

Chapter

1

Royal regression and the future of democracy

King Gyanendra has succeeded the throne from Dependra who himself had succeeded being crown prince his slain father Birendra his two day reign spent on artificial respiration in the history's most tragic court massacre in June 2001. He has restored to the final option-direct royal rule enforced by the Royal Nepal Army (RNA), knocked out in the process was the political parties and the institutions of multiparty democracy. On 1 February, 2005, the King Gyanendra dismissed a party-based government and seized all powers. He imposed a state of emergency in the country in which fundamental rights were suspended and a kind of martial law was imposed (Nepalese constitution 1990 doesn't provide for a martial law).

Invoking Article 115 of the constitution, the king suspended all the fundamental rights of the Nepalese citizen, including the freedom of opinion and expression, the freedom of the press and publication, the rights to information, the rights to constitutional remedy and the rights to property. Placing key political party leaders and democratic rights activist in jails, imposing press censorship, even (temporarily) curtailing communication links within and without the country. The military captured the telecommunication offices, turning the phone lines off to prevent the people from meeting and networking with each other. The army's signal corps disconnected all the transponder satellite links. Even the Amadeus satellite link serving commercial airlines connectivity was shutdown. The international airport was

sealed. Up to a dozen armed security personnel guarded the house of prominent civil society personalities. Nepalese can no longer assembled peacefully public rallies of any kind - except those supporting the *coup* have been fired upon and scattered by the security forces. Protesters had been killed, beaten, arrested and tortured in detention. This last exception is a concession to the fact that Nepal had, for over a year, the highest number of 'disappeared' people in the world. Thus Nepal has been turned into the largest prison for the people. This unconstitutional, undemocratic, anti-people activities and actions of the king itself proved that "in Nepal constitutional monarchism and multiparty parliamentary democracy can't run simultaneously" this experiment has already failed.

Modern Nepal was founded in 1767 by King Prithvi Narayan Shah a ruler of Gorkha, a central highland principality in west Nepal. In early 15th century, his ancestors persecuted by Muslim invaders of India, migrated from Udaipur (Rajasthan) to mountain hide-out in the north-eastern Himalayas and founded a small principality with its administrative seat in Gorkha. By 1767 Prithvi Narayan had already subjugated "*Baisi*" and "*chubisi*" minor principalities of western Nepal. The conquest of east Nepal, ruled by *Sen* and *Kirati rajas*, was followed by unification under Gorkha banner of the entire kingdom in its present dimensions. Earlier, the state of Nepal was virtually run by the families belonging to Shah and Rana clans with support from smaller groups of *Bhardars* or aristocrats. When Prithvi Narayan Shah conquered Kathmandu and made it his headquarters, he introduced a simple aristocratic system of administration inherited from his predecessors. The system was known as '*Thar-Ghar*' in which members of six elite families belonging to Aryal, Pandey, Khanal, Pant, Thapa and Basnet clans supported the Shah kings as military generals, advisors and administrators. *Madheshee* communities of the Terai were highly discriminated and marginalized along with *Dalits* and *Janjatis* (hill ethnic groups). The capital of Shah rulers shifted from Gorkha to Kathmandu. The Gorkha Kings of Nepal ruled the

state directly till 1846.

In 1846 Jang Bahadur Rana, captured the power, after the successful "kot massacre" conspiracy and became prime minister and army general. In 1856 he forced the king Surendra Bikram Shah to surrender to him all powers of the state and remain a nominal ruler. Jung Bahadur, who had risen by court intrigue and bloodshed, obtained from king a decree conferring in perpetuity on him and his descendants the hereditary office of Prime Minister with the succession passing on to the seniormost brother in the family.

The Rana Prime Ministers kept the Shah Kings under strict vigil in the royal palace. They assumed "*Sri Teen Maharaja*" while the king's title remained "*Maharajadhiraj*". Political power during the following 104 years remained close preserve of the Rana family. All political activities in Kathmandu centred on intrigue and conspiracy for power. The Rana family ruled the country with absolute power replacing the system by Ranacracy in which members of the Rana family occupied all the higher echelons of administration and military. The system was extensively misused for expropriating the wealth of the peasant, especially that of *Madheshee* and indigenous people and their territories using a centralised taxation system, privatising land tenure, imposition of *corvee* labour and *birta* land grant practice. The Shah and Rana both sharing of the appropriated resource with groups of *parbatiya* (hill) high caste lead aristocracy and bureaucracy benefited both the groups greatly. While this Mechanism helped sustain their monopoly over powers, the economy of the people became stagnant if not irrecoverably damaged. More specifically, the loss of land which was the base of subsistence livelihood of the *Madheshee*, indigenous and ethnic people contributed to loss of their land, history, culture and national identity. So *Madheshee* people still have identity crisis.

Democracy was first introduced in Nepal, in 1951 following a popular uprising which ended the century-old family oligarchy of

the Ranas, Nepalese Society, until then, kept in isolation lacked even the minimum political and civil infrastructure to practice democracy and democratic governance. Caste-based hierarchical discrimination, exploitation and superstition had been the fate of average Nepalese people. The Ranas in Nepal never permitted any civil and political organisation or activities within the country. With neither institutions nor legal provisions, there was little basis for civil administration.

King Tribhuvan, who was restored to the throne in 1951, promised a democratic constitution to be framed by an elected Constituent Assembly based on adult franchise. Until then an interim constitutional arrangement was instituted which provided for the 'king-in-council' system to run the government and administration. The interim government, a Rana-Congress coalition, was short lived. The king assumed power to appoint and dismiss the government at his discretion and exercise full state authority. Election for the Constituent Assembly, as promised by the Delhi settlement between king Tribhuvan, Rana Prime Minister and Nepali Congress, were never held.

In 1959 king Mahendra, who assumed the throne in 1955 after the death of Tribhuvan, approved a constitution which provided for a parliamentary system of government based on the westminster model following which general election was held for the Parliament. Elections demonstrated that the Nepali Congress, own the election by two-third majority. The legislature Nepali Congress party elected B.P. Koirala its leader. First elected government was formed in the history of Nepal under the leadership of B.P. Koirala.

The king Mahendra for his dramatic *coup* of 15 December 1960, however, dismissed the elected government, dissolved the Parliament and political leaders detained. On 5 January 1961, the king banned the functioning of political organisations under his emergency powers. In 1962 the new constitution was proclaimed

and king Mahendra envisaged a new form of government - the partyless panchayat system which provided a cover to the absolute powers of the monarchy. The monarchy remained at the helm of the political affairs for a long period between 1962-1990. Rastriya Panchayat, a Parliament of sorts, with members both nominated and elected on an individual basis. Rastriya Panchayat was also dominated by segments of society with high ritual status who were loyal to the king. Subsequently in 1963, similar panchayat or assemblies were created at the district and village levels by setting up of 75 districts and 14 zones as political administrative units within the country. The autocratic constitution of Nepal, had for the first time declared Nepal as a 'Hindu Kingdom' pushing the agenda of 'National Integration' through the process of homogenisation and assimilation of cultural diversity. Since common culture was thought essential to the nation-building, policies of one language, one dress' (i.e. *khas* language and hill people's dress) were officially promoted, privileging the *khas* - Nepali language and *parbatiya* (hill) Hindu culture as 'National'. During this era debate and action pertaining to ethnicity and culture other than 'national' cultural was discouraged as 'communal' and 'anti-national' and therefore, ensure strong official opposition. Discriminations based on religion, language and culture of the *Madheshee*, *Janjatis* or ethnic groups, indigenous people, Minorities, Women and dalits and their further exclusion and marginalisation emerged as major issues of contestation, contributing to a delegitimization of the panchayat government.

Even though the autocratic panchayat system, compared to the previous Rana regime, increased involvement in state structure, it only included the population belonging to hill peoples traditional high caste ruling elites.

In 1990, the people revolted against the partyless panchayat system, and *Janandolan* (people's democratic movement) launched by the Nepali Congress and United Left Front succeeded in

persuading the king to introduce incomplete and limited multiparty democracy, paved the way for the institutionalisation of constitutional monarchy. King Birendra, agreed to abide by the principles and norms of democracy and limited his role to that of 'constitutional monarch'. Later on the constitution of the kingdom of Nepal 1990 was proclaimed by the king Birendra with consent of Nepali Congress and United Left Front as the settlement of the dispute. The new constitution was framed on the basis of multiparty democracy, constitutional monarchy and parliamentary system of government based on westminster model. Relatively the new constitution had some positive features 'first articulated the people as the source of sovereign authority', second the king was designated as a 'constitutional monarch'; Third, Article 4(1) officially recognised the country as 'multi-ethnic and multi-lingual' and last, it guaranteed freedom to political parties, associations and expression.

The democratic and progressive people, for example argue that the king still holds real sovereign authority since he is characterised as the provider and the protector of the constitution [Preamble and Article 27 (3)] and emergency power is vested in him (Article 115). The ethnic activists on the other hand contend that the constitution carries the basic characteristic of a 'communal' state from the past and contradicts the real democratic spirit, the new constitution, for example, reaffirms Nepal as a Hindu state where the king has to be a 'descendant of the great king Prithvi Narayan Shah and adherent of Aryan culture and the Hindu religion [Article 27(1)]. It fails to recognise the country as 'multi-religious or secular' and Article 4 privileges that the Nepali language as the 'language of the nation' and to be used as the official language. The present structure of Nepali state doesn't reflect the socio-cultural, ethnic and linguistic diversity of the society and nation necessitating the need for restructuring the state as a federal system.

The constitutional provisions to acquire citizenship is targeted

against the nationality or national identity of the *Madheshee* people similarly, contrary to the fundamental rights granted by the constitution, Article 112(3) prohibits formation of any political organisation or party on the basis of religion, community, caste, tribe or region.

Thus, institutions of the state, even after the restoration of multiparty parliamentary democracy, continued to draw upon its past legacy of Shah-Rana regime and autocratic panchayat system. Even after the major political changes of 1990, aristocracy continued to control national politics and state affairs, with major landowners and comprador bourgeoisie and the so called high caste of the hill community dominating the higher echelons of police, military and bureaucracy. The structure established as an out-come of the 1990 democratic movement also failed to ensure a sharing of power and resources among *Madheshee*, *Janajatis*, women, dalits and other ordinary people. According to the new constitution, the executive power of the kingdom of Nepal is vested in the council of Ministers and all functions of the king and royal palace, except those to be discharged by him, should be carried out with the advice and consent of the council of ministers. However, in practice the king still holds the key to power in the country as the chief of the military. Senior officials of the military and police are usually related to the members of the royal family.

Political change and the constitution of Nepal 1990 failed to properly settle the question of 'state sovereignty' traditionally claimed by the monarchy leaving the final 'state authority' and control over the Royal Nepal Army (RNA) in the hands of monarchy. The political change of 1990, gradually returned to the fold of the monarchy. The structure of the monarchy and palace could not changed. In Nepal's 235 years old history, maximum time period was under the active monarchy and it remains a central element of Nepalese polity. There had always been conflict between the king and the people, be it in 1950, 1960 and 1990. King Tribhuvan promised election to the Constituent Assembly but the did not comply. King Mahendra usurped

power militarily and king Birendra continued the same. The present king also seems to be doing the same. We need to settle this issue once and for all because assertive monarchy itself is the real barrier to democratisation and development in the country. Monarchy has never been linked with the substance and essence of democracy and democracy needs to be redefined independent of monarchy. The position of monarchy was not made clear when the constitution was framed. The democracy we introduced in Nepal was basically the representative liberal democracy with several compromises with the palace. The 1990 constitution did not keep the king within the constitutional boundary. Article 127 in the constitution allowed the king to play with the constitution. Unfortunately, the resumption of multi-party democracy following a people's movement in 1990, failed to provide responsible governance and up hold the aspiration of the Nepalese people.

Three general elections 1990, 1994 and 1999 all returned fractured verdicts. The political parties proved incapable of structuring stable coalitions or even avert splits in their own organisations. The role and functioning of the political parties and their leaders had been far from satisfactory. They had indulged in politics of expedience and sought to achieve short-term advantages for themselves rather than strengthening the democratic system in the country. In 14 years of multi-party democracy, Nepal has had 14 governments all failed to make an impact on the lives of the vast majority of the country's 24 million people. Moreover, the parliamentary forces during their 15 years long rule inbetween, did nothing to bring about a progressive transformation in the traditionally feudal and increasingly comprador and bureaucratic capitalist socio-economic and cultural base of the society. The basic challenge of consolidation of democracy, and ensuring the sovereignty of the people, the parties have not been able to take a stand on the fundamental issues. They have a tendency to compromise. There was insufficient progress in improving the development indicators. The behaviour of political parties, both within

and out side the Parliament, contributed to sullyng their image as self-seeking and corrupt, more bothered about personal and sectional ends than national good. It is difficult for outsiders to appreciate the exclusionary, and thus non-representative, character of the Nepali system, with a few hill based, upper caste male Hindu groups hegemonising the position and resources in all domains - legislative, executive and judiciary in the process marginalising a vast majority of citizens from any effective participation in formal decision making.

The political parties clearly failed to provide a stable government in Nepal. Political leaders got involved in personal and party interest rather than national. All most all the major political parties have been characterized by internal feud and fragmentation, groupism, leadership clashes, weak social bases, decline of ideology and rise of intra-party disputes. The political ambitions of party leaders and factionalism have given rise to splits and further weakening of the party system. Meanwhile the king has become powerful due to party divisions. The parties also failed to build up sufficient democratic space in the country. This may possibly explain why popular needs and aspirations remained unrealised and people's frustration increased. The composition of the governing elites of Nepal interms of caste, class, ethnicity and gender between 1846 and 1999 remained more or less the same. For example, the members from hill Brahmin and Chhetri caste groups, who constitute 28.5% of the total population of the country, continued to occupy about 60% of the position as legislators, while *Madheshee* constituting more than 50% of the total population occupied less than 20% seats, similarly, *Janajatis* or indigenous nationalities accounted for less than 15% of the MPs in 1999. The dalits are virtually non existent in the legislature. Condition of women, too, is not encouraging.

Hill high caste male people continue to dominate the major political parties too. The presence of *Madheshee*, ethnic groups, dalits and women in the leadership hierarchy of these political parties

is negligible. As a result, *Madheshee*, various ethnic groups and dalits caste groups remain peripheral to both party politics and the national political main-stream. These groups have lost confidence in these political parties. Besides these, the political system, patterns of representation, party structure and leadership and over all political orientations have thus helped to reinforce the unitary system of government and administration and the continued exclusion of deprived castes and communities. It also fuelled Maoist insurgency in the country.

In February, 1996 a left extremist group, the communist party of Nepal (Maoist) launched an armed revolution in the name of 'people's war' with the declared objective of overthrowing the 1990 constitutional system to establish its own regime, a 'people's republic' based on Marxism-Leninism and Maoism. The rebellion, beginning with isolated incidents of violence in the remote villages of some mid-western and few other districts, has now grown into a full-scale nation wide insurgency. As a result, the writ of the constitutional state has been drastically reduced to the district headquarters and a few urban centres. The constitutional process has been rendered dysfunctional, bringing into question the very legitimacy of the polity. The present polity has failed to contain them both administratively and politically.

The Maoists are not in a position to militarily overrun the Nepali state and capture power on their own, merely with the gun. They politically represent the legitimate aspirations of Nepal's long neglected and suppressed rural poor. That is why they are willing to work with the political parties within a multiparty political structure, if there is a complete and genuine transfer of power from the king to the people of Nepal.

The social composition of this party, the hill high caste domination in the leadership of the CPN (Maoist), which is currently involved in violent insurgency with the aim of establishing a people's

republic with ethnic autonomy, shows that even a radical left party is also unable to ensure equitable representation. Single caste domination is a paradox for parties which claim to represent the people as a whole or a class of proletariat and workers. Without changing the composition and character of the party leadership, democratization in a larger context is impossible.

