He was later released. In Nagarkot and Belhari incidents a number of civilians had been killed in army firing. *Compiled from reports*

## Goit Against Interim Constitution

The leader of the faction of Janatantrik Terai Mukti Morcha (JTMM), which has imposed three-day Terai bandh from Friday (January 12) has said that his party is against the interim constitution finalized by the eight parties. Talking to BBC Nepali Service, Goit said that the interim constitution was "prepared by Nepalis" and had not addressed issues of "people of Terai." The two factions of JTMM – one led by Goit and another led by Jwala Singh – have intensified their violent activities in eastern Terai region in recent months. Both of them have expressed willingness to talk to the government and both have put forth identical preconditions, which include declaration of Terai as independent state and eviction of Pahades (people from hilly region) from civil service, army and police organization in Terai, among others. They have also demanded fresh delimitation of electoral constituencies based on population and have demanded that Madhesi (Terai) administrators be allowed to distribute citizenship to Madhesi people. The normal life in some districts of eastern and central Terai region has been paralyzed due to bandh called by JTMM (Goit). Transport movement in and around Siraha district

came to grinding halt while schools, institutions and business remained shut down. According to police, JTMM cadres exploded a bomb in front of a shop belonging to businessman Dinbandhu Shah on Thursday night in Siraha. They also held torch-lit procession and set a motorcycle to fire. In Janakpur also the bandh affected normal activities. In Saptari, one Ram Bahadur Basnet was abducted. The bandh also hit Morang, Sunsari, Rautahat, Bara and Prasa districts. *nepalnews.com report*

## Mero Mobile Plans New Value Added Services

Spice Nepal's Mero Mobile is now poised to launch the next phase of expansion with a string of value added services. The telecom player is targeting February to unravel these services that are being extended to it by its service provider based in Kazakhstan. While CEO Dmitry Zaika makes no bones about Mero Mobile's aim to provide Nepali consumers all the telecom services available globally, and eventually beat Nepal Telecom in the number game, he refuses to divulge the details of services to be launched in February and thereafter. But according to sources, to begin with Mero Mobile plans to come up with an interactive campaign with consumers for Valentine's Day for which it has already tied up with Kantipur Television. "Our focus in 2007 will be on extending the mobile phone service into the arena of entertainment and information and providing state of the art services. That is where the world market is headed," claims Zaika. The management of Mero Mobile is spending substantial advertising budget. While the launch budget alone stood at Rs 10 million in 2005, the current budget for advertising, events promotion and outdoor campaign this year is said to hover between Rs 25-30 million. *The Himalayan Times daily reports*

## BJP Delegation Concerned About Fate Of Monarchy

A delegation of five leaders of India's main opposition party, Bharatiya Janata Party (BJP), met with president of Rastriya Prajatantra Party (RPP) Pashupati SJB Rana and expressed their concerns about the fate of monarchy.

"They showed interest about the political developments and about the issue of monarchy," Rana later told media persons. The delegation led by Surendra Kumar Arora, head of the Foreign Department of the BJP, also held talks with other political leaders including Maoist spokesperson Krishna Mahara. During their four-day stay in Katmandu, BJP leaders are scheduled to meet with senior leaders including Prime Minister Girija Prasad Koirala on Friday. The team had arrived here on Wednesday. They have already met with UML general secretary Madhav Kumar Nepal. The BJP, a Hindu nationalist party, which has been supportive of monarchy in Nepal, had expressed displeasure over the reinstated parliament's declaration to turn Nepal into a secular state. *Compiled from reports*

## Eight Party Leaders Divide 48 Seats In Interim Parliament

The meeting of the top leaders of the four big parties – NC, Maoists, UML and NC (Democratic) – held at Baluwatar on Wednesday (January 10) decided to divide the 48 seats in the interim parliament among the eight parties. As per their decision, NC, Maoists and UML will get 10 seats each; NC (Democratic) will get 6 seats; and smaller parties People's Front, United Left Front, Nepal Sadbhavana Party (Anandidevi) and Nepal Workers and Peasants Party (NWPP) will get 3 seats each. NC-D president Sher Bahadur Deuba is said to have expressed dissatisfaction over the decision to grant his party lesser number of seats. The 330-member interim parliament is all set to be formed on January 15. This parliament will have 200 members from the existing parliament plus 73 members from the Maoists and 48 nominated ones. The parties have said they will nominate civil society representatives, women, Dalits, Madhesi, Janajatis and other marginalized community members in the 48 seats. Likewise, the Wednesday's meeting also decided to present the interim constitution to the House of Representatives at least one day before promulgation to allow for general discussion. *Leading dailies report*

## Maoist Clarify Their Foreign Policy

The chief of the foreign relations cell of the Maoists Chandra Prakash Gajurel

aka Comrade Gaurav has said that his party will adopt practical foreign policy based on the principles of Panchasheel – which focuses on mutual respect. Releasing his party's foreign policy, Gajurel said the Maoists will adopt equidistance between two neighbors. He, however, deplored the policies of 'rampant interference' by the United States. He said that his party will continue to embrace Marxism, Leninism and Maoism. "We will have fraternal relations with RIM, CCOMPOSA and proletarian organizations around the world. But this relation will not come in the way of foreign policy," he said.

*Leading dailies report*

## Maoists Assigned To Talk With JTMM: Sherchan

Deputy Prime Minister Amik Sherchan has revealed that the government has assigned the Maoists to hold talks with the Janatantrik Terai Mukti Morcha (JTMM), which is engaged in violent activities in Terai region. The JTMM is a splinter of the Maoists. It has two factions. However, Sherchan added that the government will not hold talks with the JTMM faction led by Jwala Singh. *Compiled from reports*

## Badu Presents RTI Bill At The Parliament

The government spokesperson and Minister of State for Information and Communication Dilendra Prasad Badu presented Right To Information (RTI) bill at the House of Representatives on Wednesday. The bill aims to make information accessible to the public and institutionalize the public's right to information. The government plans to pass the bill in a few days before the current House of Representatives is replaced by an interim parliament.

*Leading dailies report*

## Minor Technical Corrections Made In Interim Constitution

A team of the government and Maoist representatives made some minor technical and grammatical corrections in the finalized interim constitution. The corrections were carried out by members of government talks team including Home Minister Sitaula and Minister of State for Labour Ramesh Lekhak and a Maoist representative Khim Lal

Devkota. They, however, did not amend any provision. "There was no question of touching any provision as the eight party leaders have already said that they will not amend the provisions of the interim constitution," said Devkota. Despite demands for some amendments raised by Supreme Court judges, bar association representatives and even voices of dissatisfaction raised by the Prime Minister, the interim constitution has not been amended. *Compiled from reports*

## PMO To Be Upgraded

Given the sweeping authorities vested in the Prime Minister by the interim constitution, the Prime Minister's Office is poised to undergo drastic reforms in its organization and physical facilities. A proposal to this effect has been presented at the cabinet. The proposal was prepared by a six-member team led by secretary Dipendra Bikram Thapa. In order to expand the space of PMO, other offices located at the main building of Singhdurbar could be displaced. The proposal also calls for appointing several expert advisors on various matters to suggest the Prime Minister in policy-making and execution. Meanwhile, preparations are afoot to make the foreign ambassador-designates to present their diplomatic credentials to the Prime Minister. Till now, the King used to receive the credentials. *Kantipur daily reports*

## Development Budget Diverted To Subsidize Petroleum Products

As the government is selling petroleum products below their cost price, billions of rupees that could have been used in development have been wasted. To benefit the urban people, the rural people are bearing the cost. In the last four years, the country has lost Rs 22 billion in petroleum transactions. Had this money been saved, it could have funded 29,000 primary schools – each with 250 students capacity; or it could have funded setting up of 74,000 sub health posts; or it could have funded 1700 km road construction in hilly region (2250 km road in Terai). This estimation based on per unit cost calculated by the National Planning Commission (NPC). It shows that the government is subsidizing Rs 15,000 to every motorcycle or vehicle owner in

Kathmandu valley – which consumes 65 percent of the petroleum products. "It is the height of inequality to be wasting such a huge amount of resources," said Dr. Posh Raj Pandey, a member of the NPC. Experts have said that since the price of petroleum products have declined in the international market in recent months, it is the right time to liberalize the petroleum sector. *Kantipur daily reports*

## Chilime Works To Resume

Following an understanding between the Chilime hydropower company and Maoist leadership on Thursday in Kathmandu, the stalled works of the project is set to resume. Since Tuesday, the works of the project had been stopped after Chilime public concern committee formed by villagers of Chilime, Goljung and Syaphru raised various demands including free electrification. The stoppage of the project had resulted in the loss of Rs 1.9 million everyday. The talks held between company director Dambar Bahadur Nepali and Maoist commander Barsha Man Pun concluded to resume the project by positively taking up the demands raised by villagers. Following the agreement, Pun telephoned Maoist in-charge of Rasuwa district to withdraw obstructions. *Nepal Samacharpatra daily reports*

## NBB Is Improving: NRB

The Nepal Rastra Bank (NRB) has informed that the loan recovery and overall financial situation of Nepal Bangladesh Bank (NBB) has been improving. Two months after the NRB took over the management of ailing NBB, Rs 700 million of loan have been recovered, claims Maha Prasad Adhikary, the coordinator of the management committee appointed by the NRB. "Loans from promoting agency NB have also been recovered to a certain extent. We have recovered Rs 237 million from the NB group. Still, principal amount of Rs 1.3 billion and interest amount of Rs 230 million remains to be recovered from the group," said Adhikary. Other debtors owe Rs 460 million to the bank, he added. *Kantipur daily reports* ■



PM Koirala meets with a Chinese delegation led by vice president of Chinese National People's Congress *Li Gorkhapatra*

**THE CABINET HAS DECIDED TO OFFER A NUMBER** of benefits, concessions and facilities for the persons who have been injured during the April's People's Movement II and their families. The cabinet has decided to give concessions in health treatment to the injured persons. "They will be provided with ID cards, which will entitle them for concessions in traveling. Likewise, the injured persons will get to compete among themselves for technician training, among others," Deputy Prime Minister Amik Sherchan said. The injured persons can enjoy 25 to 33 percent concessions in traveling. The cabinet meeting also decided to appoint Dolakh Bahadur Gurung, secretary at the Election Commission (EC) and Dr. Ayodhi Prasad Yadav, an assistant professor, as the two Election Commissioners. Their names had recently been approved by the Parliamentary Special Hearing Committee. Likewise, the cabinet meeting also decided to recruit 2000 additional policemen for the purpose of Constituent Assembly elections. It has also decided to form a security advisory committee.

**THE ELECTION COMMISSION (EC)** has completed training for the district electoral officers. The trained officers will now be dispatched to the districts to train their assistant officers. Such training will begin immediately in Terai region whereas in hills and mountains, the training will be conducted next week. The EC has also gathered 6.5 million forms for collecting voters' list. Meanwhile, speaking at the meeting of the State Affairs Committee (SAC) of the House of Representatives, on Thursday, Home Minister Krishna Prasad Sitaula said that the government has instructed Chief District Officers to take initiatives for reaching local political consensus in restoring police posts for the purpose of providing security during the forthcoming Constituent Assembly (CA) polls.

