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## **PART - 1**

### **Introduction**

The state did not collapse in Nepal as a result of a decade-long insurgency launched by Communist Party of Nepal-Maoist (CPN-Maoist) however; it lost control over its monopoly on governance<sup>1</sup> which certainly expressed a legitimacy crisis. Legitimacy crisis, in the first place, has forced the policy makers and scholars to focus into the issues that led to the crisis of state-building in Nepal. The issue of legitimacy crisis has emerged from two obvious reasons – firstly, successive political movements of the past half-a-century have failed to establish a tradition of constitutionalism and democracy in the country and secondly, Nepali state has intermittently failed to deliver public services (the functional approach). In contrast, the state is becoming weaker and is on the verge of losing both internal autonomy from powerful interest groups of society and various non-state actors operating in the country and external sovereignty due to globalisation and regionalisation of political economy.<sup>2</sup> Indeed, successive political movements in Nepal have granted many rights to the citizens but the state has been unable to guarantee these rights.

The open but fragile political environment following the formal end of CPN (Maoist) insurgency and subsequent holding of Constituent Assembly (CA) election has brought into forefront various

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<sup>1</sup> The goals of governance are: national security, law, order, voice, civic participation, service delivery and non-violent resolution of multi-polar and multi-layered conflicts, (Dahal, Dev Raj, *National Security Reforms and Civil-Security Relations in Nepal*, 16 November, 2008, p. 1).

<sup>2</sup> There are more than two dozen self-styled non-state armed actors operating in the country.

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new political and social issues. State restructuring, federalism, secularism, regional autonomy, republicanism, inclusive democracy, ethnic self-determination, “One Madesh, One Province,”<sup>3</sup> and demands for sectoral rights propagated by various groups of society are some of them. But Nepali establishment has squarely failed to provide suitable recipe to address these issues and keep national unity intact. As a result, new conflicts are emerging and the state is entangled in perpetual distributional movements. Taken together, the huge gap between political promises and rhetoric (such as making Nepal Singapore and Switzerland) and political reality, too much demand thrust upon the state by political and societal groups, sovereignty-free behaviour of the non-state-actors and inability of state to strike a balance between 'rights and duties and freedom and order' have resulted in the weak-state teetering the nation between order and anarchy.

Interestingly, the research on ‘state’ has been somewhat ignored in Nepal which, perhaps, could have explored the issues impinging the process of state-building. It, therefore still creates confusion and uncertainty as what constitutes the state and how can one move state-building process ahead. Some may think of state as a polity, or the framework of the government. Yet, the elemental distinction between the government and the state are clear: the government deals with office bearers, political parties, interest groups, policy interests, popular demands and the institutions of civil society. Its legitimacy rests on election, representation and the execution of mediation of public policy. The state, in contrast, has little to do with either popular representation or creation of civil society (Dahal 2001:1) Yet, it is an “ensemble of constitutionally prescribed institution” (Emmerson,

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<sup>3</sup> Madesh issue is all about regional autonomy of Madesh (stretching from east to west) with right to self-rule and self-determination that came into fore after People’s Movement of 2006.

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1986: 140), the system of organised power “applied to organise the political life of a community” (Pettman, 1979:111). It is also a device to protect the dominant structure of the political economy especially domestic and international interests, national security, and also the shaper of the forms of governance (Dahal 2001:1). The state is adjusted to the order of the government in matters of circulation of goods and services, regulation, control, and coordination and even to empower the state structure. For example, monarchical, praetorian, socialist, parliamentary and presidential forms of government are different methods of managing power and executing public affairs, but they hardly constitute distinct modes of forming the state (Dahal 2001:1). State, we can say, is a sphere where society organises itself or in other words, state provides space both to society and politics to work together to create the commonwealth.

The state is more than the government which, it admitted, is sovereign, fully embodied in the government and society (Dahal 2001:1). It includes the “institutional framework of rules and norms with which the agencies of government operate” (World Bank 1997:3). Its operation, therefore, has practical consequences for the citizens. A solely textual approach to the state, casting it in terms of its predatory character, fails to capture its role as a central institution that ensures the conditions conducive to the smooth supply of public services and information. The functioning ability of the state, its acts and relationship affect all the actors of the society. The society and state are bound together by the constitution, mutual obligation and their respective, historically evolved rights (Dahal 2001:1).

Given this mutuality of relationship between the state and society, and society being the part of state and state being the product of the society – it demands a harmonious as well as coherent working relationship between the two to move ahead peacefully. But this has not been the case in Nepal. Both the state and society are on the clash

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particularly because state has failed to establish or justify the reason of the state and society has failed to understand the state *raison d'etre*. There are many factors behind this phenomenon. The repercussions of misunderstanding, nevertheless, are such that society has witnessed perpetual conflict and the state has virtually become weak and unable to assert its command and gain legitimacy thereof. Thus there is an urgent need to study these factors that led to mutual mal-adaptation of the state and society. This study will have twin effects in society. First it will assist to initiate the state-building project and second it will bridge the gap between the state and society.

However, state-building requires an understanding of the whole process which revolves around state embeddedness, autonomy from the dominant interest groups of society, state effectiveness and sustainability of the state. Thus the project of state-building should have been taken from the perspective that how state-institutions can be made more effective in order to deliver public services and maintain modicum of order in a society. In Nepal, focus has been shifted towards ethnic, religious, cultural, linguistic, territorial and caste based issues which are anchored as major factors that led to the crisis of state-building. But the major issues such as the *undercurrents of political ramification that has grossly made state institutions ineffective* (Sharma 2008: 231) have been ignored.

This study is built on the argument that merely casting macro social variables - ethnic, territorial, religious, cultural, linguistic and caste based politics are not sufficient. There are much more geopolitical problems entrenched with local political power struggle particularly in the recent past which should have been taken as the major factors impinging on the process of state-building in Nepal. The purpose of the present contribution, therefore, is not to elucidate on the conceptual tangle of state-building but to look into some of the issues underpinning Nepali state which are often ignored in wider

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policy debate. First of all this study will make clear conceptual distinction between nation-building and state-building as both concepts are interchangeably used, second, a conceptual framework will be developed to guide the study and third it will bring into discussion the historical process of state formation in Nepal to set the scene for the further elaboration of the case. It is also necessary reflecting on the fact that led to the fragility and weakness of Nepali state. That factors leading to the Maoists insurgency and actors involved are worth describing for this purpose in order to substantiate the arguments. The crisis of state-building in Nepal articulates existing tensions between the state and the society (caste, culture, class, gender, region, language, politics and religion) especially in coping with the emerging challenges and the last part draws a possible strategy for synergy in the new paradigm of state-building in Nepal.

### **State, Nation-Building and State-Building**

Before making conceptual clarity between nation-building and state-building it is worth defining the term 'state' and 'nation' which will further clarify between these two important terminologies. The word "state" was first used in its contemporary sense to convey a delicate balance between might, power, and authority in sixteenth-century Italy: "Might in order to be able to defend itself from outside dangers and to impose upon its members, if necessary, conformity by force; power, insofar as that force is exercised in the name of and in accordance with certain rules; authority, inasmuch as that power should be considered legitimate and entail an obligation on those who are called to obey its commands"<sup>4</sup> (Ghani and Lockhart 2008: 116). The term "state" can be used to mean both a sovereign political entity with a permanent population, a defined territory, a government, and the capacity to enter into relations with other states, as defined under

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<sup>4</sup> See Sabine's ideas on the state in the *Encyclopaedia of Social Sciences*, Vol. 14, 1934, pp. 328-332 (New York: Macmillan, 1934).

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international law<sup>5</sup> as well as a set of social institutions claiming a monopoly of the legitimate use of force within a given territory (Max Weber, 1919). Weber provides one of the significant definitions of modern state, placing emphasis upon two distinctive elements of its history: territoriality and violence (Held 1996:164). Weber's another emphasis on legitimacy is based on a monopoly of physical coercion which is legitimised (that is, sustained) by a belief in the justifiability and/or legality of this monopoly. The legitimacy of the modern state is founded predominantly on "legal authority" i.e. commitment to a 'code of legal regulations.' Thus activities of the modern state are bounded by the rule of law, a complex process of constraint. On the one hand, the rule of law implies that the state's agents must conduct their affairs in accordance with the principles of proper legislative procedure while, on the other hand, it implies that the people as 'citizens' should respect the state's authority by virtue of the maintenance of these principles (Held 1996: 164-65).

To use legitimate force within a given territory, a state has a political regime (or system of government), a governance framework (or constitution), and a set of state institutions (or organisations) such as the armed forces, the parliament, justice system, various branches of civil and military administration. These are clear functional view of the state, describing its "basic functions" (Ghani and Lockhart 2008: 116-17) which gives states certain obligations and accountability towards citizenry from which modern states receive their mandate – the very legitimacy. State-building describes the construction of a functioning state. This concept was first used in connection to the creation of states in Western Europe and focused on the power enforcement of state in society (Tilly 1975). Tilly (1975: 70f.) which described the advantages of state building in Europe as follows:

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<sup>5</sup> Montevideo Convention on the Rights and Duties of States, December 26, 1933, Article 1.

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“State building provided for the emergence of specialized personnel, control over consolidated territory, loyalty, and durability, permanent institutions with a centralized and autonomous state that held the monopoly of violence over a given population”.

What Tilly is conveying here is that state-building is a process that balances internal and external sovereignty of the state and makes state institutions “effective” to deliver public goods in order to justify the very reason of the state.

Traditionally there has been some confusion between the uses of the term ‘nation-building’ with that of ‘state-building’. Both have fairly narrow and different definitions in political science, the former referring to national identity, latter to the institutions of the state—one based on consent the other on discipline and punishment. The debate has been clouded further by the existence of two very different schools of thinking on state-building. The first portrays state-building as an interventionist action by foreign countries and the second sees state-building as an indigenous process<sup>6</sup> which we shall discuss later.

Nation has been defined as a relatively large group of people who feel that they belong together by virtue of sharing one or more such traits as common language, religion or race, common history or tradition, common set of customs and common identity (Rejai and Enloe 1977:31). Nation-building, thus, refers to the process of constructing or structuring a national identity using the power of the state. This process aims at the unification of the diverse people within

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<sup>6</sup> Available at [http://www.odi.org.uk/pppg/politics\\_and\\_governance/publications/ODI\\_state\\_building\\_paper.pdf](http://www.odi.org.uk/pppg/politics_and_governance/publications/ODI_state_building_paper.pdf), also CIC/IPA, Concepts and Dilemmas of State-building in Fragile Situations, OECD-DAC, Paris, 2008  
<http://www.oecd.org/dataoecd/59/51/41100930.pdf>, also at Whaites, Alan, State in Development: Understanding State-building, DFID, London 2008.  
Also available at <http://www.dfid.gov.uk/pubs/files/State-in-Development-Wkg-Paper.pdf> visited in November, 2008.

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the state so that it remains politically stable and viable in the long run. Nation-building can involve the use of major infrastructure development to foster social harmony and economic growth. "Trust born of common nationality is thought to be the key to deepen commitments and to the realisation of distributive justice" (Frost, 2001:483).

The term nation-building is often used interchangeably with state-building (in American context), democratisation, modernisation, political development, post-conflict reconstruction, and peacebuilding. The concept of nation-building came to be used especially among American political scientists a decade or so after World War II, to describe the greater integration of state and society as citizenship brought loyalty to the modern nation-states with it (Dobbins, et al 2003).

Originally, nation-building referred to the efforts of newly-independent nations, notably the nations of Africa to reshape colonial territories that had been carved out by colonial powers without regard to ethnic or other boundaries. These reformed states would then become viable and coherent national entities. Nation-building included the creation of superficial national paraphernalia such as flags, national anthems, national days, national stadiums, national airlines, national languages etc. At a deeper level, national identity needed to be deliberately constructed by moulding different groups into a nation.<sup>7</sup> "A sense of common identity and shared beliefs, as well as a history of participation in the joint project of politics, foster a level of social trust that in turn makes redistributive measures possible" (Frost, 2001:293).

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<sup>7</sup> Available at <http://en.wikipedia.org/wiki/State-building> (accessed on 16 October, 2008).



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Nation building stands for the process by which people transfer their commitment and loyalty from smaller tribes, villages or petty principalities to the large central political system – *the state* (Gaubá 2003: 495, emphasis added). It involves developing a sense of community among the people within the jurisdiction of a political system and provides for a sense of identification, a common object of their allegiance, an emotional bond and social solidarity. It gives them a national identity cutting across their group loyalties based on religion, race, caste, language, region, culture occupation etc. This process integrates the diverse sectors and strata of society and produces the consensus and cooperation so vital to domestic peace and political effectiveness. It involves developing the concept of legitimacy of the nation as the larger and central political system (Gaubá 2003: 495).

Within the context of post-conflict situations, state-building primarily is the creation of new government institutions and *strengthening of existing ones in order to address the challenges brought about by the changed political situations* (Fukuyama 2004: Preface). However, the concept of “state-building” is a multifaceted process<sup>8</sup>. The term describes both an internal process and international assistance; it requires short-term action as well as a long-term vision. Establishing peace and security is a major state-building concern, particularly in a country like Nepal that has experienced decade long violent conflict and half-a-century of political instability. Without the rule of law, it becomes impossible to deal with other aspects of state-building. Social welfare is another issue that all states must deal with, yet developing and sustaining infrastructure to meet social welfare

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<sup>8</sup> State-building requires the increase of the regulative and extractive capacities of the political system through the development of a bureaucracy and the fostering of attitudes of compliances in the population. The second task requires the transfer of the people’s commitment and loyalty from sectorial groups to the national unit (Dieckhoff 2003: 273).

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needs like food, healthcare and education. Reconstruction of the economic and political institutions is perhaps the most important means to ensuring long-term success of a state. Without a well-functioning government apparatus and an efficient and productive economy, no state will be able to perform basic state functions.

In post-conflict situations, there is an absence of war, but not necessarily real peace. The end of fighting does offer an opportunity to work towards lasting peace, but it requires establishment of viable institutions and crafting up of policies, capable of ensuring lasting security for the entire population (Brahimi 4:2007). It also requires good governance for the efficient delivery of public services and integration of different societal groups into the institutional life of the state. The critical issues facing post-conflict societies are inadequate level of public institutions, severe problem of governance, absence of rule of law, presence of pervasive culture of impunity, too much of external intervention on different aspect of state affairs, high public expectations from the new regime and the rise of angry non-state-actors who are often engaged in criminal activities and frequently challenges the state authority. The process of state-building hence, is an arduous task and requires assistance from both national and international actors to address all these problems.

The process of state-building is particularly important in post-conflict or conflict prone societies faced up with problem of political integration of different societal forces so that they can feel themselves part and parcel of a single nation and owe their loyalty to the state and single centre of power. These states, in fact, represent conglomerates of different racial, tribal, ethnic, religious and regional groups with weak sense of identity and the common interest. Their integration into the institutional life of the state involves the problem of state-building.

Reconstruction of property and infrastructure is another important issue. This will facilitate return of the displaced to their homes. The

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transition to normal security conditions, with an adequate police force, is vital, and a functioning judiciary is needed to enforce the rule of law and prevent it sliding back into conflict. Governance has to be reestablished, and government services must begin to function again. Democratisation, demobilisation of ex-combatants, landmine clearance, protection of public security, return of the displaced, provision of healthcare and education, and poverty reduction, are all key aims. In the long-term, a stable macroeconomic environment will promote political stability, and will facilitate a solid financial base for government. Furthermore, it will make possible legitimate and transparent government revenue-collecting and expenditure capabilities, strengthening democracy and lowering the propensity for violent conflict.

However, this process would remain incomplete without making effective and capable state institutions which involves the task of state-building. Respect for authority and for the prevalent method of rule cannot be won until the state itself proves to be capable of fulfilling the basic needs and aspirations of the people. State-building implies the process whereby a common centre of power is evolved in order to establish law and order throughout the state and to extend the defensive and welfare services of the state to each and every part of its territory (ibid). State-building is also important to embark on the journey of modernisation.

### **Theoretical Framework**

There are two main theoretical approaches to state-building. First, state-building is seen by some theorists as an activity undertaken by external actors (foreign countries) attempting to build, or re-build, the institutions of a weaker, post-conflict fragile or failing state. This is a view of state-building as the activity of one country in relation to another, usually following some form of intervention (such as UN peacekeeping operation, NATO, regional powers etc). The second

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strand of theory and definitions gained momentum following the signing in 2007 of an international accord between donor nations on their work in conflict affected and weak states.<sup>9</sup> This work has tended to draw heavily on political science. It has produced definitions that view state-building as an indigenous, national process driven by state-society relations. This view believes that countries can not do state-building outside their own borders, they can only influence, support or hinder such processes.<sup>10</sup>

In 2008 the British Government's Department for International Development released a Working Paper on state-building that helped bring together new thinking in this field. It drew heavily on the more recent studies, and also on views of a panel of academic experts.<sup>11</sup> The paper moved the debate forward by offering models of how indigenous state-building dynamics may work in practice (the Whaites model).<sup>12</sup> The paper argues that state-building is primarily a 'political' process rather than just a question of technical capacity enhancements. It sees state-building as involving a three-fold dynamic of: political (usually elite) deals, the prioritisation of core government functions and the willingness to respond to public expectations.<sup>13</sup>

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<sup>9</sup> Available at <http://www.oecd.org/dataoecd/61/45/38368714.pdf> visited on 21st October, 2008.

<sup>10</sup> This accord committed richer countries to consider supporting 'state-building' as their 'central objective' in conflict affected countries. The result has been a steady stream of new work commissioned by donor countries on definitions, knowledge and practice in state-building, much of this co-coordinated by a Task Team of the Organisation for Economic Co-operation and Development.

<sup>11</sup> Available at <http://www.dfid.gov.uk/pubs/files/Expert-feedback.pdf> visited on 24<sup>th</sup> December, 2008.

<sup>12</sup> Whaites, Alan, *State in Development: Understanding State- building*, DFID, London 2008 Available at <http://www.dfid.gov.uk/pubs/files/State-in-Development-Wkg-Paper.pdf>, visited on 24<sup>th</sup> December, 2008.

<sup>13</sup> <http://www.dfid.gov.uk/pubs/files/State-in-Development-Wkg-Paper.pdf> visited on 24<sup>th</sup> December, 2008.

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Across the two streams of theory and writing there is a broader consensus that lessons on how to support state-building processes have not yet been fully learnt. Some believe that supporting state-building requires the fostering of legitimate and sustainable state institutions, but many accept that strategies to achieve this have not yet been fully developed. Little of the post-conflict support to state-building undertaken so far has been entirely successful. Sustained focus on supporting state-building has tended to happen in states frequently characterised by brutalised civilian populations, destroyed economies, institutions, infrastructure, and environments, widely accessible small arms, large numbers of disgruntled soldiers to be demobilised and reintegrated, and ethnically or religiously divided peoples. These obstacles are compounded by the fundamental difficulty of grafting democratic and human rights values onto countries with different political, cultural, and religious heritages.<sup>14</sup>

The first approach to state-building, an activity by external actors/countries, is perhaps the more controversial of the two strands of thinking. It is viewed as having overtones of imperialism, colonialism and hegemony whereby local populations view the foreign power as an oppressor attempting to transplant an alien values, system and culture. The second strand of thinking (an indigenous process of state-society relations) has less interventionist overtones and makes clear that national values, leadership and vision are centrally important. It does, however, potentially leave a gap in terms of strategies for the international community to support positive state-building processes in poor, post-conflict and weak states.