The extremist Maoist's savage and dictatorial methods are abhorrent. However, their popularity curve declined as the Maoists adopted brutal tactics. Their basic demands are not, in fact, the Nepali Congress Party and the Communist Party have, since the forties, demanded a Constituent Assembly and has also given up this demand upon various opportunities to share power with the palace-military complex. The Maoists have simply co-opted these demands strategically and claimed them as their own.

Then, the Prime Minister Sher Bahadur Deuba negotiated a ceasefire and succeeded in bringing the Maoists to the negotiation table. Between August and mid-November 2001, three rounds of talks were held between the government and Maoists. However, the Maoists did not agree to accept anything less than the formation of a Constituent Assembly, a republican state and a new constitution for Nepal, while government was not prepared to accept any of these demands. The talks failed and the Maoists again resorted to violence.

In the middle of 2003, the king succeeded again in bringing the Maoists to the negotiation table but failed to reach any agreement. The monarch wanted to take credit of solving these problems in which he failed. But he did succeed in marginalising the political parties. The government and the insurgents had engaged in dialogue in 2001 and 2003. But on both occasions talks failed and after each interlude there was fierce fighting with the state losing further ground. Despite the Maoists dropping the issues of republic from their agenda of negotiation, no headway could be made to transform the armed rebellion into a legitimate constitutional political process. During the

first round of negotiations the government insisted on a constitutional monarchy and reform within the limits of the 1990 constitution. The second time it was prepared to rewrite the constitution, which implied the framing of a new constitution, but insisted on retaining a constitutional monarchy. It also ruled out the election of a Constituent Assembly because that could threaten the monarchy. The Maoists in turn ruled out any possibility of seeking change through the existing constitution and demanded a new constitution to be framed by people through a freely elected sovereign Constituent Assembly.

The estimates of internally displaced persons due to the insurgency are above 1,00,000 while more than 12,583 people have lost their lives (INSEC). Among 1500 cases of disappearance, the state is directly accountable for more than 1000. Civilian life has only worsened - threat, extortion, torture, displacement, disappearance, rape and killings, have become a regular feature of the people's lives in most parts of the country. There is no law in Nepal that can guarantee any Justice. The political parties on the other hand, failed to pressurize the king to either hold general elections or revive the Parliament. In a statement in Feb. 2004, king Gyanendra made it clear that the monarchy would not remain a silent spectator to people's sufferings. 'The days of the monarchy being seen but not heard are gone. We, cannot remain a silent spectator to people's tearful face'.

On October 4, 2002, he had invoked the constitution to sack Deuba as Prime Minister for "incompetence" and initiated a cycle of nominated governments headed by the panchayat era palace loyalists Lokendra Bahadur Chand and Surya Bahadur Thapa. When the king enacted the first step of his *coup*, the international community were near - unanimous in their support.

In the middle of 2004, Deuba was once again appointed Prime Minister. Deuba gave an ultimatum to the Maoists to agree to negotiations. This failed. An impatient king was no longer content to

watch political events and decided to give a new direction to Nepali polity with the abrogation of the Deuba government. It is clear that the king moved in systematic and calculated manner. His intentions from the very beginning were clear. He wanted to create political space for the assertive Monarchy and at the same time blame political parties for the failure of democracy, peace and stability in Nepal.

On February 1, 2005, king Gyanendra sacked the council of ministers lead by Sher Bahadur Deuba and, as per Article 27(3) of the constitution, took overstate authority for three years. The king accused Deuba of failing to persuade the Maoist to agree for peace talks and to prepare the ground for general elections in the country. What is remarkable about the Feb. 2005 coup is that the king is claiming that he is taking absolute control in the interest of rescuing democracy from itself.

The outspokenly critical response of the international community is likely to embolden the resistance to the king's move. India, the United States, the United Kingdom and EU have categorically denounced the royal takeover. The most significant international development is the suspension of military aid by India, USA and UK alongside suspension of 'development aid' by a number of EU countries. International human rights organisation such as Amnesty International and Human Rights Watch, have publicly denounced the royal regime for its violation of human and democratic rights of the people. The Bush administration, which was backing the king and arming the RNA in the battle against "Maoist terrorist group" said, it was "deeply troubled" by the development in Nepal and described the king's action as "undermining the Nepali struggle with Maoist insurgency". Britain went a step further and suggested that it would review its assistance to Nepal. India which has made common cause with Nepal in the fight against the common threat of left wing extremism, said the king's move had 'violated' the basis of the peace and stability of Nepal founded on the twin pillars of the constitutional monarchy and multiparty democracy. "The government

of India should make it clear that this *coup* against the constitution and democracy in Nepal is unacceptable and respond in a manner which will help to restore the democratic system in Nepal" said a statement issued by the Communist Party of India (Marxist). Japan, Nepal's largest aid donor, called for restoration of democracy and the release of the detained leaders.

Thus the autocratic royal regime has been totally isolated form the international community. Apparently, the international reactions was harsh because the king had gone against the assurance he had given to the representatives of the major countries.

Since Feb 1, 2005 when king dismissed the party based government and seized all powers. Three trends emerged simultaneously, political power was centralised, the Maoist conflict intensified, and Nepal was put almost at par with other pariah states by the international community. None of these trends has been reversed since the king lifted emergency rule on 29 April, 2005.

Though there is a political reassertion by the monarchy in Nepal, it may not be durable, not even for the time that king has stipulated. It is also well known that modern representative democracy operates through political parties. While the democratic forces in Nepal are fragmented and lack of concrete common democratic programme and are victims of their own incompetence, they have the capacity to fight back. History bears testimony to the fact that people have been able to restore democracy through popular movements. Although Maoist insurgency continues to be the major problems facing the country, other political issues including substantial constitutional change, engage all political forces seeking 'forward movement'. This has become necessary not only because of the Maoist insurgency but because the political structure based on the 1990 constitution have been deficient in meeting the rising expectations of various groups and communities. Besides, the takeover of the executive powers by the king, which the main stream

political parties termed as 'royal regression' has also compelled them to broaden the areas of the constitutional change.

Nepal continues to be governed under a centralised administration and authority. As a result, demands for restructuring the state as a federal system are popular among various ethnic groups. The unitary structure of Nepali state and representation system and Kathmandu centric political structure can never be democratic and accountable in a true sense and provide space for groups who are at the periphery. As is evident, despite democratic experiments since 1990, the power structure that prevailed for centuries has not been transformed in any real sense.

Federalism and proportional representation must form the core agenda of the present discourse of restructuring the state for better representation of the people as cultural groups as well as efficient and accountable administration of the country. Administration of growing millions of people under a unitary and centralised polity can never be democratic and efficient.

Shah and Rana rulers introduced a simple aristocratic system based on the theme of absolute monarchy, Nepali language, Hindu ethos and centralised politico-administrative structure under the unitary political system. Without changing these basic foundations democratisation of the country or the establishment of a complete democracy is impossible. But the seven political parties alliance seems to be opposed to changes relating to the status of monarchy, army and Hindu kingdom. The common programme adopted by the agitating seven parties alliance against the royal regression includes commitments to such reforms as end of direct Monarchy rule, restoration of the dissolved parliament for the formation of responsible and representative government, affirmative policy actions for women, dalit and other deprived groups, ending discrimination based on ethnicity, religion, language, keeping the army under an elected government and authority, guarantee of free and fair election,

restructuring of the Nepali state and governance.

A simple restoration of democracy merely means returning to this constitutionally questionable 'rule by Article 127'. It may reverse the Feb 1, *coup*, but it will not resolve the problems that preceded it, or the conditions that facilitated it. The earlier political gridlock between the palace military complex, the democratic political parties and the Maoist insurgents must be cleared about the vital democratic issues, such as election for Constituent Assembly for framing of a new constitution for the country without any pre-conditions, change in electoral system, federalism and proportional representation system in the polity and administration, right to the self-determination, multi-lingual policy, secular identity of the nation state, complete sovereignty of the people, reservation policy, constitutional supremacy and provision of referendum in major national issues. The major political parties are silent or vague about these democratic issues and avoid any specific commitment, without addressing the essential important issues, it is impossible to establish the complete democratic system in the country, continued support for the principle recognises that Nepal's future lies in a complete multi-party democracy that allows even the Maoist to play a peaceful and meaningful role in mainstream politics. To establish a complete democracy Maoist should end their annihilating programme now, and join with the democratic parties and forces along with civil society, human rights activists, media persons or journalist in their struggle for democracy, the king will have no choice but to negotiate for a ceremonial position, the force of popular will may simply overthrow him otherwise.

If the Maoists join other political parties, the fate of the monarchy would be sealed. If people's war continues, it would be a long war and the country would sink deeper and deeper into chaos and move towards becoming a failed state.

For this, certainly, is the call of the times, the monarchy must retreat to a strictly ceremonial position or go. Weather or not this

happens will depend on the democratic political parties' ability to form a mutual understanding with Maoist. The Maoist have now invited the left and democratic alliance to join hands with them in overthrowing their common enemy. They have indicated that they are now willing to form a broad front with other main-stream parties to put up a joint struggle for multi-party republican democracy. The thought that these parties might accept their invitation is giving many jitters. No lasting solution may be possible without bringing the Maoist on board. Their bottom line demand of a Constituent Assembly sounds most reasonable and democratic. If the Maoist are not prepared to join a civil movement, their indirect support to a democratic movement cannot be ruled out. The democratic parties must have to show their reaction very carefully with patience. If they are to negotiate the Maoist into an equal partnership, they must also reform themselves urgently. With self-realization and learning lesson from the history, leaving their age-old willed; the democratic political parties must have to review and reform correctly their agendas, characters, approaches, methods and issues. These parties must have to stand strongly in favour of complete democracy rather than monarchism. The challenge before us is to make sure that the revolution that succeeds is a complete democratic one because democracy is better in all circumstances than any others.



Madhesh : A Colony of Torture under Monarchy of Nepal

1. Introduction

Nepal is a country of strange diversities. There are varied geophysical, climatic and biological diversities culmination into the diverse socio-economic, political and cultural patterns in the country. Nepal lies in the youngest fold of the mountains, Himalaya, the roof of the world. It ranges from about 60 metre elevation to the 8848m, the highest point of the world. From the climatic point of view, it ranges from tropical to the tundra from south to north. Southern belt is almost plain and the northern belt is rocky and mountainous gradually elevated to thousands of snow peaks. The Mahabharat range lying in between these two belts is a gently sloping land having river - valleys and tars.

The biggest Terai belt lies in the Southern Nepal adjacent to Indian border. It is elevated upto 600 metres from the sea level. It comprises 23% of the total land areas of Nepal and 56% of its cultivated land. It has been formed out alluvium constantly deposited by rivers flowing down the Gangetic plain. The Terai land is fertile for agriculture where wide varieties of crops are grown. Terai is mainly irrigated by the major river systems, namely Koshi, Gandaki, Karnali, Mechi, Kankai, Kamala, Bagmati, Tinau, Rapti, Mahakali, Ratu, Lal Bakaiya, Mohana etc.

From the economic point of view, Terai is primarily an

agricultural belt with the midland of Terai being mostly the fruit growing area. The northern part of Terai is very beautiful area suitable for development of tourism and live stock farming. In this way, natural diversity is reflected through social, cultural, political and other aspects of life. These natural phenomena make Nepal a unique country in the map of the world.

The word Terai is of relatively recent origin and is used interchangeably for 'Madhesh' which is derived from the Sanskrit word 'Madhyadesh' meaning the land between the foot hills of Himalayan mountain in the north and the Vindhya mountain on the south. People living in this region have been called *Madheshee* or *Madheshiyas*. Manu, the law maker of the Hindus, also mentioned the term *Madhyadesh*. The word *Madhesh* is also found in Buddhist *pali* literature e.g. the *Vinayapitaka*.

The *Madhesh* or Terai therefore, has been referred to the plain strip of the land lying within the boundary of Nepal. Likewise the word *Madheshee* or the term Terai people refers not to all the inhabitants of the *Madhesh* but indigenous ones of this region. They are also called the Nepali citizen of Indian origin.

2. Geopolitics of the Madhesh or Terai

The *Madhesh* is the most important region of the Nepal, geographically and culturally distinct from the hills. The high mountains of Nepal, or the hills attracted the attention of adventurous travellers, mountain climbers and scholars ever since Nepal was opened to the outside world after 1950. However, the Terai region or the *Madhesh* of Nepal, could attract comparatively little attention of foreign scholars because it is hot, dusty and malarious. Consequently, little interest was taken about the Terai's geographical, historical, economic or cultural characteristics, despite the fact that it comprises 21% Nepal's land area which inhabits more than 50% of Nepali

population. This neglect is striking, because the *Madhesh* is the backbone of Nepal's economy, producing about 65% of the nation's gross domestic product (GDP) yielding about 76% of the government's revenue, and 60% agricultural products of the country. Nepal Terai is approximately 500 miles long from western boundary, the Mahakali river, to its eastern boundary, the Mechi river. This east to west border line between the Nepal Terai and Indian states touches Uttaranchal, Uttar Pradesh, Bihar and West Bengal. An average width of the Terai is 20 miles. Two geographical terms are frequently used in Nepal, "inner terai" and "outer terai". The inner Terai refers to *Bhitari Madhesh* containing flat land north of Siwalik or churia range in Sindhuli, Makwanpur and Dang districts. The *Bahari Terai* is the plain region touching Indo-Nepal border south of the Siwaliks. Outer Terai consists of 19 districts, namely Jhapa, Morang, Sunsari, Saptari, Siraha, Dhanusa, Mahottari, Sarlahi, Rautahat, Bara, Parsa, Chitwan, Nawalparasi, Rupandehi, Kapilvastu, Banke, Bardia, Kailali and Kanchanpur. Geographically and culturally Terai is a transitional region between the hills and the plains. The transitional nature of the Terai creates problems for Nepal associated in respect of integration of the region into the mainstream of national economic and political programme. Most of the Terai inhabitants are *Madheshee*. In connection with religion, language, culture, life style and other social rituals they share with people living across the border in Uttar Pradesh, Bihar and West Bengal. During past decades, hill people migrated and settled in the terai on mass scale making perceptible change in political and cultural change.

3. A historical background

The Mithila or *Videha* kingdom existed in ancient times with its capital at Janakpur claiming to be the birth-place of Sita. Similarly, there existed Lumbini, birth place of the Buddha with

Kingship at Kapilvastu under the *Shakyas* and Debdaha under the *Koliyas*. Archaeological findings around this area indicate habitation going back to the 9th century B.C. though the most ancient heritage of Nepalese history is in the Terai, but the ruling class is drawing our attention back to the Kathmandu valley.

Madheshee people are indigenous inhabitants of the *Madhesh* or Terai and experienced all sorts of hardship and trials throughout history under ancient rulers, the Mughals, the East India Company and Shah dynasty. However, after the campaign of unification of Nepal in the 18th Century the Gorkha dominance, persisted over the developed culture of the *Madheshee*. The British government returned the Terai land to the Nepalese king in 1816, a year after the Sugauli treaty and determined well devised boundaries of the kingdom. It entered into an agreement with the king that the *Madheshee* people should not be persecuted in anyway. The Article 7 of the Memorandum of approval and acceptance of the Rajah of Nepal stipulated on December 8, 1816 is an evidence. It was through treaty of Sugauli that the Terai was handed over by the British East India Company to Nepal and as such is present situation, India is expected to safeguard the interests of the *Madheshee* community. But contrary to this commitment real mission remained far from being fulfilled. Ever since the treaty was signed between two countries, the *Madheshee* have been facing national identity crisis.