**SAYING THAT UTILIZING FOREIGN ASSISTANCE** and/or loans in the construction of hydropower projects had resulted in inordinate delays and difficult conditionalities, the Nepal Electricity Authority (NEA) is planning to release power bonds

worth Rs 3 billion to raise domestic capital for the purpose. The power bonds will be offered to the public and institutions. For the time being, the NEA wants to use domestic resources to build Chameliya (30 MW); Kulekhani III (14 MW) and also in the ongoing Middle Marsyangdi (70 MW) projects. The NEA has signed an understanding with Nepal Merchant Banking and Finance Limited to release the power bonds within March. According to NEA managing director Arjun Kumar Karki, the bonds will have the maturity period of 5 years; and 90 percent of them will be offered to banks, finance companies and insurance companies while 10 percent will be offered to general public. Karki said that the power bonds will have attractive interest rate – more than the rate offered by government bonds.

**THE SUPREME COURT**, on Wednesday (Jan 10), ordered the government to make clear the status of 446 persons arrested and detained by the royal government and of whom nothing is known now. A division bench comprising Chief Justice Dilip Kumar Poudel and Justice Tahir Ali Ansari issued the order after a hearing. The bench ordered the authorities to inform it whether the 446 were released or not. The court is to be informed through the Office of the Attorney General. The court has not set any deadline for the government, though. The order was issued in response to writ petitions filed by human rights associations. The petitioners had sought the court order for the release of 446 people. Most of them were arrested and detained on the allegation of being Maoists' sympathizers.

**INDIAN AMBASSADOR TO NEPAL** Shiv Shankar Mukherjee said that the Indian government has trebled the quantum of financial assistance to the present government of Nepal in comparison to what it was given to previous government. Laying the foundation stone of the building of Bal Janata Higher Secondary School at Deukhuri of Dang district to be constructed with financial assistance of Rs 20 million from the Indian government, Mukherjee said, "The Indian government has hiked three-fold its assistance to the Nepal government formed after Jana Andolan II." He added that over 160 projects with Indian assistance are operating in 75 districts of Nepal. Leading dailies report

**INCUBATOR AND VENTURE CAPITAL COMPANY LAUNCHED** The founding of Fortune Cookie Ventures Pvt Ltd was announced at the launch of CAN Infotech 2007 last week. Fortune Cookie Ventures Pvt Ltd is an international joint venture set up by successful ICT entrepreneurs in Nepal and Intelligent Capital LLC, a US-based international venture capital company. The goal of Fortune Cookie is to provide incubation and venture capital to deserving innovators with promising ideas in the ICT sector, and thus contribute to the overall development of ICT in Nepal. Fortune Cookie intends to invest up to Rs. 100 million in Nepal's ICT sector over the next 2 years through its activities. By creating successful ventures, Fortune Cookie would attract much needed foreign investment into the ICT sector. The promoters of Fortune Cookie are Sanjib Raj Bhandary (Mercantile), Bijay Krishna Shrestha (Beltronix), Navin Joshi (World Distribution), Dileep Agrawal (WorldLink), Rajesh Kumar Shakya (Hi-Tech Valley) and Deepesh Pradhan (Yomari). ■



“Since all other parties’ have unclear agendas, our party and our ideology of People’s Multiparty Democracy will win majority in the Constituent Assembly elections.”

*Madhav Kumar Nepal, general secretary of the Unified Marxist Leninist (UML), addressing his party cadres.*

“The interim parliament will be the site for three-way struggle among the progressive forces, status quoists and regressive forces.”

*Dr. Baburam Bhattarai, senior Maoist leader, in Kantipur Television.*

“The nominated independent MPs will not have to abide by our party’s ideology or our whip in the parliament.”

*Ram Bahadur Thapa aka Badal, senior Maoist leader, talking to reporters.*

“The interim constitution is prepared by Nepalis and does not address issues of people of Terai.”

*Jai Krishna Goit, coordinator of the Janatantrik Terai Mukti Morcha (JTMM-Goit), in BBC Nepali service.*

“We will have fraternal relations with RIM (Revolutionary International Movement), CCOMPOSA (Coordination Committee of Maoist Parties and Organizations of South Asia) and proletariat organizations around the

world. But this relation will not come in the way of our state-to-state relations with other countries.”

*Chandra Prakash Gajurel, chief of international relations cell of the Maoists, making public the foreign policy of his party.*

“The word morality does not exist in the lexicon of Nepali politics.”

*Pradeep Nepal, senior leader of UML, talking to an FM radio.*

*Kamal Thapa, former Home Minister, refusing to record statement at the parliamentary committee formed to probe Nagarkot and Belbari killings.*

“Kindly bear with the inconvenience. And do not think that your mobile phone has gone out of order. From now onwards, you do not need to switch off your mobile when you are inside this building.”

*Rudra Bahadur KC, chief technician*



“I will not cooperate or record my statement until I remain under arrest. First they should release me and then summon me properly through Parliament Secretariat. Then after, I am willing to cooperate.”

*at the Parliamentary Secretariat, informing MPs that for the sake of preventing any disturbance in parliamentary proceedings, their mobile phones will not work as long as they stay inside the parliament building, in Gorkhapatra.*

## TRANSITION

**NOMINATED:** KB Gurung, Bhim Bahadur Tamang, Sujata Koirala, Harihar Dahal, Yagya Raj Pathak, Amresh Kumar Singh, Dinbandhu Shrestha, Mitha Ram Biswakarma, Krishna Kumari Shrestha and Sita Devi Yadav, as MPs of interim parliament, by the Nepali Congress.

Amrit Kumar Bohara (Sindhupalchowk), Jhal Nath Khanal (Ilam), Bamdev Gautam (BaArdiya), Parvati Chaudhary (Kailali), RIMA Nepali (Rolpa), Shanti Pakhrin (Dolakha), Parodevi Yadav (Siraha),

Jayanti Rai (Bhojpur), Rijwan Ansari (Bara) and Chudamanni Jungli Biswokarma, as MPs of interim parliament, by the Unified Marxist Leninist.

Malla K Sundar, Padma Lal Biswokarma, Shanta Shrestha, Bhikchhu Ananda, Hari Roka, Naryan Prasad Sharma Regmi, Shri Krishna Acharya, Kumar Bahadur Fudong, Iliyas Rahman and Mukta Devi Chaudhary, as MPs of interim parliament by the Maoists.

Sunil Prajapati, Jagya Bahadur Shahi, and Lila Nyaichyai, as MPs of interim parliament by Nepal Workers and Peasants Party (NWPP).

Kaman Singh Lama, Anjana Bisankhe and Asarfi Sada Musahar, as MPs of interim parliament, by People’s Front Nepal.

Anandidevi Singh, Bharat Bimal Yadav and Gobinda Tharu as MPs of interim parliament, by Nepal Sadbhavana Party (NSP-Anandidevi).

CP Mainali, Nanda Kumar Prasai and Ganesh Shah, as MPs of interim parliament, by the United Left Front.

**RETURNED:** A five-member delegation led by Surendra Kumar Arora, head of the Foreign Department of the India’s main opposition Bharatiya Janata Party (BJP), after completing four-day visit to Kathmandu.

# ARE DONOR BANKS TO BE BLAMED?

*(Kathmandu Valley Water Supply Issue)*

- AB Thapa

We frequently hear controversies over the projects financed by donor banks. Very often it is alleged that the donor banks impose their own terms and conditions which are not in the interest of our country. Is it always true? Should the donor banks be blamed? The most recent controversy is about the financing of the Melamchi Water Supply Project. Asian Development Bank has agreed to provide loan assistance to implement the Melamchi Water Supply Project. The Asian Development Bank is reported to have required that the management of the Kathmandu Water Supply Project be handed over to a foreign company as a precondition for providing the loan assistance. Such transfer of management is to take place based on the agreement already signed between our government and the Asian Development Bank.

## **Demand Management**

It need not be explained that Kathmandu valley at present is suffering from water shortage. There is a great urgency to resolve this problem. It is quite clear that the present water shortage problem would hardly be resolved without augmenting the supply. It has been estimated that onward 2010 the supply to Kathmandu valley would have to be further increased even after the diversion of the Melamchi flow into the Kathmandu valley.

At present some of us have a very false notion that the Kathmandu valley water supply problem would be temporarily solved by improving the management system. Thus we are justifying the policy to hand over the management of the Kathmandu valley water supply to a foreign private company despite the fact that we would have to pay an exorbitant amount of money to that company. The water supply charge to be paid by Kathmandu residents would be greatly increased. It will force a vast number of financially weak Kathmandu residents to cut down their daily consumption of water. In this way it will certainly help privileged people to be provided any additional quantity according to their requirement at the expense of the poor.

## **Other Options**

Demand management is the only recourse in those desert regions where there is not any possibility to augment water supply. How about Kathmandu valley? We have abundant water. We need not cut down the supply to Kathmandu residents to resolve this problem. An enormously large additional quantity of water could be provided to Kathmandu residents almost for free if we linked water supply program

with electricity generation. Diversion of regulated Langtang river flow via proposed Melamchi tunnel would provide such opportunity. The super high-head Langtang hydropower stations would be able to produce electricity at an extremely low cost. Unfortunately, we are at present following a very irrational method to resolve Kathmandu water supply problem. There is a need to hold widespread consultations to find best solution to resolve Kathmandu valley's long term water supply problem.

## **Renegotiation With the Bank**

We are told that the Asian Development Bank is very rigid to enforce the terms of the agreement. One is compelled to wonder why we signed such a controversial agreement if we are not convinced that the agreement is in the interest of our people. We can not prove our innocence in accepting the condition to transfer the management of the Kathmandu water supply to a foreign private company by laying the entire blame on the Asian Development Bank. Can not we renegotiate a

***At present some of us have a very false notion that the Kathmandu valley water supply problem would be temporarily solved by improving the management system. Thus we are justifying the policy to hand over the management of the Kathmandu valley water supply to a foreign private company despite the fact that we would have to pay an exorbitant amount of money to that company. The water supply charge to be paid by Kathmandu residents would be greatly increased. It will force a vast number of financially weak Kathmandu residents to cut down their daily consumption of water***

more favorable term if in our opinion some of the loan conditions are detrimental to the interest of our people. Or we are simply trying to free ourselves from the responsibility to manage ourselves the water supply problems by handing over to a foreign company despite the fact that the residents of the Kathmandu valley would be forced to pay a high price for it. It is equally difficult to understand why the hydropower component of the Melamchi tunnel was dropped despite the strong recommendation of the UNDP report to include it since it would have helped to reduce water supply tariff.