However in both major schools of theory state is the focus of thinking rather than the “nation” (*nation* conventionally refers to the population itself, as united by identity, history, culture and language).

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<sup>14</sup> For details see at (<http://www.dfid.gov.uk/pubs/files/State-in-Development-Wkg-Paper.pdf>) visited 16th November 2008.

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The issues debated are related to the structures of the state and its relationship to society. State-building thus appears broadly accepted term. In political science 'nation-building' usually has a quite distinct meaning, defined as the process of encouraging a sense of national identity within a given group of people, a definition that relates more to socialisation than state capacity.<sup>15</sup> However, the conflation of these two concepts has been highly controversial, and has been used by opposing ideological and political forces to attempt to justify, or reject as an illegal military occupation, like the one of the actions in Iraq and Afghanistan. Hence, regime change by outside intervention should be differentiated from state-building.

Within these theoretical premises the challenges that confront us is how one should go about it –whether focus should be made on nation-building or state-building and which approach would be best suitable, achievable and sustainable for Nepal? These are some of the key conceptual ambiguities which demand clear answers before we proceed. Perhaps, in the context of Nepal, there is a need to have a blend of both the approaches, that is, focus should be on state-building as well as nation-building. This is precisely because state-society relations as well as relations between the different societal groups are at its lowest ebb which needs to be enhanced. Moreover, state-institutions are weak to such an extent that state has failed to maintain law and order in society let alone establishing Weberian legitimacy. Needless to say while Nepal needs international assistance yet, it has to have its own indigenous method of state-building rather than subsumed with external agendas.

The variables to measure the state effectiveness for this study are based on the strategies of the state-building project which is to support an inclusive political, social, and economic order embedded in the rule

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<sup>15</sup> Available at <http://www.dfid.gov.uk/pubs/files/Expert-feedback.pdf> visited on 24<sup>th</sup> December, 2008.

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of law (Ghani and Lockhart 2008). These strategies however, cannot come about without a very clear delineation of the ‘state’ functions, that is, what precisely are the functions that a modern state should perform. These functions will help to major state effectiveness or ineffectiveness and hence set the agendas for the state building or developing a strategy to dispense these functions.

The modern state should perform ten functions to connect citizens with the state and also to move the state-building project successfully ahead (Ghani and Lockhart 2008). These ten functions are rule of law, a monopoly on the legitimate means of violence, administrative control, sound management of public finances, investment in human capital, creation of citizenship rights through social policy, provision of infrastructure service, formation of a market, management of public assets and effective public borrowings. These are not exclusive functions as the functions of the state keeps on changing as per the internal and external demands and dynamics in each country; some dynamics of sovereignty are likely to be more critical than others to establishing state’s legitimacy of effectiveness. But performance of these functions produces a clustering effect. When a state performs all these functions simultaneously the synergy creates a virtuous circle in which decisions in the domain reinforce enfranchisement and opportunity for the citizenry (2008: 163). This supports the legitimacy of the decision makers, and their decisions and builds trust in the overall system which produces a ‘sovereignty dividend (2008: 163).

Conversely when one or several of the functions are not performed effectively, a vicious circle begins: various centres of power vie for control, multiple decision-making processes confuse priorities, citizens lose trust in the government, institutions lose their legitimacy, and the populace is disenfranchised. In the most extreme cases, violence erupts. This negative cycle creates the ‘sovereignty gap’ (2008: 163) – a gap that fails to establish connection between

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citizens and the state, rulers and ruled. Thus 'sovereignty gap' and 'sovereignty divided' have been taken as the main barometer to judge the state-effectiveness. We argue that unless sovereignty gap is not bridged thorough citizenship rights, through social policies that cut across gender, ethnicity, race, class, spatial location and religion as these are the crucial factors for stability and prosperity, the project of state-building cannot be accomplished. This study argues that Nepali state is in active conflict, that is, without a consensus on the rules of the game, by contrast, rules of the game are defined as per the partisan-interest. And Nepali state has not been able to function to fulfill both traditional and modern obligations towards citizens. This has resulted in the growth of 'sovereignty gap' and this is where the necessity of state-building arose. Based on these theoretical premises, this study will explore areas that confront state to function effectively and also analyse how state ineffectiveness came about at the first place. Finally, the study will also provide mechanism to come out of this vicious circle.



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## **PART - 2**

### **Posing the problem**

It is earlier said that ‘sovereignty gap’ and ‘sovereignty divided’ have been taken as the barometer to judge the state effectiveness. In this section, we discuss how sovereignty gap was created at the outset which ultimately resulted crisis in the state-building in Nepal. For this it is pertinent to dig out the political history of Nepali state. The process of unification (whether it was a state-building process or nation-building, this shall be discussed later) was started in Nepal by Prithivi Narayan Shah some 240 years ago (see for detail ‘context’ in this contribution). But it has been normally said that the process has not completed as yet as two kinds of mutually reinforcing conflicts have been persisted. The first kind is the structural causes of conflict created by inequalities in terms of class, gender, ethnicity, language, culture, religion, geographical conditions. The other has been national conflict among the political forces and mutually exclusive political ideologies (Adhikari 2007: 69). What has been claimed is that although, the country was unified geographically, the nation building process did not move forward at all and several inequalities manifested by caste, class, gender, ethnic, religious, language and cultural background, and inaccessibility persisted, which were rather reinforced by the authoritarian rules (Adhikary 2007: 70).

Against this background, it poses question quite literally, whether or not Nepal became a nation-state<sup>16</sup> at the time of its unification by

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<sup>16</sup> “The nation-states are the product of four closely interconnected processes of institutional closure: a political one (democracy tied to national self-determination), a legal one (citizenship tied to nationality), a military one (universal conscription tied to national citizenship) and a social one (the institutions of the welfare state linked to the control of the immigration of foreigners)” (Wimmer, 2002:9).

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Prithvi Naryan Shah of Gorkha (C. 1772 – 1775) in 1768-9. Alternatively, which one came first “nation” or “state” or was Nepal nation without a state or state without a nation? Some scholars argue that Nepal’s political status in the late 18<sup>th</sup> century seems to be closer to be Yapp’s definition of ‘nationalism’<sup>17</sup>, which characterizes it as a state aspiring to be a nation. Some people think that Nepal’s work of national integration, especially the integration of its diverse ethnic groups, is far from over. On the face of it, it would seem that the status of nation-state still remains elusive for Nepal. Ethnic leaders and other marginalised group allege that they have been subject to political oppression, economic exploitation, social subjugation, and cultural annexation by the Hindu state at present as well as in the past ( Sharma 2004: 229-230) . Some even argue that ethnic and regional militancy that came along with Maoist insurgency should be seen from this perspective. Yet, others view that successive political changes could not take care of the grievances of the oppressed people in an effective manner. Whatever the case may be, today, there is a strong demand for political restructuring of Nepali state on ethnic, linguistic and regional lines to address the grievances of the people.

In fact, frequent changes in the political regime are closely related to the power struggle among successive ruling elites. There were at least four momentous upheavals at the top level between 1770-1951. In 1806, the Thapa family attained a virtual monopoly on political power; in 1846, the Rana family reached a similar position; in 1885 power shifted into the hands of the Shamsher branch of Rana family; and in 1934 the A class Rana group of the Shamsher Ranas came at the top (Joshe and Rose 1964: 185-6). This has been fundamental characteristic of Nepali state since its formation in 1773 till today. The

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<sup>17</sup> Cited by Hutt, M “Being-Nepali without Nepali: Reflections on a South Asian Diaspora’, 1997 pp.101-144 in Sharma 2004: 229-230.

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elite power structure has remained unchanged even after the introduction of a democratic regime in 1951. Until 1950 it was a country ruled by Rana oligarchy, the 1950s saw a flurry of democratic activities, between 1960 and 1990 - the monarchical regime put democracy at bay and treated political opposition as state treason and anti-national by banning political parties. The political changes of 1950 and 1990 were merely symbolic and individualistic because few people got elected again and again through the power of money and muscle. The people's movement of 2006 brought some substantial changes, most notably declaration of Nepal as a secular state, abolition of monarchy, election to the Constituent Assembly, formation of an inclusive CA, civilian control of Nepal Army and many more. These are good indications of progressive politics in the country. Still, Nepal faces enormous challenges before it enters into the era of political stability let alone moving state-building process forward.

The tendency to maintain status quo through revolutionary situation in the country mainly by political parties compels us to revisit the causes of conflict. This is primarily because political movements have been seen as a short-cut to capture political power. Many of the forty point demands which CPN (Maoist) had forwarded in 1996 to the then government are yet to be addressed by the Maoist government itself. The demands, by contrast, have been put aside. So if we look at the Maoist conflict from this perspective, the root causes are somewhat different then what has normally been understood or projected by the political leaders or social scientists, which shall be addressed later. It appears that rather than addressing grievances of the people or addressing demands which Maoists themselves had put

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forwarded, they are more fascinated in capturing both the state and the system<sup>18</sup>.

Interestingly it is not only the CPN(Maoist), in the past, political parties of all hues and colours have promised too much to the people during the election to capture the state and system. But once the agenda of state capturing is accomplished through movements the promises have been dashed off and people at large have been left at the lurch. All the governments formed after the movements neither attempted to address the structural causes of conflict nor provided political stability in the country. The weak state, fragile political situation coupled up with structural causes of conflict and unable to provide citizenship rights might cause further political instability.

Successive political movements have skyrocketed public expectations but the reasons behind launching movements intermittently has never been addressed. And when we put problems and people's expectations in one basket, we can conclude that greatest challenge that beset Nepali state, among others, is how to strike a balance between demands put forwarded by various societal groups and creating democratic institutions, people-oriented policies and develop civic political culture across political parties and society at large that can unite this state in the long term. Moreover, it is important to strike a balance between internal and external sovereignty, build-up public confidence towards state and legitimate political actors and address the growing expectations of people.

This discussion reveals that the agenda of nation-building is increasingly becoming fragile and uncertain. Worse enough, "the declining law and order, rampant corruption prevailing in all organs of government and the crisis of leadership have made government

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<sup>18</sup> Prachanda warned that the people would "stage a great revolution and capture the state power" in The Himalayan Times 14<sup>th</sup> January, 2009 [PM warns Against Bid to Topple Government, p.1.].

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incapable of delivering to the people. Institutional norms do not exist, external penetration becomes too transparent and effective, political instability poses a threat to national existence, too much regional, ethnic and sectarian trends become ubiquitous, and economic crisis is beyond control. Nepal's ongoing transition seems to be particularly affected by many of such trends" (Baral 2008: 4). These factors have adversely affected the peace process and continuously pushed the Nepali state towards perpetual political instability and increasing sovereignty gap rather than receding. The mass mobilisation that brought an end to the regime of the King and brought CPN (Maoist) into the mainstream politics created an open moment in Nepal. For Nepal, to take advantage of this opportunity, it needed to confront a series of critical tasks that ranged from defining the political system to creating a functioning market (economy). All said, the greatest risks for the future stem from the established habits and mental models of the political elite. Consumed with their own positioning and interest, they may sacrifice the country's medium-to-long term interest for their own short-term gain (Ghani and Lockhart 2008: 73). Ghani and Lockhart further explain Nepal's political reality as follows:

"Fragmentation of the elite, its lack of consensus on a common vision, and its apathy in implementing technical programmes all reveal the disjunction between the people's aspirations and the narrow concerns of the elite. About four hundred individuals hold key positions in the government, economy, news media, and civil society; they know each other, yet they occupy separate spheres that do not connect to produce the systemic coherence and resolve necessary to solve their country's urgent problems. Nepalese politics has long been about the capture of government resources for the purpose of patronage. Nepalese people of various walks of life repeatedly point out that at each level of government a system exists for seizing and diverting the country's

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resources to narrow rather than broad interests. Political parties have been part and parcel of this institutional syndrome”.

By and large, Nepal’s conflict can best be described as struggle for power in the name of political ideology among few influential people of society. This struggle for power has led to the crisis of state-building. It is within this context the issue of state-building has received wider currency in Nepali political discourse.

### **The Context**

Situated between two Asian giants China and India – the current state of Nepal was formed from the unification of petty principalities in 1768 By Prithivi Narayan Shah (the first king of Shah Dynasty). After its formation Shah Kings ruled Nepal exclusively but later Jung Bahadur Rana captured the reign from Shah’s (Shahs were forced to share power with Ranas) and introduced hereditary rule (agnate system) of Ranas until which lasted for 104 years and came to an end in 1950.<sup>19</sup> The mass movement for the democratic change erupted in 1950 which abolished hereditary premiership of Ranas and democracy was installed for the first time. However, democracy was short lived due to infighting between political parties and their occasional conflict with the royal palace. Finally, King Mahendra introduced party-less Panchayat system of governance in 1960<sup>20</sup>.

During thirty years of Panchayati rule (1960-90) steps were taken to reform the Panchayat system (mostly by King Birendra) and make

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<sup>19</sup> From 1768 to 1846 Shahs ruled Nepal. In 1846 - Nepal falls under sway of hereditary chief ministers known as Ranas, who dominate the monarchy and cut off country from outside world for 104 years.

<sup>20</sup> King Mahendra through Royal putsch in 1960 introduced a personalised rule with an assertive monarchy based on the ancient values of the sub-continent called the Panchayat system, banned all political parties and established an alternative model of governing institutions in a partyless framework.

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it more representative. For example – provision for the election to the member of the Rastriya Panchayat (parliament) on the basis of adult franchise was introduced.<sup>21</sup> But Panchayat system could not withstand the democratic wave of late 1980s and was swept away in 1991 following the people’s movement for democracy. The 1990s political movement re-legalised political parties and Nepal adopted multiparty parliamentary democracy with constitutional monarchy. In 1992 first general election was held and Nepali Congress (NC) secured absolute majority while the moderate communists represented by the Communist Party of Nepal – Unified Marxist Leninist (CPN-UML) were in opposition. However, Nepali Congress led government had been brought down by its own lawmakers in less than three years time. A mid-term poll was announced in 1994. Nepali congress lost the election and the CPN (UML) formed the minority government which lasted for nine months. This was the beginning of the political crisis in the country and one after another governments formed thereafter were brought down. In 1996 Nepal Communist Party (Maoist) launched People’s War<sup>22</sup>, which lasted for more than a decade<sup>23</sup>. During the People’s War more than 15,000 people were killed and thousands have been displaced (no exact data available).

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<sup>21</sup> In 1980 following the nation-wide student protest King Birendra called for referendum whether to introduce multiparty democracy or to continue with Panchayat. Small majority favours keeping existing Panchayat system. King agrees to allow direct elections to national assembly - but on a non-partisan basis. He inducted various other reforms in the constitution so as to accommodate the vast majority, which lost the election.

<sup>22</sup> Different terminologies have been used to define Maoist led People’s war. Some call it Maoist insurgency, some call it Maoist armed conflict, and some just call it Maoist conflict but Maoist themselves call it People’s war.

<sup>23</sup> Nepal Communist party (Maoists) submitted forty- point demand to the then government headed by Sher Bahadur Deuba and gave a month ultimatum to fulfil demands. Apart from few, majority of the demands submitted by the Maoists

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The 1990s period can be characterised as a decade of political instability<sup>24</sup> coupled up with corruption, nepotism in every aspect of state affairs and culture of impunity. In June 2001 the entire family of the King Birendra was killed in a royal massacre. In November 2001 government declared state of emergency due to escalation of Maoist People's War, King Gyanendra authorized the use of the army to fight the Maoists. This led to a tenuous situation all over the country involving roadblocks, curfews and a *de facto* abolition of the freedom of the press. Serious human rights violations from both the army and the Maoists increased. Human rights organisations reported atrocities concerning mass rape of women and girls by soldiers and executions without trial and other accusations of human rights violations.<sup>25</sup> The overall security situation in the country further deteriorated. Maoists started gaining military strength and launched major attacks against the security forces. Different parts of the country were affected in different ways. While the rural areas, especially in the mid-western areas, were heavily affected by the war, the entire Kathmandu Valley was not physically affected by the war at all (Paffenholz: 2003).<sup>26</sup>

Finally the constitutional provisions were officially suspended in May 2002 and parliament was dissolved. Though elections were scheduled for November 2002 but were postponed indefinitely due to intensification of People's War. The King dismissed democratically elected government for not being able to hold election in time and kept on forming government loyal to him. The King took advantage of the failure of Nepal's unstable multi-party parliamentary governments

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today are considered relevant by all political parties but the successive government(s) of yesteryear did not pay attention to their demands.

<sup>24</sup> Country saw more than 10 Prime Ministers in just 10 years time.

<sup>25</sup> See Amnesty International Report on Nepal 2003 (December 2002) <http://web.amnesty.org/report2003/npl-summary-eng>.

<sup>26</sup> Interview of the author with different groups in Kathmandu August 2002.



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that failed effectively address either the Maoist armed conflict or the widespread poverty.

Between 2001 and 2003 series of negotiations took place between Maoists, mainstream political parties and the palace at the initiation of civil society but none of the negotiations were successful. In the analysis of Upreti and Dhungana (2004), first three rounds of peace talks, which took place during August-November 2001, failed due to differences over key political issues. The Maoist demand for an interim government, a new constitution to be drafted by an elected Constituent Assembly and a republican state failed to find resonance within the governmental claim that the multi-party system and constitutional monarchy were non-negotiable. The government, in particular, did not agree to the demands of a republican state and Constituent Assembly. It also effectively resisted the demands of the Maoists to release their cadres from jails and pull out the security forces from the areas under their control. The authors, one of whom was the facilitators of the talk process between the government and the rebels, argue that the parties to the talks were not fully committed to peace to begin with. The Maoists, in particular, tactically utilized the ceasefire and the peace talks to weaken the “other side” through open political propaganda and strengthening their own political and military position.

The second peace talks, during January-August, 2003 held promise in comparison to the first. The parties, unlike during the first peace talks, had done their homework and came prepared for negotiations. The talks, nonetheless, failed “due to the rigidity of both parties” (Upreti & Dhungana, 2004). While the Maoists stuck to their demand for an unconditional Constituent Assembly, the government was unwilling to relent. However, the “Doramba incident”, in which

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the security forces killed 17 unarmed Maoists<sup>27</sup>, spoiled the atmosphere, adding to the already existing “Lack of trust, fear and feeling of insecurity on both side” (Upreti & Dhungana, 2004, Paffenholz 2006).