In course of past historical stages Nepal experienced a succession of many political systems : absolute monarchy under the Shah Kings (1769-1846), an oligarchy under Rana Prime Ministers (1846-1951), followed by temporary regimes of democracy (1951-59), parliamentary system (1959-60), revival of absolute monarchy (1960-90), restoration of multi-party system (1990-2002) and then finally direct-rule of present

monarchy after royal coup. If one goes to distant past the Terai was ruled by a number of petty chieftains, some of whom owed merely nominal allegiance to the pre-Shah rulers. In this connection efforts have always been made by the ruling elites to enable the Terai people for reserving economic interest of Kathmandu based aristocracy having little participation in national polity. "The ruling elites both Shah and the Ranas believed that the development of Terai was not in their longterm interest".

4. **Distribution of population : Caste/ethnic groups**

The 2001 census identified more than 50 castes/ethnic groups in the *Madhesh*. Overall, the *Madheshee* caste/ethnic group is largely rural (92.55%). Classification of population according to caste and language is only tentative. *Madheshee* ethnic groups includes Kishan, Gangai, Jhangar, Tajpuria, Tharu, Danuwar, Dhanuk, Dhimal, Meche/Bodo, Rajbansi/Koche, Satar/Santhal etc. caste and other groups includes Yadav, Teli, Chamar, Kushwaha/Koiri, Kurmi, Musahar, Dusadh/Paswan, Sonar, Kebat, Brahmin, Baniya, Mallah, Kalwar, Hazzam/Thakur, Kanu, Sudhi, Lohar, Tatma, Khatway, Dhobi, Nooniya, Kumhar, Halwai, Rajput, Kaystha, Badhai, Marwadi, Banter, Barai, Barai, Kahar, Rajbhar, Lodhi, Bind/Binda, Noorang, Gaderi, Chidimar, Mali, Bengali, Dom, Kamar, Halkhor, Panjabi/Sikha, Dhunia, Jain, Munda, Muslim, Patharkatta/Kushwadia, Sarbaria, Kallar etc.

5. **Languages of the population**

The *madheshee's* languages can be broadly categorized as Indo-Aryan ones. In addition to these there are several regional languages such as Maithili, Bhojpuri, Awadhi, Hindi, Urdu, Bengali, Tharu, Rajbansi, Bazzika, Surjapuri, and a few local dialects. Santhali is microscopic tongue spoken by tribal people. Besides, there are Marwadi, Tajpuria, Dhimal and Mechie.

Among them Maithili is a dominant language in the eastern - Terai, Bhojpuri in the mid-Terai and Awadhi in the western Terai. Hindi, of course, serves as a link language spoken among the Madheshee people from Mechi to Mahakali.

6. **Religious faiths in Madhesh**

Nepal is officially declared as a Hindu country. According to 2001 census, population of Hindus in the country is over 80.62%. Buddhist 10.74%, Islam 4.20%, Kirat 3.60%, Christian 0.5%, Sikh 0.0%, Jain 0.0% and others 0.4%. In terai, the second largest religion is Islam and Buddhism occupies third position.

7. **Population explosion in the Terai due to migration**

In the light of population composition Nepal is traditionally an area formed by immigrants from the Indo-Aryan and Mangoloid stocks. Intermixture of racial, cultural and religious strains has produced broadly two outlooks, one influenced culturally by the north, the other by the south.

The *madheshee* (Terai people) are bound to live like a second-rate citizen. For the last decades, *parbatia* (hill people) from the north have been resettled in some strength, not without political aims on fresh reclaimed forest land in the Terai. The Nepalese people of Indian origin, the *Desi* people as they are called, are placed in the third category of socially underprivileged people. The way the government has demarcated five development region and fourteen administrative zones in the kingdom. it is not without a calculated purpose. In fact the zonal boundaries do not always coincide with natural divisions. Had geographical factors been allowed to determine zonal boundaries, the entire Terai belt would have formed a single natural zone. But the biased ruling class relished their own class despite the Terai people's apparent majority. Contrary

to natural law the zonal division have been fixed from north to south, dissecting the Terai strip with all its ethnic, linguistic and regional unity, into ten different administrative blocks placed under the rule of zonal commissioners drawn from the ruling class. This arrangement positively helped the rulers in preventing progress of Terai area. Development was a threat to their monopoly of political power. The privileged classes have used this tactics to segregate the Terai population from the main stream of political life.

Analysis of the census 1991 shows that the population density is about 24 person per square km. in mountain, 141.3 person per sq.km. in hill and 274.5 person per sq.km. in Terai. But according to the census 2001, the population density is about 33 person per sq.km. in mountain, 167 person per sq.km. in hill and 330 person per sq.km. is in Terai.

Among internal migrants in Nepal, majority migrated from the mountain and hill to the Terai, while population at the national level increased by 60% during 1971-91; it nearly doubled in Terai during the same period. As a matter of fact there is no charm of job and other opportunities in Nepal which may motivate the Indians to rush to Nepal. Efforts were strongly made by the HMG Nepal to encourage the process of migration of population from the hills to the Terai. Rapti valley development plan (1954), Nepal resettlement company (1964), Jhapa resettlement company, Kanchanpur resettlement project, Nawalparasi resettlement project etc. were implemented by clearing the dense forest land of *Madhesh*. Apart from internal immigrants, Nepali speaking refugee from Burma, Assam, Sikkim, West Bengal and Bhutan and other places were encouraged to settle there. On the contrary the landless *Madheshee* people in the Terai were rarely given any land in this wave of resettlement projects. Big politicians and hill elites in the name of the "political victims" were allotted land in

Madhesh by clearing the dense forest.

By 1927 a little less than half of the Terai land was covered with dense forest. But by 1977 the percentage of the forest land reduced to one fifth of its total area. Between 1977 and 1992 there was hardly any forest left anywhere except in National Parks. Because of over strain on use of natural resources, such as forest, agricultural land, environment and river, there has been shortage of rainfall, decline in water table in rivers and soil, irregular monsoon and desertification in several parts of the *Madhesh*.

Migration of population has created imbalances in the Terai. Many people are forced to migrate outside in search of jobs. *Madheshee* labour of the Terai now go to the different parts of India, Delhi, Punjab and Hariyana states. Many *Madheshee* people, Tharus, Santhal/Satar are forced to migrate to India. In the past thousands of Tharus from Dang, Banke, Bardia, Kailali and Kanchanpur migrated to India as a result of *Kamaiya* (bounded labour) System. There was also a large scale migration of the Tharus from Chitwan district to adjacent Indian territory.

8. The governments imposing policy on language

The constitution of the kingdom of Nepal 1990 accepted that all languages spoken as mother tongues in Nepal would be treated as national languages. The Article 18 of the fundamental rights of the constitution clearly states "Each community residing within the kingdom of Nepal shall have right to preserve and promote its languages, script and culture". There is no guarantee of support from the state to their development. Policy of repression through philosophy of national language 'Nepali' is threat to the survival of other languages spoken by people of *Madhesh*. *Khaskura* or *SinjaliBhasa* has been promoted to status of national Nepali languages as well as "official language".

Languages spoken by *Madheshee* like Hindi, Maithili, Bhojpuri, Awadhi, Rajbansi etc. are derecognised. Most of the languages have been ignored in the curriculum of schools. At the end of the panchayat system the government derecognised even the degree of M.A. in Hindi, Maithili and Newari. Languages other than Nepali and English have been dercognised for the public service commission. *Sajha Prakashn* has also stopped publishing books in prohibited languages. The Royal Nepal Academy has turned a deaf ear to the development of these prohibited languages. Ruling class does not visualise the force of local languages in the integration of nation. It is known to all that Pakistan suffered division in 1971 on account of forceful implimentation of Urdu language over the Bengali speaking people in East Pakistan. Language is also one of bitter factors of rift between the Tamil and Sinhali speaking people of Sri Lanka. In Nepal as many as 100 languages and dilects are spoken. But HMG Nepal and sectarian ruling class do not realise the real force of local languages of the people. It is highly pernicious to the peace and prosperity of Nepal.

9. **Discriminatory policies and practices of the rulers**

In all principalities unified to form modern Nepal the ruling elites come from upper caste, Brahmins, Chhetris, Thakuris and Ranas. Their ranks have subsequently been joined by the Newars after the Kathmandu valley became the nation's centre. According to a study conducted by the centre for Economic Development and Administration (CEDA) 80% of the position of power and profit are held by the hill Brahamins, Chhetris and Newars although they represent a small minority of Nepal. A subsequent survey has revealed that more than half of the government civil servants is drawn from the Kathmandu valley only which contains about 3% of the population of Nepal. The social inequalities created by under representation and symbolic

representation of *Madheshee* people in civil services and security forces, disproportionate representation in legislative and executive bodies; and opportunities to certain caste people in political appointments are some examples of injustice, and exploitation of *Madheshee* people of Nepal. Infact the seeds of disunity and fanaticism were sown by Prithvi Narayan Shah. The inhabitants of the *Madhesh* were not given important assignment during his rule. High posts were reserved for certain hill caste groups. First preference was given to the hill people and second to richman or landlord in Terai. Till 1950, the *Madheshee* people were treated like slaves. Untill 1958, it was essential for them to acquire way receipt (passport) before entering into Kathmandu.

According to the Dhanapati Upadhaya citizenship commission 2051 B.S. (1994), approximately 40 lakh genuine Nepali have been denied of citizenship certificates. Majority of them are *Madheshee* people living in the Terai. Denial of citizenship has created many problems. First, they do not get service in the government, corporation and private institutions. Secondly, they cannot run industry and trade. Thirdly, denial of citizenship in one's own country means humiliation as one treated as a foreigner in own country. And fourthly, the denial of citizenship is the denial of the basic human rights to hold property. The reality is that no body in Nepal is liable to purchase land in absence of citizenship.

The land reform programme was used as a vehicle for transferring to the hill people, the landholdings of plain's people.

a. **Civil service**

In Nepal, high official posts have been occupied by hill

Brahmins, Chhetris and Newars while majority *Madheshee* people have been excluded from these positions. The composition of the higher grades of bureaucracy demonstrates a strong bias against weaker section of *Madheshee* people. Social, economic and political benefits distributed only to the hill Brahmins, Chhetris and Newars has deep historical roots. These communities enjoyed Rana patronage and got civil service, opportunities for modern education, and training of abroad for learned professions. Though a minority, they are powerful ones. A vast majority of teachers, university professors, academicians, intellectuals and Journalists are the high caste Hindus.

Table-1

Caste/Ethnic Composition of senior officials

S.N.	Post	Brahmin	Chhetri	Newar	Terai	Others	Total
01.	Secretary	12	5	8	4	1	30
02.	Add. Secretary	16	5	11	1	1	34
03.	Joint Secretary	-	-	-	-	-	-
04.	Adm. Service	56	9	17	5	3	90
05.	Health Service	22	9	36	4	2	73
06.	Education Service	11	2	12	4	1	30
07.	Judicial Service	3	10	3	3	1	20
08.	Audit Service	1	2	2	-	-	5
09.	Legislative Service	1	-	2	-	-	3
10.	Engineering	33	13	36	17	4	103
11.	Agriculture	11	6	17	3	2	39

12.	Forest Service	12	4	12	-	1	29
Total		178	65	157	41	15	456

	Percentage	39.03	14.25	34.42	8.99	3.29	100
--	-------------------	--------------	--------------	--------------	-------------	-------------	------------

Source : Nijamati Kitab Khana (quoted in contemporary Nepal, 1998:122)

Till December 1991 there were 456 senior level officers (Joint Secretary and above), both administrative and technicals. Of these 30, 34 and 392 were in the ranks of Secretary, Additional Secretary and Joint Secretary respectively. Hill Brahmins, Chhetris, Newars altogether holding 87.7% of high position. The *Madheshees* are only 8.99% and highly dominated. At present there are 178 senior officials (first class) but only two are Madheshee in government service.

Table - 2

Caste/Ethnic compositions of Senior Officials including those of under Secretary (Administrative Service) level.

S.N.	Post	Brahmin	Chhetri	Newar	Terai	Others	Total
01.	Secretary	12	5	8	4	1	30
02.	Add. Secretary	16	5	11	1	1	34
03.	Joint Secretary	-	-	-	-	-	-
04.	Adm. Service	56	9	17	5	3	90
05.	Health	22	9	36	4	2	73
06.	Education	11	2	12	4	1	30
07.	Judicial	3	10	3	3	1	20
08.	Audit	1	2	2	-	-	5
09.	Legislative	1	-	2	-	-	3
10.	Engineering	33	13	36	17	4	103
11.	Agriculture	11	6	17	3	2	39

12.	Forest	12	4	12	-	1	29
13.	Total	178	65	157	41	15	456
14.	Under Secretary	238	83	177	44	9	551
	Grand Total	416	148	334	85	24	1007
	Percentage	41.33	14.7	33.16	8.4	2.38	100

Source : *Nijamati Kitab Khana (Qoted in contemporary Nepal, 1998 : 122)*

If the number of officers under secretary level of administrative service is added the total goes up to 1007 officers. Of these 41.33% are hill Brahmins, 33.16% Newars, 14.7% Chehetris and only 8.4% are *Madheshees*.

Regarding geographic representation. Kathmandu dominates other geographic areas 51.95% representation. The hill region represent 29.22% and the Terai (including both *Madheshee* and hill people) 18.83% respectively. The Terai people or *Madheshees* have genuine grievances in so far as they are not adequately represented in power structure of Nepal, be it in army, security forces, administration, national legislature or the cabinet.

Table - 3

Geographical representation of Senior most officials

S.N.	Post	Kathmandu	Hill	Terai	Total
1.	Secretary	14	7	9	30
2.	Additional Secretary	21	7	6	34
3.	Joint Secretary*	45	31	14	90
	Total	80	45	29	154
	Percentage	51.95	29.22	18.83	100

**only those belonged to the administrative service have been included.*

Source : *Contemporary Nepal 1998 : 123*

b. Security Forces

Inspite of existence of ethnic groups in Nepal higher posts as Senior officers in army and police forces have been monopolised by hill people.

Table - 4

Position of Madheshee Community in Security Forces				
S.N.	Department and Position	No. of Officers	No. of Madheshee	
1.	Most Senior officers in Royal Nepal Army (RNA)	18	0	
2.	Chief of Police, armed police and national investigation department	3	0	
	Police AIGP	4	0	
	Police DIG	16	0	
	Police SSP	41	0	
3.	Armed Police AIGP	3	0	
	Armed Police DIG	8	0	
	Armed Police SSP	13	0	
	Armed Police SP	37	0	

Source : *Madhesh : Social demography and discrimination, 2004 : 48*

Madheshee People have no access to the Royal Nepal Army. A similar situation prevails in the police force too. The *Madheshee* people share only 2-3% in lower rank of Nepal

police. As a result, the *Madheshee* people are excluded from high post responsibility of the Security Forces of their own motherland. Certain elite groups in Nepal argue that none but the Gorkhas (hill people) belong to martial race. Therefore other communities are not relished as capable for the army without reliable logic behind it. It is a historical fact that Harisimha Deva an eminent *Karnata* king of Terai region had recruited a number of *Madheshee* people in his army. He was a historical personality. It is also a fact that when Prithvi Narayan Shah attacked Jay Prakash Malla, the latter had twelve thousand strong *Madheshees* recruited in his army who were called "*Tirhutia Army*". The *Tirhutia* army fought very bravely against the organised force of Prithvi Narayan Shah. Following the defeat of Jay Prakash Malla Prithvi Narayan Shah intentionally discontinued the Service of *Madheshee* Army. After that there is hardly any evidence of recruitment of *Madheshee* people in the Royal Nepal Army (RNA).

c. Political Participation

In regard to representation in Parliament, the number of Brahmins and Chhetris of the hilly region is comparatively high. Both in the panchayat system and in the current multi-party system. Brahmins and Chhetris of hilly region are dominant political elements in national politics.