## **Hydropower Component of the Melamchi Project**

There exists a big potential to generate cheap electricity by using the diverted flow of the Melamchi river. The

elevation of the Melamchi intake weir is 1715 m and the inlet to the treatment works near Sundarjal is 1409 m. Thus there is an enormously big gross head of 306 m. The UNDP report has clearly stated that the net increment in investment (the cost of the powerhouse located near Sundarjal with electromechanical equipment) needed to implement the hydropower element is relatively small as the intake headrace tunnel and penstock are already in place for conveying water to the treatment works. The UNDP study has concluded that it would be worth constructing the hydropower and it could make a contribution to reducing the cost of drinking water to Kathmandu. According to the UNDP report even before the diversion of the Yangri and Larke rivers the total annual generation of the Melamchi hydropower would be 60 GWh and out of it the firm power generation would be 40.5 GWh. The Melamchi hydropower electricity generation would have been close to 50% of the annual generation of the Kulekhani No.1 hydropower.

After the diversion of the Yangri and Larke the electricity generation of the Melamchi hydropower would be further increased. It surprises anyone to learn that the Melamchi hydropower component has been dropped. People want to know why our Planning Commission allowed the power component of the Melamchi project to be dropped despite the fact that the UNDP report has concluded that the power station would be worth constructing and could make a contribution to reducing the cost of drinking water to Kathmandu residents.

### Amendment of the Kankai Project Agreement

In the past the Asian Development bank had been very flexible. They fully cooperated to make substantial amendment to the agreement whenever they were convinced that our government has raised concern over genuinely important matters. Kankai Irrigation Project could be a typical example.

Government's attention was drawn as early as the 1960s to exploit the potential of the Kankai River. Department of Electricity was the first to conduct preliminary study of this river for power generation. The Asian Development Bank's growing interest in providing financial assistance to Nepal gave fresh impetus to develop the potential of the Kankai River. The Bank agreed that they would be prepared to finance for the time being a small proportion of the irrigation component of the Kankai development project. Following the Asian Development Bank's advice our government requested the Bank for technical assistance to conduct the detailed study of the Kankai Irrigation Project. The Bank approved the request and the studies of the Project commenced in January 1971. The feasibility study was completed in September 1971. Feasibility study as well as detailed design of the Kankai

Project was done under a grant directly by the Asian Development Bank outside Nepal. We from the Nepalese side expressed our reservation about the detailed design. After completing various formalities the Bank decided to finance the Kankai Irrigation Project. The construction of this project commenced from around the middle of 1970s.

We proposed the Asian Development Bank to amend the loan agreement by substantially modifying the total design of the project even though the contractors had already started the construction works at site. The modification allowed the capacity of various structures (involving about 2/3 cost of the project) to be increased by about 60% absolutely without rise in project cost. The Asian Development Bank agreed to amend the Agreement. An additional Supplementary Loan Agreement was signed to incorporate those modifications.

*(Dr. Thapa writes on water resources)*

## EARTHQUAKE SAFETY DAY

In memory of the big earthquake that rocked Nepal and parts of India in 1934, the country observed the National Earthquake Day on Magh 2 (January 15).

The day was observed with the objective of generating mass public awareness about the hazards of earthquake. The Earthquake Safety Day National Committee organized various programs to mark this day.

Home Minister Krishna Sitaula delivered special message on the occasion. A memorial function was held at Bhugol Park in New Road – which was erected in memory of those who died during the great quake.

Kishore Thapa, coordinator of the committee and director general of Urban Development and Building Construction Department, said that a number of programs were held to spread the message of awareness.

It is said that since Nepal lies in an active seismic belt, big earthquakes regularly hit this region. Experts have warned that any big quake like in 1934 could trigger mass destruction, particularly in crowded cities like Kathmandu.

Estimates have indicated that tens of thousands of people could die in Kathmandu alone if a mega quake is to hit now. The haphazardly constructed buildings, poor infrastructure and facilities, and next to non-existent awareness about safety has caused concerns to the experts.

Very few buildings in Kathmandu can withstand tremor above 8 richter scale. Since Nepal lies in the Himalayan region – which itself is the product of complex geographic phenomenon whereupon the Indian plate is constantly pushing into Tibetan plate – and thereby increasing the height of Himalayan mountains – this area is said to be prone to tectonic shifts, that can trigger massive quakes in regular interval.

## INTERIM PARLIAMENT

# Rebels In The Gallery

The Maoists return to the parliamentary fold after one full decade leaving behind a legacy of violence

By SANJAYA DHAKAL

The faces of red brigade of newly nominated MPs of the Maoists revealed the mixture of fascination and pride when they entered the gallery hall of what they prefer to call as Interim Legislature.

After it promulgated the interim constitution in the face of numerous amendment proposals, the Speaker of the House of Representatives Subas Nemwang announced its dissolution. It was immediately replaced by the interim parliament including Maoist representatives.

The House of Representatives had been restored after King Gyanendra relinquished power on April 24, 2006.

Speaker Nemwang said that in the last nine months, the House sat for discussions for 263 days passing landmark declarations and acts including the May 18 Declaration that formally clipped the authority of the King and declared parliament as supreme and sovereign body. Likewise, Nemwang recalled the House decision to go for Constituent Assembly elections; the passage of Citizenship Bill and its declaration to end all forms of discrimination. He said the House had performed its duty well and was now happy to pass the torch to the interim parliament.

Addressing the interim parliament on behalf of his party Krishna Bahadur Mahara, the leader of Maoist parliamentary team, declared that Nepal was well on its path to become a republic.

Stating that the interim parliament was one of their achievements, Mahara said his party now wants to work together with other parties in the parliament towards building a new Nepal.

Mahara is not a stranger to the parliament. He was an MP representing

Rolpa district in the first elected House of Representatives before his party decided to go underground and launch a violent insurgency.

Mahara led a team of 83 Maoist MPs towards the gallery hall. Most of the MPs seemed young and novice to the parliamentary system. But all of them expressed their aim of working to bring in radical changes in the state structure in favor of people. They all said that the interim parliament was a limited gain of their decade-long struggle.

The first meeting of the interim parliament was chaired by senior most MP Bal Bahadur Rai. All the MPs were sworn in by Rai. The first session of the interim parliament ended at midnight of January 15. It will reconvene on Wednesday

**MPs Criticize Interim Statute**

Earlier, on Monday afternoon, in its last session, the MPs of the House of Representatives pointed out several flaws in the interim constitution.

Addressing the parliament, Bharat Mohan Adhikary, standing committee member of the Unified Marxist Leninist (UML), regretted that the new interim constitution had concentrated power on the Prime

Minister and did not allow even the parliament to remove the PM. "There are provisions that could endanger the democracy," Adhikary said. He also regretted indifference with which the government and eight parties were treating concerns raised by many for independence of judiciary. He also took a swipe at the government for not providing enough time for the MPs to discuss and correct the flaws in the interim constitution.

Pashupati SJB Rana, the president of Rastriya Prajatantra Party (RPP), said, "We were proud when the parliament restored after the people's movement was declared sovereign. But it appears we were no more than respected rubber stamp. We did not have any status even to thoroughly discuss the interim constitution." He added, "All traditional norms and values of parliamentary system has been violated by the manner in which this interim constitution is being promulgated."

"I know our voices will not be heard today. But a day will come when the



MPs in front of parliament: Donning new caps

interim parliament will be compelled to adopt the amendment proposals the RPP has presented," he said.

Chitra Bahadur KC, MP of People's Front, also disapproved of certain provisions of the interim constitution. He warned that the interim constitution indicates the country would no more be governed by the rule of law. "Instead there are enough indications that King's autocracy is going to be replaced by dictatorship of eight parties," he said. KC called for amendment in the citizenship provision and demanded that independence of judiciary be fully respected. He expressed doubts that given the continued intimidation and physical action by the Maoist militia in villages there would be CA election in "free, fair and fearless environment."

There were vociferous criticisms for neglecting the issue of Madhesis. Rajendra Mahato, an MP from Nepal Sadbhavana Party (Anandidevi), said the constitution does not provide equal status to the people of Terai. He said that without addressing the issues of Madhesis, the ongoing violence in Terai region would not be resolved. "Peace will not come just by writing in the interim constitution that there will be peace," he said.

Surya Bahadur Thapa, president of Rastriya Janashakti Party (RJP), warned that a new dictator could be born through this interim constitution. He said the constitution lacked basic principles of checks and balance and of constitutionalism.

Navaraj Subedi and Pari Thapa of People's Front also drew attention to several flaws of the interim constitution.

In fact, the interim constitution attracted a number of amendment proposals from not only the individual MPs but also the parties that belong to the ruling alliance. The Unified Marxist Leninist (UML), KC and Ale factions of People's Front, Rastriya Prajatantra Party (RPP), Rastriya Janashakti Party (RJP), Nepal Workers and Peasants Party (NWPP) and Nepal Sadbhavana Party (NSP-Anandidevi) had filed proposal amendments of their respective parties.

The UML sought some changes including adoption of proportional

representation electoral system during Constituent Assembly elections; holding of a separate referendum to decide the fate of monarchy; provision of removing the Prime Minister through two-third majority of the parliament; and inclusion of only PM, Chief Justice and Speaker in the constitutional council.

Likewise, RJP president Surya Bahadur Thapa has filed amendment proposal seeking provision of appointing PM who enjoys two-third

demanding specific amendments. They included Surya Bahadur Thapa, Gobinda Bikram Shah, Gopal Prasad Koirala, Navaraj Subedi, Hari Acharya, Rajendra Mahato, Bidya Devi Bhandari, Parshuram Meghi Guirung, and Bijaya Kumar Gachchadar. But after the Prime Minister appealed for withdrawal, five of the MPs withdrew their amendment proposals. Thapa, Shah, Subedi and Acharya, however, refused to withdraw their proposals.

<b>Interim Parliament</b>	330
<i>Nepali Congress</i>	85
<i>Nepali Congress Democratic</i>	48
<i>RPP and RJP</i>	8
<i>Nepal Sadbhavana Party (Anandidevi)</i>	5
<i>Nepal Sadbhavana Party</i>	1
<b>Total</b>	<b>147</b>
<b>Left Front</b>	
<i>CPN UML</i>	83
<i>CPN Maoist</i>	83
<i>United People's Front</i>	9
a) <i>United People Front (Ale)</i>	
b) <i>CPN-Masal</i>	
c) <i>Unity Center</i>	
<i>Nepal Peasant and Worker Party</i>	4
<i>United Left Front (Mainali)</i>	3
a) <i>CPN-ML (Mainali)</i>	
b) <i>CPN- ML(Kattel)</i>	
c) <i>CPN-MLM (Tamang)</i>	
d) <i>CPN-MLM (Prasai)</i>	
e) <i>CPN- M (Chaudhari)</i>	
f) <i>CPN-M (Mananadhar)</i>	
<b>Total</b>	<b>182</b>

support of MPs and who has to obtain vote of confidence within a month of assuming office. The NSP-A has sought fresh delimitation of electoral constituencies based on population. The RPP, on the other hand, wants formation of local bodies with the consensus of all parties in the interim parliament; reconstitution of constitutional and judicial council; and adoption of federal system.