On 1<sup>st</sup> of February 2005, King took over the executive power on the pretext of fighting with Maoists. King’s repressive regime severely curtailed right to freedom of expression, freedom of movement and assembly. The ability of journalists, human rights, and other civil society actors to work effectively was particularly compromised. In November 2005, 12-point understanding was reached between the Maoists and mainstream political parties in New Delhi to fight against King’s regime. This understanding paved the way to launch mass movement against King’s rule. Finally 19 days April uprising of 2006, some foreign observer call it final days of the people’s war(Paffenholz: 2007)<sup>28</sup> made up of political as well as civil society groups managed to depose the King and brought an end to a decade-long armed conflict. After April uprising, CA election has been held on April 10, 2008, monarchy has been removed, army has been brought under the civilian control and attempts are underway to write the new constitution. Still, political situation is very fragile and there are no signs of stability.

Hence Nepali conflict can and should be distinguished in following phases:

1. 1960-1989 first phase of the low intensity conflict between the political parties (than banned) and the regime (active monarchy) this phase of conflict did not receive much attention from international community.

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<sup>27</sup> Doramba Incident, Ramechap. On the spot Inspection and Report of the Investigation Committee. The National Human rights Commission (NHRC), 2003.

<sup>28</sup> Personal conversation of this author with Paffenholz in Turkey (Nov, 2007).

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2. 1990 - 1996 beginning of the current conflict inter and intra party conflict and their occasional conflict with monarchy (constitutional).
3. February 1996- August 2001: the first phase of the People's War with geographical focus in rural areas particularly in the mid and far-western region. Government mobilizes security forces (mainly police force) to contain the People's War and treats Maoists problem as law and order rather than political. War peaks up its momentum, government initiates dialogue with Maoists through civil society members. The first round of peace talk fails.
4. September 2001 - January 2003: Second phase of high intensity war. Maoists attack major government installations (police posts, army barracks, District Administrative Offices). Government declares emergency and mobilises army for the first time. Red corner notice issued against Maoist leadership. Government setups armed police force to fight with Maoist guerillas. International community pays serious attention.
5. 2003 January - December 2005: The third phase of People's War: Maoists declare ceasefire and come to the negotiation table second time but again peace talk fails. Maoists tighten their grip in different parts of the country. They control much of the rural Nepal. In February 2005 King assumes Executive Power. SPA signs an agreement with Maoist in New Delhi and jointly wages movement against King's regime. Civil society becomes active.
6. December 2006 and beyond: the final stage of people's war. Kings absolute rule ends. The CPN (Maoist) joins mainstream politics. Parliament got reinstated. Country was declared secular. Decision to hold CA election and many other progressive steps were taken. The comprehensive Peace

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Agreement (CPA) signed. Peace process begins with UN's assistance. Madesh movement and movements based on ethnicity and regionalism has shook the government.

7. Current phase of low intensity conflict: CA is formed, monarchy has been abolished, CPN (Maoist) forms the coalition government with the help of other parties and Prachanda heads the government. Government fails to abide by the commitment made during people's movement that is to fulfill the forty point demands, other commitments made during the peace process such as returning of the seized property. More than 20-armed groups emerge in different parts of the country. Crisis of confidence is building up between the political parties (mainstream) and the Maoist over the ends and means of peace process. Peace process is virtually at the crossroad and Nepal is a weak state.

### **Understanding Nepali Conflict**

A central conceptual issue here is how we should understand Nepali conflict: as a 'civil war', a 'resource war', 'ethnic war', 'ideological war', 'communal war' 'internal war' or 'new war' or insurgency? While some of these terms are interchangeable, others are not. More importantly these types of conflicts have different dynamics but not necessarily different causes. There are different schools of thought in explaining Nepali conflict. Independent observers see People's War as a communist revolution, as an ethnic alliance against high-caste Hindu-dominated political elite (Thapa 2003: 13). What can be argued is that Maoist led People's War is neither solely an ideological war nor an ethnic conflict nor a religious war. It is not an ideological war because Maoists have principally always expressed to join mainstream politics if the regime in power genuinely addresses their demands. It is not an ethnic conflict because no ethnicity has been

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threatened from the conflict. It is not a religious war because no religion has been threatened. If none of them are the reasons, then what is (was) this movement all about for?

Most of the social scientists do blame 'exclusions' (social, political and economic) as a source of conflict in Nepal. However, it is neither entirely the problem stemmed up from poverty nor from exclusion. The rebellion was inevitable given the environment of rampant corruption, crisis of governance, injustice coupled up with poverty and exclusion. Conflict studies particularly in the context of the Third World have contextualised the causes of conflict basically to the situation of social exclusion and centralized control of the state resources by a minority elite group. The discourse in Nepal has also continued to revolve around 'exclusions.' Economic inequality, regional disparities and social exclusion prominently feature the conflict narratives. Perhaps economic inequality is an important cause but may not be the one that led to rebellion in the context of Nepal. If poverty and exclusions were the reasons, Nepali state should have experienced conflict long before not during the politically relaxed period. Deprivation (Tilly 1978) has also led to grievance making it potential cause of conflict (grievances in relation to social, economic and political segregation). Keen (1998), on the other hand, has observed that internal conflict also comprises economic function for protagonists making short-term economic benefits. But in the case of Nepal economic inequality, deprivation, grievances or even economic benefits cannot be rationalized as the root causes of conflict (Kumar 2004b: 2). Conflicts theorists in Nepal have largely ignored the case of state failure (emerged due to crisis of governance), which is crucially linked with leadership problematic.

When thinking of violence and conflict in countries like Nepal, it is generally assumed that grievances and inequalities are identified as causes of conflict. Violence is therefore justified as anti-state revolt

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taken to resolve grievance related issues. In contextualising violence and conflict in the case of Nepal, the question arises why have conflict erupted under democracy not under autocracy? Paffenholz (2006) is right to argue that root cause of the conflict is of political nature. She states that *Nepali leaders failed to reconcile* political pressure for a change from a traditional feudalistic system of governance to “modern” pluralistic forms of governance. This root cause of power struggle has so far manifested differently in different phases of conflict: in the early nineties - prior to the armed struggle - we saw a movement pressuring for a change from feudalism to democracy. From 1996 onward we first saw the Maoist fight against the feudalist system but also against the mainstream political parties that had aligned with the monarchy in search for a constitutional monarchy. After the ‘Royal Coup’ in February 2005, when the king dissolved parliament and appointed a government of his own, the parties started protesting against the monarchy for a re-installment of democratic rule. The parties have meanwhile aligned with the Maoists in this struggle. Nepal is still at the unpredictable critical political juncture. To be more precise, Nepalese conflict can be better understood as an upheaval for grabbing state power through extra-constitutional *Aandolans* (movements) and these *Aandolans* are closely interlinked to the issue of injustices (social, political, economic). However none of the *Aandolans* since 1950s till 2006 have fulfilled demands of marginalised communities for that reason. Leo Rose and Bhuwan Lal Joshi (1964) have aptly described Nepal's political culture motivated by **revenge and self- aggrandizement**. Whatever the arguments are the reality is that Nepali conflict basically is the product of centuries of bad governance and unholy compromise between ‘elected politicians and selected elites’ in the early years, who enjoyed democratic benefits in tandem and later differed on the distribution of power.

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### **Actors and stakeholders in conflict**

Historically there has been conflict in Nepal within the ruling elites merely to grab political power. During the People's War (Feb 1996-April 2006) the main stakeholders in conflict are CPN (Maoist), mainstream political parties (which comprise seven-party alliance) and the monarchy. However Nepali conflict can best be explained within the exercise of political power or in Harold Lasswell's classic phraseology *Who gets What, When, How?* (Lasswell, 1972). Within this lens, Nepali conflict could be seen as the struggle between three forces – revolutionary (CPN – Maoist), traditional (Monarchy) and *reformist* (mainstream political parties). The conflict over the visions of the future and the role of "power" in the process of change is constantly preventing three main actors' attempts to arrive at a positive outcome. Despite the signing of various accords—12-point, peace accord and 9-point, these major players do not share a common vision of the future and corresponding coordination of means. This has made difficult to resume democratisation process. The amount of trust between the negotiating parties who fought against the monarchy is now deciphering slowly. The immediate impact of the ongoing violence has been weakening the state and democratic centre. The rise of armed actors in one way or the other can be linked with the erosion of national sovereignty.

The manifest political conflict that was triangular in nature (vertical conflict) of the past (pre-movement era) now has transformed into multilayer conflict (spread horizontally across different societal groups) and Nepali leadership has been unable to respond positively to the *challenge of change* brought about by the people's movement. The current ongoing violence is the mixture of manifest, structural and proxy causes of conflict. The manifest macro conflict has linkages with other sets of interconnected latent social conflicts directly situated at the sub-system level, such as ethnic groups, Dalits, indigenous people, Madhesis (people living in southern flatland)

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women, workers and others fighting for their own sets of rights and opportunities. Socially, demands emerged from virtually all groups, whether of gender, ethnicity, language, or locality, for inclusion in the new-order distribution of rights, resources, and privileges. The key omission, of course, is any consideration of obligations. Most seriously, the continued security deterioration, together with inability of the state to provide even the most basic services (e.g., school books, medicine, electricity and water), has unleashed a host of violent centrifugal forces. The radical demands thrown out by various armed groups and regional political groups have added further agony to the peace process and political future of the country. There is a growing concern that longer the process of democratisation takes, the more regressive forces and spoilers will dilute the achievements of people's movement. There are some major challenges that are being confronted by the Nepali state for the immediate future: the personalised, patrimonial political culture that cuts across different societal groups, civil society, political parties and the fractious nature of the political parties embedded with political rivalry and competition.

Having discussed the root causes of a decade long insurgency, actors and stakeholders involved on it and the way politics is defined as the struggle for power and state and citizens both are ignored, the crisis in state-building was inevitable. If we closely analyse the post-2006 fragile political scenario in the country it seems that state-building agendas will not get due recognition. That said, however, it is worthwhile how the concept of nation-state was developed in Nepal. This will help to develop the framework to address the underlying challenges of state ineffectiveness.



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## **PART - 3**

### **The Concept of Nation-State in Nepal**

The term “nation-state” implies some convergence of an institutionalized polity and collective allegiance to it, with “nationalism” defined here as such bounded solidarity and allegiance to a state (Marx 2002: 105). The nation is that group viewed as the legitimate owner of the state: the collective sentiment of such ownership (that is, nationalism) is what gives the state legitimacy (Brubaker 1996: 8.85 cited in Marx 2002). This connection can be established in more or less either direction: state first, building national loyalty, or national community creating a state, though often these processes occur together. In whichever order, “the nation-state” implies, if not impels, convergence, though we know that in reality there has been such neat convergence (Marx 2002: 105).

However, “nation” it is clear, is not the same as “state”. The later refers to an independent and autonomous political structure over a specific territory, with a comprehensive legal system and a sufficient concentration of power to maintain law and order. “State”, in other words, is primarily a political-legal concept, whereas “nation” is primarily psycho-cultural. The other distinction between ‘nation’ and ‘state’ is also linked with ‘nationalism’ that is produced through the interplay of nation and state. Nation and state may exist independently of one another; a nation may exist without a state, a state may exist without a nation. When the two coincide, when the boundaries of the state are approximately coterminous with those of the nation, the result is a nation-state (Rejai and Enloe 1977: 31). A nation-state in other words, is a nation that possesses political sovereignty. It is

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socially cohesive as well as politically organised and independent (ibid).

Nation and state, then, do not necessarily evolve simultaneously; nor is it possible to say, as an inflexible rule, which one comes first. The argument has been made that in the 19<sup>th</sup> century Europe the nation preceded and created the state, whereas, in the developing countries today this relationship has been reversed, so that the state is creating the nation (Rejai and Enloe 1977: pp. 31-2). While the distinction between nation-states and state-nations on this basis is relevant and useful, both sequences and formations are to be found in the West as well as in the developing areas. For example – the emergence of a degree of national and cultural consciousness preceded the formation of the state in Germany whereas in France the situation was reversed and the monarchical state preceded national consciousness. Similarly in the non-Western world, Turkey and Iran, for example, may be viewed as nation-states, whereas most of the African countries are state-nations (ibid).

It is true, in general, however, that state-nations have tended to predominate in the non-western world where the processes of cultural integration frequently gain momentum under the impetus of political unification. The reasons are not difficult to identify. Political independence necessarily involves demarcation of territorial boundaries and the subjection of a given people to a single government. This in turn encourages the adoption of a common administrative structure, a common educational system, a common body of law, a common language, and a common system of communications (ibid).

The formation of nation-state is definitely European origin which took momentum from the Peace of Westphalia of 1648. The concept itself, however, was much older as the traditional idea of a prior civil solidarity giving rise to states goes back to least to Jean Jacques

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Rousseau, who described a proto-nationalist “act of association [that] creates an artificial and collective body” or polity” (Rousseau 1968: 61). That said, however, the concept of associations (or nation-state) was never alien to Nepal or India. The roots of nation-states can be traced back as early as the Vedic age. There was time when the sub-continent studded with republics. Even where there were monarchies, they were either elected or limited by prevailing code. They had to function in accordance with *dharma*, or the rule of law. The epics and other literature provide details of the existence of nation-states in *Vedic* and post *Vedic* period.

The convergence for state formation that took place after the treaty of Westphalia was neither natural nor neat as the states were mostly formed either through military take-over or merges of territory, people and all the state’s were not homogeneous except in the case of Europeans. The concept of nation-state in the context in and reference to, Nepal bears a number of indigenous insights not so much mediated by the Western historicity (Dahal 2001). The discourse of Nepalese historians and anthropologists reveals that the present day nation-state of Nepal has been shaped by the King Prithvi Narayan Shah who ruled a tiny central Himalayan state called Gorkha during the mid-eighteenth century. Upon his enthronement in 1742, Prithvi Narayan Shah, and later his successors, began to expand the Gorkhali state by a rash of mergers, marriages and military takeovers and integrated the league of two sets of principalities: twenty-two of the Karnali River basin in the far-western Nepal and twenty-four of the Gandaki River basin in the west Nepal (Stiller, 1993:9). This process was halted by the frustrating years of the Anglo-Gorkha war in 1814-16. The subsequent Sugauli Treaty signed with British India after the war defined the existence of the state of Nepal.

In short, unification of small principalities into the Gorkha Kingdom has enabled Gorkhali state to assert its power, define

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defensive foreign policy and enable people to achieve cooperative social order through exchange relationship. The characteristics of the newly unified state were: territorial unity, the centralized monopoly of force, unification of polity, expansion of administrative authority, invention of national identity and regulation of peaceful social relationships. The Military power of Gorkha rulers helped to secure political authority and defend the boundaries of the state and brought the concept of nation-state in governmental discourse in Nepal (Burghart1984:103). Gorkha rulers, like many of their counterparts in the Ganges basin, claimed their sovereignty by exercising proprietary authority upon their possessions (*muluk*), and ritual authority within their realm (*desa*). Included within their possessions and realms were various countries (*des*) in which the king's tenants or subjects were natives who claimed certain rights to their land and way of life on the basis of ancestral authority. Each of these three concepts -possessions, realm, and country -specified a different relation among the ruler, the land and the people, and each was legitimated with respect to different kinds of authority -proprietary, ritual and ancestral. The social relations in those integrated territories were glued by a "historical process of accommodation between regional ethnic systems and the policies of a centralizing state" where the society, art, language, culture and religion had to adjust themselves to the imperative of the state (Levine, 1987: 71).

As everywhere else in the world (mainly in the Europe) during that period, administratively, the king used to perceive himself as a lord (*malik*) of his subjects (*raitis*) and governed different categories of land grants to diverse sections of people for their livelihoods, such as tributary kings of the Gorkhali kingdom (*rajya*), military officers (*jagir*), civil administrators (*nankar*), tenant cultivators (*raikar*), servants and artisans in the court (*rakam*, *jagera*, *jagir*), religious associations (*guthi*), individual persons, such as saints, Brahmins, priests, war widows (*birta*) and Rais and Limbus of eastern Nepal

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(*Kipat*) (Burghart, 1984: 103). These land grants helped state control a multi-ethnic, multi-lingual, and multi-religious society and reduced rivalries among the ruling elites, increased states capability to deal with common enemies (external and internal) and enforce individual's willingness to cooperate with others as well as with state. The economic system, dependent on caste hierarchies and occupational roles and intra-familial dependencies, strengthened the capability of the state to penetrate into the society.

In terms of legitimacy and power, Nepali state used to derive both in a different ways in different times. For example, until 1950 it used to derive its legitimacy and power from land-ownership and distribution of land to the people. After 1950 it started deriving power through citizenship and after 1990 constitution and other national and international legal documents became the source of legitimate power. In fact the state was not presupposed as something separate from society. The entire rules of the game were constituted on a contractual arrangement, under which specified rights and privileges were acquired in exchange for agreements by the subjects to perform certain duties based on their status, subjected to renewal at the *Dashain* festival every year. Likewise, the enclave of the king of Gorkha also defined a social universe based on the Hindu caste system in which he underlined how social life of the people should be ordered and political control exercised on a “scale of three indicators - compliance, participation and legitimation.” (Migdal, 1988: 32-33). However, culturally, the realm of Prithvi Narayan Shah was defined by the acceptance of the temples and deities of the integrated people. For example, in addition to worshipping the temple of Bhavani and Gorakhnath of Gorkha, he also paid homage to the deity of Malla rulers, Taleju of Kathmandu, Ram-Janaki Temple of Janakpur and Baraha Chhetra in the Koshi zone of Eastern Nepal. He thus immersed himself in local life without any pretense of Gorkhali cultural hegemony over all the non-Gorkhali individualities, peoples and

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cultures. The state power that emerged, therefore, embraced and made use of religion, language, culture and society for the consolidation of the nation-state. The role played by Gurungs and Magars during the unification process was also duly recognised by Prithvi Narayan Shah and his successors. His famous dictums that Nepal is a garden of four *varnas* and 36 castes and the king's repository of strength lies in the people are clear manifestation of his behavior towards his subjects of all castes as well as non-castes. This indicates that Gorkhali rulers were willing to allow the local cultural and linguistic, customary autonomy and independence while building a kind of hierarchy in Kathmandu. So there was both diversity at the local level and a kind of unity at the national level (Shah 2009). This had a positive bearing on the political and cultural integration of Nepal (Dahal 2001).

Nepal is a multi-ethnic, multi-lingual and multi-religious state caught between two ancient civilisations of the world - China in the north, and India in the south, east and west. Modern Nepal is inhabited by 102 ethnic and caste groups. But, none of these groups claim more than 18 percent share in the total population of 29 million. Over 100 languages are spoken in the country but Nepali language, the *lingua franca* developed for the past five hundred years, serves as a link language among different communities and meeting the communication requirements of these societies. As local languages in Nepal are often divided by dialect, it "often happens that two members of the same ethnic group prefer to speak Nepali to each other, either to increase comprehensibility or to avoid the status implications of specific dialects" (Gellner,1997:20). We can safely argue that these cultural values and the *khasa bhasa* were not imposed upon by the rulers.