Table-5
***Madheshee* MPs in Parliament**

Source : *Himal, May/June 1992, Election Commission bulletins 1994 & 1999.*

Above mentioned table shows that the representation of *Madheshee* MPs in Parliament in 1959, 1978, 1991, 1994 & 1999 elections. *Madheshee* MPs in Parliament accounted 22% in 1959 which fell all the time low to 15% in 1978. The foregoing observation about advantaged and disadvantaged

MPs from Ethnic group	1959	1978	1981	1991	1994	1999
Madheshees	22%	15%	12%	21%	15%	18%
Hill <i>Madheshees</i>	78%	85%	88%	79%	85%	82%
Percentage	100	100	100	100	100	100
Total No. of Seats	109	129	112	205	60	205

One foreign observer remarked that "during the past decade, the crown had become the pivot around which the traditional interest groups, the sacred elite, the military and the landowning aristocracy still revolve. These groups gain access to the Royal palace through their supporters and representatives on the staff of the palace secretariat. The palace secretariat has become the nerve centre of administration and the political structure in Nepal, even though its dominant policy and decision making role is not defined via law or within the constitution of this country. The functions of the palace secretariat can be closely

compared with previous, all powerful functions of the hereditary Rana Prime Ministers Office".

Table - 6
Representation in the House of Representative by caste and Ethnicity (Total no. 205)

Caste/Ethnicity	Ratio of population	1991 Election	1994 Election	1999 Election
Hill High Caste	7023220 (30.89 %)	114 (55.61%)	129 (62.93%)	122 (59.51%)
Hill Dalit	1616592 (7.11%)	1 (0.48%)	-	-
Hill Ethnic	5011631 (22.04%)	34 (16.59%)	24 (11.71%)	28 (16.66%)
Newar	1245232 (5.48%)	14 (6.83%)	12 (5.85%)	14 (6.83%)
Inner Terai Ethnic	251117 (1.11%)	1 (0.48%)	-	-
Terai Caste	3464249 (15.24%)	18 (8.78%)	22 (10.73%)	29 (14.15%)
Terai Dalit	904924 (3.99%)	-	-	-
Terai Ethnic	2814927 (8.11%)	18 (8.78%)	14 (6.83%)	10 (4.88%)
Muslim	971056 (4.27%)	5 (2.43%)	4 (1.9%)	2 (0.97%)
Women	11377556 (50.04%)	7 (3.41%)	7 (3.41%)	12 (5.85%)

Men	11359378 (49.96%)	198 (96.56%)	198 (96.56%)	193 (94.15%)
-----	----------------------	-----------------	-----------------	-----------------

Source : CBS 2002 and Election commission, 1991, 1994 and 1999.

If we look at the pattern of representation in both the houses of Parliament, House of Representatives and National Assembly (see Table 6 and 7) in each of the elections, it is apparent that the experiment with democracy could not address the problems of exclusion of *Madheshee*, deprived caste and communities. The dominant caste groups are over-represented in both houses.

Table-7
Representation in the National Assembly by caste and ethnicity (Total no. 60)

Caste/Ethnicity	1991	1993	1995	1997	1999	2001
Hill High Caste	33 (55%)	37 (61.37%)	33 (55%)	33 (55%)	33 (55%)	36 (60%)
Hill Dalit	2 (3.33%)	2 (3.33%)	3 (5%)	3 (5%)	4 (6.67%)	3 (5%)
Hill Ethnic	8 (13.33%)	7 (11.67%)	5 (8.33%)	7 (11.67%)	8 (13.33%)	9 (15%)
Newar	8 (13.33%)	5 (8.35%)	9 (15%)	9 (15%)	8 (13.33%)	5 (8.33%)
Terai Caste	6 (10%)	6 (10%)	6 (10%)	5 (8.33%)	5 (8.33%)	4 (6.67%)
Terai Dalit	--	--	--	--	--	1 (1.67%)
Terai Ethnic	2 (3.33%)	3 (5%)	4 (6.67%)	2 (3.33%)	1 (1.67%)	1 (1.67%)
Muslim	1 (1.67%)	--	--	1 (1.67%)	1 (1.67%)	1 (1.67%)

Women	3 (5%)	3 (5%)	5 (8.33%)	7 (11.67%)	7 (11.67%)	7 (11.67%)
Men	57 (95%)	57 (95%)	55 (91.67%)	53 (88.33%)	53 (88.33%)	53 (88.33%)

Source: National Assembly Secretariat.

The House of Representative has 205 member elected on the basis of adult franchise. The National Assembly, the upper house of the Parliament is a 60 member house and the member come from different constituencies: 35, including Three women members elected by HOR on the basis of proportional representation; 15 i.e. Three each from five development regions elected by the representatives of the local bodies and 10 nominated by the king.

Although the major political parties, particularly the Communists, often insist that National Assembly should be made the house of nationalities in order to compensate for under-representation of *Madheshees* and various other groups, the candidates they field do not comply to that position and the house remains dominated by Brahmins and chhetris of hilly region, who occupy more than 50% of the total seats. likewise ethnic groups, women and dalits are least represented.

Table-8 Shows that the *Madheshee* ministers in the council of minister during the panchayat regime between 1960 and 1989 was 16%. The situation has not improved even after the restoration of multiparty parliamentary democracy in 1990.

Table-8

Representation of Madheshee Community in the council of Ministers

Ministers (1960-1989)	35	16%	181	84%	216	100
Ministers (1992-1993)	4	17%	20	83%	24	100
Cabinet ministers (1994-1995)	0	0%	9	100%	9	100
Deuba's cabinet ministers 2004 nominate by king	5	20%	20	80%	25	100

Source: Ethnicity in democracy (paper), Nepal Rajpatra 2051/ 814 B.S and Gorkhaptra

The share of the *Madheshee* ministers in the council of ministers headed by Prime minister G.P. Koirala account for 17%. But in the council of minister headed by Prime minister so called communist leader Man Mohan Adhikari on behalf of CPN (UML) government *Madheshee* minister was nil in his cabinet.

Table-9

Representation of Madheshee Community in the central level organisation/committee of political parties.

Political Parties	Total Central Committee Member			Madheshee Member		
Categories	Number of Madheshee	Ministers Percentage	Number of Hill Ministers	Percentage	Total	Percentage
Nepali Congress		35			3	
CPN (UML)		55				(alternate member)
Nepali Congress (D)		55			3	
RPP		55			7	
Janmorcha Nepal		51			1	

Source : Madhesh : Social Demography and Discrimination, 2004:51

The representation of *Madheshee* community in central working committee of larger Parliamentary Political Parties e.g. Nepali Congress, Nepali Congress (D), CPN (UML), RPP in Nepal was inadequate. The hill Brahmins & Chhetris controlled the

central leadership of major Political Parties. This is one of the reasons why *Madheshee* working in these Political Parties are treated with distrust by the hill leadership. Qualities as talent and self-respect have been disqualifying rather than qualifying factors for the *Madheshee*. Persons having talent and self-respect have been discouraged and sometimes even punished. There is no any vital role given to *Madheshee* leaders in these political parties.

d. On the decline of employment condition

According to the various studies, the number of unemployment is larger in Madhesh/Terai than mountain and hilly regions. In Madhesh unemployment rate is 6.5%, mountain 2.1% and hilly region 3.7%.

Table 10

Unemployment rate of different geographical regions

S.N.	Geographical regions	Unemployment rate (%)
01.	Mountain	2.1
02.	Hill	3.7
03.	Madhesh/Terai	6.5

Source : Living standards survey report 1996.

e. On the decline of per capita income of Madhesh/Terai :

Yearly, per capita income of Madheshee (plain's people) is slightly much than inhabitants of mountain but more less than hilly people. Yearly, per capita income of the people of mountain is Rs. 5,938 and hilly region is Rs. 8,433 but Madhesh is Rs. 7,322. According to the International Standards 66%, people of Nepal are living below the poverty line. Whereas 64% are in hill and 68% in Terai. Which shows that Madheshee are economically most deprived. Because one-third of the total population of Madhesh are landless and unemployed.

Table - 11
Per capita income (yearly) in Rs.

S.N.	Geographical regions	Per capita income (1995-96) in Rs.
01.	Mountain	5,938
02.	Hill	8,433
03.	Madhesh/Terai	7,322

Source : Living standards survey report 1996.

f. Threat for livelihood

The socio-economic condition of the *Madheshees* in Nepal is deplorable, along with the loss of their national and cultural identities such as language and culture due to unbearable domination of the hill people. Although forest is the main source of livelihood - especially to certain Madheshee People like Satar/Santhal, Jhangar etc., the growing deforestation in the last years caused enormous environmental degradation and a threat to their sustainable living. Additionally poor sanitation, poor health, illiteracy and unemployment are common phenomena in the Madhesh. As a result, the *Madheshee* people are increasingly entering into the labour market in Nepal, India and abroad.

The racial discrimination practised in Nepal is based on the policy of ethnic cleansing and also contains elements of genocide. Which may also interpreted to mean "extermination of the race or a nation", after the conclusion of *world war II* when the horrified world learned of the extermination of whole peoples by the Nazis. As we see, in fact, genocide is committed in four ways : *physical genocide*, i.e. physical extermination of whole groups of the population for racial, national, caste/ethnic or religious reasons; *Social and economic genocide*, i.e. deliberate creation of living conditions for such population groups, that lead to their complete or partial extermination; *biological genocide*, i.e. measures preventing child-birth among

members of such groups, and, last but not least, *national and cultural genocide*, i.e. acts calculated to destroy the cultural and other spiritual values of the groups in question. All these methods were extensively employed by Nazi Germany during *world war II* against Slavs, Jews, Gypsies, and other people. According to the international law genocide is a crime against humanity.

10. Problems of national integration

The Gorkha Conquest had given Nepal a single name and strong centralised administration and government. Even the people from the Terai region of Nepal needed a permit from their own government to visit Kathmandu. They were not employed in the military services, few of them were accommodated in the civil service. It created for them a problem of identification in psychological terms. The problems of national integration in Nepal, becomes more serious as the demands for an equitable allocation of developmental resources to different region acquire force.

In Nepal territorial expansion in the second half of the eighteenth and the first decade of the nineteenth centuries provided a sense of emotional unity and identity among the people of various ethnic and linguistic groups who had just been brought together into one kingdom.

Similarly, in the changed circumstances people living in the Madhesh, mountain and hill can be imbued with a sense of identity, if inhabitants of those regions are allowed to participate without discrimination in the administrative, political and economic process of Modernisation.

For physical, psychological and historical reasons the government in Nepal has failed to enforce an equitable distribution of goods and services. For a long time the vision

of the government at Kathmandu did not extend beyond the confines of the valley. More than half of the development budget has for a long time been spent entirely on the Kathmandu valley and its environs. Indeed the Kathmandu valley alone was treated as Nepal for all practical purposes. *Madheshees* have not been recognised as the Son of the soil, even today. The exploitative nature of the old political style still persists unchanged.

The *Madheshee* people of the Terai have their identity problems, similar to those of people who have emerged from colonial experiences. Neither Nepal's history nor Nepal's hill culture or the ruling elite satisfy their identity needs, because they have not been associated with either, National symbols with which the *Madheshee* people could easily identify are missing. The Nepali language, perhaps even more than crown itself, is a powerful and pervasive symbol of Nepalese nationalism in the hill region. Nepali is spoken by relatively few *Madheshee* people, even as a second language. Hindi, the common language or *lingua franca* of the region and a significant symbol for many *Madheshee* people, has been rejected as a second national or even one that is recognised for government use at the regional level.

The present political system and the constitution of the kingdom of Nepal 1990 is itself defective in promoting national integration. Under existing system, it is the mountain, river and land that are represented and not the people. This is so because representation is not held on the basis of population but on the basis of the geographical area. As such, in a district like Manang or Mustang where population is only 6,358 according to the voter list of 1991 having one MP. But in the district like Sarlahi, Saptari, Siraha in the Terai, there is a provision to have an MP on the basis of at least 75000 to 100000 population. National

integration cannot be promoted so long as election for the house of representative is not held on the basis of population. Present system is a mockery.

Until the citadels of privilege, higher education scholarship abroad, the higher ranks of both the civil and military services are made accessible to the disadvantaged ethnic groups, unless the structure of power reflects the rich diversity of our nation, the process of national integration will be incomplete. There are deep structural inequalities in the nation. The privileged castes and classes of hilly region must rise above their narrow interests to promote the cause of the disadvantaged and unprivileged, to provide them with not merely equal but enhanced opportunities for improving their lot. Thus representation and distribution are the major mechanism required to resolve the conflict of this phase of 'Created Nationalism' in Nepal. Multi-party democracy must create a multi-ethnic power structure, for this new state structure is essential.

All this, however, Presupposes a change in the attitude of the dominant minority power-elite. unless the legitimate grievances of the hitherto neglected majority are properly needed and a greater opportunity is provided for the upward mobility of various ethnic groups, the process of development may create a highly explosive situation in the country.

11. Conclusions

The *Madheshee* population is subjected to extreme national oppression, poverty and exploitation, lack of all democratic rights. Madhesh is the internal colony of hill people's ruling class. It is the combination of the worst features both of racial discrimination and internal colonialism within a single national frontier which determines the special nature of the Nepalese polity.

The *Madheshee* people of Nepal have been politically economically, socially and culturally depressed and are under the threat of extinction. They have been strategically forced to migrate to India, their landholdings have been confiscated, their linguistic and cultural identity is under crisis. They have been kept out of the realm of power sharing and decision making bodies. They still do not feel integrated into the Nepali nationality. Mal-nutrition, poverty, illiteracy and unemployment including political and economic discrimination are their major problems. Fundamental human rights such as (i) civil and political rights (ii) economic, social and cultural rights of the plain's people (*Madheshee*) in Nepal are not well respected. *Madheshee* peoples of Nepal have been subjected to domination, exploitation, discrimination and suppression of their human rights and fundamental freedom since the foundation of the state of Nepal, still continue at all levels.

The government has not yet developed any specific policy and programme in this regard or they are discriminatory, and ineffective. There is a strong need for the recognition of the human rights, national identity, languages and cultures of the *Madheshee* people and the adoption of a fair national policy to recognise their role in the national socio-economic and political mainstream.

We, the *Madheshee* people of Nepal, declare for all our country and the world to know that Nepal belongs to all who live in it, *Madheshee* and *non-Madheshee*. There shall be equal status in the bodies of state for all national groups, races and caste/ethnics; all people shall have equal right to use their own languages, and to develop their own culture and customs; all national groups shall be protected by laws against insult to their ethnicity, race and national pride; the preaching and practice of national and racial discrimination and contempt shall be a punishable crime; all discriminatory laws, policies and practices

shall be set aside constitutionally.

Nepal is a landlocked semi-feudal, multi-national, multi-lingual, multi-cultural and multi- religious country. Current constitutional and political system of the unitary system of government cannot solve the *Madheshee* and other ethnic crisis of the country. So there should be a radical change in the state structure and current socio-economic and political system. Constitutional provision for regional autonomy or autonomous states within federal system and the right to self -determination, complete multi-party democratic system, proportional representation in polity, secularism, reservation and multi-lingual policy is a crying necessity for its development, democratisation, modernisation, maintaining national integrity and strengthening national unity. The country should be demarcated into different political autonomous states or units on the basis of similarity in matter of language, culture, customs, appearances, economic way of life, social structure and geography. *Madhesh* should be a political unit and should be declared an autonomous state or province. This will go a long way in correcting the regional imbalances and in ending the racial, cultural, political, linguistic and administrative discriminations.