Despite the barrage of criticisms, the interim constitution was promulgated unanimously by all the 185 MPs present in the parliament.

The House promulgated the constitution without making any changes. Nine MPs had spoken

When appealing the MPs to withdraw the amendment proposals, PM Koirala promised he would not violate democratic norms and principles and said corrections can be made by the interim parliament also.

"I have been fighting for democracy for the last sixty years. I want to assure you that I will not trample upon the democratic principles," Koirala said adding that it was due to the exigencies of the time that the interim constitution was being rushed through the parliament. "Just as we are speaking here, the arms of the Maoists are being collected in containers and the Maoist representatives are waiting outside to enter the mainstream parliament," Koirala said. ■

## POLITICAL TURMOIL

In

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## New Phase

Despite vehement opposition from the leaders of almost all political parties, Interim Constitution 2007, sixth constitution in fifty-eight years history of modernization of Nepal – was finally enforced in the midnight of January 15, 2007 and Nepal's political turmoil has entered into a new phase of experiment in the statehood as well as popular governance. Struggling merely for survival as an independent nation, Nepal has already gone through a difficult test in statehood due to its unique geographical settings and the unique combinations of the heterogeneous cultural, social and linguistic background. From revolution to democracy, and parliamentary democracy to party less system and recent model of guided democracy of eight parties in the name of Loktantra, the country has gone through all kinds of experiments with regular phenomenon of violence and instability. Whatever political system and constitution imposed upon her, they have till now failed to bring desired stability

By KESHAB POUDEL

**U**nlike all previous sessions, there was neither much enthusiasm nor any mood of victory when members of House of Representatives (HoR) unanimously endorsed the Interim Constitution declaring the institution they represented dead paving the way to constitute 330 members interim parliament including the Maoist insurgents.

Chaired by Speaker Subhash Chandra Nembang, the House of Representatives turned from an accountable to a non-

elected interim legislature just after promulgation of the Interim Constitution 2063.

From non-privileged leaders of Rastriya Prajatantra Party, United People's Front and Rastriya Jansakti Party to privileged members of CPN-UML, all spent lots of energy and time attacking the interim constitution. However, Nepali Congress, CPN-UML and Nepal Sadbhavana Party members withdrew their amendment proposals at the request of prime minister Girija Prasad Koirala. Other parties' proposals were rejected by the house when it was put for voting. Interestingly, when

interim constitution was presented for promulgation in the HoR, all the 130 members presented in the House unanimously voted for it.

The tragedy in the whole process of HoR was that members had the right to criticize it in whatever manner and word but they had to abide by the decision of leaders of eight-party syndicate.

"People have been again cast to be ruled whereas the persons of popular oligarchy are privileged to rule. There are lots of changes in the quality of life in the nation but the essence in the sharing the power seems to have been revivalist. Whether it was Padma

Sumsher or Prachanda, it is the revival of the same ethos," said the political analyst. "It is not the question of changing a constitution as a scrap of paper but most serious thing is the destruction of the value system. Whatever norms and values of democracy were embraced by the previous constitution, all those basic elements of the constitution have been destroyed. As all citizens don't have the equal rights in politics and share in the government – they have been perverted into two class of citizenry – one who enjoys the power and others who are denied it and are simply permitted to use their voting rights."

### New Provisions

One of the basic elements of previous constitution was monarchy but it has no place in the interim constitution. Similarly, another important element of previous constitution was independence of judiciary. Besides the lawyers of different political views, even the judges of Supreme Court, for the first time, had expressed their unanimous opinion regarding the change of independent status of judiciary by this interim constitution.

Other most important elements of previous constitution was regarding the independence of the country and its sovereignty but they too have been put into uncertainty by implications of series of seen or unseen moves.

Any of the constitution from the first written constitution of 1948 to the 1990 one, there were no obstacles to evolve and achieve stable and popular governance. "Had there been no mischievous role of unseen forces for ulterior motive, the people of Nepal were quite capable of expressing their opinions through ballots but unfortunately for power players that is not at all acceptable. Thus, Nepal has been put into shambles to promote their ulterior interest - but they also need the jargon for the people by the people and of the people. We deserve the government we need," said the analyst.



Interim MPs: Taking Oath

*Annapurna Post*

Promulgated by Rana prime minister Padma Sumsher in April 1, 1948, the Government of Nepal Act, 1948 was the first written constitution of Nepal. The Interim Government of Nepal Act 1951 – which came into force from 29<sup>th</sup> Chaitra, 2007 B.S- was second constitution of Nepal. Eight years after the promulgation of interim Constitution, the Constitution of Kingdom of Nepal 1959 was promulgated on February 12. Then came the Constitution of Nepal 1962 which lasted till 1990. The Constitution of Kingdom of Nepal 1990 was the fifth constitution in row. The present interim constitution of Nepal is sixth in the history of constitution in Nepal.

One should not underestimate the habit formation of the people of an independent nation. "The people - who are able to maintain their ingenuity as a citizen – can develop habit for democracy. There is nothing more important than a pride of citizen which requires democracy as well as an independent nation," said the analyst. "Somehow or the other, it seems that the people of Nepal has been cast to be governed under a guided form of democracy which was promulgated during the Rana Regime revived in a new

form by the constitution of 1964 and the same has again been revived in a new euphoria of new democracy of new Nepal."

Only the future analysts may judge the sequence and proprieties of reappearance of the same political arrangements, which was devised during Rana's autocracy as well as Panchayati monolithic system. The present interim constitution is a refined form of the two authoritarian models of the constitution.

### Democratic Experiment

By merely giving a title, a country does not become democratic but what is important is its content. Merely having a written constitution does not make a country democratic. Known as a mother of democracy, United Kingdom does not have a written constitution.

"The problem is with the use of the phrase of the people, by the people and for the people. This paraphrase of Abraham Lincoln has its own meaning in Nepal. The first written constitution of Nepal which was promulgated by family autocracy too had lavish expressions for the people as well as for the governance. But unfortunately, the same thing was lacking in the text of the constitution."

"The difference of temperament of

British people and Nepalese people give two models of democratic experiments. Institutions are vital to uphold democratic system. Institutions are built up by a lot of patience and tolerance. It is a step by step process. The countries like Nepal have always negative result because of impatience and intolerance not only on the part of the people but the vested interest of internal as well as external forces," said the analyst.

### Final Burial

Acclaimed as one of the best constitutions of the world, the Constitution of Kingdom of Nepal 1990 has been sent to dustbin. "Since there is no voice of opposition and no one voted against it, I declare the Interim Constitution promulgated and the House of Representatives dissolved," said Speaker Nembang.

After this declaration, sixteen years long political experiments have come to an end and the Constitution of Kingdom of Nepal 1990 was finally buried as a part of history.

After a series of crises originated internally as well as externally the last constitution was overthrown without any appreciative obituary to it but that constitution was so much eulogized in the public and popular platforms as the best constitution the world ever had.

"In fact the superlative appreciation of that constitution itself was unreal and without any serious commitment. At the end of this experiment, one cannot forget the way the elected representatives of the people dealt with their obligations and threw the constitution into gutter. In fact, it is not the written words of the constitution which brings out results. Nowhere that has been achieved by skillfully drafting a legal document," said the analyst. "Democracy requires enormous patience and tolerance to evolve institutions, establish healthy conventions."

To witness the demise of the previous constitution, two most powerful leaders



Prime Minister Koirala: "I won't budge an inch"

*Annapurna Post*

of CPN-Maoist Prachanda and Dr. Baburam Bhattarai were present at the parliament. Although Communist Party of Nepal-Maoist - who shoot the first bullet against the elected parliament in February 13, 1996 - declared that they have achieved what they wanted, however, by declaring three days bandha in terai two regional-based Terai Jantantrik Mukti Morcha have indicated that the game is not over yet and the future of present interim constitution and power sharing is also uncertain.

"We have to battle now in the house with revisionists and remnants of feudalism," said CPN-Maoist parliamentary leader Krishna Bahadur Mahara. "With the holding of elections for the Constituent Assembly, everything including the remnants of feudalism will come to an end and monarchy is going to be a history," said Mahara who was also a member of previous of House of Representatives in 1994.

Whatever the past rebel leaders say, it seems that Nepalese will have to see another phase of bloody insurgency in

one or other form.

### History of Constitution

Mere pride of independence does not maintain the emotional integrity of nation. Dignity as a human being, rights of the person have come as new aspiration of the people since the great change of 1951.

In fact, soon after the end of World War II, the autocratic Rana regime too realized that the popular governance was the need of the hour. A first written constitution was, therefore, promulgated in 1948. Since then, the Constitution of Kingdom of Nepal 1990 was the fifth in experiment. After its unceremonious demise, a new compromise rule of governance with a title of Interim Constitution of 2007 has been promulgated.

After exercises of different pattern of governance including the parliamentary democracy of Westminster model, a new constitution was abruptly introduced in 1964 with all higher objectives of party-less government as well as classless society but the very essence remained



authoritarian and, therefore, unpopular.

In the series of upheavals, the country has seen six constitutions in just 58 years. The revolution of 1950 concluded bringing the change in the mode of government with new Interim Constitution 1951 sharing the power between King-Rana and Political parties under Delhi agreement.

Interestingly, Nepali Communists - who established themselves opposing vocal slogan against the Delhi Agreement - too joined the political mainstream dropping their weapons following the 12 point agreement - which was signed in New Delhi in November 2005. The 12 point agreement was basis of the present interim constitution and power sharing formula.

Fifty-six years ago the power sharing was between King, Ranas and revolutionary leaders. New version of Delhi agreement made it possible for power sharing between communist rebels and other political parties completely downsizing the traditional political forces.

In similar manner as now, Jung Bahadur had also constituted a Privy Council of 217 members after his rejuvenation from mother of parliamentary democracy, which he had visited. Even another Rana prime minister Padma Sumsher gave the first written constitution in 1948 constituting House of Privy Council.

"From Padma Sumsher to Prachanda all are lavish in their expressions of popular rhetoric and jargon for the people. During that autocratic rule, Padma Shumsher was under pressure of new situation when the second world was concluded. He also asked for a draft of the constitution and promulgated these words, "whereas through the resurrection of our ancient ideals of the Panchayat and other similar institutions, it is our declared policy to provide for the increasingly closer association of our dear people in every branch of administration and thus bring about

enhanced prosperity and happiness to our people."

### New Phase of Turmoil

Political instability and upheavals are not a new phenomenon to Nepal as it has been surviving in very difficult terrain. "Nepal has entered into a new phase of experiment in the statehood as well popular governance. Nepal has gone through a difficult test in statehood due to its unique geographical settings and the unique combinations of the heterogeneous cultural, social and linguistic background. It has all the time

decisive factor is its geographical settings. It is not due to magnanimity or the large heartedness of any of its neighbors that Nepal remains what it is today. But, the countries have an apprehension of each other while transgressing any limits in Nepal."

"Not the continuity of the Nepalese nationhood is without roughshod. Nepal, a buffer state between two giant neighbors, is obliged to tread on the edge of razor for her independent existence," writes senior advocate Kusum, Shrestha in his article Metamorphosis of the Constitution.