Nepali society is largely a traditional society as cultural, social, religious, linguistic and ethnic lines often contest the nation-state. Castes and ethnic groups continue to form the basis of social

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organisation, a fact which is capable of shaping the economic behavior of the people. The persistence of the caste hierarchy, and the law to regulate it, had in fact been a state function since the days of the Malla rulers, much earlier than the unification drive of Prithvi Narayan Shah.<sup>29</sup> The hierarchic set-up had emerged from a historical process in the ancient days from the stateless societies where a myriad of tribes, with simple functional division of labor, were divided into many clans. Those clans were arranged hierarchically on the basis of superiority of one over the other (Chauhan, 1989: 149), then passed through a definite sequence of class societies in which the state came into being. The caste system<sup>30</sup> subsequently developed an altogether different basis in consonance with the needs of the feudal society. In other words, the caste system though originated in race, subsequently developed into the feudal, occupational division of labour in society.<sup>31</sup>

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<sup>29</sup> The explanation of this sort of caste hierarchy was first made after the political consolidation of Jaya Sthiti Malla (Sharma, 1997:126) around AD 1380 which was based on the *Naradsamhita*, a treatise prepared during the reign of King Jaya Sthiti Malla, by the inspiration of his premier Jayat. This clearly shows that the Hindu code of conduct inscribed in the Code of Manu, *Manusmriti*, has formed a part of the jurisprudence to define the role and responsibility of each *Varna-Brahmans* (priests), *Chhetris* (warriors), *Baihsyas* (businessmen) and *Sudras* (artisans)- the king and officials. The judicial procedures, types of crime, boundaries, money lending, system of inheritance and dispute settlement procedures were all laid down (Sharma 1997:127-131).

<sup>30</sup> The origin of the caste system was in all probability racial because the caste system is called the *varna vyavastha* and the word *varna* in Sanskrit means colour of the skin. It is said that caste originated when a white race, the Aryans, coming from the northerwestern direction, conquered the dark coloured races inhabiting the Indian sub-continent at that time probably some 5000 years ago. Some people deny that the Aryans came from outside and assert that the sub-continent was their original home (Aryavarta) from where a section of them migrated to Europe (Katju 2009:8).

<sup>31</sup> In theory there were only four castes: Brahmin, Kshatriya, Vaishya and Shudra. But there were (and still are) many caste and sub-castes. This was not unique in Hindu India and Nepal. For instance, in England, even today there are many

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Perhaps there was some scientific reasons behind this division of labour as Adam Smith wrote in *The Wealth of Nations*, division of labour resulted in great process and *this is what has also been mentioned in the Bhagwad Gita* (Katju 2009: 8 italics mine)

In the seventeenth century, King Ram Shah of Gorkha had provided his subjects with a body of rules in the hill area “based upon Hindu *Shastras* but suitably modified to accommodate the social and political traditions of non-Hindu subjects of the principality” (Rose and Scholz, 1980: 15). The state of Nepal, thus shaped by different moves and maneuvers, is largely an outgrowth of an indigenous evolution by respecting each culture, language, religion and ethnicity. The division of labor based on the civil code<sup>32</sup> enabled the society to achieve a modicum of material well-being that would have otherwise been hard. It, however, stratified society on the basis of traditional primordial identities and brought them into a rigid Hinduised social

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people with the surnames like Taylor, Goldsmith, Baker, Butcher, Potter, Barber, Mason, Carpenter, Turner, Waterman, Shepherd, and Gardner and many more which indicate that their ancestors followed these professions. Like in the England, these caste groups were engaged in their own handicraft business. But with loss of indigenous industry and their inability to adjust themselves with the spirit of time and the rulers little attention to this end could not modernise this sector. The situation further worsened particularly after the British ‘colonisation and industrial revolution’ who promoted their own industry and the consequences are such that they became unemployed. They did not have land to cultivate as they were historically not agriculturalist. As a result they sank in the social ladder and an unemployed man becomes a poor man and poor man is not given social respect in society.

<sup>32</sup> The Civil Code of 1854, amended and edited by Chandra Shumsher in 1910, institutionalised this system by dividing Nepalese society into *Tagadhari* (sacred thread wearers, such as Brahmans, Chhetris, Thakuris and Newar Brahmans), non-enslavable *Matwali* (liquor drinkers, such as Magars, Gurungs, Limbus, Rais, Newars, etc.), *Pani-chalne* enslavable-Matwalis (touchable, Sherpas, Tamangs, Chepangs, Kumals, Tharus, Ghartis, Satars, Dhimals, etc) and *Pani nachalne* (untouchable, such as Kamis, Damais, Badis, Gaines, Dhobis, Chamars, Doms, Dushads, Halkhors, Podes, Kusles, Chhyames, etc.) groups.



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framework. In the absence of strong social learning, this rigidity trapped the majority of Dalits and lower caste people into backwardness. Yet, in the face of the foreign threats, the tidal waves of *phiringi* (British) and Turkish Islamic cultures, *Dharma* (virtuous conduct, duty) did come in handy when it was invoked to defend the state (Khatri and Dahal, 1997: 9). Prithvi Narayan Shah protected *Dharma* and sovereignty from these invaders and maintained the actual sacred Hindustan. By sacred Hindustan, he was referring to the sacredness of the state's sovereignty intact even during the polluting influence of colonialism and imperialism in the neighbourhood (Dahal 2001). In this sense, he was truly a statesman of his time who maintained sovereignty of his state and subjects. This socialisation of *Dharma* also helped to turn the vast geographical domains into manageable entities. It is these diversities that gave Nepali state necessary resiliency and survival fitness.

Rana regimes however, were more interested in state-building than nation-building as patrilineality, caste hierarchy and Sanskritisation created rigidity in the division of labour. But, they had modernized the army, introduced Civil Code and defended reason of the state though there was poor boundary maintenance between the public and private sector.

The political transformation of Nepal in 1951, introduction of constitutional system of governance and its opening to the outside world<sup>33</sup> set in motion diverse social and economic processes of change that have profoundly affected people's traditional life-style. Development and modernisation has been promoted by meta-institutions of the state and ideology through educational expansion reaching the remotest corners of the country. In 1963 and 1964, legislation was passed to initiate new social and land reform programmes. These initiatives changed feudal agrarian structure of

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<sup>33</sup> Until 1950 Nepal was virtually cut-off from the rest of the world.

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Nepali state. The rise of urban middle class with the decline of tenancy relationships weakened the feudal power and pushed Nepali state towards modernity. The political development of 1990 has provided further impetus in areas like development, modernity, life-style, thinking and alike.

To conclude, Nepal was able to establish itself in the comity of states as an independent state with fixed territory, independent foreign policy, membership of the United Nations and its other systems, and capacity to enter into treaties with other states (international recognition) and diplomatic relations with other countries. Politically monarchy as a centre for national power played a crucial role to consolidate the concept of nation-state and establish common Nepali identity. By and large, the international recognition of the state as well as values based on religion, region, culture, ethnicity, and language served as the basic foundation of nation-state and created “fellow-feelings between ethnic and non-ethnic communities. These very foundations that unified Nepal are now under serious scrutiny. Yet, new social contract based on justice, equality that can define fundamental terms of social association and cooperation (Rawls 2005: 11) is yet to be developed. Debate whether Nepal was a nation-state or state-nation in the beginning is not important because state came first while building the ‘nation-state’ in the context of Nepal but it is clear from the above discussion that Prithvi Naryan Shah duly respected ‘nationality’ of other integrated groups.

### **Prelude to the Crisis of State-Building**

Theoretically the crisis of state-building came into being for three obvious reasons. First the liberal theory of the concept of nation-state and state formation that was adopted in Nepal was not adjusted in tune with time. The fundamental problem with the liberal theory of nation-state is that it assumes prior existence of self-consciousness, homogeneous units of allegiance around which state are built. But the

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reality is that such group consciousness is constructed by officials and elites who use selective image of history to project an image of prior legitimacy and purposefully forget inconvenient images or experiences of past or present internal division<sup>34</sup> (Marx 2002: 105). This has manifested in the rise of ethnic and territorial politics (which I shall discuss later) and cracks are seen in the national unity which is important for democracy (Rustow 1989: 337-63). The second factor that led to the crisis of state-building is that state itself has been misunderstood somewhat incongruently. And the third is politics being defined and interpreted solely in terms of power struggle rather than serving the state and citizens.

It would be better to discuss how 'state' has been understood, interpreted and used in Nepali context by different actors vis-à-vis political leaders, urban middle class, urban civil society groups and the people at large. Political movements have been launched and conflicts have emerged not to address the grievances of the people but merely to gain victory over the "other". Consequences of this practice are such that people are being humiliated of being loser one after another political movement when everyone around seems to be winning. Thousands of youths are being forced to leave the nation. State has failed to provide political stability let alone "equal opportunity." Few people certainly have become rich and prosperous whereas others are worried about when and from where their next meal will come from. Inequality revolves around multiple axes of class, community, region, religion, and gender. Violence as a response to perceived injustice is on the rise, reflecting in part the failure of political system to function effectively and provide opportunity.

Some members of Nepalese society are worried of the fact that if democracy is established and state becomes strong, they will not be

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<sup>34</sup> See Ernest Renan, "What is a Nation?" In Geoff Eley and Ronald Grigor Suny, eds. *Becoming National* (New York: Oxford University Press, 1996).

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able to sell their unrealistic dreams. These very elements wanted to maintain status quo in their favour so that they can get away with their past misdeeds. State, for them, is Adam Smith's 'night watchman' which does nothing more than the strong and efficient protection of the life, limbs and property of the people (read the classes). Once these objectives are fulfilled they are not worried about the "masses" (read the poor). Those who run media and are in civil society are also aware of the fact and about the future of their products and profession once the conflict is really resolved.

The understanding and treatment of state also differs. For example leftist treat state as 'class' because of their Marxian belief. They are always in conflict with state no matter whether they are in the governmental power or not. Liberal democrats treat the state as a 'machine', that is, as a tool to serve their interests (partisan and personal), neo-liberals read farewell to nation-state in the Eighth Five Year plan (1992-1997), the urban-based civil society and media treat the state as a 'medium' through which they can fulfill their interests. None of these actors treat state as 'motherland'. By contrast, state has been treated as an "object" of social, economic and political mobilisation to fulfill the vested interests. The scanty movements are classic examples to this end. Who needs the state – it is the poor and the powerless? What is clear, however, is that all these actors are achieving what they wanted to achieve within the state. This is where we can argue that we cannot do without the state and we need an effective state what George Monbiot has called 'a state with different grammar of value.' When we use the theoretical framework that we provided in the beginning, the crisis of state-building in Nepal primarily emerged because state failed to function effectively. Still, what is not clarified, why and how state became incapable to function effectively. Answer to this question, can be found in the above paragraph which discusses how state has been used and abused for personal benefits.

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The third argument is a powerful, a simple, but implicit, model of the political process—the notion of political discourse – as how successive political system and people at large have been used and abused by the regimes, political systems and leaders to serve their own interests. Let us dig out political history since its unification in 1769 under the leadership of King Prithvi Narayan Shah, when Nepal began its tryst with destiny. The country since then had been governed by fiat (*hkukumi shasan*), an arbitrary and authoritative command, of Shah Kings and the family rule of Ranas, who were the concrete manifestation of political power. Both Shahs and Ranas clearly defined the country’s sovereignty over social and physical space and mustered all available resources to defend it and there was no space for civic politics, that is, civic participation in the governance did not exist. There were no parliaments or assembly to sustain any conception of ‘democracy’ except the appointment of power holder which was virtually limited and distributed within the Rana-Shah family and their close associates. After 1950, civic power was captured by the new elite while the state power stayed with the old elite which further enhanced after the royal putsch of 1960. The successive governments formed between 1951 and 1959 were so enmeshed in interpersonal, intra-and inter-party conflict that task orientation was all but lost from the public life of the country; the crisis in Nepal’s national identity became truly a crisis in the personal lives of all Nepali elites (Joshi and Rose 1964:X). Political parties publicly debated their ideological positions, but once in power they were more concerned with government resources to weaken other parties and strengthen their own organisations (Rose and Scholz 1980: 45). The ubiquitous influence of the old political culture of revenge and conspiracy<sup>35</sup> in the face of pusillanimous political leadership

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<sup>35</sup> If one goes deeply into Nepal’s history one finds how conspiracy has served as a motive force of history, change in power equation, revenge and even elimination of elites. Kot Massacre, Alau Parba, Makai Parba, etc are glaring examples.

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motivated assertive monarch to stage a putsch in December 1960 and innovate partyless Panchayat polity in order to impose a social discipline and political order that were thought to be missing. The royal putsch introduced a personalised rule with an assertive monarchy based on the ancient values of the subcontinent, called the Panchayat system, banned political parties and established an alternative model of governing institutions in a party-less framework under the Constitution of Nepal 1962. Internally, it was a strong authoritarian state, as it destroyed the parliamentary system, placed law and order above everything else and smashed all forms of opposition. It built a weak, so obviously centralized, bureaucracy incapable of coping with the assertiveness of the traditional interest groups and their interest articulation and, therefore, easy to be either captured or corrupted through various means. In that sense, it could not rise other than to fulfill the dominant social and economic class interests of ruling elites of society which was repeatedly anchored to represent “public interests” by the government. But a large section of middle class, having aspirations for a better quality of life, extended their support to the putsch because of their dependence on the state for employment security, social mobility and a number of economic entitlements, especially land grant, business opportunities and recruitment in civil and political institutions (Dahal 2001).

During the period of Panchayat system (1962-1990) successive rulers having rejected the Western model of polity, looked on their past for guidance and set up a rigid registration system to weed out any organisation they considered threatening to their rule. The deep penetration by the bureaucracy and aristocracy into the political economy however made it difficult for the king to reasonably modernize and democratise the polity. The state capacity was high because party organisations were banned but the Panchayat system started the state-building project merely to serve the interest of rulers. For example, the administrative structure was built on hierarchical

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principles, making administrators and managers accountable not to the people, but powerful functionaries of the system. The political capacity of the state rested on the concentration of resources at the disposal of the government and the central offices of state administration. Political freedoms were restricted to such an extent that silence, the absence of political discourse, was all too familiar and unnerving. There was very little space left for associational life of the public, the civil society remained a mystery. Cliche and symbolic expressions (like *Bhumigat Giroh*, *Mathiko Aadesh*, *Hukum*, etc.) represented the conditions of public life. The purpose of politics was reduced to value allocation among themselves for the maintenance of the system, not periodic change. The search for power was so intensely interest-bound within the exclusive domain of the state that they ignored the public sphere and, consequently, began to miss even the facade of rationality (Dahal 2001).

Political parties who were instrumental in overthrowing 104 year old Rana-regime were relegated by Mahendra's vision of nation-building (*desa banaune*), national construction (*desa nirman*), and national-development (*desa-vikas*). King Mahendra said that nation-building can only take place when there is no self-interest from the part of the actors who are involved on this process. He was of the view that political parties and interests groups have no legitimate place in the nation-state (Burghart 1996: 257). In a sense that political parties were regarded as alien (*vedaesi tattwa*) and distorted through translation as faction (*dal*) a term that implies disunity and which therefore has no place in a country characterised by relation of unity and identity (*ek ra saman*) (Burghart 1996: 258). This practice continued to defend Panchyat system as *mato-suhaudo vayavastha* till 1990. This ideology of "nationalism" did not allow politicians to come forward as they were blamed to have too much close connection with Indian parties and politicians (Krammer 1997:2).

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Although urban-based intellectuals were on the rise but both the urban-based intellectuals and officials were either less conversant with the realities of their own country or reluctant to introduce changes as per the spirit of the time. At the end of 1980s, Panchayat system faced three-cornered challenges: international regime initiating Democratic Pluralist Initiative (DPI), while hostile India imposed economic blockade, and liberal Panchas and extra-constitutional political forces supported by critical mass of intellectuals led democratic struggle and replaced Panchayat system with multi-party democracy in 1990. With the fall of Panchayat, people had expected that new multiparty system would best serve the interest of state and citizen. But was there a change in political culture? Certainly not. Common citizens did not have more say in politics other than their power of electoral choice. Nepali politicians and policy both miserably failed. Nepal neither could maintain internal politics nor establish rule of law nor could it balance foreign relations. The country had plenty of laws but very little rule of law. The ‘horse –trading’ of parliamentarians to save the ‘government’ and tendency to pull-down the government merely to serve the personal interest have invited real crisis of governance in the country. Politicians were found first concerned with their individual interest; next, they look for the interest of their groups or people, and then come the party interest. They do not even look beyond the party interest. No one seems to be concerned about the prosperity of the nation, strengthening of democracy and the eliminating poverty (Regmi 1995-6: 4). Nepali politics of this period can best be epitomized in the words of Mahakabi (eminent poet) Laxmi Prasad Devkota’s as follows:

“we always first think of ourselves before we think of the nation in any of the schemes that we entertain or sought to promulgate or implement” (Devkota 1997: 37).



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In this social model, individuals are embodied in *affno manchhe* networks that help them discover opportunities and achieve their personal goals. As a result, the concern for fellow citizens remained weak and ties of kinship roots and one's own people, *affno manche* (Bisht 1991: 1-10) solidarity, grow stronger in the overall distribution of power, resources and opportunities. The same *affno manchhe* syndrome has also undermined the secular meritocratic recruitment of citizens in the political system with long-term career rewards and evolved an order based more on authority rather than rationality. The system of *pande pajani* –appointments, transfer and dismissal of public servants on the personal whims of prime minister/ministers amazingly outlived the Rana regime encouraging the feudal Nepali tradition of subservience, dependency and conservatism among the public officials and protégés. This tradition has deviated public servants from the routine affairs of the state and enforced accountability to upwards *adesh* which has spoiled the very notion of public bureaucracy in the country. During the few years time many revolutionary elites far from helping to improve their democratic standing degenerated into oppressive elites, bungling economy and wrecking democratic niceties.

Critics believe that multiparty has been confined to a set of mechanism just for leadership selection than democratisation and devolution of power. And yet, there is not a sense of collective guilt in the political leadership for having done some wrong to the nation and the people. This lack of sense has postponed any prospect for real reform in their attitude and behavior. The new politics slipped into a bureaucratic mode of thinking and, accordingly, lost its ability for desirable transformation. The brazen dichotomy that existed between the morality, rhetoric and sordid reality of the performance of political leaders was certainly became a matter of great concern. These all factors coupled up with sky-rocketing corruption, led to the loss of public confidence in the political system, leaders and bureaucracy.

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The engagement of political leaders in personal business has further contributed to the crisis in state-building as well (Dahal 2000).

The 1990s political environment has provided an opportunity to form associations, groups, forums etc but this has resulted in the overgrowth of special interest groups--rights organisations, NGOs, business chambers, urban civil society divided into several political parties and their increasing politicisation has undercut the scope for sustained social reforms and, consequently, societal participation in the government process was untamed. This has merely created new mobile class that is not connected to national affinities, nationalism and people's needs. Rather, their participation in the acceleration of social processes appears either challenging or contentious to the development paradigm of the state as it has been used to "feudalise" the private benefit of the elite class, therefore, undermining the immense potential of the modern nation-state (Dahal 2001).