Justification of Constituent Assembly

At present, Nepal is undergoing a complex transition due to the most dilemmatic and directionless situation in the history. The country has witnessed the failure of British-model multi-party parliamentary monarchical system. The rule of state established by the Constitution of the Kingdom of Nepal, 1990, that resulted from the People's Movement, 1990 and through mutual agreement of Nepali Congress, United Left Front and the King, has been inactive, directionless and almost defunct. But the future constitution and new rule of state that could replace it has not taken any form yet. This makes inevitable constitutional change on the basis of a lawful and fixed procedure. To achieve this, people have already commenced debate, discussion and interaction on a new structure of the state. The major issue in this regard has been deciding about the outline (form) of future state through the Constituent Assembly. No aspect or sector of modern Nepalese national life has been untouched by this issue.

Today, the civil society has taken a grave interest in this issue. How should be the new constitution? What should be nature of the elections for the Constituent Assembly? Such issues have been a matter of common interest for the Maoists, parliamentarians, royalists (monarchists) and common people. In fact, after the King unilaterally breached the tripartite political agreement (understanding) reached upon after the People's movement 1990, there seems to be

no other alternative than the Constituent Assembly in order to restore a complete democratic system. The view that the sovereignty seized from the people can be regained only through the Constitutional Assembly is gaining momentum in the country. The *Madheshee Janadhikar Forum, Nepal* has presented some relevant issues feeling a dire need to hold widespread discussion, debate and interaction on these issues.

1. **Background of the Constituent Assembly in Nepal**

The issue of the Constituent Assembly has been raised in Nepal since 1950. But it is still an important political agenda without being concluded. Due to the pressure exerted by the armed rebellion of Nepali Congress in 1950, the then Prime Minister of India, Jawahar Lal Nehru made a proposal. Accordingly, the Rana premier Mohan Shumsher addressed the nation on 9 January 1951 and declared "to form a Constituent Assembly through adult franchise all over Nepal, and to hold the first meeting of the Assembly within 1953". It was first declaration about the Constituent Assembly in the Nepalese history. Soon after, King Tribhuvan made a royal declaration on 18 February 1951, "WE have wished and decided to have the rule of our subjects henceforth in accordance with the Republican Constitution drafted by a Constituent Assembly elected by them." Accordingly, the Interim government of the Ranas and Nepali Congress drafted Interim Constitution 1951 for a provisional period till the Constitution was formed through the Constituent Assembly. But the elections for the same were not held as per the royal declaration. Later, after the death of King Tribhuvan, his son Mahendra ascended the throne on 13 March 1955 and began a direct rule of the king, and thus stopped the elections of the the Constituent Assembly. On 8 August 1955, the King declared to hold general election since 8 October

1957. But many contemporary political parties protested saying that the elections should be held for the Constituent Assembly, rather than the parliament. So King Mahendra made another royal declaration withholding the said elections. Nepali Congress, Nepali National Congress and Praja Parishad jointly protested the royal declaration and decided to hold Civil Disobedience since 7 December 1957. It was also participated in by Communist Party of Nepal (CPN). The Civil Disobedience mainly aimed at holding the elections for the Constituent Assembly. But the agitation was postponed when King Mahendra declared again to hold general elections on 18 February 1959. The parties abandoned their demand for the Constituent Assembly and started preparing for the general elections. Thus the national politics took a different direction. Consequently, the parliamentary elections were held in which Nepali Congress had a sweeping majority, and form a government. In 1960 King Mahendra dissolved the elected government through direct military intervention. Then the meeting of the Central Committee of agitating Nepali Congress raised its voice in 1969 for the necessity of the Constituent Assembly. Earlier, the communist leader Mohan Bikram Singh had proposed about the justification (relavance) of the Constituent Assembly in a plenum of CPN held in Durbhanga. Quite later, that is in 1986, CPN (4th Convention) raised its voice in favour of the Constituent Assembly. It reiterated its demand right after the People's Movement, 1990. In this regard, its leader Nirmal Lama, and CPN (Masal) demanded that the new constitution should be drafted through the Constituent Assembly. Then Nepal Sadbhawana Parishad (later turned into Nepal Sadbhawana Party, NSP) also expressed its view in favour of the Constituent Assembly. But the allies of Nepali Congress and United Left Front did not give any importance to the issue

of the Constituent Assembly. As a result, the king promulgated the Constitution of the Kingdom of Nepal at the recommendation of a Commission formed through the mutual agreement between United Left Front, Nepali Congress and the King. Later this constitution was neither discussed nor debated or endorsed in the elected parliament. It is in regard with this constitution that the people are raising different voices like "What to do to the Cosntitution - amend or reform, hold the elections for the Constituent Assembly or rewrite the Constitution?". On the one hand, different political parties like CPN (Maoist), NSP (Anandi Devi), CPN (ML), *Madheshee Janadhikar Forum-Nepal*, and other organizations have been raising their voices in favour of the Constituent Assembly. On the other, many leaders and workers (activists) of CPN (UML) and Nepali Congress have sided with the Constituent Assembly.

In fact, the issue of the Constituent Assembly is not unique and completely new in Nepal. It had already become the major agenda of the contemporary politics ever since the revolution of 1951 after which it gained efficiency. The revolution was postponed only after the royal declaration of King Tribhuvan that the future rule of the country would be guided and directed by the Constitution drafted by the Constituent Assembly. Then Nepali Congress, CPN, Gorkha Parishad and Nepali National Congress had also supported the issued of the Constituent Assembly. Therefore, the agenda of the Constituent Assembly is not a fundamental issue raised by the Maoists. This should be taken as a common agenda of all the groups fighting today for establishing complete democratic political system in the country. All the constitutions of Nepal have so far been promulgated by the king. No constitution has been drafted through the participation of elected representatives. Therefore

no constitution could place the people's power over the power and influence of monarchy, nor could establish constitutional supremacy. No constitution established the people as the major source of sovereignty and state power. Therefore political exit (outlet) today means establishing the above mentioned norms and values in the constitution. This cannot be achieved by reviving the almost defunct constitution or reactivizing the power manifest in the king, nor can a democratic system and constitutional rule be established in the country in this way. Therefore, all the groups having faith and belief in complete democratic multi-party system should stand in favour of the Constituent Assembly.

2. **Examples of the Constituent Assembly in the World**

The Constituent Assembly is taken everywhere as a democratic process of drafting new constitution, changing the existing one and amending the same. India, Sri Lanka, America, France, Kenya, USSR (after 1917 Revolution), and South Africa all held the elections of the Constituent Assembly for this purpose. Here are some examples for perusal (study).

America (USA) : Till 1789 no European nation a written constitution. Then, for the first time in the world history, America propounded a unique rule through the Constituent Assembly that was more democratic than contemporary British rule. 13 colonies revolted against England and declared independence on 4 July 1776. Then they formed a federation on 15 November 1777. These newly independent colonies decided to draft a new constitution which could unite them within a stronger union. Thus the representatives of the previous colonies held a conference in 1787 in Philadelphia. This conference was termed as the Constituent Assembly. It was attended by 55

representatives from all the states. They were George Washington, Alexander Hamilton, James Maddison, Benjamin Franklin, Robert Morris, John Dickenson, James Wilson and other dignitaries. Of them, 8 dignitaries had signed the Charter of the American Independence, and had taken part in almost all the revolutions. Jefferson even portrayed the Constituent Assembly as an "Assembly of the demigods". In fact, it was an assembly of extraordinary people. Despite prolonged debate and differences, they passed many proposals with a majority. The major ones were: Drafting a new republican constitution, provision of three organs in the state - Executive, Legislative and Judiciary, delegating more power to the states, providing the Congress a right to make laws, etc. The representatives of the conference made a coordination between principle and practice and drafted a constitution that established balance among different organs, and reduced the possibility of mutual disharmony among them.

The makers of the American constitution gave importance to 4 cardinal points in it:

1. To establish a system of good governance through the constitution. They made a provision of a powerful Executive for it.
2. To keep each organ mutually independent and balanced. For this, Legislative, Executive and Judiciary should be separated from each other while each exercising check-and-balance.
3. To make the government responsible (accountable) to the people. This principle was implemented by making a constitutional provision to elect all the high officials of the administration, and holding periodical elections for the

same.

4. The most important objective was: the question (issue) of individual freedom. Accordingly, Executive, Legislative and Judiciary were kept separate so that one could not make a tie (an alliance) with another and encroach upon individual freedom. Besides, the constitution safeguarded some rights of the individuals. Any breach of those rights entitled the concerned individuals to seek judicial treatment.

The Philadelphia Conference drafted the constitution in 1787 and presented the same to the Congress on 17 September of the same year for approval. After the Convention of the Congress endorsed it, the same was signed by all the state representatives, and presented to all the states for final approval. Thus the constitution was brought into effect only after it was passed and endorsed by majority of the states. In this way, the political history of America really starts only from the date when the states approved the constitution. The Constitution of the United States of America was enforced on 30 April 1789. This was a unique experiment in the world. The Preamble of the Constitution was very moving and inspiring. Indeed, the essence of the US Constitution lies therein. After the making of this constitution, the people learnt about their rights and had a strong feeling of nationalism. The vast majority of people were not only the citizens of different (separate) states but also had a sense of belonging to a vast nation.

India: During the Struggle for Freedom in India, the Indian National Congress firstly approved the proposal for the Constituent Assembly in 1934. Then only the British government was forced to accept it in August 1940. When the Labour

Party formed government in England in 1945, it sent a cabinet mission to India to take important decisions. All the members of the cabinet mission and Viceroy and Governor-General Lord Wavell presented a plan of action, and issued a joint communiqué regarding drafting the Constitution of India by the British government. Accordingly, arrangements were made to elect the members of the Constituent Assembly by provincial assemblies. The Sikhs and Muslim legislators were allowed to elect their representatives as per quota on the basis of their population. It was according to the cabinet mission that the provincial assemblies elected the members of the Constituent Assembly in July 1946. The provision was made to include altogether 389 members in assembly the of constitution makers. It had one representative for each million. According to this, there were 292 members from 11 provinces, 93 from local principalities and 4 from union states. The provision was made to divide the number of members on the basis of population from among the major communities of each province at places where the elections for provincial assemblies were to be held. Moreover, the elections of the representatives of each community were to be held only by their members in the assemblies or as per different electoral system by the provincial assemblies.

On 9 Decembert 1946, the first meeting of the Constituent Assembly was held and was attended by 210 members only. They elected Dr Sachchidanand Sinha as a temporay President. Later on 11 December 1946, Dr Rajendra Prasad was elected as the President of the Constituent Assembly. The Muslim League, which was demanding a separate state for the Muslims, boycotted the Constituent Assembly and resorted to violent activities in the name of direct action. As per the agreement reached upon by some chief leaders of Indian National

problem of the country. Accordingly, the parliamentary elections were held in 1789. It had three divisions or classes: The first class consisted of the aristocrats. The second class comprised of the clergymen. The third class was formed of the middle class workers and peasants' representatives sans any rights. The three classes had an unbridgeable gap among themselves (They held quite different opinions). Meanwhile, the first session of the parliament was held on 5 May 1789. But the meetings of the representatives of the three classes were convened separately. The representatives of the lower rung declared themselves as the only representative national assembly of France on 17 June 1789. They also decided to hold the national assembly themselves with following agendas: To end the prerogatives of the aristocrats and clergymen, declare human rights, seek solutions to economic problems, resolve the disputes related to the church, and above all, to draft a new constitution. The same national assembly drafted the new constitution. So it was called the Constituent Assembly. In 1791, the constitution was prepared by the national assembly and enforced after royal assent (emperor's approval). The constitution was based on Montesque's Theory of Separation of Power. The Constituent Assembly worked for about 2 years and 3 months, that is from 17 June 1789 to 30 September 1791. It was the first written constitution not only of France but also of the entire Europe. It established the first constitutional system in France. Though the constitution of 1791 is regarded as the landmark of progress in the French history, it did not last long. So the second elections for the Constituent Assembly were held on 23 April 1848.

Sri Lanka : In 1946 a new constitution was drafted after Ceylone got freedom from British colony. But, according to

the constitution, the ultimate judiciary right was still reserved by the British privy council even after the coveted independence. Till then the Governor General of Sri Lanka was appointed by the British government. It went on till 1970/72. Thus Britain had retained Sri Lanka under modern colonialism. The people expressed great dissatisfaction over such constitutional framework of Sri Lanka. The voices were raised everywhere demanding the making of a new constitution by the representatives elected by the people. Meanwhile, general elections for the parliament were held in 1970. The Freedom Party of Sri Lanka won the election with about two-third majority. The party demanded that "the British sovereignty should recede from Sri Lanka and Sri Lanka should gain complete freedom". The elections gave a good opportunity to change the constitution. The parliament made a decision to convert the 157-member House of Representatives into the Constituent Assembly. Then the process of making a new constitution continued from 1970 to 1972. The Constituent Assembly passed 38 basic proposals. The new constitution established the President as the Head of State and the Supreme Commander of Army. The constitution lent supremacy to the national assembly. Thus the national assembly got complete right to change, amend and modify the constitution. Another important feature of the constitution was the concept of free and independent judiciary. Thus the new constitution of Sri Lanka was enforced in 1972. Then only an independent, sovereign and republican Sri Lanka was founded.

South Africa : The conflict against apartheid and racial discrimination ended in 1993 only through an agreement reach upon by the conflicting groups. There also the moot cause of conflict (bone of contention) was making a new constitution.

The country was ruled by a minority group called National Party. The Constituent Assembly was unlikely to cater the interests of the minority groups. Political parties like Incatha Freedom Party also had the same opinion. But the African National Congress representing the majority of the Blacks strongly advocated for the Constituent Assembly. These two groups made a mutual agreement and held the first all-party roundtable conference. It was attended by all big and small political parties and organizations. They made free discussions and agreed upon the principles of the constitution. On the basis of those principles, the all-party conference made the first draft of internal constitution. It would direct the rule of the nation till the final constitution was made. Moreover, the all-party conference drafted necessary laws for democratic elections, and accordingly general elections for bicameral parliament were held in April 1994. It provided for national assembly and senate. The Constituent Assembly was formed of 490 members from both the Houses. It included representatives from all the parties. The number of the members of the Constituent Assembly was determined on the basis of the votes achieved by the party in the elections. This assembly prepared the final draft of the constitution. On 8 May 1996, a majority of 98% of the Constituent Assembly ratified the final draft and sent to the Constitutional Court for endorsement. The Constitutional Court saw whether the new draft complied to the pre-determined constitutional principles, and sent back to the Constituent Assembly, which re-endorsed the draft with certain amendments on 11 October 1996. On 10 December 1996, President Nelson Mandela signed the final draft, and promulgated the constitution to be enforced since 4 February 1997. Nepal can also learn a lot from politics and constitutional

procedure of South Africa.

Kenya : Kenya had a different cycle of events. The Kenyan government did not take any initiative regarding the Constituent Assembly. It was rather done by the Kenya People's Commission, an ally of the civil society. The commission began to work independently without any assistance from the government. So the government started an all-party discussion fearing it would be separated from the process of making the constitution. Accordingly, it held the parliamentary elections, and made all the members of parliament ex-officio members of the Constituent Assembly. They made a study of different activities and steps necessary for making a new constitution and drafted an Act. The parliament also formed a constitutional commission, which was required to make a draft of the constitution and present to the Constituent Assembly. Later, a common process of review was begun by merging the legally formed commission and the one formed on civil level. It gave rise to heated debate, and many complications were seen regarding the agreement. The President insisted on getting parliamentary endorsement before giving finality to the constitution, as he had majority in the parliament. Moreover, the parliament had a parochial view about a new constitution. As a result, the President intervened to give finality to the constitution. Helpless, the civil society agreed to make a constitution on the basis of an agreement made with the President.