**Maoist MPs:** From Bullet Towards Ballot

Photo A.P.

maintained its national identity, independence as well as the harmony of interest despite diversity," said a political analyst.

"For nearly two centuries, this small Himalayan Kingdom has been beset by a seemingly irresistible array of interested outside parties, eager to assist, advice and manipulate. No doubt these external elements have imposed some barely tolerable restrictions on Nepal's capacity for independent action but its rulers have themselves displayed a deft hand in defining and, at times, even circumventing these limitations," writes Leo. E Rose.

Nepal is born in very difficult settings. "The Nepalese nation was born against improbable odds. In the most

difficult terrain imaginable, the Nepalese achieved unity and then withstood the British threat to rule all South Asia. Today, landlocked and hedged in by great powers, the Nepalese still proudly assert their independence," writes Nepalese historian Ludwig F. Stiller, S.J. in his book *Nepal Growth of a Nation*.

"Both the elements of geographical settings as well as the compulsions of living together have made this country unique in its performance. If one of the factors was removed from the scene, Nepal would not have survived as it has today. It is not the mere characters and compulsions of the people that Nepal survived in continuity with national independence," said the analyst. "Other

Nepal is not protected by one country against the other. It has the protection of the restrained behavior of both the neighbors not to collide among themselves to gain upper hand in Nepal. "This has always kept a space for the deeds and misdeeds of our rulers and politicians to do whatever their built up and characters make that to do. Rulers and politicians of Nepal have a historically determined limit for their deeds and misdeeds. Had the question of mere survival been there, the world would see that it has insulated from any expansionist or aggressive design of any of the neighbor. But, it is not the survival on merely subsistence level which draws kind support from all over the world for the pitiable conditions of large sections of the people of this country," said the analyst.

### Monarchy's Future

In the history of Nepal, this is first time since the Kot massacre of 1903 B.S that the monarchy as an institution has completely been sidelined in political decision making and eight parties are treated as the source of power like families of Jung Bahadur, a great autocratic prime minister.

There is no record that monarchy survives in any communist or fascist regime. Monarchy has comfortable relations with the best of democracies of world but it has not lived with fascists and communists regime.

Most of the monarchies in Europe like Italy and Germany were removed by the fascists and some of the monarchies like in Russia, Romania, Bulgaria and Albania were removed by communist regime of former Soviet Union.

Even in Asian countries, communists and fascists are responsible to remove the monarchy and it is the democratic system which has even record of reviving the institution of monarchy. In Iran, fascists of religious nature removed the monarchy and it was Pol Pot which removed the monarchy in Cambodia.

None of the monarchies were removed by popular franchise of

democratic system. In Spain, it was the democrats who revived the monarchy as soon as they came to power. In Cambodia, monarchy was revived following overthrow of communist regime.

"Had Nepal preserved its democratic constitution, there was hope that a ceremonial or constitutional monarchy would have survived. As a constitution has drafted in one idea state, similar to fascist or communist system, it will be a wonder if monarchy survives in the Constituent Assembly," said the analyst.

The history is full of instances that monarchy and communists have not lived together. Since majority of political parties contesting the forthcoming elections for Constituent Assembly are communists, the opinion of monarchy will not be tolerated by them.

"Past experiences have shown that

#### Monarchy Removed by Fascists or Communists

1. *Iran Republic by Religious Fascists*
2. *Cambodia by Communists (Revived by democrats)*
3. *Afghanistan by fascist military regime*
4. *Laos by Communists*
5. *Greece by fascists*
6. *Italy by fascists*
7. *Spain by fascists (revived by democracy)*
8. *Bulgaria by Communists*
9. *Russia by Communists*
10. *Romania by Communists*
11. *Albania by Communists*



Interim Parliament: Quick Transformation

monarchy and Loktantra cannot go together. There is no question of having the monarchy," said Communist Party of Nepal -Unified Marxist and Leninist leader Jhalnath Khanal. "Overwhelming people want Nepal to be a republic."

Like communists all over the world, Jhalnath Khanal's party's view is clear. In Cambodia, however, it was the radical communist party of Pol Pot which overthrew monarchy but other communists restored it.

So it is the quality in the governance and public life that make a country democratic. Declaration from any top of the roof does not convince the people that the country is democratic. For a small country like Nepal, merely bringing a new constitution cannot avert future political turmoil. As long as Nepal's neighbor does not develop habit to live with small neighbors, no constitution, whether democratic or autocratic will stabilize the political turmoil. ■

# “They Threw Away The Innocent Child From The Bath Tub And Kept The Dirty Water”

- Motikaji Sthapit

Senior advocate and eminent constitutional lawyer MOTIKAJI STHAPIT has long experiences in legal profession. He served as an attorney general to advise the government on the implementation of the Constitution of the Kingdom of Nepal 1990. He represented the government in several landmark cases of the Supreme Court. As a private lawyer also, he had same enthusiastic spirit to assist the court to reach to decisions. Eighty-years-old Sthapit, who even now occasionally appears in the court, expressed anguish over the way the Constitution of Kingdom of Nepal 1990 was thrown away. Sthapit briefly spoke to KESHAB POUDEL on various issues of constitution at his residence in Bafal. Excerpts:

**How do you see the role of constitution in framing the country's governance?**

Constitution is an innocent infant. It will all depend on how constitutional functionaries or power wielders nurture it. If these persons fail in their task of promoting the health of the child to nurture, they themselves are responsible for failure of the system but it is not the constitution.

**Who is to blame for?**

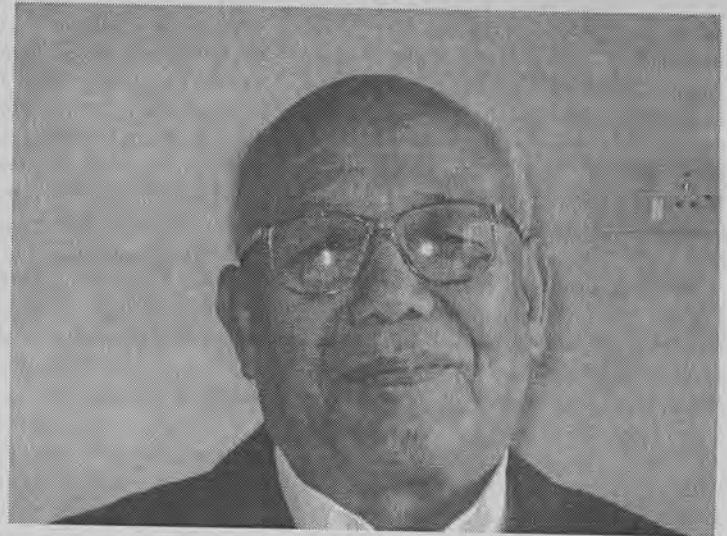
If those persons who were given the task of working upon the constitution failed, it is not constitution to be blamed at all.

**What is your impression about the Constitution of Kingdom of Nepal 1990?**

The constitution was acclaimed as one of the most democratic constitutions of the world. The changes that present people are thinking of bringing about in the field of political, economical, cultural, linguistics, educational, regional and etc were possible under that constitution by making laws and amending the constitution, if necessary. There were no barriers in bringing about all those changes

**How do you feel the demise of constitution under which you once worked as attorney general?**

I wonder why this constitution was scrapped. What people's interest could not have been served only if the people in power were honest and sincere in implementing the constitution?



**“They threw away the innocent child from the bath tub and kept the dirty water. The correct way was to throw away dirty water and keep the baby alive.”**

**How do you observe the democratic experiments in Nepal?**

From the beginning of ushering of democracy in 1951, all democratic values, norms and institutions such as a rule of law, personal liberty, and independence of judiciary, human rights, natural justice, check and balance in the exercise of state powers were evolved. All those values –which we have evolved slowly but steadily - were destroyed. That is the most tragic part of the present event.

**Why you feel such anguish over the demise of constitution?**

The Constitution was not a barrier to promote and foster democratic process. I was emotionally attached because of my assignments as an attorney general for about six years. I pleaded in several landmark constitutional cases in the Supreme Court representing the government. Because of this emotional attachment, I feel such anguish.

**How do you explain the present situation?**

They threw away the innocent child from the bath tub and kept the dirty water. The correct way was to throw away dirty water and keep the baby alive.

# Whither Indo-Nepal Water Resources? Issues and Episodes to Reflect On

SB Pun

## Foreword:

Prior to 1816, the Imperial Gorkha Kingdom embraced, though for a very short period, the entire hill territories from Teesta in the east to the Beas/Sutlej (*Kangra*) in the west, eyeing even Kashmir. This kingdom unwittingly controlled the entire sources of the Ganga tributaries including the two tributaries of the Indus and one of Brahmaputra as well. The colonial East India Company's principle of limitation stipulated that "Nipaulese authority should on no account be extended below the hills."<sup>1</sup> However, the Rajah of Nipaul's position was "As the Honorable Company have by the grace of God established their dominion in Hindoostan by the power of the sword, so have I by the same means acquired possession of the hills together with the low lands dependent on the territories of former Rajahs...."<sup>2</sup> This war of words ultimately resulted in the Anglo-Nepal war of 1814-1816. The 1816 Sugauli Treaty retracted Nepal virtually to the present day boundaries<sup>3</sup> of Mechi to Mahakali, relinquishing sovereignty over the basins of such important rivers like the Sutlej, Ganga, Jamuna and Teesta to the East India Company. However, the three major rivers Kosi, Gandak, Karnali with Mahakali "as the border river" remain with the Kingdom of Nepal.

From records so far available, Indo-Nepal water resources relationship started in 1874 when Nepal, during the closing era of Janga Bahadur Rana<sup>4</sup>, permitted the then colonial British-India to build structures on the three Sagars<sup>5</sup> (*Jamuwar, Marthi and Siswa*) straddling the Indo-Nepal border in the present day district of Kapilavastu. This indicates that Indo-Nepal water resources relationship is over 130 years old. Yet why has this "old historical" water resources relationship not matured to bear more fruits to the people of both countries? What are the ailments bedeviling this old historical, traditional and cultural relationship? Indo-Nepal water resources relations have generally been characterized by "mistrusts and misunderstandings". In fact, former Water Resources Secretary to Government of India, Ramaswamy Iyer, does not mince words when he admits that India, at times,

even "bullied" Nepal<sup>6</sup>.