Practically the political movements of 1950, 1980 and 1990 did not mark any discontinuity with the past by abolishing the old political class and its replacement by a new political class. The series of political movements, to establish democracy and address issues impeding the process of state-building have ended up in some sort of, what Thomas Meyer (Meyer: 2007) calls lazy compromises between the political parties in conflict and regime at the helm of power. The elite compromises in Nepal reveals not a pluralistic expression of a general interest of public opinion but only a temporary power arrangement for common expedience.<sup>36</sup> This has only brought

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<sup>36</sup> Elite compromises reached through governmental trio – legislative, executive and judiciary has endorsed for duty free 'pajero cars', pensions for the parliamentarians, political funds for parliamentarians which they could spend in their electoral constituency is the product of this culture which has produced salaried political class. The other examples are the sale of state-owned enterprises such as Bansbari shoe factory, Harisiddhi Brick and Tiles Factory, Bhrikuti Paper Mills to the *comprador class* on the basis of hefty-commission.

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cosmetic changes but produced careerist political class<sup>37</sup> who failed to address structural problems of society. The overwhelming dominance of the state by career politicians and bureaucrats and their effective control over social, cultural, economic and political affairs have been facilitated by their skills in the management of manipulative practices. The mere posturing of revolutionary culture by political parties and their inability to translate promises into deeds has driven this country towards political deadlocks. This, no doubt, leads one to conclude that political movements are merely replacing the ruling classes one after another. But these movements, somehow, were able to sustain the force of continuity of dominant societal interest and, therefore, did not constitute essential dimension needed for the transformation of society, economy and politics.

By contrast, the new politics after 1990s onwards had attempted historically disassociate people from their past. As a result, old values are being obliterated. The fact is that in culturally plural societies like Nepal, this trend would increasingly disconnect people and their communities from the state and society thus affecting their identity and loyalty patterns. This separation of the country's past with the future appears to be hampering development and governance. The other factor that is contributing towards the crisis of state-building is that political movements have provided sufficient opportunities for various groups to emerge and make claim and counter claim to the state to fulfill their demands. But the state has not made any institutional endeavor to address them. This has brought erosion in the

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<sup>37</sup> A careerist person is the one who thinks that his or her personal career is more important than performing institutional duties and responsibilities, and who will do anything, even something unjust (like the signing of Mahakali Treaty), to become successful in achieving the desired personal end. Bhupi Sherchan's poem *Ghume Mech Mathi Andho Manche* – a blind man in the revolving chair vividly reflects the character of careerist person.

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internal sovereignty of the state. Erosion in 'sovereignty' is contributing towards 'systemic crisis' in the nation.

If we analyse the fifty years of political history of Nepali state, we can find continuity of class character of democratic politicians. They are found to have been engaged not only in satisfying demands of groups in civil society, business community and mafias but also in pursuing political strategies which place on the agenda certain issues at the expense of others; mobilising or undermining particular sectors of community, appeasing or ignoring special demands, and stimulating or playing down electoral matters. Economics is concerned with few individuals maximising their personal wealth and politics is concerned with maximising with their common interest (Held 1996:216). The social organisation that are commonly called democratic by social scientists apparently are not democratic in a real sense of the term and has undermined the democratic theory from Athens to 19<sup>th</sup> century England and answers were merely sought by reflecting on the current practices. This has resulted cracks in the liberty, fraternity and equality.

Civil society, for its part, has miserably failed to institutionalise democratisation process due to inorganic formation, lack of inclusiveness and ability to develop vague dense issues with civic groups. The rights-based urban based civil society largely fed by the donors, is more accountable to donors and less to state and society. In many occasions civil society organisations (CSOs) are seen as anti-state and pro-market. It is not clear who they represent, how they are governed and who controls them as leading civil society activists keep on changing their position (often clash with each other) on major issues of national importance. Most of the civil society groups/members are aligned with political parties for power and with donors for money. The broader urban based civil society (mainstream media included) is involved in what Noam Chomski calls 'consent

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manufacturing' in favour of particular political parties/class rather than 'institutions, organisations and citizens in order to capture the state. Thus urban based civil society having not been able to entrench in broader society and its dependency to the outside world will cease to exist once their oxygen cylinder dries out (Dahal 2007).

Faced with these realities one can argue that there are several problems inherent in the current crisis of state-building in Nepal. The crisis in state-building has roots in the past but its branches in the future. The major problem stems from, what Ghani and Lockhart (2008) has termed, the 'sovereignty gap' that was created by the successive political regimes in Nepal. Both the governed and government failed to realise their rights and obligations towards each other, that is, state's rights and obligations towards citizens, as well as those of the citizens to the state. In fact, functions of the state evolve over time in response to the public consensus and demand and kept on changing. Nepali citizens have expressed their consensus and demands through movements but the successive leadership of the country has failed to work as per the public consensus.

The 'sovereignty gap' has led to the loss of mutual-relationship between citizens and the governments. Governance entails an orderly process for arriving at and implementing decisions regarding collective goods. But the missing element in Nepal has always been a process of connecting citizens' voices to government and making government accountable to citizens for its decisions. Instead, the prevailing elements in the failing countries are disorder and an almost total disjunction between rulers and ruled (Ghani and Lockhart 2008: 21). The successive governments in Nepal have utterly failed to bridge this gap. Conditions continue to deteriorate with the passage of time. To put it another way: the common people started losing stake in the success or failure of the state or the system. They were never treated as real 'stakeholders' and there is no guarantee that conditions they

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face will ever improve. When people do not feel ownership towards the 'state and the system', they are bound to fail and the project of state-building could not be initiated. The real challenge for the Nepalese now is how to generate 'people's ownership' towards the state and create the "fellow-feelings" between ethnic, non-ethnic and territorial groups, change understanding of the state, work towards developing civic political culture and define the boundaries of the government as well as governance under constitutional culture.

### **The Rise of Ethnic and Territorial Politics**

When we dig out the roots of ethnic politics in Nepal it first surfaced in the year leading upto the 1950s of Tarai Congress which got intensified in the referendum of 1980. Then it laid dormant as quickly as it had arisen, because the then political leaders were co-opted and the national referendum confirmed the Panchayat system in power. Since the political changes of 1990, ethnic politics has become a permanent fixture in Nepal's multiparty democracy (Sharma 2004: 238). We can agree on the fact that if the period 1960 to 1990 was one of nation-building, the 17 years since then has been a time of ethnicity building (Gellner: 2007: 1823). Maoist insurgency has further reinforced 'ethnic', religious, and regional, linguistic identities and cleavages across societal lines.

The fundamental issue here is why did Nepal witness ethnic and territorial rise in *Loktantra* but not during 240 years of monarchy? The answer of this question can be found in the King's "absolute" rule and the primacy of public sector communication, economy, health and educational services. The absolutism and its socialising and service mechanisms, in fact, paved the way for the national power that knit all societal forces into a single thread. But with the King's absolute rule gone, many power centers have emerged and there is nothing of sort called "national power." The open political environment helped to trigger new ways of thinking and have provided an opportunity to

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emerge various groups who unleashed their demands with the state. State having not been able to develop mechanism to address their demands genuinely, these groups started shifting their allegiance to those who promised to champion their agendas: in most cases, political parties, non-state actors, interest group and even the donors who they thought are “master of their destiny.” These groups started withdrawing their allegiance and obedience to the “state” because state for them is not impersonal. They harbour the belief that state made them suffer for many years and wanted state to be restructured in a way with which they can show their allegiance.

Nepal has not adopted official exclusions of “others”. But it certainly has failed to understand the sentiment of collective history of ethnic communities, caste groups, Madeshis and Dalits who are spread across the country and situated in a complex multi-structure of identities and hierarchies. The ethnic composition of Nepal is about 18 percent of the total population of 29 million in the form of *janajatis* but there are conglomerations of groups called the Madhesis who make up over 35 percent of the population. There are also 13 percent Dalits and other small minorities. The country is largely one of minorities, where a system of checks and balances is a prerequisite for stable governance. The state structure, however, is lacking when it comes to the institutional framework to appreciate this diversity and ensure equality (Dahal 2007). This non-appreciation of ‘diversity’ has resulted in the rise of ethnic and territorial politics and the images of common identity, unifying ethnicity, territorial groups, and shared language and culture who were the force behind the formation of the concept of nation-state which was based on fused ‘nationalism’ (that is of nation-state and state-nation) in the beginning are now in real crisis. Policy makers have not realised the fact that in the long term, social forces tend to change their composition, alter their concerns and shift their positions.

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The determination of political decision of either national or local level does not (and cannot) reflect a “majestic march” of the ‘public’ united upon matters of basic policy (Held 1996: 202-3). Even when there is a numerical majority in election, it is rarely useful, Dahl stressed ‘to construe that majority as more than an arithmetic expression...the numerical majority is incapable of understanding any coordinated actions; it is various component of the numerical majority that have the means for action (Dahl: 1956, 146 cited in Held 1996: 2002-3). This is where Nepal has failed to act miserably. Ethnicity or other forms of unity such as territorial were not so fixed nor so firmly established as to be the necessary or only basis of state-building (Brubaker 1996: 8,85) but it was taken as a cohesive force and kept in one basket without understanding their sentiments. That state has not encouraged shared experiences and community – the basis of nationalism as Karl Deutsch (1953) has argued. The result is that it has promoted state-centric nationalism, undermined nation-centric nationalism, which did not posit genuine allegiance to the state.

There are two strands of arguments behind the rise of ethnic politics. The first is ethno-left strand based on the cultural hegemony akin to what Antonio Gramsci described. That many ethnic groups feel internally colonised by one religion (i.e. Hinduism), one language (Nepali); and one nationality (i.e. Khas). For them, Nepali state, for centuries, has exercised discrimination and exploitations against other religions, languages and nationalities. The sentiment against Hinduism, Bahunbad and Nepali language are exacerbating in recent years. The Hindu religion and Bahuns are being depicted more and more as a class of exploiters in relation to other ethnic groups, and held responsible for imposing certain ‘fatalistic’ ideologies. The Bahun’s predominance in national political life is being labeled *bahunbad*, or *brahmanbad* by some, and is increasingly a subject of attack by ethnic groups (Sharma 2004:214).



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The opponents of this strand, however, claim that for a majority of people, the broad Hindu ethos keeps them bound together in a loose sort of way. For them, popular *Hinduism* has helped engender a uniformity of world-view in these everyday practices. Nepali language – the lingua franca of Nepal – is relatively speaking, propagated itself unobtrusively. Its heritage of folk-songs and folk dances has given Nepalese common sentimental strands that play on our emotions uniformly. Similarly our festivals are a shared commonwealth of ethnic mixings and diverse beliefs. If we negate them today in the heat of ethnic passions and reject our historical legacies, we will have nothing to build upon and preserve the integrity of the Nepali state (Sharma 2008: 153).

In the same vein, in terms of ensuring cultural diversity and religious freedom, past practices from Nepal starting from Prithvi Narayan Shah was quite liberal. Those who hold the view that Gurkha ruler had discounted cultural values how you would explain the existence of 101 ethnic groups over 100 languages and all sorts of religious groups now (Shah 2009: 16). They ask if it is really true that the Gurkha rulers had eliminated all the cultural and linguistic groups, we would not have ethnic diversity now. We can take the example of Germany, France and other European countries in the last 200 or 300 years of nation-building, they eliminated all the local level linguistic, cultural and other customary diversity in building one German nation and one French nation (ibid). Hence it would not be fair to say that past monarchical regimes had eliminated identities of cultural groups. As these groups have been practicing their cultural, religious, and their identity related customary practices even after unification till today.

The second strand of argument is based on the political hegemony of hill people (Pahadiyas) over Madeshi (the people living in southern flatland) which, they claim, have prevented them from enjoying their citizenship rights at par with their Pahadiya counterparts in the state

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mechanism such as in bureaucracy, army, police force, non-governmental sectors and many more their economic wellbeing notwithstanding. This view is held by other facet of Nepal's ethnic/regional politics headed by Tarai based regional political parties which have come vociferously in recent years. The Madeshi demand for proper representation has taken a violent form, causing considerable disruption of normal life in the Terai and economic blockade against hill people. This has happened when the fire of Maoist war has been just doused. Madeshi politicians want a single Terai one federal state with full autonomous rights and rights of self-determination given to it. Some groups are even agitating for a fully independent and separate Terai state. Parallel to these developments, the Federation of the Indigenous Nationalities of Nepal (NEFIN) of hill origin is also agitating to have their demands for ethnic and linguistic states in the hills fulfilled. By and large, ethnic leaders including Madeshis want their due share in the state and system and for that state to be federalised along ethnic and regional lines with defined boundaries with right of self-rule, self-determination and full autonomy. The representation issue is also linked with institutional structures and identity of the new state (Muni 2008:176). The challenging aspect of state-building, thus, is to ensure adequate and equitable representation of minorities and marginalised section of people in the institutions of governance.

The political transition of Nepal has been marred by fresh violence with the rise of ethno-territorial politics perpetuated by the people of Madeshi origin and (commonly known as Madeshi movements) and ethnic groups led by NEFIN. Both these groups have different approaches to express their resentment. The leaders of ethnic organisations show their preference for presenting case in terms of two sets of opposing ideas, values or situations, or even unfortunately, in racial terms. This can be seen in the use of contrasts such as Hindu versus *Janajati*, indigenous versus non-indigenous, *pahade* (i.e. of the

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hills) versus Madeshiya (of the plains), Mongol versus Aryan, or the pointed nose versus the flat nose. These seem to be a constant implication of 'them' versus 'us' (Sharma 2004: 243). While the Janjati Mahasangh is anti-Hindu and anti-Brahman in sentiment, the Madeshi ethnic groups are anti-Pahari (anti-hill people). It is opposed to the numerical domination of the Terai by immigrants from the hills (whether Hindu or not); it is against the prejudiced way the hill population regards Madeshis in general; it is unhappy with the distribution of citizenship certificates to Terai people, and it is critical of discrimination against the recruitment of Terai people into the Nepal Army and other government machineries (Sharma 2004: 239).

This 'them' versus 'us' has led what Dahal (2001) has called systematic politicisation and capitalisation of social forces thereby reverting the state-society relations to a new dimension in which many apparatuses of the state find difficulty to steer, control and govern the acceleration of social forces. These social forces which otherwise are heterogeneous and vertically segmented by caste, class, gender, religious and ethnic cards use their organisations<sup>38</sup> to negotiate competing claims with political parties, formal institutions and the state. In some cases, there is a trend towards the parochial disengagement from the state and, as a result, it has to negotiate with a number of sub-systems of society (Dahal 2001). The sudden and unforeseen outburst of political conflict on many fronts, but more seriously in the Terai is serious threat to survival of the state itself.

The mobilisation of single identity (Sen 2006) either based on ethnicity, regionalism, language and others have acquired increasing weight in fragile political conditions. These groups are now claiming to represent the aspirations of their people /region. The ineffectiveness of ruling parties in redressing the grievances of these groups and subsequent upheaval have eroded the traditional base of mainstream

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<sup>38</sup> Almost each ethnic groups have their own organisation.

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parties; challenged the old-style structure and political culture based on patronage; left the various actors to compete to occupy this vacant political space and created internal boundaries along communal, ethnic, territorial, linguistic and political lines (Bhatta and Dahal: 2008).

True, erstwhile Nepali state was a feudalistic which repeatedly revolved around a network of three groups namely the *Bahun*, *Chettri* and the *Newar*. The situation nominally changed with the people's movement in 1990 which saw the re-establishment of multi-party democracy. The period after democracy saw the first tentative steps towards creating a more inclusive state that would reflect the social, political and cultural diversity of the country which was the outcome of a democratic resurgence sweeping across Europe at the end of late 1980s. The actual reality on the ground changed only in rhetorical terms. In a sense, the political change of 1990 could be said to have brought with it far broader socio-political ramifications for Nepal than the political change it witnessed earlier in 1951 but the country's political power elite is not sufficiently liberal to pressure the government to undertake the fundamental changes and project state as defender of civic rights. There was an odious continuity of Panchayati style of governance (Panday 1998:3) as there has been too much concentration of power and too little accountability. Behavioural change did not occur because there was no real change in the social distribution of power and authority. As a result, a perverse counter political culture has developed which derives its inspiration and energy from the discarded authoritarian regime of yesteryear rather than the values that inspired the revolt against it (Panday 1999: 278). In these decades the world also saw strong rise in the ethnic awareness and identity politics rising among peoples across all the continents of the world. All these developments have come to affect and characterize Nepal's post-1990 democracy as well. Most people in Nepal have likened to believe that despite its cultural diversity, its

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history has been marked by an ethnic harmony in a multi-ethnic society, free of all kinds of ethnic tension. Its transition to democracy could be expected to produce other kinds of problems, but no serious ethnic stirrings (Sharma 2004: 228). But this has not been the case; the way things stand, it seems that politically, Nepal is moving towards more communalisation and ethnicisation. State, did acknowledge diversity but failed to translate diversity through practice into “pluralism”.

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## **PART - 4**

### **The Emerging Challenges**

*“...every Nepali of the present lives a vicarious existence, with the atavistic urges for political power and economic security and feels strongly that political rivalries among the political elite today are no less pronounced than they are two centuries ago” (Regmi 1995: ii)*

The way state is pushed and pulled by a variety of forces into providing a range of policies and services which benefit not only politicians but some best organised sectors of the society such as influential members of civil society, media, business community at the cost of ‘sovereign people’ and also analyzing the run-down history of political events down the road. This section argues ‘conditions’ that could provide political stability in the country are still missing. The social frontiers of the state are changing rapidly but not adjusted with the changing pace due to persisting tension and collaboration driven by the dynamics of power politics. The struggle for power has made Nepal weak state internally and externally. For example, the judiciary has been put under the executive; the large Constituent Assembly has been reduced to a rubber stamp for the wishes of the ruling party caucus; and there is acute demoralisation in the civil service and the police. The military continues to be treated as a pariah by the new regime and the civil society. The fragmentation and weakening of the various organs of the Nepali state has several major implications for the democratic transition, political stability and economic growth (Shah 2008). Externally, the new regime has become extremely susceptible to external pressures and influences. There is a general impression that no decisions or appointments are being taken without

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external approval. The direct involvement of the Indian Embassy in the deal reached between the United Democratic Madhesi Front (UDMF) and the government on February 28, 2008 and the subsequent handing over of Upper Karnali and Arun III river projects to India are examples of enfeeblement of Nepal state (Shah 2008). The self-styled armed groups and the ongoing arms race among the political parties in settling up of and mobilisation of youth squads framed around the paramilitary concept, who take law into their own hands often substitute for the state's legal process (Shah 2008). Taken together, all these element(s) are engaged in preserving their political, social, economic, and to some extent, even personal hegemony. What has been certainly missing from the current political discourse, as usual, citizens those who cannot or are not in a position to organise on their own. State capacity is gradually being eroded, individual political parties and groups are becoming stronger, there is no one who can take care of these citizens, they are left to their own destiny.