3. **Issue of Amendment in the Present Constitution**

The Constitution of Nepal was not made active and time-oriented in the last 14 years. Rather, it was kept static and untouched. Nor were any amendments made into it to cater

the contemporary problems when the House of Representative elected by the people was active in the country. When Nepal Sadbhawana Party registered an ordinary proposal for constitutional amendment for solving the citizenship problem, it was defeated by a majority and thus the practice of constitutional amendment was blocked. It was but natural that all the political parties protested against it as the citizenship problem highly concerned the Madheshees. But many other problems were left unresolved as no amendment or reform was made into the constitution for its due modification. Parliamentary parties, especially Nepali Congress, CPN (UML) and even palace saw their interests being safeguarded in this very constitution. The palace and the political leaders feared that the constitutional amendment could alter the role of monarchy, subjugate the army under the parliament, and open a discussion about new structure of state, beside raising the vast issues of the rights of Madheshees, tribals, dalits, minorities, religious and linguistic communities, and women, which would hurt the old and traditional interests. No leaders of any political party dared to solve these problems in a constitutional way. Thus the process of constitutional development was not furthered by making timely amendment to the constitution.

At present, many norms and values, and basic structures of the present constitution have failed in the process of constitutional exercise. The norms and values provisioned in the constitution, namely multi-party system, constitutional monarchy, and sovereignty manifest in people have failed in practice. It has been historically proved that the Nepalese monarchs are not ready to abide by the principle of constitutional monarchy. The promise made by King Tribhuvan in 1951 failed. In 1959, parliamentary elections were held, but the parliamentary

government was banned within a year and a half. Since King Mahendra defied the principles of constitutional monarchy and multi-party democracy, he imposed an autocratic partyless Panchayat system with active monarchy. The historical movement of 1990 restored the system of constitutional monarchy and multi-party democracy. But King Birendra was not satisfied with it as well. Seeing the activities and expressions after the event of 2 October 2002, King Gyanendra does seem willing to abide by the norms and values of constitutional monarchy. Thus since the kings of Nepal have so far been reluctant to abide by the principles of constitutional monarchy and multi-party democracy, the system is frequently under the threat of erasure, and people's fundamental rights have been curbed. The Constitution of the Kingdom of Nepal, 1990 copied the British-model system of constitutional monarchy and multi-party democracy, but failed to adopt the principles of democracy (people's rule), powerful parliament and parliamentary supremacy. Indeed, this experiment has been a complete failure in Nepal.

Another important aspect of the Constitution of the Kingdom of Nepal, 1990 is sovereignty manifest in people. But, in reality, Nepalese could never be the source of state power and fully sovereign. They could never enjoy the sovereign rights. Neither they promulgated the constitution, nor was the constitution discussed, debated and endorsed in elected House of Representatives. Nor could the House make any amendments to it. Consequently, the declaration of King has invaded the main spirit of the constitution itself.

Today there is a heated debate in the country as to elect the Constituent Assembly or to make constitutional amendments.

Not only the Maoists, but also people of different levels and classes have turned rebels. So the slogan of the political parties in favour of the constitutional amendment has lost its meaning as opposed to many voices raised in street in favour of republic state, constitutional assembly and new structure of state. The reality bite is the constitutional amendment can neither solve the present political problem (imbroglio), nor can it give a forward-moving exit to the country. The major agendas to be fixed in country now are: to change in the state structure for a complete democratic system, to subjugate the army under a civil government, to make people alone the major source of state power and fully sovereign, to make all aspects of the constitution alterable through a national referendum, the constitutional amendment end the westminster model democracy which has been proved a failure and give a new alternative, the constitutional amendment make a provision for federal structure as well as regional or racial autonomy and right to self-determination, to secure equality, impartiality and social justice for Madheshees, tribals, dalits and women, to establish constitutional or parliamentary supremacy, to make changes in election procedure, to democratize the multi-party system, to establish the rule of law, to facilitate the access of people of all communities to state power, means and resources without any discrimination, to end the racial discrimination, to end internal colonization against *Madhesh* and Madheshees practised perennially (for centuries), to establish fundamental human rights. These cannot be achieved by sheer amendment in the constitution. Only the Constitutional Assembly can awaken a feeling in the sovereign people that the state belongs to them, and can address the strong slogans in favour of republic state and restructuring of the state. This needs a completely new

constitution. There is no other way out for the political imbroglio caused by the present armed conflict in the country than the Constitutional Assembly. The new constitution must at least provide the people an unconditional right to make decisions on monarchy or republic and other national affairs through peaceful, constitutional process through the Constitutional Assembly. It must include essential factors of a democratic constitution like federalism, proportionate rule and representation, regional or racial autonomy, division of state power, multi-party system, establishment of fundamental human rights, and end of all sorts of discrimination, that is colour, sex, language, religion, region, race and culture, in a constitutional way. The present constitution has many obstacles which hinder the process of making the people sovereign in real sense by altering certain provisions in it through national referendum. It is not at all possible to effect restructuring the state by amending the constitution "without altering the spirit or sentiment of the Preamble of the Constitution".

The unitary structure founded by King Prithvi Narayan Shah of Gorkha through force, power and deceit after demolishing the autonomous and republican states scattered in different parts of the country, like Madhesh, hills and valley during his expansion campaign in the name of unification, was just an autocratic, unitary system of state. It fosters the policy of "One Language and One Dress", which lends supremacy only to two high castes, one or two tribes, one language, one religion, one dress, and one class. Without altering this structure and form of unitary system, and without establishing federal system and regional or provincial autonomy, the hilly Brahmins and Chhetris will retain their supremacy, and the Hindu religion, Nepali language, and hilly dress will exercise their prerogative in

practice, no matter how much we talk about equality, democracy and forward-moving outlet, and who leads a party or government. No revolutionary slogan or document of any party can check it. During the Gurkha expansion, Prithvi Narayan Shah had seized the sovereignty of different racial republic and subjected their people. The people of those subjugated republics must now enjoy autonomy or the feeling of autonomy through a political change. This requires altering the present unitary structure, multi-party parliamentary system and state structure. This is not possible through constitutional amendment. It needs the establishment of the Constituent Assembly.

4. Formation of the Constituent Assembly

At present, the issue of the Constituent Assembly begins with such queries as - Who should declare the Constituent Assembly, and how should it be formed? Certainly, this is the most relevant matter. First and foremost, there must be mutual agreement among the king, Maoists and major parliamentary parties regarding the Constituent Assembly. Then the the Constituent Assembly must be declared through an all-party conference or roundtable conference, and an interim constitution should be drafted to cater for the time being till a new one is drafted and finalized. The conference must also define the procedure of the Constituent Assembly, election procedure and rules and regulations.

Since the Constituent Assembly is formed by the representatives elected directly by the people, the latter will have a direct participation in the making of a constitution. The best method is to hold the elections for the Constituent Assembly through proportionate election procedure on the basis of population.

Another method may be like the present parliamentary elections. But while holding elections in this way requires redefining the constituencies for the Constituent Assembly on the basis of population. Otherwise, it would lead to destruction, violence and civil war. Each and every political party and organization can carry their agendas to be included in the constitution through their respective manifestoes for people's opinion in the elections. They can field candidates advocating their views. The Constituent Assembly thus elected directly by the people will be automatically dissolved after the promulgation of the constitution. Then all the activities will be done and made in accordance with the new constitution. The assembly of thus elected representatives will form a committee to draft a constitution. It will do accordingly, and present the same to the assembly for debate, discussion and endorsement. The assembly will also define its working methods and procedures. Thus the assembly will make a wide discussion on the draft constitution presented to it. A draft committee alone cannot complete all the tasks of making a constitution. There must be many sub-committees for defining the structure of the state, division of state power, and power balance, and so on. These sub-committees consist of politicians and constitution experts. They discuss on different matters and agendas and give finality to the draft constitution. The Constituent Assembly finalizes most of them unequivocally, and others through voting. After the Constituent Assembly passes it, the people make the final declaration of the constitution. The king need not give any assent or put his seal once the constitution is made. The constitution can be promulgated by the Head of the Constituent Assembly himself or herself.

To hold free and impartial elections, an all-party interim

Need and Nature of New Structure of State

1. Racial Structure of Nepal

Nepal has always been divided in three vast regions - Himalayas, hills and *Madhesh* - as per the formation of mountain ranges. They are called *Madhesh* (Terai or plains), hills and mountains (Himalayas). These three regions have many differences (are diverse) in terms of their landforms, and racial, social and cultural structure (features), and language. The Himalayan region is inhabited by the Bhotas (Tibetans), Sherpas, Thakalis, Tamangs, Vyasias, Lepchas, and the like. The hills are occupied prominently by different castes like Brahmins, Chhetris, Wadis, Damais (Tailors), Gains (Troubadours), Kamis (Blacksmiths), Sannyasis (Ascetics), Sarkis (Cobblers), Thakuris, etc and ethnic groups like Chepangs, Gurungs, Jirels, Lepchas, Limbus, Magars, Newars, Rais, Danuwars, Tamangs, Dhamis, etc. The *Madhesh* region is further divided as Inner Plains and Outer Plains. The *Madheshee* castes/ethnic groups include Danuwars, Darais, Brahmins, Lohars (Ironsmiths), Badhais (Carpenters), Chamars (Shoemakers), Dhobis (Washermen), Batars, Dusadhs, Tatmas, Gangais, Haluwais (Confectioners), Doms (Sweepers), Kanus, Mehtars (Sweepers), Kayasths (Scribes), Amats, Barais, Bins (Fishermen), Chidimars (Bird Hunters), Kahars (Carriers), Dhuniyas (Carders), Kamars, Lodhis, Kewats, Kaibaraths, Khatwes, Kumhars (Potters), Malis (Gardeners and Florists), Kurmis, Shikaris (Hunters), Kushwahas, Rauniyars

(Businessmen), Malahs (Fishermen), Stogi, Musahars, Kathbaniyas, Rajdhobs, Gaderis, Sarbariyas, Rajbhars, Rajputs, Telis (Oilsellers), Sudis, Kalwars, Yadavs/Ahirs (Cow/Buffalo Tenders), Danuwars, Dhanuks, Sonars (Goldsmiths), Dhimals, Hajams/Nais (Barbers), Kushmas, Meche, Koche, Rajbanshis, Tharus, Kisans, Satars/Santhals, Jhagars, Mundas, Tajpuriyas, Bengalis, Marwadis, Muslims, Sikhs, and so on. Of them, the Sikhs and Muslims are known as religious groups or sects. The Muslim community is subdivided as Shekh, Syed, Pathan, Dhuniya, Julaha (Weaver), etc. These castes are collectively termed as Madheshees. Though Nepal is regarded as the only Hindu Kingdom of the world, it is inhabited by people of different religions and cults like Hindus, Buddhists, Islams, Kirants, Christians, Jains, Shikhs, etc. According to National Census, 2001, there are about 100 languages and doalects.

We can also talk about the origins and traditional sites of many castes and communities of Nepal. In general, the *Upper Kirant* in the eastern hills (across the Arun River) is a site of the Limbus. They mainly speak Limbu. The *Middle Kirant* (from Indrawati to Arun) is inhabited traditionally by the Rais. Sankhuwasabha, Bhojpur, Solukhumbu, Khotang, Okhaldhunga, Dhankuta and some parts of Udaypur is occupied by the Rais (Khambus). They mainly speak Khambu languages. The Tamangs live around the Mahabharat Range, especially the hilly areas around the Kathmandu Valley. They speak Tamang language in their ancestral land. The Gurungs are traditionally scattered between Budhi Gandaki and Kali Gandaki. The ancient habitats of Tamu (Gurungs) are Gorkha, Lamjung, Manang, Kaski, Syangja and Tanahun. Their chief language is Gurung. The Magars have settle in 12 *Magarat*, that is Tanahun, Kaski through Western Syangja, Parvat, Palpa up to Rolpa, Rukum and Jajarkot. They predominate the area and speak Magar language. The Newars are the major inhabitants of the

Kathmandu Valley. They live mostly in Kathmandu, Bhaktapur and Lalitpur. Their major language is Nepal Bhasha or Newari. Similarly, the Khas people (Khasiyas) live mainly in Karnali region. The *Khas region* covers Salyan, Arghakhanchi, Gulmi, Baglung, Dolpa, Jajarkot, Surkhet, Dailekh, Jumla, Mugu, Kalikot, Humla, Doti, Darchula, Baitadi, Bajhang, Bajura, Dadeldhura, Achham, a major part of the Khas state in the western Nepal, one of the two major provinces of the *Sinja* state - *Khasan* and *Jadan*. The latter two had earlier been under the Khas state. The major language, here, is Khas. Likewise, the entire belt ranging from Mechi in the east and Mahakali in the west, the Inner Terai in the north and the plains extending up to the Indian border is called *Madhesh* (Terai or the plains). *Madhesh* (Terai) is the plain or surface land in the southern Nepal. The major districts of the *Madhesh* are Kailali, Kanchanpur, Banke, Bardiya, Rupandehi, Kapilvastu, Nawalparasi, Parsa, Bara, Rautahat, Sarlahi, Dhanusha, Mahottari, Siraha, Saptari, Sunsari, Morang and Jhapa. The Inner *Madhesh* comprises of Dang, Chitwan, Makwanpur, Sindhuli and some parts of Udaypur. There live Hindus, Buddhists, Muslims, Christians, Shikhs and Jains. They speak Maithili, Bhojpuri, Awadhi, Dhimali, Santhali, Jhangad, Bengali, Urdu, Rajvanshi, Surjapuri, Bajjika, Tharu, Hindi, etc. Linguistically speaking, Hindi is a common language or *lingua franca* among the entire *Madheshee* people.

2. **Need for Change in Rule (Ruling System) and New State Structure**

At present, there is a widespread debate, discussion and interaction in the country regarding the new form or structure of state. It has a great significance. Though the Constitution of Nepal, 1990 has defined Nepal as a multilingual, multiracial and multicultural country, it was not addressed from a political

angle. The Constitution established Nepal merely as constitutional monarchical multi-party democracy under unitary system. It gave constitutional recognition to the traditional policy of autocratic Panchayat of "One Language, One Dress". Thus it retained constitutional discrimination, disregard and segregation towards people of other many languages, dresses, religions and regions than those speaking Nepali, following Hinduism and wearing hilly dress (*daura, suruwal* and *topi*). Nepal did not have such unitary system before Prithvi Narayan Shah expanded the Gorkha kingdom. Instead there were ethnic republics and landforms in every region based on independent, autonomous structure. The Kathmandu Valley had *Newari states*, the eastern hills had *Kirat states*, the mid western hills had *Baisi-Chaubise* states (Twenty-Two and Twenty-Four Principalities), western hills had *Khas state*, Magarat region had *Magar states*, and *Madhesh* had autonomous *Madheshee states*. Prithvi Narayan Shah and his successors destroyed all these states and republics through military force and annexed them in Gorkha. After the rise of Rana regime, it made its rule more centralized, and the central power grew to a great extreme. They (Ranas) imposed their autocratic rule on the *Madhesh* and *Madheshees* as well as the tribals and ethnic groups of the hills. During the Shah rule and Ranarchy, imperialism and semi-colonization reached its apex. Moreover, the rulers accelerated their grip and vigilance on the hilly people. Ever since Prithvi Narayan annexed the *Madhesh* in his state, the *Madheshees* became a prey to racial or ethnic torture. Since they have won over the *Madhesh*, the aristocrats and Khas did not trust the *Madheshees*. They tried to prolong and prop their rule with the help of the hilly people. Due to the lack of trust in the *Madheshees*, they built a highway along the central *Madhesh* and settled the hilly people on either side.