After more than five decades, Nepal has finally realized that it is not Nepal's hydropower that India is interested in. India's eyes and ears are all focused on Nepal's waters, particularly those from glacier-fed rivers. India's own ex-Foreign Secretary, Salman Haider, concedes<sup>7</sup> "...India has alternative sources of power supply. We do not have alternative sources of water supply.... The long-term interest of India in water from Mahakali outweighs our interest in power supply..." While this frank statement is with reference to Mahakali, India's interest applies to all rivers, big and small, emanating from Nepal. The Ganges presently supports<sup>8</sup> 41 million people in Bangladesh, 440 million in India and 23 million in Nepal. To cater to the rising water requirements of her burgeoning population, India in 2003 announced the IC Rs 5,600 billion River Linking Project wherein Nepal prominently figures with five key river links: *Kosi-Mechi, Kosi-Karnali, Gandak-Ganga, Karnali-Yamuna and Mahakali-Yamuna*. It is around these five critical river links that future Indo-Nepal water resources relationship would revolve around. This article reflects and mulls over some of the past issues and episodes that created "mistrusts and misunderstandings" in that relationship. It is hoped the article would enlighten the readers of past ailments and encourage debates on policy formulation as to "what to do" in future so that Indo-Nepal water resources relationships could be elevated to a more mature pedestal benefiting both the countries.

### i) 1898 Letter on "Boundary Dispute":

If one is to peruse the 1898 letter<sup>9</sup> of Gorakhpur Commissioner, Dr. W Racy, to his British Resident at Kathmandu regarding the sill levels of the three Sagars (*Jamuwar, Marthi and Siswa*) that straddled the British-India and Nepal border, the Commissioner has specifically called that sill level dispute as "Boundary Dispute between Nepal and British Territory (Mr. Peppee's Estate)" between the two nations. That is, when an intervention, be it on a Sagar or a river, is implemented by one country inundating the territory of the other country, then British-

India, even in its colonial heydays of 1898, termed such interventions as "boundary disputes". More than a century later, all water courses interventions by Republic India, that submerge Nepal's territories, have unfortunately been given the tag "inundation problems" and not "boundary disputes" that the two governments had previously perceived them as. Many believe that, while the Nepal Government's Department of Water Induced Disaster Prevention (DWIDP) at Shree Mahal presently oversees these "inundation issues", the venue should have actually been the Ministry of Foreign Affairs at Shital Niwas as they are "boundary dispute issues". The Shree Mahal to Shital Niwas venue shift would give the necessary leverage that "the boundary dispute" tag urgently needs. In India, it is the Ministry of Foreign Affairs at New Delhi and its executive arm, Embassy of India/Kathmandu, that call the shots and not the Patna-based Ganga Flood Control Commission (GFCC). The Director General of DWIDP and Chairman of GFCC are the joint Co-Chairmen of the Standing Committee on Inundation Problems (SCIP).

One also needs to admire the "due diligence" of the then Nepal bureaucrats who were able to find mistakes in the sill levels of the *Jamuwar Sagar* in the Gorakhpur Commissioner's letter. The sill level of this Sagar, as indicated in the Commissioner's letter, was not the same as that agreed upon in the 1874 agreement. The letter was, thus, returned "with corrections in red ink". The colonial British Commissioner admitted his mistake and duly rectified that sill level. Such kind of Indo-Nepal transparency is a "thing" of the past.

A similar type of sill level episode is now on the Indo-Nepal SCIP table regarding the other sister Sagar, the *Mahali*. The issue at hand is the already constructed 15-gated structures, in lieu of the original 5-gated one, by India on her territory that would "inundate" an additional 50 hectares of Nepalese territories over and above what the previous structures already "inundated". While India contends that "approval of competent Nepalese authority in December 2002"<sup>10</sup> was taken, Nepal rebuts that the joint Indo-Nepal Standing Committee on

Inundation Problems (SCIP) has never approved the construction of such an important structure on the border. It is now being reported that India did obtain the signature of the local Nepalese official at the field level but without bothering to get the final approval of the "competent SCIP authority" bulldozed through with the construction work of the 15-gated structures!

#### ii) Letters on 1920 Sarda Agreement and Return of Nepal's Land:

J. Manners Smith, British Resident to Nepal, wrote<sup>11</sup> to the Maharaja, Chandra SJB Rana, in 1916 that "it will be necessary to acquire a strip of land on the east side of the river which is now Nepal territory" because of the Mahakali river "swings" and the "whole winter supply" being entirely in Nepal territory. Thus, the colonial British-India and Nepal Durbar agreed to swap 4,093.88 acres<sup>12</sup> of land for the Sarda/Banbasa barrage through the 1920 Sarda Agreement<sup>13</sup>. Yet in 1946 Deputy Secretary/Government of Public Works Department/UP, KN Kathpalia, indicated that 36.68 acres of land<sup>14</sup> (31.47 acres as computational error and 5.21 acres as mutual exchange) were still to be returned to Nepal. From information so far available, even by 2006 the Government of India has yet to return this small strip of 36.68 acres of land that Nepal had swapped under the 1920 Sarda agreement.

Nepal, through the signing of Integrated Mahakali Treaty in February 1996, without the transfer of the above 36.68 acres of land to Nepal, has now burdened herself with another territorial issue of a much larger chunk, the Kalapani/Darchula territory occupied by India in 1963. India's former Water Resources Secretary, R Iyer, stated<sup>15</sup> that Kalapani "has nothing to do with the implementation of the Mahakali Treaty". He, however, stressed that through "reference to old records, documents, maps, survey reports etc. the dispute needs to be settled quickly in a spirit of goodwill and not allowed to fester". While Mr. Iyer is right that this dispute should be settled in a spirit of goodwill and not allowed to fester, Nepal believes that Kalapani is a sensitive issue impinging on her territorial integrity and sovereignty. Nepal, hence, wants the pre-1963 status quo on Kalapani restored by India before the implementation of Pancheshwar Multipurpose project.

#### iii) British-India Policy on Capitalization of "Annual Presents" to Nepal:

Over 200,000 Gurkhas<sup>16</sup> from Nepal fought in the trenches of Europe and Middle East during the 1914-1918 First World War.

In grateful recognition of that service by a tiny nation, Britain in 1919 started that innovative tradition of providing the Nepal Maharaja with an "annual gift in perpetuity"<sup>17</sup> of Rupees ten lakhs per annum out of the coffers of colonial British-India treasury. This was in contrast to the previous British tradition of returning Nepal the ceded territories of Naya Muluk (*Banke and Bardiya*) for the services rendered by Nepal in quelling the 1857 Indian Sepoy Mutiny. During the Second World War, Juddha SJB Rana again provided 250,000 Gurkhas to the British for its war in Africa, Middle East, Europe, Burma and the Far East. Juddha, thus, was able to successfully demand an increase of this "annual gift in perpetuity" to Rupees twenty lakhs per annum<sup>18</sup> from the British. The shrewd, far-sighted British well knew that India would not take on the liability of this "annual gifts" to Nepal once India achieved independence. Britain, hence, wanted to free herself from this "perpetual" onus by "capitalizing" this annual gift on hydropower stations in Nepal that would, in turn, by generating revenues, compensate the Nepal Maharaja's annual gift. Thus in the mid-1940s, Britain did send her technical teams to Nepal to investigate hydropower sites on the Kosi and Gandak rivers.

But because of the rising anti-Rana atmosphere in Nepal leading to their ouster in 1951, Britain's "capitalization" scheme could not fructify. Nepal's governments after 1951, both democratic and Panchayat, never bothered to capitalize on the "capitalization of annual gifts in perpetuity" to Nepal. This "annual gift in perpetuity", for the blood spilt by the Gurkhas during the two great World Wars, does find itself in the Nepal Government's annual Red Book, the budget. Singha Durbar's Finance Ministry mandarins have been heard to term this annual gift as "blood money"! Dr. RS Mahat, the present Finance Minister, has confirmed in his book, *In Defence of Democracy*, that the British annual gift in perpetuity has now been capitalized at Rupees 25 lakhs. The Nepal government has unwittingly unshackled the British "for a mere dime" from their "annual gift in perpetuity" obligation to Nepal!

#### iv) 20 Mw Kaligandaki-Gaidakot Project:

The hanging of four men (*Shukra Raj Shastri, Ganga Lal Shrestha, Dharma Bhakta Mathema and Dasrath Chand*) by Juddha Shumshere in 1941 further fueled the anti-Rana movement in Nepal. Juddha Shumshere cleverly abdicated in 1945 and headed for Ridi/Palpa as a sanyasin. The moderate Padma Shumshere was forced into

Ranchi/India exile in 1948 by the conservative Mohan Shumshere who thought the restive Nepalese could be pacified by his Five Year development plans, Nepal's first, in 1949. One of the projects<sup>19</sup> in that Plan was the diversion of the Kali Gandaki river, through a tunnel, to drop it near Gaidakot to generate 20 Mw of power<sup>20</sup> and also irrigate the fertile fields of eastern Nawalparasi's Bhitri Madhes. Estimates carried out by a British consulting firm, Percydrew & Co (*wherein BB Pande, Bijaya SJB Rana and the Bijulee Adda's Angrej, Kilburn, were also involved*), indicated the project cost as Rupees 1.8 crores, commissionable within three years, with the electricity generation cost at 6 paisa per unit. This power, besides the evacuation to Kathmandu, was envisaged to be transmitted to Butwal in the west and Janakpur in the east.

Mohan Shumshere suffered no "resource crunch" at all<sup>21</sup>. For services rendered by the Gurkhas during the Second World War, Britain had recently provided Nepal Rupees 3.33 crores for developmental works. However, Mohan Shumshere, before going ahead with the project, consulted the recently-arrived Indian ambassador, Chandreshwar Prasad Narain Singh (CPN Singh), who was quick to advise that India would make available to Nepal far cheaper electricity at 2 paisa per unit from the proposed Barahachetra/Kosi project. Mohan Shumshere roundly scolded the project initiators for such an expensive project and abandoned the project. The implementation of this project, fifty years ago, could have been what the 20 Mw Chilime has now been to Nepal in terms of mobilizing local resources and skills. The CPN Singh proposed project turned out to be the Kosi Barrage Project with the 20 Mw Kataiya hydel station (*derated to 13.6 Mw later*) that was commissioned only in 1971<sup>22</sup> on the eastern canal. The promised 2 paisa per unit electricity turned out to be the "concessional Kosi power" at IC 10 paisa per unit. Many believe that this Kosi power is free like the "goodwill gesture" 70 million free units from the 120 Mw Tanakpur hydel station. But this is not the case. In 2006, Nepal pays India ICRs 2.70 per unit for this "concessional Kosi power" when India buys Bhutan's Chukha power at ICRs 1.50 per unit. Besides, at every Indo-Nepal Power Exchange meetings, India, consistently proposes that the Kosi power price be made at par with the power exchange tariff which for 2006 is ICRs 3.78 per unit.