The convergence of 'old class' and 'new class' of political leaders motivated by the common objective to abolish the common enemy - 'the monarchy' and establish democracy have led to the political change in 2006. However, the embedded elitism in every sector of governance, thereafter, indicates that regime change occurred through 'elite settlement' among political leaders to service their personal and partisan interests. The unstable and mushrooming networks of opposition, the lack of connections between civil society and citizenry and absence of consensus on national agenda from the political discourse is resulting in the force resignation of mass population from elite politics (Bhatta 2008b). This certainly does not herald prosperous political future of the country. Merely ranting the word '*loktantra*' is not going to serve the interest of the state and society. We cannot eat 'democracy' it has to be felt by the citizens, which was the voice of the participants at various seminars at the grassroots level we participated, which is not the case here.

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There exists the continuity of traditional habits of mind and behaviour. Today's rulers are very different from the Ranas, Panchas and leaders of multi-party democracy in the style and rhetoric: but they are rulers yet and share the same motive – personalisation of power, resource and authority. Policy making is still the prerogative of senior politicians, bureaucrats, technocrats and donors who lack the insight of public need that only visionary politicians can apply. Successive governments failure in economic and political development made them crib and constrict within parochial interests, more particularly, in their struggle for power and regime survival. As a result nation's future looks sullen and shuddering (Dahal 2000). Incumbent political party, no matter whatever its ideological inclinations, uses the state power to exclude, restrict access and minimise the role of political opposition and independent intellectual classes.

The civil society groups have played a crucial role in regime changes (Bhatta 2007) but their overlapping positions with political parties have created confusion on their exact motive. This is partly because civil society activists keep on changing their constituency vis-à-vis with political society and partly because the broader public sphere has been hijacked by the political society, urban middle class elites, the urban civil society whereas traditional peripheral duty-bound civil society organisations have been marginalised (Bhatta 2008). This has led to the growth of what Gramsci had called gelatinous superstructure of society and contributed towards the formation of 'class state.' The class state promotes 'clientele regime' centered on the personalistic networks constructed by party bosses and *the civil society leaders* (Jenkins 2003: 266-67). This type of democracy is formed on the basis of 'exclusive' instead of 'inclusive' participation of relevant social actors (Jenkins 2003: 266-67) and raises questions on state ownership (the popular sovereignty for that



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matter) and implicates disillusionment towards the performance of democracy and civil society.

The exclusive nature of the 'class state' has produced various interest groups who maintain "revolutionary political culture" to fulfill their demands in the country. The reason behind this enigma is that the class state and its professional political members (political entrepreneurs) grossly ignore the genuine interest of citizens. They simply treat state as their personal enterprises and citizens as their consumers. It appears that ownership of the state and the political system is shifting towards 'political parties' and the Kathmandu-centred civil society members. Perhaps this could be the reason, among others, why citizens are forming their own groups and exerting pressure against the state on different themes (citizens against the state). Yet, Nepalese political leaders have failed to understand this broader public uprising; in contrast, they have closed channels of communication with groups who are outside the purview of parties and parliaments. By and far, Nepal continues to stay between 'order and anarchy'. There are several factors that have contributed to this end which hampered democratisation and peace-process to move to the much talked 'logical end'. Nepal faces both problems, that is, problem of nation-building as well as state-building. The crisis of nation-building is felt because Nepali state is struggling to maintain the 'common national identity'. State is now fragmented across, ethnic, religious, linguistic, regional lines. In the same vein, the problem of state-building has come about because state-institutions are not in a position to deliver services. By contrast, the state-building process is deeply preoccupied with political, social, cultural, regional, economic, religious, and external factors per se issues (Bhatta 2008).

The CPN (Maoist) succeeded in generating political awareness in rural Nepal simply by becoming the dream merchant (Kumar 2007:315). The selling of dream by Maoists to various groups has

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consolidated social movements and has transformed people from spectators to political actors, a process that is based on critical masses that have emerged within every social group (Dahal, 2004:7). The movements initiated by women, *Dalits*, *Madhesis*, *Janajatis*, indigenous people and pressure exerted by the macro political actors such as MJAF and NEFIN to the transitional government is crucially important for the solution of conflict through inclusion affirmative change in the existing system and patterns of relations. But the *raison d etre* of Maoists governance is centered on as how to capture the ‘state and the system’ through continuous movement by polarising society. Today one can argue that *loktantrik* [democratic] Nepal differs only superficially from earlier [Panchayat] Nepal (Brown 1996: 145, emphasis inserted).

Institutionalised political corruption was legitimised during the Panchayat regime for “reason of the state”, while similar corruption for “reasons of the party<sup>39</sup>” (Bhattarai et al 1999: 17) was common during the multiparty democracy. It appears that we are not going to deviate from this culture even after the historic political changes of 2006. This assures that politics is above the laws and politicians are not subordinated to the rule of law. The scale of irregularities and corruption in different institutions of governance highlights that the system is operating without respect for law or instruments to enforce laws.

The CA election has provided avenues to expand social base of political representation, initiate talks on constitutional issues and chart out a peaceful future. The key pillars of national political debate – state restructuring along federal line, inclusive democracy and sustainable peace- which carries the taproot of conflict and conflict residues requires regular engagement of stakeholders in post-conflict

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<sup>39</sup> The lending of huge sums to influential businessman, politicians without any collateral, routine evading of taxes are the classic example.

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nation-building. It is an epic opportunity to resolve conflict through negotiations and develop a new social contract for peace. But political parties and public institutions are not publicly embedded in society as a result; new political dispensation could not transform the parochial political cultures into a participant one and make them capable of exercising the sovereignty of the nation. This is partly due to continuity of the same elite which believes in traditional politics and party gerontocracy developed a certain amount of narcissist attitude who did not like to change the style, temper and manner of governance they inherited. Moreover, the disharmony among constitutional actors particularly among three set of political parties – governmental actors composed by six ruling parties led by CPN (Maoist), opposition parties led by Nepali Congress (NC) and a host of other parliamentary parties outside the government and the politics of free-riders (the medium sized groups) to get more benefits than their actual representative through strength has created further obstacles to this end (Dahal 2008a).

Non-resolution of many issues, such as nature of democracy, state restructuring, integration of armed forces, demilitarisation of politics and socioeconomic transformation has infected this dynamics. The maintenance of unstable political environment in Nepal is, therefore, opening a new negotiating environment for the competing claims, symbols, myths and identification of various social classes. This is eroding the *élan vital* of Westphalian state system and reflecting a flagging consensus on democracy, peace and development. Inclusion of the “other” is the essence of reducing new sources of conflict spreading now in the realms of culture, territoriality, society and modes of social learning of ground realities. No political system can survive unless all actors, even a small minority, feels a real stake in the constitutional system, upholds the true sprit of *pacta sunt servanda* and comes to term with the past and abolish the culture of impunity in the future (Dahal 2008a ). State institutions should be made to work

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more transparently and delivery what people want: the rule of law, less corruption, fair election and government that responds citizens economic and social needs. This also means strengthening of democratic oversight (Diamond: 2008: 23). By and large, there are long-term as well as short term issues, that need to be addressed, which are discussed as follows.

### **The Constitution Making Process**

The drafting of a new constitution is an important benchmark in the process of developing new rules of the game and creating a legitimate political centre. It defines the polity, sets out the relationship between the state and its citizens, and fixes the social contract that underpins the functioning of an organised society (Brahimi 2007: 8). The whole idea is writing a legally binding political document, based on political agreement. While developing new rules of the game it is crucially important to address all the issues that underpin society.

Theoretically, there are many ways of making constitution such as Constitutional Convention, Declaration of Head of the State, Legislative Assembly, Constituent Assembly (CA) and many more. Nepal has adopted CA for this purpose as it is, relatively considered, more democratic process than other processes as it engenders people's ownership. What is crucial factor while writing any constitution or adopting any method, however, is it should involve broader people's participation, it's content should be democratic, the dimensions of the constitution should be able to strike a balance between negative and positive rights. Overall, the modern constitution should address people's legitimate aspirations (Dahal, K.R. 2007). Failing to do so will result in constitutional crisis which ultimately instigates people to wage another movement to fulfill their legitimate aspirations. Unstable constitutional history of Nepali state (six constitutions in sixty years time and intermittent amendment of the interim-

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constitution) is directly linked with either non-reflection of people's legitimate aspirations in the constitution or their mal-implementation. Those who are involved in this process should learn from the history rather than repeating it.

Also, the tendency to prescribe universal constitutional advantage and broad rules and regulations that do not fit the country context must be resisted. The pace of constitution-building must neither be dictated by the regime in power or by the international community (though it can lend technical support). The process must be politically driven as constitution making process is a political act. Public debate should focus on making constitutional process more inclusive and constitutional commission more representative. The debate should also focus on exploring to protect and guarantee constitutional rights through judicial system. Debates covering these types of questions will provide the stimulus to move the political process forward. The CA has established 14 committees – 11 thematic, 3 procedural and 1 constitutional has begun eliciting opinions, talks and debates. This will bridge the existing gap in drafting the new constitution.

### **Electoral Reform**

Elections are a hugely important part of any peace process but like constitutions, elections are not an end in themselves. Nor are they a panacea. Elections can produce all good result if they take place at the right time in the sequence of activities that constitute the peace process. Elections should not merely be held to meet the prescribed date for the formalities. In fact the rush to equate democracy with elections risks confusing the goal and process with the mechanism, and often lead to a relapse into conflict. In the context where institutions are not stable, criminal groups control areas of the state apparatus and mature political parties do not exist, it is not at all

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certain that elections will necessarily advance the goal of enfranchising citizens (Brahimi 2007: 10).

The post-conflict elections should try to address all the anomalies of the past electoral process. Not a single election of Nepal over the past decade has produced leaders able to build broad-based support for decisive policy choice. The same lot of people got elected again and again on the strength of organised power of institutions, money and muscle. The proportional electoral system that Nepal practiced recently has also received some criticism because majority of the influential political leaders have brought their families and close associates into parliament and those defeated in the CA elections were selected through party quotas. This has resulted in the loss of trust in the 'electoral system' itself. Of course, no electoral system is perfect. It's only by going through several electoral cycles that democracies can consolidate and grow. But at least, Nepal need to chose the future election system (first-past-the post, proportional or mixed) and develop mechanism so that it can gain public trust.

### **Reintegration and national reconciliation**

An important and urgent task in the immediate post-conflict phase in almost every case is the demobilisation, disarmament, and reintegration (DDR) of former combatants in society. Ideally, this begins with a peace agreement wherein parties to the conflict agree on how precisely their combatants will be demobilised to return to civilian life or to be integrated in new or reformed, national security forces, and how their weapons will be disposed of or collected (Brahimi 2007:12). Security cannot be ensured without reintegration of former combatants either into armed forces or into the society so that they can become the real stakeholders and can play important role in state-building. Equally important is national reconciliation among various societal forces gripped by violence – be they are former

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combatants, political actors or citizens at large. It is precisely important for national unity and equality under law. A proper mechanism should be developed in line with new political set up.

But this process has not taken due consideration in Nepal. What has come into discussion is mere integration of Maoists combatants into Nepal Army (NA) within the political circles and few other stakeholders. There are more than three dozen armed groups operating in the country. What will happen, in the event of negotiation, if these groups demand their militias to be integrated into national security forces as the Maoist's did.<sup>40</sup> Paradoxically, this issue has not yet been discussed. First of all we have to clear on the fact that what do we need Security Sector Reform (SSR) with DDR or only SSR – which is a very broad concept and requires reform in many areas of governance including improving civil-military relations, right-sizing the security forces, reforming judiciary, penal system and many more. To be precise, SSR agendas are not clear vis-à-vis what is to be reformed and how it has to be reformed. In contrast, reform is primarily understood as undermining the NA and police forces and 'mass entry' of the whole lot of politically indoctrinated militia into national army and CPN (Maoist) is consistently pressuring on this issue which is frightening all non-Maoist parties who prefer alternative mechanisms of their inclusion, such as forest guards, border security, industrial security force, UN peace-keeping for female combatants, etc (Bhatta 2008a). The Army Integration Special Committee (AISC), with two representatives from major parties, which is expected to facilitate this process, is yet to take complete shape.

The disagreement between the Maoist's concept of SSR and non-Maoist notion of DDR of combatants in the nations must be resolved with viable, long term and rational strategies of right-sizing,

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<sup>40</sup> Some of the Terai groups have already demanded to integrate their fighters into the national army.

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professionalisation and relative autonomy of security agencies so that they serve general public and national interest. DDR is linked with the peace process and abolition of all sorts of non-state violence from politics while SSR is linked to locally-owned broader development training, capacity building and democratisation of public-security agencies. Both aim to abolish the culture of impunity and the state of nature (Dahal 2008b). Creation of an interface between civic groups and security like the community police (Shrestha 2004: 438-461), can refurbish the image of security agencies thus offering relief, rehabilitation and peace dividend at the various levels.

### **Governance**

Governance is a generic concept; it is not specific to today's developing world. The philosophers in ancient Greece were concerned with the right form of governance. In South Asia, the concept of governance can be found in the writings of Kautilya in *Arthashastra* broadly dated to be around the same time, and some religious scriptures and epics of earlier and later ages dealt with it extensively. In Islam, the *Sharia* provides for comprehensive governance rules including a fully developed legal system revealed by none other than Allah. A special literature on management has developed recently that tries to show how Jesus Christ's teachings and "management style" could inspire good governance, public and corporate. An Indian or a Nepali Hindu could make a similar point about the relevance of *Bhagavadgita* or at least the *Shanti Parva* of the epic *Mahabharata* for governance (Pandey 2004: 3). The whole idea of the principles of governance, by and large, is to create a democratic and just nation-state based on the rule of law. And these examples are the testimony of the fact that governance is not a new concept developed by the donors alone. Its relevance could be found from the ancient time to the writings of Adam Smith who wrote before the *Wealth of Nations* was published, that the political state had to build institutions that can



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ensure justice and security and political and civic culture that values ethical standards. From this analysis we can argue that good governance is important to create effective state institutions. Ineffective state institutions create deficit in governance which ultimately breeds political underdevelopment. It costs high for the poor and marginalised sections of society.

While reflecting on the contemporary debates on governance, the term is used variously to refer to (a) outcomes (the effective provision of collecting goods) and to (b) the political process that generate these outcomes: the manner in which state-elites acquire and use their power and authority (Moore 2007: 14). Moore (2007) provides two conceptual underpinnings to the argument. The first one deals with the political process – the notion of state-society tensions and balance – that constitutes ‘an important theoretical foundation for political science (Gervasoni 2006:5). The core proposition of this conceptual underpinning is that political regimes are the outcome of tension and conflict between (a) elites who control the state, and wish to remain in power and exercise that power as freely as possible, and (b) societal actors who want to place restraints on the power of a potentially overweening state, either to protect themselves from despotism and depredation or as strategy for obtaining power themselves (Moore 2007). So there has always been tension and conflict between political elites, non-state actors and insurgents to control the ‘state’ not only for revenue but for ‘exclusive power’ that guarantees them to establish monopoly on the state resources. Moore’s second conceptual-theoretical underpinnings deals with objectives of good governance as having three main operational dimensions, which tend to complement and reinforce one another<sup>41</sup>.

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<sup>41</sup> This also happens to be the analytic framework adopted in the British Government’s new aid and development policy paper (Department for international Development 2006 cited in Moore 2007 p. 15).

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- The responsiveness – of states to citizens, i.e. an orientation to meeting citizens needs<sup>42</sup>.
- The accountability of states to citizen<sup>43</sup>.
- The capability of states to determine and respond citizens needs and wants, which in turn has to complimentary dimensions: the political capability to determine needs and to frame and nurture bargaining and compromise among competing interests; and the organisational or bureaucratic capacity to settle on sensible policies, to deliver public services, and to enforce the authority of the state.

If we look at Moore's (2007) theoretical explanation from different approach, we can see that there has always been conflict between first and second arguments, that is, between those who wanted to control the state and those who wanted to establish good governance. It becomes more obvious during the post-conflict political situations. This is where the problem lies in Nepal as well. Those who wanted to maintain order and those who wanted to create anarchy. Both of them seem to have been fascinated to maintain their stakes also. And the challenge is how do we come out of this dilemma and establish governance with rule of law.

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<sup>42</sup> The concept of responsiveness is silent on the question of how much power citizens might enjoy. Responsive governments are concerned with citizens 'needs', but have autonomy to shape those needs and to decide to which ones they prefer to respond. The notion that citizens have power to express their wants, as opposed to their needs, is central to the concept of accountability (Cited in Moore 2007, p. 15).

<sup>43</sup> Accountability implies the existence of institutionalized mechanisms – of which electoral democracy is the most important and most thoroughgoing – through which state elites both answer to citizens for the ways in which they employ their authority, and may be rewarded or sanctions by extensions or curtailments of that authority (Schedler 1999 cited in Moore, *ibid*).

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In fact establishing rule of law and maintaining good governance are challenging jobs in the post-conflict societies as it becomes difficult to adopt or adjust with new rules of behavior both for the parties in the conflict and societies at large and often poses threat to public order. The greatest challenges for the rule of law is to move from situations where whims of the warlord or conflicting parties are the law to one where the warlord or parties in conflict is subject to the same law that applies to all, is not an easy and will no happen overnight (Brahimi 2007:15). Hence building the instruments to implement the rule of law is as important and as difficult as the production of the comprehensive and coherent legal framework that will govern the relationship between the state and its citizens as well as between citizens themselves. Building the capacity of judicial system, police forces and bureaucracy is crucial to establish rule of law in the country.

The whole idea of the political process is to serve citizens at large. Perhaps the most crucial function performed by the state is law making (i.e., establishing the rules by which society operates). Laws define both the powers and the limits of the state and the people within that state. In any particular territory, one can judge the degree of the rule of law by the extent to which the state is constituted by formal rules to which people actually adhere (Ghani and Lockhart 2008: 125). All societies have tensions; but the point is whether these disputes are resolved through the process of law or are dealt outside of it. If the process of law is not adopted, it promotes the culture of impunity which has been rampant both in pre and post-conflict Nepal. When rule of law takes hold, it creates a reinforcing loop of stability, predictability, trust, and empowerment. First rule of law stabilizes government, second, it sets a predictable environment in which other players can make plans over the long term, and third it creates confidence in the public, which trusts that when change is necessary, it will take place within framework of continuity. Finally, it empowers

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those in civil society and the economy to take initiatives, form associations, create companies, and work within the confines of the state more broadly. It changes the nature of politics from a divisive to a collective endeavor; people can disagree, but their disagreements are resolved through peaceful process (Ghani and Lockhart 2008: 126-27).