The changes made in the Panchayat regime following the

revolution of 1950-51, and even later had no impact on the centralized unitary rule of the state. Even the Constitution of Nepal-1990, following the people's movement in 1990, tried to retain the state in centralized unitary system. As in past, the new constitution could not reflect the ethnic diversity and multiplicity of Nepal. Therefore, it is high time to bring Nepal into decentralized structure. Now it is time to end the undemocratic, centralized, unitarism. Democracy cannot be restored in Nepal without changing the state structure and ruling system. It is not at all possible to restore complete democracy in a multi-racial, multi-lingual and multi-cultural country like Nepal without providing regional or national autonomy under a federal system. Since Nepal is a multi-racial, multi-lingual, multi-cultural and multi-religious country, the constitution must adopt a broader national character by embracing and addressing these social and racial features. Present democracy must not be confined to political democracy but reflect the social justice as well. Political democracy without social one does not hold significance in a country like ours. Therefore, the present democratic system must have a provision of proportionate representation at all levels of the government - federal, state and local levels. This should be practised at all levels, that is Executive, Legislative and Judiciary, as well as army, police and entire bureaucracy.

3. Federal System

The term "Federalism" derives from Latin "Foedus". It means "treaty" or "agreement". The essential feature of the modern federal state is that two or more independent regions or states make a mutual agreement to form a new state.

First of all, the federal system was introduced in 1789 when America drafted its constitution. It is recognized as "the permanent union of sovereign states". Similarly, Russia was

later renamed as Soviet Union. The federal rule emphasizes on "union" rather than "unity". All the state or province taking part in it get an opportunity to make progress as they retain their national character. The Supreme Court has a very significant role in the federal system, especially regarding the rights of the central government, state government or provincial government, in interpreting the constitutional terms, and in safeguarding the fundamental rights of the citizens.

At present, around 21 nations have adopted some kind of federal and semi-federal systems, and federal constitution. Even great nations, inhabiting almost over half the world population and covering as much land, have adopted federal system of rule. They are: United States of America, Switzerland, Australia, India, Canada, Pakistan, Germany, Nigeria, Malaysia, Indonesia, Libya, Ethiopia, Mali Federation, Uganda, Cameroon Republic, Argentina, Brazil, Mexico, Venezuela, West Indies, Austria, Belgium, Spain, Russia and so on. Though the United Kingdom (Britain) has adopted unitary system, it has provided regional autonomy to some extent in order to cater to the demands of its units. Britain is making a federal experiment in unitary system. It has carefully recognized the independent nature and feature of Wales, Scotland and Ireland as multi-racial, multi-cultural and multi-ethnic countries. But there are many countries in the world which have not adopted unitary system, so they are fighting against their people for local and regional autonomy, racial self-rule and cultural rights. The neighbouring country, Sri Lanka, has adopted unitary system and given prominence to Sinhalese people and language at the cost of the Tamil people and language. Thus it has landed itself in a volcanic situation of racial conflict (civil war) for past two decades. So far about 68 thousand people have lost their lives. But countries have easily solved such problems and strengthened national unity by adopting federal system.

According to the experience of the contemporary world, the federal system has lessened the racial, regional and linguistic conflicts. Not that the federal countries are rid of all problems, but they are solved by autonomous local and regional governments through decentralization and democratic process. So there is little likeliness of communal riots or ethnic violence. Since every ethnic group has got autonomy, their conflicts are usually resolved peacefully through mutual understanding. The problems of Basques of Spain, Moros of the Phillippines, and Miskitos of Nicaragua and the like have been solved just by providing ethnic and regional autonomy. Our neighbouring India has recognized ethnic diversity and has solved many problems like Gorkhaland, Jharkhand, Chhatisgadh, Telangana, Uttaranchal, Mizo, Naga, and the like, and has been solving many other problems of the same nature.

4. Approaches to the study of Federalism

Different views have been expressed at different periods on federal system. Theoretically, the countries running under federal system have adopted one of the three prominent approaches: Anglo-American System, German system, and Soviet system. Yet there have two prominent approaches in practice - traditional approaches and modern approaches (perspectives). According to the traditional approach, the rights to make decisions on state affairs are manifested traditionally and constitutionally in central authorities and different regional authorities. But, according to the modern approach, the dynamic federal system emphasizes the essential variables of the unification (integrity) of social and economic powers as well as national unification, and solving different problems arising at different times on their own. According a famous scholar, A.V. Dicey, the federal system means power division among central, state or regional governments. According to this concept, power division is the main basis of the federal system. The Supreme Court gives the

final verdict as per constitutional provision on any dispute arising between the central and state governments. Central government and state government do not interfere with each other's affairs and rights. Similarly, another view gives prominence to federal principles in federal constitution. According to this, federal principles means equal and independent division of state power within the common sphere of the central governments. Under this system, state power and authority has been equally and independently distributed among the federal government, central government, regional autonomous governments and state governments within a common national boundary. This has been regarded as a very practical approach.

Most of the scholars of modern age have promoted this approach of federal system. At present, many countries of the world having social diversity have started adopting federal system. It has three major bases: First, each federation enjoys different achievements made through their activities. These achievements may be political, economic or military or all of them. The country has a written constitution as a supreme law. Both central and regional governments derive their rights from it. Second, the issues and rights of common or national interests of all the unions of federal region or country fall under the jurisdiction of central, national or federal government. For example, Foreign Affairs, Defence, Communication and Finance (Monetary). Issues of local or regional importance like police, jail, social security, subordinate courts, local governance, electricity, local roads and public transport, drinking water supply, health, agriculture, finance, public welfare, education, industry, etc fall under the jurisdiction of the central government, or that of the state government, if not mentioned in the constitution. Some rights fall under the jurisdiction of both federal and state governments. For example: citizenship, rights of elections, public loans, higher education, agriculture, irrigation,

natural resources, etc. Third, while making power division between the central or federal states, their jurisdictions are defined in a way to retain their autonomy. Therefore, federal system is indeed balanced distribution of power and authorities inherent with central and state governments. No state can separate itself from the union, nor can the federal government interfere with state affairs.

The centre has central government, supreme court, central legislative and national assembly, and people's parliaments. The latter has direct representation of people. It has representatives elected by the people on the basis of proportionate population from each state. On the other hand, national assembly consists of representatives hailing from all regions or states as well as all castes, people speaking different languages and representing various classes and sectors. Similarly, each state has their own constitution, regional or state government. Each makes their own plans and budgets. Each state can impose their taxation. These rights should be practised in accordance with the jurisdiction provided in the constitution. A two-third majority of supreme people's parliament and national assembly should pass and state or regional legislatures should endorse the amendment in the federal constitution or alteration of any provisions. Some countries have a provision of amending the constitution through referendum.

After gaining regional or national autonomy under the federal system, each nationalities make political, economic, social, cultural development and progress and retains their national identity within the framework of their self-rule. The principle of the existence (entity) of all nationalities and specific identity in racial understanding within the country is a major agenda. It is attained by relieving themselves of racial exploitation, oppression and discrimination, and developing language, culture, art and

literature of each caste/ethnic on the basis of the principle of mutual racial cooperation and respect. It obviates intervention from the state. The centre or regime should give prominence to implementing racial understanding regarding the structure of central, federal, regional local strata and perspective about the nationalities. Here the state must needs be sensitive towards imparting education in the mother tongue of the racial communities, following the multi-lingual policy of the state, providing reservation to those classes which have not been embraced in the national mainstream, maintaining secularism, safeguarding and developing the existing cultures, protecting and empowering castes/ethnic groups, and developing human resources, and promoting proportionate participation in state operation. It should provide regional or national autonomy to different communities to develop their languages, cultures and personalities, and should encourage building autonomous entities on the levels of district, town, areas, village and so on.

In this way, the federal system works as the backbone of national unification of multi-national, multi-cultural and multi-lingual country.

5. **Concept of Federal System and New State structure in Nepal**

Federal system is now inevitable in Nepal to end the existing discriminatory rule in the context of its being a multi-racial, multi-lingual and multi-cultural country. This alone can provide autonomy to different linguistic, cultural and racial communities. Different communities can make economic development and develop the concept of national identity only through this system. Then only can end the age-long ethnic discrimination in the country and effect national unification emotionally. In addition, it alone can solve the existing racial and regional conflicts.

We all know that the state and the people backed by it have

been practising political and social discrimination against the Madheshees in Nepal. The discrimination was retained even during the parliamentary practices made in the last 14 years. Only the federal system can end the discrimination between the Madheshees and hilly people (Pahadis). So far the country has retained a discriminatory unitary rule on the basis of caste, language, creed and sex. Instead, we should decentralize the central rule and form regionally autonomous states or provinces. Thus we would expand the government up to local autonomous bodies. Then only can we make the rule fully democratic and participatory in an authentic way. Only the federal system can make it possible to have proportionate representation in the government by the people having different languages, castes/ethnics, creeds and cultures. Many countries like Austria, Holland, New Zealand, Switzerland, Germany, Papua New Guinea and Belgium have solved the racial problem like Nepal through this system, and have presented themselves as a model of development.

The primary impact of the unitary system of Nepal is erasing the national identity of the Madheshees, and imposing the hilly culture, Nepali language and *labeda suruwal* (so called national dress) as the one and only national identity. Besides, the state has weakened the economic wellbeing of the *Madhesh* by transporting the local means and resources to the hills and capital city, Kathmandu, and thus strengthened the existing state power. The tendency of backing and imposing the hilly identity as the only national identity has counterdeveloped a dangerous tendency of recognizing and establishing the hilly people as the only bona fide citizens of Nepal, and denigrating the Madheshees as Indian immigrants. Ever since the development of Gorkha state as Nepal, the *Madhesh* has been the greatest source of revenue for any government. Indeed, *Madhesh* has proved a "milch cow" for the ruling people in Kathmandu and the hilly

people of the mountains. After the expansionist Gurkhas seized the Madhesh, the government tried to cut down the local population to a minority by deforesting the *Charkose Jhadi* and inhabiting hundreds of thousands of hilly migrants along it. This has led to a crisis identity among the Madheshees of the Madhesh. The Gurkhas established a rule of internal colonization after capturing the Madhesh. The *Madhesh* and the Madheshees cannot develop so long they get rid of it. Therefore, the major political problem of the *Madhesh* and the Madheshees has been relieving them(selves) of the pain, oppression and exploitation inflicted by the internal colonization. Till then the Madheshees will be disregarded as the second citizens. So the government should provide regional autonomy to the entire and undivided Madhesh, ranging from Mechi in east and Mahakali in west, inner Terai in north and the southern plains bordering India, and recognize their ancestral land or birthplace as their homeland. Only after the establishment of regional autonomy in *Madhesh* can end the trend of internal colonization imposed by the Gurkha expansionists. The hilly rulers have always retained this sort of exploitation and oppression through different conspiracies, deceits, and have sown a seed of division, conflict and weakness among the Madheshees in the name of castes/ethnics, languages and religions ever since Ranarchy and Panchayat autocracy. For centuries, the state has been indulged in such activities as separating the Tharus from general Madheshees and exploiting them as a weaker class, dividing the Muslims in the name of religion and tempting them with a distinct entity as a minority of scheduled caste in the fashion of Indian constitution, creating an environment of conflict among the people speaking Bhojpuri, Awadhi and Maithili, using the oppressed class of Madheshees against the general Madheshees, presenting the Rajbanshis, Gangais, Dhimals, Santhals, etc as non-Madheshees, denying the recognition of the *Madhesh* area east to Kohshi as Madhesh, seizing the land

of the Madheshees and rehabilitating the non-Madheshees or hilly people thereupon in the name of landless squatters (*sukumbasis*), political victims, rehabilitation company, etc. Similarly, to talk about racial autonomy or racial self-rule instead of regional or provincial autonomy is just an extremely aristocratic thought representing hilly people's racial arrogance and neo-imperialism. Therefore, the concept of regional autonomy is and will be better than racial self-rule. Nation stands for collective feeling of a certain group or race of people living in a place on the basis of common language, culture, tradition and ancestry. So it is a common culture and emotional belongingness on the basis of historical experience. It need not have any relation to certain land area. Yet the issue of racial regionalism cannot be separated from nation and land area. The Gurkha king Prithvi Narayan Shah expanded his kingdom by destabilizing the native people or their kings or chieftains through force and fraud. He also captured the states and principalities of the non-Hindus of the *Madhesh* and hills, and thus established the Hindu kingdom. He called it the "real Hindusthan" (site of Hindus). It was a cultural campaign of building a Hindu state. Because only later did he establish the prominence and predominance of Hindu norms and thoughts (schools) on the basis of the state mechanism. As a result, many non-Hindu castes felt a crisis of cultural identity. In the contemporary context, issues like non-discrimination and equality (equal sharing) in political, economic, social opportunities, linguistic and cultural recognition, national autonomy and self-determination always come along with that of nationalism.

Some political groups and ethnic organizations have been raising the issue of racial autonomy or racial region as a political agenda. But the concept seems to be very complex and practically very difficult. Today, the trend of migration, and

development transport and information technology (IT) has effected fundamental change in Nepalese structure. A village without racial diversity is almost a rarity in present-day Nepal. For centuries, migration of the Khas Brahmins from western hills to the eastern ones, that from hills to the *Madhesh* and from villages to the cities, and from other parts of the country to Kathmandu in a centralized way has made it difficult to separate ethnic provinces having prominence of secular population. Ethnic provinces may be named on the basis of the traditional habitats of different Ethnic, but the ethnic group with historic population will fall in great minority in terms of population in most of the districts. The majority of dalits do not have any defined site as they have scattered all over. Where will the majority of Khas Brahmins, Kshatriyas, Ranas, Thakuris and Muslim community seek shelter? Those claiming to provide "Ethnic state or self-rule" without proper homework in a country like Nepal which has probably the rarest racial structure and problem in the world have cheated the tribals. About 100 ethnic groups have been recorded in 2001 census. Except some districts, no district has up to 51% of any Ethnic group. Of them 9 districts have up to 50% of Chhetris, 1 district has Tamangs, 1 district has Magars, 1 district has Gurungs, and 1 district has Newars. The districts said to have predominance of Brahmins, Rais and Limbus have less than 50% of of their population in comparison to the entire population. How can a ethnic state be formed in such a condition? Thus the state formed on the basis of the name of a race cannot solve the problem. Can the ethnic states guarantee the participation and equality in opportunity and contribution in basic cultural, religious, linguistic and national identity? Since the major goals of the state are to attain economic achievements, they are not possible through forming states purely on the basis of ethnics. What will be the effect of on other majority races inhabiting

those racial states? Without addressing or solving such issues, the country cannot give any forward moving outlet.

In the new state structure, decentralization should be made on regional basis. National autonomy is manifest within regional autonomy. Therefore decentralization enforced purely on racial basis cannot be forward moving. Indeed, such decentralization can only be aristocratic and racially egoistic. It is neither democratic, nor people-oriented, nor socialist. There might be many dangers of forming a union as a racial unit on racial basis. For example, the Serbs have caused such problem in Yugoslavia. In such a condition, the majority can chase away the minorities. It can lead to another separatist danger in the country.