#### v) "Natural Resources" in 1950 Indo-Nepal Treaty of Peace and Friendship:

Hoping to get a further lease of life on his rule, the tottering Mohun Shamsher signed the much-talked-about Treaty of Peace and Friendship at Kathmandu on July 31, 1950. On behalf of the Government of India CPN Singh signed that treaty. While the ten articles of the treaty looked seemingly innocuous on paper, it was only in December 1959 that Jawaharlal Nehru, at a press conference, disclosed for the first time that Letters of Exchange<sup>23</sup>, which were kept secret, had also been signed with the treaty. For the sake of the readers, item 4 of that letter<sup>24</sup> from the Ambassador of India to the Prime Minister of Nepal dated July 31, 1950 has been dittoed below:

*If the Government of Nepal should decide to seek foreign assistance in regard to the development of the natural resources of, or of any industrial project in Nepal, the Government of Nepal shall give first preference to the Government or the nationals of India, as the case may be, provided that the terms offered by the Government of India or Indian nationals, as the case may be, are not less favourable to Nepal than the terms offered by any other foreign Government or by other foreign nationals.*

*Nothing in the foregoing provision shall apply to assistance that the Government of Nepal may seek from the United Nations Organization or any of its specialized agencies.*

Water is Nepal's principal natural resource. The rivers flowing from Nepal to India contribute 46% of the average annual flow of the Ganges. But in the critical dry period of March, April and May the Nepalese rivers contribute an astounding 75% of the Ganges flow<sup>25</sup> at Farakka. This is the logic for the inclusion of that item 4 on Natural Resources in the Letters of Exchange. This is again the logic behind the 1954 Kosi Treaty (*MP Koirala's premiership*) and the 1959 Gandak Treaty (*BP Koirala's premiership*) coming in quick succession. Nepal's two major political parties, the Nepali Congress (NC) and Communist Party Nepal-United Marxist-Leninist (CPN-UML) have always been using the term "water resources" and never "natural resources". In a recent interview to *The Times of India*,<sup>26</sup> the Chairman of the Communist Party of Nepal-Maoists, Prachanda, said: "We want fresh treaties between Nepal and India on **Natural Resources and other important issues on the basis of equality.**" Prachanda is probably the only Nepalese leader to have uttered the term "natural resources" as inscribed in the secret Letters of Exchange of the 1950 Treaty.

**vi) 1990 Draft Agreement on Mutual Cooperation between the Government of India and His Majesty's Government of Nepal:**

Now let us move forward to the more recent 16 months' Trade and Transit embargo (*March 1989 – July 1990*) by India on Nepal wherein India proposed the tottering Panchayat regime a Draft Agreement on Mutual Cooperation. This was a far more comprehensive Draft than that of the 1950 Treaty of Peace and Friendship incorporating the Letters of Exchange on Defence, Natural Resources and even on Unauthorized Trade. For the sake of the readers, three Articles from Part VI on Economic, Industrial and Water Resources Cooperation of the Draft<sup>27</sup> have been dittoed below:

#### Article II

*Should His Majesty's Government of Nepal decide to seek foreign assistance for the development of the natural resources of Nepal or for any industrial project in Nepal, they shall give first preference to the Government or the nationals of India, as the case may be, provided that the terms offered by the Government of India or Indian nationals as the case may be, are not less favourable to Nepal than the terms offered by any other State or its nationals or by any international organization or agency.*

#### Article III

*The two Contracting Parties being equally desirous of attaining complete and satisfactory utilization of the waters of the commonly shared rivers, undertake to (i) plan new uses or projects subject to the protection of the existing uses on the rivers and (ii) cooperate with each other to formulate and modify the planned new uses or projects taking into consideration the water requirements of the parties.*

#### Article IV

*The Contracting Parties agree jointly*

*to plan, construct and manage projects of mutual benefit. In this regard, the involvement of a third party, where felt to be necessary and in the common interest, shall be subject to mutual consent.*

While readers may have noted that "natural resources" still persists in the Draft, a number of important issues have cropped up in the above proposed Articles of the Draft that are new to the Letters of Exchange of the 1950 Treaty of Peace and Friendship. One is the conspicuous absence of the name of United Nations in this Draft, though one can argue that United Nations is adequately covered by the term international organization. The second is the fresh coinage of the much-talked-about term "commonly shared rivers" while the third is the involvement of a third party, all foreign developers and consultants, "subject to mutual consent". But the most important issue, with far reaching implications, for Nepal's future generations to come is India's stand, in black and white, on "plan new uses or projects subject to the protection of the existing uses on the rivers". Unlike the Kosi and Gandak treaties, India successfully embedded this "without prejudice to their respective existing consumptive uses" clause<sup>28</sup> in the 1996 Mahakali Treaty. Unlike the tottering Mohun Shamsher, the tottering Panchayat regime must be given the credit for refusing to sign this 1990 Draft Agreement on Mutual Cooperation with India. Many believe that if this Draft Agreement, as proposed, had been signed, the Panchayat regime would never have collapsed to its knees in 1990!■

(Pun is a former M.D. of NEA)

1 Stillier, LF. 1995. *The Rise of the House of Gorkha*. Kathmandu: HRD Research Center.

2 Ibid.

3 For the military services rendered during the 1857 Indian Mutiny, Nepal was returned the ceded Terai territories (Naya Muluk) extending "from the river Gogra on the west to the district of Gorakhpur on the east and is bounded on the south by Khyragarh and the district of Bahraich" - Perceval London.

4 Janga Bahadur Rana died in February 25, 1877 at Pattharghat on the Bagmati.

5 British-India built Mahali Sagar much later. When the issue of Mahali Sagar's sill level arose recently, the original Indo-Nepal agreement on Mahali has, it is reported, yet to be traced out!

6 Iyer, R. 1999. Conflict Resolution: Three River Treaties. *Economic and Political Weekly*, June 12-18, 1999. BP Koirala's *Almabritanta* confirms this bullying by ambassador, Bhagwan Sahay, during negotiations on the 1959 Gandak Treaty.

7 Observer Research Foundation. 2004. *India-Nepal Relations: The Challenge Ahead*. New Delhi: Rupa & Co.

8 2001 Census figures of all three countries: 23 million Nepalese, 30% Bangladeshis and 43% of India's 1,027 million people (i.e a total of 504 million people in 2001) are Ganges Dependent.

9 Dated 14 May 1898 No. 5171/XII - 24 of 1998; File No. 24, Serial No. 67

10 Shyam Saran, Indian ambassador to Nepal, to the media on July 9, 2004. *Spotlight*, July 16, 2004.

11 Dated 3rd May, 1916; The Residency, Nepal; File No. 923

12 Copy of a letter No. 2984, dated the 12th October 1920, from the Chief Secretary to the Government of the United Province, to the British Envoy at the Court of Nepal detailing "the land to be acquired in Nepal in connection with the Sarda-Kitcha feeder Project."

13 Between Chandra SJB Rana and Colonel Kennion; dated 23rd August, 1920.

14 Letter No. 733 W/XIII/1687-1939 dated 23.7.46; to the Secretary Government of India, External Affairs Department, New Delhi; Copy to The Minister, Nepal.

15 Delay and Drift on the Mahakali; *Himal South Asia*, June 2001

16 British Defense Committee Report to House of Commons Session 1988-1989 on The Future of the Brigade of Gurkhas.

17 London, P. 1993. *Nepal*. New Delhi, Asian Educational Services

18 Stillier, LF. 1999. *Nepal: Growth of a Nation*. Kathmandu: HRD Research Centre.

19 Pande, BB. BS 2038. *Tes Bakhat ko Nepal*. Kathmandu: Centre for Nepal and Asian Studies/Tribhuvan University.

20 Nepal then had 400 Kw Pharping (1911) and 800 Kw Sundarjal (1936) at Kathmandu; and 1600 Kw Lelang/Sikharbas (1943) at Morang.

21 Pande, BB. Op. cit. Footnote 19

22 Actually the Eastern Main Canal started to deliver water for irrigation to Bihar fields in July 1964. The delay in the commissioning of the Kataiya hydel station was due to the capture of the Japanese built four Fuzi Electric turbines and generators in the Bay of Bengal by the Pakistan Navy during the 1965 Indo-Pakistan war. (Source: Mishra, DK. 1990. *Badh se Trashi Sicha se Past*. Patna: Samata Prakashan Pvt. Ltd.)

23 Bhasin, AS. 1994. *Nepal's Relations with India and China*. Delhi: SIBA EXIM Pvt Ltd.

24 Ibid.

25 Pun, SB. 2004. Overview: Conflicts Over the Ganga? *Disputes Over the Ganga*. Kathmandu: Panos Institute South Asia.

26 Quoted by *The Kathmandu Post*, New Delhi correspondent, September 14, 2005.

27 Bhasin, AS. Op. cit. Footnote 18.

28 Article 3 of the Treaty between His Majesty's Government of Nepal and The Government of India concerning The Integrated Development of the Mahakali River including Sarada Barrage, Tanakpur Barrage and Pancheshwar Project signed on February 12, 1996.

## ARMS MANAGEMENT

# Preliminary Phase Begins

**As the country gets new interim constitution and interim parliament with Maoist representatives, the preliminary phase of arms management, too, has begun**

By SANJAYA DHAKAL

As per the agreement among the eight parties, the 15<sup>th</sup> of January witnessed not only the promulgation of interim constitution and the formation of interim parliament including Maoists, it also saw the UN monitors engaging in final works in preparation of registration of arms and combatants of Maoists.

“General Jan Erik Wilhelmsen on Monday completed an inspection of final logistics preparations for arms registration at the PLA 3rd Division cantonment site in Chitwan. On Tuesday, he will complete an inspection at the PLA 4th Division cantonment site in Nawalparasi as part of the process of initiating registration of arms and combatants. Registration is then due to commence,” states a statement issued by the Office of the Personal Representative of Secretary General (OPRSG) in Kathmandu on January 15.

“All 35 members of the advance monitoring team for monitoring arms and armies have now arrived in Nepal; 15 monitors are deployed (one team in Kathmandu and one out of Nepalgunj); the second group completes its training Tuesday, and will be deployed this week.”

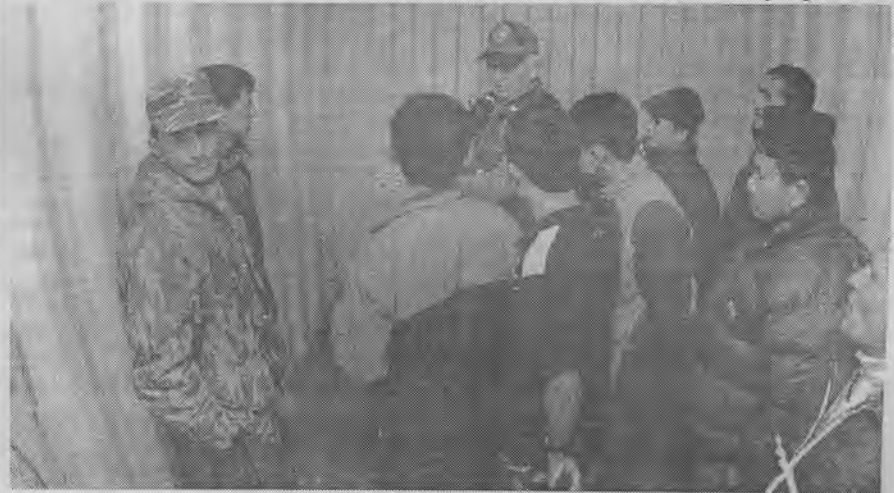
The OPRSG also informed that the chief electoral advisor, Fida Nasrullah has arrived in Nepal on the same day and has started work immediately.