The rule of law is 'glue' that binds all aspects of the state, the economy, and society promotes good governance which is critical to overcoming the challenges posed by the conflict. Good state institutions are one that efficiently serves the need of citizens of the state not only the clients. The notion of human rights can only be fully achieved when governance is inclusive, transparent and participatory, corruption free and works for the interest of society rather than merely working for the interest of powerful interest groups, political parties and regions. Embracement of inclusive approach in every sector of governance is essential both for good governance and successful political process. The autonomy of the state, its impersonality in service delivery and its embeddedness in society provide it capacity to perform and garner legitimacy for its actions.

In the context of Nepal, there has been criminalisation of politics and economy. National Human Rights Commission of Nepal (NHRC) has recently suggested the political parties not to "provide political protection to criminals." Similarly, patron-client relationship as vehicles of entry to government service, illegal collection of wealth, licenses for imports and exports, tax avoidance have weakened the national integrity system. On 19 November 2008, the Commission for the Investigation of Abuse of Authority stated that among its 180 directives to the government, 143 were never implemented, while 37 are still under consideration in the courts. It also directed the government to prepare a Technical Assessment Regulation in order to assess various development projects. Nepal ranks 121<sup>st</sup> in the

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Transparency International Corruption Perception Index. For example large loans have been granted repeatedly to 120 influential people of Nepal who have made a habit of defaulting repayments. Past governments have either shied away from confronting the defaulters or have actively colluded with them. The judiciary, lacking a detailed understanding of financial issues, has been outmaneuvered again and again by lawyers who represent these entrenched interests (Ghani and Lockhart 2008: 73). Some of the key problems of judiciary are: lack of integrity of judges and corruption in the court; poor management of courts, insufficient legal aid to the poor, high level expenses, staff-management problems, and influence of politics and socio-economic factors on court activities (Shrestha, Sigdel and KC 1998: 6).

Indeed Nepali governance is failing in democracy's most basic undertakings: represent the will of the people and respect the rule of law. Governance is also about creating institutions that can do the job of check and balance in the country. Nepal's inability to institute a democratic political system stems from the failure to build institutions that can moderate conflict in society. Citizens have an image that there is no equality under the law. In fact, the rich and powerful are seen as finding their way around everywhere in the governance system. If Nepal continues to experience these things in the new regime as well, the more citizens will believe that the nation's recent democratic transition had brought no improvement in their lives than those who saw positive changes. With time softening the memories of autocratic rule, nostalgia for overthrown regime will start spreading. Unless political leaders do not change this feeling democracy cannot flourish and the project of state-building cannot be accomplished.

### **Restructuring of the state**

Due to its patrimonial nature, the Nepali state has often failed to acquire the flexible architectures needed to enter into a dynamic and collaborative partnership with the citizenry and the market forces.

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Instead, many regimes suffered from rules that did not prescribe orderly processes for constitutional and political change; as a result, violence has become the means through which that change occurred. The state has thus eroded its capacity to functions from within and ultimately offered very few functions to serve its citizens. It is within this context that the agenda for state-restructuring has entered into Nepal. It becomes important mainly to support an inclusive political, social, and economic order embodied in the rule of law which will ultimately promote the culture of 'compromise' rather than 'violence' to bring about desired changes in Nepali society.

Theoretically it is an attempt to move towards substantive democracy as one cannot change fundamental features of the state vis-à-vis the concrete territory; independent foreign policy; existing distribution (location) of population and its organic identity merely to balance the imbalances of societal forces through federalisation. Clearly, state restructuring is something that is directly associated with political re-imagination of the state as per the spirit of the time. It primarily hinges on three organs of the state - judiciary, legislative and the executive body and deals as how can all these organs of the state be made more representative and pro-public so that more and more citizens are collectively taken into the institutional life of the state and no group, gender, caste, ethnicity, religion, region is left behind rather some sort of ownership towards state is instilled upon citizenry.

Restructuring is a continuous process in democracy as state and polity requires to be attuned with the spirit of time and popular wish engendered both by the internal forces (movements per se) and external forces (globalisation per se). Yet, state restructuring demands serious rigorous discussion on critical issues which are bound impinged heavily in making state more participatory, representative and impersonal before jumping down to any sort of conclusion. State can be restructured in many ways such as state can be transformed

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from capitalists to the welfare; from unitary to federalism, from single party to multiparty democracy, internal readjustment of electoral constituencies and devolution of power to the local governments. The state can be more democratized (which we understand as inclusive democracy) and special arrangements can be devised for those who are historically left behind in governance. But state cannot be restructured principally on the basis of fault lines (such as ethnicity, religion, population and even geography) which could pose substantial threat to national unity and integrity. These are some but key elements that need to be taken into account while restructuring the existing frame of the state.

In the context of Nepal, the ambitious project of state restructuring has dominated political discourse after 2006. The Interim Constitution anchors restructuring of the state along federal lines to address existing "class, caste, regional and gender" bias and empower these forces to resolve deep-rooted structural problems of society. But confusion persists as what precisely constitutes state-restructuring? Is it just about moving towards federalism or does it have any other contents such as the model of democracy, the economic, social and other policies of the state to be restructured or redefined. Each political party defines democracy on their own way and they do not seem to have any concrete models of federalism. Restructuring debate on the state seems to go beyond what is merely implied by the making of a republican-federal constitution. There are various sheds of opinion on federalism but we are not clear how do we go about it and what type of federalism would best serve our interest and assist us to overcome from perceived and actual deficit of state authority and capacity to perform governance functions. The High Level State Restructuring Commission stipulated in Comprehensive Peace Agreement has yet to animate.

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The meaning and structure of federalism and republicanism and the manner in which they are expected to work vary widely enough from different groups of people and political stakeholders. For the democrats federalism is widely needed to break up the centralised polity in a unitary state, for the ethnic and indigenous groups, on the other hand, ethnic and linguistic federalism is necessary in order to give them their distinct identity, and the political power on the basis of it, for Madhesi – regional federalism (stretched from east to west southward). Similarly, Maoists too, have promised 11 federated states to their different ethnic liberation fronts (*mukti morcha*) while others view that ethnic and regional federalism alone would not result in power decentralisation and self-governance. They fear that it will exclude minorities, limit internal market integration, breed distributional conflict and threaten sustainable peace.

In terms of structure of federal state Nepali Congress leaders have proposed a model of federalism on the basis of territory, population, language, economy and cultural identity. The CPN-UML prefers to create federalism on the basis of caste-based population, use of mother tongue, culture and geography and CPN (Maoist) wants to federalize the state on basis of ethno-territorial autonomy. The Madhesi groups prefer regional autonomy for entire Tarai (Bhatta and Dahal: 2008). In the same way, the meaning of republicanism also differs from party to party. For the democrats – it is a system that guarantees all political parties freedom to work in an unhindered atmosphere (with freely elected parliament, an independent judiciary, a free press, and other accepted institutions and paraphernalia of a democratic state) (Sharma 2008: 151). For the Maoists, its ‘people’s republic type of state’ – with feudal structure completely dismantled, change in the property structure and scientific land-reform. They seek for the basic change (*amul parivartan*) in every sector. Their call for *amul parivartan* is not limited to the demolition of monarchy and its feudal legacy. It appears that Maoists seem to want the history of the past 238 years of the



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Nepali kingdom wiped clean like a slate, and foundations laid for a “New Nepal.”<sup>44</sup> One should not, however, forget that the 238 years of this kingdom, arguably, have also bequeathed many positive historical legacies that are to be cherished, since they have cemented the idea of oneness among the people of diverse cultures of this country. The history of Nepal’s kingdom– by and large a Hindu Kingdom for most of its history – is much older than the last 238 years. The cultural legacy of Nepal has been the toil of its people created in the framework of this or other past kingdoms. A kingdom’s doings are not to be attributed to the works of the kings alone (Sharma 2008: 153). Sharma cites that history is an abstraction of the totality of the human deeds (Jacques Barzun: *From Dawn to Decadence*, 2000, Harper Collins, p. 654).

Regrettably, the way debate on state restructuring is undertaking in Nepal is somewhat worrying as it posits more questions and challenges than the answer it offers. Its parameters are not defined vis-à-vis the relationship between nation and the state are not reflected in the discourse. For what was obtained before 2006 was not only a state, but a nation-state. The previous state had articulated the key foundations of the Nepali state based on culture, language and monarchy, the founding ideology of unity and unification. The regime change has dismantled the old pillars of the Gorkhali nation: Hindu Kingdom has become a secular state; monarchy has been replaced by a republic, and the preeminent position of Nepali language has been demoted both at the political and symbolic level. Moreover, the modern narratives of Nepali unification have been replaced with a post-modern counter-narrative of diversity, difference and identity. The new revisionist zeitgeist sees the Gorkhali campaign not as one of unification but as a bloody imperial conquest (Shah 2008). It has been

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<sup>44</sup> The recent militant attack in the Temple of Pashupatinath, one of the holiest shrines of more than one billion Hindus is the classic example.

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argued in some quarters that new values of secularism, republicanism, and federalism adopted by the new state can also become the foundation of a new nation. But it would be too early to claim on these foundations which would serve as the pillars of nation-state. The debate is less focused with democratisation process, consolidation of nation-states and more with identity politics. Emergence of political leaders claiming to advocate for the welfare of 'nationalities' and regional groups and floating of ambiguous political agendas thereby have become major tactics to sustain conflict in the country.

The restructuring project will have to consciously decide whether Nepal will be restructured as a state only or whether it will continue as a nation-state in some form; and if so, with what specific identity (Shah 2008)? The restructuring agendas have more ethnic flavour, that is, the ethnic groups, *Janjatis*, *Aadibasis* and *Madeshi's* are more inclined to make 'nation' rather than 'nation-state' or to put it another way "nation" without "state". Whereas by definition nations and nation-in-making require cultural-historical discourse of commonality for their possibility, the espousal of irreconcilable differences goes against the very grain of the nation (Shah 2008). We have simply taken federalism as granted panacea for all woes. But is it really so that federalism deciphers all problems? What happens if the federal states are taken into private enterprises by political elites? This is likely to happen unless there is a substantial change in the behaviour of politicians. Does the debate on state restructuring really hold water, that is, do we really need to go for federalism to keep Nepali state moving ahead without any further cycles of violence or could we do it through other mechanism such as decentralisation? If so, how are we going to distribute natural resources and resolve disputes between the states and between states and central government.. Will the federated states survive with their own resources or do they have to rely on the centre for developmental and other budgets? In the event of crisis, what would be the mechanism to resolve disputes between the federal

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states? What shape will the bureaucracy and judiciary will take? Can we sustain it in the long term? A country like Nepal which does not have adequate resources to meet even the general expenditure, what would happen when the federated-states too have jumbo bureaucracy, thousands of parliamentarian, hundreds of ministers, chief ministers? It appears that entire budget will be spent on “political servicing” and nothing will be left for development, and the state will further sink down. This is likely to happen, the way debate both on inclusion and federalism is taking place. The most important factors are what would be the uniting factors the ‘common allegiance’ of the ‘new state’ when the old values are dying out and there is no consensus on the new values. These are some but pertinent questions that remain still unanswered or unattended. One can argue that rather than genuine conviction or even conversion to the idea, the shift appears to have been occasioned by the fear that not doing so would cost dearly to the political parties (Shah, 2008).

Moreover, leaders are also not clear as what type of democratic model would resolve nation's problems. They have simply coined numerous ‘terminologies’ in Nepali equivalent but have forgot to translate their spirit in practice. For example, democratic conducts of two phases, first phase in 1951 which they referred as *prajatantra* and second phase in 1990s which they referred as *bahudaliya prajatantra* – both of them have been dubbed as failed. But is it so? What makes difference – is it the word, content or the spirit? Without making any assessment Nepal has passed judgment in favour of ‘*Loktantra*’. We thought that the word *Prajatantra* connotes some sort of patronisational association with “monarchy” hence dropped outright after the mass movement of 2006. Since then *Prajatantra* has been replaced by *Loktantra* and has become popular in the common political discourse. The government celebrates two holidays in the name of *prajatantra* and *loktantra* whose English translation is democracy but the national day has been cancelled unceremoniously

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by the current establishment without any justification revoking self-doubt among the citizens: who are we?

Truly successive movements have only exchanged persons at the helm of power and invented new terminologies but the democratic process have failed to include those who have been historically left behind and bring about much desired socio-economic transformation in society. Ineffectiveness of the 'system not the word' led to the emergence of ethnic politics and the rise of others such as dalits, women, youths separately in 1990s. This has exposed the true character of Nepal's democracy. Today everyone is advocating for an inclusive democracy (*Samavesi prajatantra*) and people at large are under false impression that it would resolve their problem of exclusion. But when we look at the composition and practice of "inclusion" it appears that the establishment is creating new alienated "minorities" who might revolt against the state in the future. Principally, state has never practiced the policy of including one at the cost of other.

Nepal's 'half-baked' democratic experiments based on these terminologies have only benefited political parties and elites. In all these years, since the dawn of democracy, Nepal has neither enjoyed a constitutional stability, nor the smooth transfer of power and change in the government, nor the necessary skills for governance and the political will to achieve economic development by its leaders and by the ruling political parties(Sharma 2008: 155). This has resulted in the "anti-political" (Havel 1992) and "anti-systematic" feeling among the younger generation who subscribe the feeling that "politics is dirty game" and are running away from the country.

Rather than removing existing social, religious, cultural, linguistic and other bias through appropriate public policies some sort of 'racism' is being played with state-restructuring business. The posturing of superior and inferior race (Hindus vs. non-Hindus,

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Bahun, Chhetri vs. ethnic groups) and cultures by the anthropologists and sociologists is spoiling the social fabric of this country. In fact 'racial' study of social science (Hobsbawm 2003: 311) has been a problematic in Nepal. These so called 'superior' groups and religion have never been hostile to other group and religion, in contrast they have always advocated for others (the so called 'inferiors') to be included in the national mainstream. Social scientists are not engaged in developing mechanism to make cohesive, tolerant and harmonious state and societies in order to resolve conflict to establish perpetual peace. If politics continues with this 'racism' embedded in biopolitics, religion, culture, language and regional issues, negative impact on the process of state-building in Nepal is inevitable.

State restructuring agenda should include sustainable and cohesive intermingling of people of different regions, religions, castes, and ethnicities. It should have spelt out economic policy, foreign policy, youth policy and many more. But this has not been the case. State cannot be restructured for particular class, ethnicity group, religion, region and language. Scientific mechanism should be developed so as to represent those who are not well represented, particularly for *janjatis*, *dalits*, *madhesi* etc; in politics, bureaucracy, police, party's committees and the alike. Moreover, people's perception has to change that things are wrong just because of particular class, caste and religion (e.g. Brahmins; Chhetris and Hinduism). One has to analyse his/her own strength and weaknesses. The 'nationalities' including donors' blame that Nepali bureaucracy is usurped up by Brahmins, Chhetris and Newars, but this is only half-truth. The fact is that Gurungs, Rais; Magars and other ethnic groups pay little interest to take government jobs. They rather love to join Nepalese Army, British Army, Indian Army, Singapore Police and would like to become *Lahure*. Same goes to the recruitment of Madeshi into Nepal Army (very few Madeshi responded to the Nepal Army's recent call for recruitment in Madesh). But majority of the

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technical positions (engineers, doctors etc) are being held up by the people of Madesh origin.

With the historical basis of unity gone, what basis of nationalism, or what new bonds of sentiments, Nepal will be able to reinvent, if it ever will? In the best of circumstances, even though Nepal may be able to preserve its statehood, it might probably be a loser on the question of nationhood and nationalism (Sharma 2008: 163). The concept of nationalism as an ideology of the state, and its, *raison detre* has not been reflected in the current debate of federalism of Nepal. Nationalism of any kind has no place in it, and the idea seems to be completely banished. Nationalism is a matter that concerns a person's sentiments and inner feelings, or that which gives him/her a basis to connect with a larger, abstract entity called the nation. It is sensible to quote India, the biggest state and republic of the subcontinent, has marched on in its political development not by wiping off its past completely, but by making appropriate acknowledgement of its nation-building. It is unfortunate that only in Nepal the boat has been rocked a little too violently (Sharma 2008: 154).

When we can reach agreement on this can we move towards broader project of state-building but this has not been the case in Nepal. Political leaders and intellectuals have come up with their own models of state-restructuring which has resulted in the prolonged conflict in the country. What has to be borne in mind basically is that in a country like Nepal, as an endeavor to bring all societal forces into the institutional life of the state, not only internal political restructuring of the state is sufficient, what is equally important is the instillation of inclusive political culture among ruling classes. This will help to reconstruct 'commonwealth' of people and remove the state of nature.

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### **Foreign Policy and national security**

The crisis in conducting foreign policy and maintaining national security are also posing serious threat to state-building process in Nepal. It is safe to say that both have not gained serious political attention. There is a huge gap between political forces and national security organs of the state. The security organs and their members have been undermined, discouraged and demoralised in many occasions by the successive government(s). The establishment of 'youth wings' across the political parties and their tendency to flout rule of law for partisan interests is hitting the nerve of law and order. Similarly unavailability of clear national vision on foreign policy, other than the traditional values based on the principles of Panchasheel, non-alignment will not be able to address the changing global, regional and national political and economic challenges.

Foreign policy is not something isolated and separate from the domestic policy, it is rather reflection and complementary of the domestic policy. Foreign policy involves formulation and implementation of a group of principles which shapes the behaviour pattern of a state while negotiating with other states to protect or further its vital interests. The principal element of a country's foreign policy is their national interest based on factors such as geography, economy, political tradition, military, external situations and historical imperatives. The overarching aim of any foreign policy is to protect national interest, interest of the citizens living within and outside the state and maintain "geographical integrity and strategic interest" of the nation and develop new strategies in the comity of states to preserve national interests regardless of domestic disparities. States whether big or small, hence, have similar if not identical but limited menu of choices unless they are fascinated by ambitious agenda of 'imperialism' or any other 'ism'. Therefore, in order to have a vibrant foreign policy in place all political forces will need to have a general consensus on issues of national interest such as geography, economy,

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political traditions, military, external situations and historical imperatives.

Historically, both Ranas and Shahs conducted foreign policy of Nepal to fulfill their regime interests<sup>45</sup> and always undermined national interests. Same formulae was applied by the post 1990s government which resulted in biggest foreign policy fissures with many issues remaining either unsettled or unattended at all. The classic examples are the Bhutanese refugee crisis, the Mahakali Treaty<sup>46</sup> (sharing water of Mahakali River), developing Detailed Project Report (DPR) of Pancheshwor, border disputes and encroachment of Nepali land in more than 60 places including Susta and Kalapani, Gorkha recruitment; Nepal's declining representation in the world affairs, changing aid scenario<sup>47</sup> and many more. Political parties of then and now never had national consensus on key foreign policy issues. Majority of political parties through media and their political manifesto have been demanding to do away with 1950s treaty with India which has largely been considered as 'unequal'. But we have not done any homework. It is not clear whether we want to

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<sup>45</sup> The classic example is the signing of 1950 treaty with outgoing representative of Rana regime in haste and signing of Mahakali Treaty with India merely to save the government and personal benefits of politicians.