After the Gurkha king Prithvi Narayan Shah expanded his empire, a trend developed of regarding the highly centralized aristocratic rulers, Hindus, Nepali speakers, and those wearing *daura* and *suruwal* as the only Nepalese citizens. A handful of rulers of certain caste (especially Brahmins, Chhetris and Shahas, Thakuris, etc) overshadowed the needs of other castes/ethnic groups. All the means and resources, and opportunities were exploited to cater their own interests. This made the Madheshees, tribals and dalits the most marginalized, oppressed and exploited groups as well as a prey to racial discrimination, and led to country to internal rife. Neglected for long by the ruling people, these racial or ethnic groups have now been raising the voice for a need to have the right to self-determination. To solve this, we need regional or provincial autonomy in the country on the basis of federal structure involving different states and provinces. These structures should be based on language, ethnic groups, socio-cultural structure, population and geography. The rights of each state to cultural autonomy, ethnic self-rule and self determination should be constitutionally guaranteed. All legal, political, economic and

cultural provisions and practices causing ethnic, regional and other sorts of discrimination among the peoples should be uprooted. This problem can be solved by making provisions for proportionate rule and representation of all castes/tribals in federal or central bodies as well as state or regional and local ones, that is all state affairs. Even the minorities, as linguistic, ethnic and religious communities, can raise their problems and present their demands in an effective way through their state governments. These cannot be achieved by exerting pressure on unitary and centralized state system as they fall in a petty group and have a very poor say. As the minority groups of certain race and language cannot build a separate state, the federal system allows building national autonomous areas for their development. Thus an environment conducive to decentralizing the centralized unitary system into a federal one, and extending the same to provincial or regional structure and local autonomous bodies therein, and making the governance authentically democratic and participatory, and making the structure representative. Therefore, we firmly affirm that the forthcoming constitution should accommodate following major features:

- a. **People's Sovereignty** : The forthcoming constitution should be based on the principle of sovereignty in people. There should be no dilemma that the people should be made sovereign. People alone should be invested with full sovereignty and be established as the major source of state power. Their supremacy should be established in the very constitution by making a provision therein in writing that "WE, Nepalese citizens build and establish this constitution of the state". The constitution should establish a representative and democratic rule.
- b. **Structure of State or Governance** : All the democracies of the world can be divided into two structures: One is

majority structure, that is Westminster Model, and another is agreement type, that is one based on sharing the state power. The first is based on British style of democracy. It is one of the oldest structures of democracy. Its major feature is that those having majority own everything. That is to say, all the power is manifest in cabinet or Council of Ministers formed by the party with majority votes or seats. All the decisions are made through the majority of the parliament or Members of Parliament. The minority or Opposition expresses their view but to no avail, as their view is not considered or implemented in the parliament. It has to wait for another parliamentary elections and sweep the majority votes to have its say. This is the major principle of the majority rule. At present, Nepal is following this type of majority rule. But the experiment of last 12/14 years has proved it a failure. We have borne many grave or dire consequences of the parliament selecting the Prime Minister on the central level, and the latter dissolving the parliament any time at his or her whim. In the 14 years prior to the direct rule of the king, there were 14 governments formed in the country. They could not solve any of the national problems.

The cooperative federalism or agreement type of structure or one sharing the state power is enforced in Switzerland, Austria and Caribbean nations. This model is adopted in South Africa as well. It is a type of structure in which only a party having majority does not rule. It includes other minority parties, too. It provides due place and opportunity to all political parties to express their views or vent their opinions. It provides proportionate share in the government. It invites all social and cultural groups to take part in policy making. The majority type of governance or democracy has been proved highly

detrimental to a multiracial, multicultural and multilingual country like Nepal where we cannot ignore the presence of the minorities. This system has been discriminatory in real practice. Here, the majority takes all. As a result, it cannot respect the political, social and economic expectations of the minorities. They cannot take part in the governance. Therefore, only agreement type of democracy can be suitable in our country.

- c. **Managing the Army** : The army should be mobilized and managed through a body formed under democratic principles. The army should be of national structure. It should be mobilized, controlled and managed essentially through the supreme people's organization, that is, elected parliament and the Executive or government accountable to it. The present unitary form of the army should be abolished and there must be due provision for inclusion and participation of the Madheshees, dalits and different castes/ethnics on a proportionate level.
- d. **Provision of Reservation** : There must be a provision of representational organization of extremely marginalized dalits in economic and political terms, very poor people and women for reservation in education and job sectors. The dalit groups which have been marginalized for thousands of years, cannot even imagine to reach the level of (at par with) other citizens of the country without reservation. It is a compensation to social injustice.
- e. **Election Procedure** : We should adopt a proportionate election procedure instead of the present one to include all the castes/ethnic groups, women and backward people and classes in the state affairs. It means sharing the seats on the basis of the votes attained by the political parties. It has been popular in Austria, Belgium, Costa Rica,

Columbia, Denmark, Finland, Spain, Switzerland, Sweden, Norway and so on. In this system of election, the political parties prepare a list of their candidates before holding the elections. Later, they get certain seats as per the votes they bag in the elections. Thus every vote is meaningful in this system. It gives importance to political rather than individual relations among the voters and political workers. It can accommodate all the castes, tribes, sectors, classes and languages, and it is just as well. It has nominal role of position (rule), self and power. Therefore, the elections are less expensive and more impartial. Every vote is counted directly, and ends the race and revengeful politics. So the proportionate election system is more democratic than other systems. It promotes proportionate representation of all political levels and bodies.

- f. **Rights to Self-determination:** Rights to self-determination is a fundamental principle of international law. These are also included in the Universal Declaration of Human Rights, International Covenant of Political and Civil Rights, and Economic, Social and Cultural Rights. These do not imply the rights to form an independent racial state, but "internal autonomy" as defined by the United Nations Organization.
- g. **Separation of Powers :** All the three powers of the government, namely Legislative, Executive and Judiciary, should be separated for democracy and individual independence. That is, these three organs (bodies) of the government should be mutually separate and independent. Thus each can check another's tyranny, or can control another for striking check and balance in the government.
- h. **Republicanism :** Theoretically, real constitutional

monarchy means the state system that basically adopts the republican values. Whatever be the future state structure in form, it should be republican in element. The basic principles of the republic system are: strong presence of elected Executive and Legislature. The major feature of the republican state is that the Executive post should not be confined to a particular individual, caste or family (dynasty). Each and every individual, even the commonest one, hopes and wishes to reach every post, even the supreme post, of the state.

- i. **Declaration of a Secular State :** Religion is a matter pertaining to individual faith and belief of people. It should have no relation with the state. The state should not stand in favour of one religion and against another. Religious matters and political affairs are two poles apart. There must be complete religious freedom for human rights and democracy. Nepal is a multi-religious country. Therefore, it should be declared as "a secular state" instead of a Hindu kingdom. It should provide equal freedom to all religions. The state should not back one or another religion, and should remain neutral in such affairs. It is generally recognised that the right to self-determination. The external aspect is defined in General Comment 21 of the Human Rights Committee which states that it : "*implies that all peoples have the right to determine freely their political status and their place in the international community based on the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject people to alien subjugation, domination and exploitation*". The external consideration of self-determination is fundamental as it relates to development. It is necessary for a state to be free from the above-mentioned conditions to be able to determine its own policies fully in all realms of

governance, and more particularly in the area of development policy.

The internal aspect of the right to self-determination is best illustrated by the Human Rights Committee which defines it as :"*the rights of all peoples to pursue freely their economic, social and cultural development without outside interference*" [General Comment 21]. The committee goes on to link this internal aspect with a Government's duty to "represent the whole population without distinction as to race, colour, descent or national or ethnic origin".

- j. **Supremacy of Constitution** : Constitutional supremacy is considered the most significant principle or faith of in a federal democracy. Since the federal constitution is an impentable agreement for the co-existence of federal government or central government and state governments, its clauses should essentially be agreeable to both. The constitution reigns higher than both the centre and the state. Besides, the constitution is essentially lent supremacy for implementing "a rule of law". Therefore, federal constitution reigns atop all the institutions of the national governance - central government, state constitutions, state governments and local governments.
- k. **Provision of Referendum** : There must be a constitutional provision of referendum for making amendments in any of constitutional provisions by the parliament, as per demand in accordance with the procedure provisioned in the constitution. The constitution must provide the citizens every right to constitutional initiative. If the results of the referendum go in favour of a group, it can change or amend any of its provisions. Sovereign people can alter the entire constitution if they

wish so. There should nothing unalterable in it. Sovereign people must essentially have a right to initiative and right to referendum.



Bibliography

1. Upendra Yadav : *Nepal Ko Madheshee Samudaya : Ek Vibechna* (Nepali), Research and Development Centre for Indigenous and Ethnic People, 2054 B.S.
2. Upendra Yadav : *Madheshee Vani* (Nepali), Madheshee People's Right Forum- Nepal, 2003
3. Upendra Yadav : *Nepali Janandolan Aur Madheshee Mukti Ka Sabal* (Hindi), Madheshee People's Right Forum - Nepal, 2003.
4. Jay Prakash Gupta : *Madhesh : Social Demography and discrimination*, 2004, Centre for protection of Madheshee's Human Rights.
5. Jay Prakash Gupta, (edited) : *Madheshee Samsya Ka Char Vichar* (Nepali), Centre for Protection of Madheshee's Human Rights, 2060 B.S.
6. Hark Gurung : *Nepal Social demography and expression*, New Era Kathmandu, 1998.
7. Hark Gurung : *Social Demography of Nepal*, Himal Books, 2003.
8. Pashupati Shumsher JB Rana and Dwarika Nath Dhungel : *Contemporary Nepal*, Vikash Publishing House Pvt. Ltd., 1998.
9. Frederick H. Gaige : *Regionalism and National Unity in*

- Nepal*, The University of California Press, Berkeley and Los Angeles, California USA, 1974.
10. Dr. Haribansh Jha : *Nepal Mein Terai Samudaya Ebam Rastriya Ekta* (Hindi), 1996.
Centre for Economic and Technical Studies, Kathmandu
 11. *Nepali Madheshee Ka Samasya, Sambidhan Shabha Ko Auchitya* (Nepali), Madheshee People's Right Forum-Nepal, 2004.
 12. *Population Monograph of Nepal*, HMG National Planning Commission Secretariat Central Bureau of Statistics, 1995.
 13. *Population Census*, National Report, HMG, NPCS, CBS, June, 2002.
 14. *The Constitution of the Kingdom of Nepal* 1990, Kathmandu. Ministry of Law, Justice and Parliamentary Affairs. Law Books Management Board.
 15. *Election Commission, Reports*, 1991, 1994 and 1999.
 16. Central Bureau of statistics (CBS, 2002), *Population Census* 2001, National Report, Kathmandu.
 17. *Human Development Index*, 2004, UNDP
 18. Hachhethu, Krishna : *Party Building in Nepal; Organisation, Leadership and people*, a comparative study of the Nepali Congress and the Communist Party of Nepal (UML), Kathmandu, Mandala Book Point, 2002.

19. Informal Sector Service Centre (INSEC) 2004. *Nepal Human Rights year Book 2004*, Kathmandu.
20. Anupchand Kapur : *Select Constitutions*, Fourteen Edition, 1999.
S.Chand & Company Ltd. Ramnagar,
New Delhi.
21. Sheh Raj Shiwakoti: *Essays on Constitutional Law*, Kathmandu Law Society 1990, Vol. 4.
22. S.N. Ray : *Modern Comparative Politics*, Prentice Hall of India Private Limited, New Delhi-110001, 1999.
23. Blondel, Jean : *Comparative Legislatures* (Englewood Cliffs, N.J. : Prentice Hall, 1973).
24. Macpherson, C.B. *The Real World of Democracy*, London : Oxford University Press, 1968.
25. McWhinney, E., *Comparative Federation*, Toronto : University of Toronto Press, 1952.
26. Pritchett, C. Herman, *The American Constitution* (Bombay/ Delhi : Tata McGraw Hill, 1977).
27. HMG, NPCS, CBS, *Nepal Living Standards Survey Report 1996*. Main finding Vol. 2
28. K.C. Whereae : *Federal Government*, 8th ed. (Newyork : Oxford 1964)
29. W.S. Livingston : *Federalism and Constitutional Change* (Newyork : Oxford 1961)

CONTENTS

Acknowledgements

Chapter 1

Royal regression and the future of democracy 1

Chapter 2

Madhesh : A colony of torture under monarchy of Nepal 19

Chapter 3

Justification of Constituent Assembly 47

Chapter 4

Need and nature of new structure of state 69

Bibliography 90

Acknowledgements

Now there is no debate regarding the fact that the *Madheshee* community of Nepal have been made a victim of racial discrimination only because of their being Madhees. In the present world, it is not difficult to know that the state has made any discrimination in the socio-political condition in which certain communities and people have to live in a country or geographical region. There are many standards to evaluate the situation. The most effective of them are those set by United Nations Organization, whose universal (sovereign) principles cannot be denied by any discriminating government. No government of Nepal can say that the Madheshees of Nepal have not been made a victim of discrimination as against the universally and prennially acclaimed norms and values. If we evaluate the participation of the *Madheshee* community in all the procedures and organs of the state structure, and analyze the contribution made by the *Madhesh* (Plain's people) to the state, we cannot at all deny that the state and the civil society connived (backed) by it have meted grave injustice and racial discrimination against the Madheshees.

The injustice cannot be justified on the ground that the Madheshees have borne with the situation to date. There may be many reasons for them to stand the situation. It is said, Rome was not built in a day. An expert on Rome has proclaimed that Rome will not stand the moment its collesium is collapsed. This is the message of the Madhesh. The rebellion cannot mature in a day. But when it does, the collesium symbolizing the Roman Empire will be destroyed. Then the signs of the unitary rule existing in Nepal will be confined to the pages of the book only. The revolutionary mind of the *Madhesh* is arising.

The nation seems to be thinking over solving the problems

arising from the issues long existing in country and raised by gradually growing Maoists. But the state and civil society as well as the protagonists of the present-day insurgency seem to be reluctant towards solving the said problems. The reason is the solution has a burning issue of the *Madhesh* in its womb, which is connived by many who frown at it. But we remain undeterred by it. We are not at all frustrated. We know, we cannot create a prerequisite to peace in Nepal by pacifying, for the time being, the high-pitched voice of those raising it. The real can be obtained only by delegating just political right to all the communities of the country. At present, we the Madheshees are just presenting our agendas in the existing state of din and bustle (muddle).

The views presented herein are the agendas of the *Madhesh* seeking lasting peace in the state. At present, three types of views are seen in the country for solving the problems: The first group consists of those people who think of curbing the rebellion strictly through military force. The second group comprises of those people who stick to the current Constitution for keeping the present failure state intact and impenetrable. Indeed, they are the moot cause of terrorism, not the Maoists. The third group is constituted of those people who want to draft a new constitution through Constituent Assembly and turn Nepal in a sovereign democratic country. The society may feel otherwise about many approaches adopted by this group. Let's not talk about the first group at all. The second group has certain sub-points. They seem to be garbed in fundamental changes (radicalism) but at the same time think of the impossible, that is the ox should bear a calf. This group expects graver results of the Constituent Assembly through present constitution and the parliament formed through it. And the third, radical group: First, they want to achieve the laurel of victory, then draft a constitution through the Constituent Assembly in accordance with suitable legislation. In this political context, we, that is the *Madheshee Janadhikar Forum* (Madheshee People's Right Forum), Nepal representing the

Madheshees wishing for a fundamental change, have forwarded our points in an humble way. But we have a firm and more stable view than the Himalayas that the problems can never be solved by ignoring our agendas. Ignoring the *Madhesh* is killing the nation's unity and invading the peace. We have tried to put fact in a polite way through mere words. Here, we want to make it clear that we will be using words alone for this purpose. Well, it is for that matter that we are presenting this thought provoking bulletin before you. Through it, we simply want to say and wish that the government of Nepal, people advocating status quo, the so-called forward moving or progressive rebels and independent civil society all heading towards the destination of the Constituent Assembly try to understand our points. We simply expect that they heed to what the *Madhesh* representing almost half of population, and Madheshees want. We are not rigid about it. We are ready to discuss each and every aspect of our agendas with the entire nation.

The views expressed herein are the authentic views (statements) of the *Madheshee Janadhikar Forum*. It is prepared by the Forum President **Upendra Yadav** after detailed discussion in the Forum, and its civil society and other pacifist intellectuals. The *Madheshee Janadhikar Forum* wishes to thank Upendra Yadav for such a complex but gratifying achievement. We are pleased to invite suggestions and different opinions catering to manifest thoughts. Thanks.

Jayprakash Gupta
General Secretary
Madheshee Janadhikar Forum, Nepal