Last week, the OPRSG had informed that it would begin the registration and storage of arms and registration of Maoist combatants from early this week. After the meeting of the Joint Monitoring Coordination Committee (JMCC) held on Friday (January 13), the OPRSG issued a statement confirming that it will begin next week “the registration and storage of arms and the registration of Maoist army combatants at the cantonment sites under United Nations supervision.”

The JMCC meeting was held to

Maoist army. According to reports, 14 ITF members will be sent to each of the seven main cantonment sites while the rest will be stationed in Kathmandu.

In New York, last week, Security Council took up the proposal on Nepal presented by Secretary General Ban Ki Moon. Ian Martin, the Personal Representative of the Secretary-General in Nepal, said, “The peace process has reached yet another key juncture, and we look forward to continued progress on



UN monitors inspecting containers: Inspection Begins *Courtesy:OPRSG*

“finalize arrangements” for the purpose. “The registration process will have a number of components. At each main cantonment site, a facility will be established where UN monitors, those assisting with registration and the Interim Task Force (team of ex-Gurkhas) can carry out their duties. UN monitors will oversee the registration process. They will be assisted in this effort by seven registration teams organized by the United Nations Development Program. The Interim Task Force will also be on hand during the registration, and their presence will allow for 24-hour monitoring of the arms storage containers under the single key arrangement,” the statement adds.

The 111 members of the ITF, the ex-Gurkhas have also completed brief two-day training and are poised to start the job of monitoring the arms management. The ITF members will be dispatched to the cantonment sites to maintain the 24-hour presence at weapons storage sites till the full team of the UN monitors take over the job from them.

The ITF members received training from the UN officials, and representatives of Nepali Army and

both of these fronts.” Martin made his remarks after briefing the Security-Council on Thursday on the Secretary General’s new report in which he proposed a full-fledged UN political mission in support of the peace process in Nepal.

Following the closed-door discussions in the Council, Security Council President Ambassador Vitaly Churkin, Permanent Representative of the Russian Federation, told reporters that Council Members were satisfied with the “positive dynamics” in the peace process and were inclined to respond positively to Martin’s calls for rapid approval of the mission and generous international support to the peace process.

“The members of the Council supported the need for speedy deployment of the UN mission in Nepal on the basis of the recommendations of the Secretary-General and within the parameters outlined by the peace agreement. A draft resolution on the subject will be prepared and at a proper time considered by the Security Council,” Ambassador Churkin said. ■

## HUMAN RIGHTS REPORT

# Right Turn

The latest report of Human Rights Watch (HRW) notes marked improvement in rights situation

By A CORRESPONDENT

The global human rights watchdog agency based in the United States has said that the human rights situation in Nepal improved markedly after April change. In its World Report 2007, the Human Rights Watch (HRW) has stated that "civilian casualties directly caused by the conflict dramatically declined, as did human rights abuses such as extrajudicial execution, arbitrary detention, and torture."

The report adds that the removal of restrictions imposed by King Gyanendra after seizing power on February 1, 2005, also significantly improved the ability of Nepalese to exercise freedom of speech and association.

However, the report takes note of complaints made by the human rights activists of Nepal that the peace agreement did not create any effective monitoring or implementation mechanisms to address violations by both sides.

"The issue was particularly relevant because both warring parties, and particularly the Maoists, regularly violated the letter and spirit of the ceasefire code of conduct they had signed on May 26, 2006. Despite changes in leadership, the Nepali Army failed to cooperate with investigations about the fate of hundreds of "disappeared" Nepalese and the government failed to properly investigate or prosecute a single case of extrajudicial execution, "disappearances", and torture," the report states.

The report criticizes Maoist forces for not releasing any of the thousands of children under age 18 believed to be serving in their ranks and ongoing recruitment campaigns throughout the country. "Their (Maoists) commitment to the contrary notwithstanding, the Maoists continued to intimidate and restrict the activity of political activists from competing political parties, including more than a dozen cases in which political activists were allegedly killed by Maoist cadres throughout Nepal."

The report also notes that concerted international pressure made a difference in promoting greater respect for human

rights by both government forces and by the Maoists, "both of which curtailed some of their worst behavior in order to maintain international support."

The report argues that despite positive changes since April, ongoing human rights violations by both sides nevertheless contributed to concerns that those in power would again trample the human rights of ordinary Nepalese.

"The new government and the Maoists agreed to a Ceasefire Code of Conduct that includes several references to international human rights standards and the laws of war. However, the code of conduct lacks specific language about implementation or penalties for infractions. A National Monitoring Committee began monitoring the Code of Conduct in August, but at this writing it had not established its credibility and independence."

The report also accuses both sides for failing to institute accountability for past violations by their troops. "The


Maoists freed some of those responsible for a 2005 bombing attack in Chitwan, which killed 35 civilians and injured dozens of others, after sentences of two to three months of "corrective punishment." The UN's Office of the High Commissioner for Human Rights (OHCHR) monitoring mission complained of ongoing failure by the renamed Nepali Army (formerly the Royal Nepali Army) to honor its commitment to provide access to documents related to disciplinary procedures and courts martial. In one of the most egregious instances, the army has actively obstructed attempts to investigate the death of Maina Sunuwar, a 15-year-old girl who was killed shortly after she was taken into custody by the army in 2004. Although the Ceasefire Code of Conduct commits

both parties to publicize the whereabouts of citizens who have been "disappeared," some 800 people remain unaccounted for at this writing," the report states.

"Nepal ranks near the bottom of nearly all indexes of human well-being and development. Aggravating the problems of Nepal's already impoverished population, the decade of conflict seriously hampered aid distribution, health care and education. Economic disruptions caused by fighting and frequent blockades and checkpoints have curtailed food production and distribution, resulting in high rates of malnutrition and associated childhood maladies. Conditions are particularly bad for people displaced by the fighting and attendant economic problems, believed to number in the tens of thousands," the report states.

The HRW also expresses concern that many displaced person are yet to be allowed to return home. "After the ceasefire and the commitments made by the Maoists some displaced Nepalese returned to their homes, but thousands of others remained displaced, not returning because of a fear of reprisals or ongoing repression by Maoist forces."

Unexploded ordinance and mines, mostly left behind by the Maoists, continue to injure civilians, particularly children. ■

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# NBCCI HOLDS ITS 11<sup>TH</sup> AGM



## NBCCI holds its AGM stressing on proper business environment

The Nepal Britain Chamber of Commerce and Industry (NBCCI) held its 11<sup>th</sup> Annual General Meeting (AGM) on January 12 in Kathmandu.

The bi-national chamber formed to enhance trade and business ties between Nepal and Britain is one of the most active promoters of foreign investment and advocate of pro-business environment in the country. The NBCCI regularly holds various interactions and talk programs on relevant topics with the objective of promoting business environment in the country.

Speaking at the AGM session, British ambassador to Nepal Andrew Hall stressed that establishment of political stability is the key thing for thriving in economic development and investment.

"Provided political stability and end to conflict, I will be in a position to recommend investment here," Hall said. He added that the British government stands ready to assist Nepal in the current peace process.

The British envoy also pointed out some potential areas for enhancing trade and investment ties between the two countries. "Tourism is one of them with enormous potential. We are interested in helping

develop infrastructures and provide technical support," he said, adding, "(On your part), you can focus on (exporting) medicinal herbs or floriculture/horticulture products."

Addressing the AGM, NBCCI president Mahendra Krishna Shrestha stressed the need for industrial security and requested all stakeholders to work towards creating a congenial environment for business to operate and grow. "It is in the interest of Nepal and the Nepalese, that business is allowed to flourish; only a strong economy can pave the way for building a strong nation. All stakeholders must work towards creating a congenial environment for businesses to operate and grow, so that more employment opportunities can be generated and the economy becomes more vibrant. This is a matter of compulsion, and not, a matter of choice."

Secretary at the Ministry of Industry, Commerce and Supplies Bharat Bahadur Thapa said the government was fully committed towards enhancing economic reforms. He urged investors to take advantage of Nepal's geographical proximity with India and China. Thapa said the government was fully committed to provide a safe industrial climate for the businesses in the country.

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## BRITISH FILM FESTIVAL

# West Meets East

## British film festival gives a new taste for Nepalese big screen fans

By A CORRESPONDENT

**L**ike in the past, British Film Festival attracted a large number of Nepalese film lovers at the premises of Gopi Krishna Film Hall. For audience used to watch Nepali, Hindi and Hollywood flicks, the British films have offered a different taste.

Organized by British Council with the support from British Embassy, the sixth British Film Festival, which began from 15-19, January brought many interesting British films in the capital city. Inaugurated by British ambassador to Nepal Andrew Hall, the film festival also gave opportunity to Nepalese film industry to see the viability of British film in Nepal.

"We will be showing contemporary films that represent the rich diversity of modern British cinema. The festival is a feast of genres, from comedy to war to social drama," said John Fry, country manager of British Council.

In terms of technical quality, story theme and other aspects, the British films were very good and unique. The British films lured a large number of Nepalese youths. Despite the cold of mid January, each of the film received overwhelming number of cinema lovers.

From various cultural and social issues to the life in the conflict, the British films have varied themes for Nepalese audience. From war to love and cultural transformation, British films showed where the modern world is heading.

The four films displayed at the big screen of Gopi Krishna Cinema each had varied themes and distinct stories with high quality. At a time when the country has been passing through very critical time with bitter experience of conflicts, Hotel Rwanda showed how cruel the conflict can be for human lives.

Hotel Rwanda is the true story of one man's brave stance against savagery during the 1994 Rwanda conflict. Film showed the devastation of human life and values in conflict-hit society. As his country descends into madness, five-star



hotel manager Paul Rusesabagina (Cheadle) sets out to save his family. When he sees the world not intervening in the massacre of minority Tutsis, he finds the courage to open his hotel to 1200 refugees.

This film gives a lesson that humanity holds up even in the difficult and painful situation. How a man's courage can save the life of hundreds of people? With a rabidly violent militia at the gates, he has only his wits and words to keep them alive for another hour and another day.

The film is full of sensation and suspension about the situation. People are desperate about their life and nobody is certain about the next few minutes. Everything is possible there. Although Nepal has not seen any ethnic clashes till now, many Nepalese have experienced living in the conflict-ridden society.

Joyeux Noel is another interesting film about the life in the war zone. This

wonderful European film is respectful and sobering tribute to the universal humanitarian spirit amid the darkest days of a devastating conflict. The story plot was about the Christmas of 1914. It showed how human emotions connect each other even during the time of war. In a brief truce, both the sides of army discover many things about the other, including unexpected connections between them.

Although they are there in fighting spirit, the men have also experienced a surprisingly strong kinship with their fellow combatant. This film gave the message that the inherent feeling of humanity connects each other.

Other films Vera Drake, Nancy McGhee and the Mistress of Spices too were also interesting and have unique quality in expressing the human life.

In terms of quality of films and story, Nepalese entertainment industry can learn many things from them. These films will also be screened in Pokhara from 26-28 January. ■

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