<sup>46</sup> The treaty concluded by Nepal and India 'concerning the Integrated Development of the Mahakali River' in 1996 has become a hotly debated issue in Nepal. Sharing of water resources between Nepal and India has always been a matter of serious controversy. The Mahakali Treaty considered to have been governed by the principle of equality and mutual interests. It was agreed that two countries would prepare a Detailed Project Report (DPR) within six months. But it is yet to be completed. A joint parliamentary committee consisting of MPs representing various political parties in the parliament was constituted to monitor the progress of work and ensure Nepal's interest but due to political instability in the country nothing tangible has been done so far.

<sup>47</sup> Granting of aids to developing countries has been drastically changing. Those countries having capacity to garner the support through their diplomacy can play a crucial role in the international forums.



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cancel it, replace it, amend it or review it whereas India has repeatedly expressed its desire to work as per Nepalese interest.

Domestic politics of this country has never been stable for nearly a century mainly due to rivalry among ruling elites and the rulers have been interplaying with foreign policy ever since. For example -during the Rana regime, they became close with British India and offered troops to the British Army, Panchayat rulers' defined foreign policy to protect the interest of the regime and during the democratic era starting from 1990 till today political parties of various colours have conducted foreign policy to suit their partisan interest. By and large, Nepal's external relations only came into limelight 'if and only if' that can be used to balance domestic political gain.

Today, Nepal has 'no foreign policy' in a sense that it can address the challenges of new time. It has no capacity or any mechanism to protect citizens in the event of crisis or personal injuries who are working abroad and sending remittances which has become the life-blood of the national economy. In terms of policy document, all political parties have expressed to adopt non-aligned foreign policy except CPN(Maoist) who said that it would like to adopt genuine non-aligned foreign policy but it is yet to be known what is that genuine non-aligned foreign policy. However, it is noteworthy to quote what Gopal Kiranti in the latest interview has said, "by abandoning the renegade definition of Nepal as a yam between two rocks", the People's Republic of Nepal will establish a strong definition of nationality. This definition will be 'dynamite' between the two rocks in 21<sup>st</sup> century rather than a yam," grounded on "proletarian internationalism."<sup>48</sup>

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<sup>48</sup> Nepal: 'Plain Living' Codes for Maoist politicians, *Revolution in South Asia*, 2 December 2008.  
<http://www.southasiarev.worldpress.com/theredstar/issues/issue18/interview.htm>.

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What we lack, at present, is ‘consensuses among political parties. For example - we complain about foreign interference (real and fictitious) in our internal affairs but we do not have any mechanism to counter these interferences, neither have we had strategy that would guide us to deal with these emerging challenges nor there is coherence and common voice among political parties. In fact it is we not them who are inviting this interference. Similarly, Nepalese have been raising about border encroachment for the last so many years but leaders have not been able to develop any mechanism to counter this unabated encroachment nor have they seriously taken up issue at the political level. Foreign policy of Nepal is conducted on the basis of whims and vernacular media report that foreign powers have captured key political figures from all political parties to serve their interests.

The challenge is how are we going to deal with immediate neighbours particularly with India and China when the bilateral relations between these two countries are rapidly changing for the better and friendly nation particularly with the US, the UK and the European Union, Japan and other distant nations in the context of changing domestic as well as international scenario in the days to come. Moreover, when the West, particularly the US and the UK, is coordinating their Nepal policy through India, under these circumstances it has become difficult for Nepal to conduct balanced foreign relations. There is a broader consensus in Nepal on the question of equi-proximity relation between India and China. In fact with this policy one can serve the interest of Nepal by maintaining balance in the relation of the two neighbours and taking benefit from the economic development of them. But in reality this policy has never been implemented particularly because of the reluctance from the part of our Southern neighbour (Gajurel 2008). Both China and India are likely to dominate world affairs in the days to come both in strategic and economic front and success and failure of Nepalese

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foreign policy depends whether its leaders can take advantage of this ‘boom’ of the half-of the world or not.

Nepal neither has the strength to play one country against another (Pandey 2008:5) nor does it have any perceived threat from outside. Faced with this reality, Nepal does not have much choice and ambition left other than developing its capacity as an economically viable state that can protect its citizen both outside and inside and create an environment where citizens can prosper with dignity. Moreover, Nepalese should not be worried in advancing relations with China merely because it is a communist state and retreat its relations with India just because some of the political parties blame it as an ‘expansionist’ power. What it has to do is to manage internal security and put its house in the order, prioritize foreign policy agenda and reap benefits from regional and global economic participation.

### **Restructuring Political Parties**

Political parties are life-line of modern democracy as they connect citizens with state. The history of Nepalese political party is as long as the history of democratic struggle in the country. Political parties have played a crucial role to install democracy and they have waged and led at least four political movements. They have worked as the principal agents of democracy. Yet, there is an urgent need to restructure them. The agenda of restructuring of political parties primarily stems from their failure to strengthen internal democratisation process. Political parties have been blamed as the main agents who created democratic deficit and led to the successive political crisis in the country. These are main reasons, among others, which we shall discuss in detail in this chapter.

Restructuring of political parties is required to promote democratic political culture across. The weakness of political parties had led to the stagnation of the political process in Nepal, failed badly

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to establish democracy on a sure footing and take the country forward in the two democratic interregnums in the past. “Political parties are found to have been involved party games of self-serving interests and petty political squabbles. Their non-performance when in power has left the country in an unprecedented situation” (Sharma 2008:146). Political parties who are supposed to give good governance either as the party in the government or the party in the opposition are engaged in get-rich-overnight business, mostly through rent-seeking activities and left the agenda of serving public good in limbo. Their percepts are openly emulated by others in all organs of the government and everywhere else (Sharma 2008:146). This has institutionalised corruption in Nepali society and postponed a sense of justice to ordinary citizens.

The outward appearance and agendas of Nepali political party is largely democratic but they are criticised for not practicing internal democracy within their own organisations. Party leaders are ageing patricians who are in leadership positions just by virtue of their age and seniority in party ranks, rather than on account of their energy, drive and commitment to the politics demanded by the public. The personality cult prevails in all political parties which dominates “decisions and development” across political parties. The cult culture has tempted party workers and followers hang around to ‘cult leaders’ to grab the public space. The democratic world outside has seen several generations of change in the leadership structure of their parties, in Nepal the same ageing leaders are continuing in their leadership positions from the 1990s, and some even from the 1950s. For them party is a tool for realising their selfish, personal interests, which they maneuver cunningly with the help of their chosen coterie and members of the family. They have failed to evolve a set of rules, a common code of conduct, governing inter-party and intra-party relations, or to establish norms of behavior and political ethics in democracy, or inject public life with a sense of political morality, all

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of which reads like a litany of their democratic failings. What matters to the politicians is the letter rather than the spirit of the constitution. Winning of elections for them is more crucial than how it is won, actually. The burden of discussion on party restructuring should surely lie in cleaning the party stable first, that democratic process can become more accountable, predictable and transparent (Sharma 2008: 156-57).

Although CPN(Maoist) has joined the political mainstream by abandoning (principally) arms but it has developed its strong cadres called the Young Communist League (YCL), seen less willing to relinquish militant posturing. Other political parties have also constituted militant youth forces that are now in the open confrontation in the streets taking law and order in hands. The transition is thus getting perennially dogged by these and other problems, which never seems to end. Having said this, political parties of all hues and spectrum, little included and realise the need for bringing change, let alone give their parties a renewal and restructuring in consonance with the spirit of the time (Sharma 2008: 157-58).

The way things stand at the moment; political parties do not feel the need for making any fundamental change in their style of party running, nor in the manner of their functioning. Their leadership does not seem to read the popular mood craving for change in the leadership and in the organisational structure of their parties, nor is it willing to take the least pressure from any quarters to respond to these urges (Sharma 2008:158). The nuggets of wisdom forwarded by the independent intellectuals and academics (any writing which is not supportive of these political parties cannot be an independent writing in the eyes of such parties) will equally fall on deaf ears. The anti-intellectual culture runs very high across political parties. There are no provisions of consultation with experts even within the parties, even if

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the consultation takes place it is not on the basis of expertise and meritocracy but on the basis of ideology, kinship and patronage.

The deficit of democratic political culture across political parties and non availability of mechanism to resolve inter and intra party conflicts through dialogue are considered as the main causes of political deadlocks in the country. For example, whenever political parties move into power they are habitual to capture both political system and the state mechanism. This practice has developed neo-patrimonial culture which sees personal relations more important than interest-based solidarities. The informal political discourse within the political leaders is much more important than the decision made through formal political discourse at the party level. Political parties select members in the central committees not on the basis of seniority, meritocracy, and popularity but on the basis of personal relationship<sup>49</sup> with few decision making leaders. They do not share political agendas to resolve political crisis in the country. Likewise, there is no social representation of political power, which is causing perpetual political tension – factionalism, split and reunions. For example – there is no intergenerational justice. The highest number of voters falls between 18-35 years of age group but there are nor or few leaders to represent this age-group across political parties. Non-stake holding of youth in politics has caused their alienation, cynicism, migration and militancy.

The political parties of Nepal are also subject to internal factionalisation and historic splits. Like in the state mechanism, the mainstream political parties are dominated by high-caste males from the central and eastern regions of the country. In all political parties there is a tendency to remain in the power at any cost as long as they can. For example two major political parties - Nepali Congress and the

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<sup>49</sup> This patrimonial character of leadership has obscured the boundaries of the public and private realm, fostered a culture of impunity and postponed social justice for the underclass in Nepal.

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CPN-UML have same people holding highest and key party position for more than 15 years. Political parties also have tendency to combine class with caste, ethnicity and territoriality in their social and national programs (Dahal 2007). Erosion of ideology and politics of closure provided incentives for the rise of regional and ethnicity based political parties, such as Sadbhavana Party, Madeshi Jana Adhikar Forum (MJAF) and Tarai-Madhesh Loktantrik Party. These parties are posing serious threat to the national parties and likely to pose further threat once the country is restructured along federal lines on the basis of ethnicity, language, and region. This will erode the basis of power and privileges of old political class. The weakening of the national parties would amount to fragmentation of political sphere, de-institutionalisation of polity and weakening of the state's outreach in society.

Political parties of Nepal have also introduced clientele politics.<sup>50</sup> The emergence of successive political crisis during 1990s largely owes to this culture. It appears that *loktantrik* government is also fascinated by the same culture. This has been manifested in the recent result of the CA election which has brought family members of political leaders, their close associates and business partners into politics. The appointment of members of planning commission, university officials, ambassadors, secretaries at the ministries, members of various commissions, among others, are other examples of clientalism. Clientalism has highly politicised Nepali society under partisan lines. It is difficult to find a Nepalese who is not identified

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<sup>50</sup> Clientele politics de-links citizens both from the 'state and system' and undermines citizenship values. It patrimonises the personal link, personalises public sphere and promotes the culture of sycophancy and impunity. The benefits and opportunities are available to the clients not to the citizens. It undermines meritocracy and in the long term, weakens both state-building and political process as it compels people to withdraw their ownership towards state and system.

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with a political party, regardless of whether or not they are visibly engaged in politics (Philipson 2003). It has become compulsion to be associated with political parties, in one-way or the other, because one cannot have things done if he or she is not the member of political parties or without the backing of political leaders. The repercussions of this approach are anchored through public frustration and declining efficiency of governance to connect citizens to nationality.

National political parties should act as the new equivalent of a centripetal force, drawing in people from social diversity, aggregate their interest, articulate them into public sphere and engage them into collective action. Only a state founded on an understanding and awareness of a given historical unity could provide the necessary grounds for realising these objectives. An inclusive democracy presumes an inclusive political party in its construct, reflected in its party hierarchy and in having a broad and inclusive recruitment policy for its primary, secondary and tertiary workers, and an equally inclusive composition of its party rankings both in the districts and central organisations. Parties should spend their efforts in debating new and emergent ideas on the issues of governance and safeguarding of individual freedom and human rights. Leadership contests should be conducted on the basis of these ideas and made open to all leadership aspirants in the party. But these breakthroughs are hard to come by and unlikely to happen soon in the political parties of Nepal (Sharma 2008: 161-62).

Keeping all these contradictions in mind it is strongly advised that political parties should be structured in line with democratic norms and values. Democracy flourishes when there is complementarity of interest among political forces, their sister organisations and civil society. It is important that democratic forces communicate with each other regularly at the various layers of party rank and file (horizontally and vertically) and also with civil society members to disseminate



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message to the people and serve their interests. Unless political parties do not rise above their personal and partisan interests they cannot contribute towards democratisation process.

### **Globalisation and Economy**

Nepal is among the least developed countries in the world with per capita income of US\$ 311, human poverty index value for Nepal is 381 and power purchasing parity is US\$ 1 a day. The human poverty index puts Nepal 84<sup>th</sup> among 108 developing countries. Nepal's population is 29million with a growth rate of 2.1 percent while GDP growth rate stands at 2.3 percent. Nepal's economy is entirely dependent on remittances sent by people (mostly youths) working in the Gulf<sup>51</sup>and elsewhere. Handful of feudal control whole of the economy. The socio-economic inequality is widening despite the gradual transformation of feudal system into urban elites. It has never attempted to embrace peripheral areas and citizens into the institutional life of the state. Nepal's adoption of "neo-liberal ideology" despite constitutional vision of social justice put the classes against the masses. The arable land is becoming scarce to support the growing rural population, as a result majority of peasants are becoming wage labourers. Mounting unemployment has been the main driving force behind the huge flow of workers out of Nepal. The national condition is that governance is facing policy deficit, distanced itself from rural social life and aligned with interest of urban, non-resident and non-stake-holding, what leftist scholarship prefers to call, *comprador class*. Only the remittance economy has become a life-blood in rural areas of Nepal (Dahal 2007). There are high chances that remittance economy will also feel the heat of worldwide economic slowdown.

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<sup>51</sup> Approximately 2 million Nepalese are working in the Gulf countries.

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Nepali policy makers have not realised the fact that political equality can only be achieved through economic and social equality. And scholars of the democracy also point out that success of a political system's smooth transition to democracy depends on the strength of its national economy and the ability of leader to capture the golden mean of polity. It is argued that those with good economic performances provide stable social support to the regime and give it strong institutional control over the democratisation process and provide the regime with a better prospect to transform to some kind of stable democracy in the long run (Lipset 1994 and Muller 1988 cited in Thapa 2008: 156). It is hard to build and sustain democratic institutions in a society divided sharply by income and wealth. This condition, it has been amply demonstrated, does not affect the emergence of democracy, but does affect its sustainability. The experiences of Spain, Brazil, South Korea and Taiwan strongly support this argument. Indeed, political transition has a great impact on the economic management and institutional capabilities of a regime and that, in turn, determines the fate of a democratic transition (Thapa 2008: 156). While many scholars have argued that unequal socio-economic distribution constitutes a threat to democratic consolidation, one can deduce that this is not necessarily true from the fact that India, despite having low growth rate, has maintained its democratic institutions for over six decades, while Kuwait, Saudi Arabia, etc. are relatively rich countries that are not democratic. But it cannot be said that India's political process has matured because its politics has still been characterised by a rising degree of confrontation between the governing and the opposition parties (Thapa 2008: 156).

This can also amply be demonstrated from the fact that 1848 revolution in Europe had shaken the governments and rulers and fragmented society. But the economic boom that took place after the revolution mainly because of the heavy investment on economic and developmental activities had brought economic miracle and political

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consequences of this boom was far reaching. Economic development gave the government shaken by the revolution invaluable breathing-space, political recover and legitimation of stability and prosperity (Hobsbawm 1975: 46-7). But this has not been the case in Nepal. Once the agenda of regime change is accomplished; all sorts of welfare promises made during the movements are outright dashed off by the 'new regime'. The regime that comes after the movements never attempted to craft people-centric economic policies that could divert and engage 'political crowds' towards economic and state-building activities rather than getting enmeshed in politics. So unless we introduce some sort of immediate relief package to the people and draw long-term plan to engage them into the national mainstream there are high chances of sliding back. In the long-term, if we do not distribute economic opportunities equally there are ample rooms that transition of Nepali state towards sustainable democracy will collapse any time soon and relapse the country into viciousness of conflict.

In the past Nepal's political regimes encouraged *comprador class* in the country which is inclined more towards commerce than industrialisation, consumption than production and manipulation of tax than entrepreneurship (Dahal 1996:54). This comprador class would do everything like funding political parties, corrupting bureaucracy, leaders of trade union to make money but not contribute towards nation-building.

Still, even today, the economic agenda of the 'New Nepal' has not been taken up seriously by any of the stakeholders. The political parties have spelled out their policies, for example, Maoist would like to have industrial capitalism, NC and CPN (UML) would like to adopt market economy. Similarly National People's Front wanted to have mixed economy, Rastriya Prajatantra Party Nepal had said that it would adopt liberal economic policy whereas as the ethnic and Madeshi's groups have expressed to adopt mixed (Bhatta and Dahal

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2008) economy. But how they are going to translate these policies in the actions have not yet been taken up seriously by any of the stakeholders. Neither has the establishment adopted any major steps to counter the challenges posed by the globalisation and the repercussions of economic slowdown. Different shades of opinion and policy prescription have been floated but it is yet to be seen how these policy prescriptions are going to be implemented. Nepal needs some sort of breakthrough in policy persuasion. The current remittance<sup>52</sup> based economy and the Kathmandu based 'service industry' promoted by comprador class can not resolve the yawning gap between haves and have-nots. Its benefit cannot trickle down to the grass root level. It will benefit only urban *comprador class* as it is not tied up with local economy and hence cannot uplift people out of poverty.

Nation's higher dependence on foreign aid has increased to such an extent that government has to share the space for policy formulation on governance, development, and politics and even on the foreign policy and security issues with donors. The dependency can be minimised through industrialisation but the accelerated process of de-industrialisation has further increased dependency on foreign aid. The increasing demise of cottage and small scale industries through liberalisation, the terminal decline in agriculture, politicisation of trade unions, mass movement of people out of country in search of job, and the rise of consumerism continues to paralyse the life of common people.

The modernisation has helped the elite and educated people of Nepal evolve "post-national attitudes and behaviour as they are concerned about their Western affiliation than their national affirmation and affection (Shrestha 1997: Preface). For example key urban areas are producing the palatial buildings, enmeshed in the new technological culture, artistic and promotional enterprises and

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<sup>52</sup> Currently Nepal receives US\$. 1.5 billion annually from remittance.

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impressive statistics of economic growth. Yet they are atomized, disconnected and unrelated to the needs of ordinary citizens (Dahal 2000).

Taxation, revenue generation and job creation are important frontiers of state-building in developing countries. 'The history of state revenue production', as Margaret Levi declared, 'is the history of the evolution of the state' (1988: 1 cited in Brautigam 2008: 1). Without the ability to raise revenues effectively, create jobs, states are limited in the extent to which they can provide security, meet basic needs or foster economic development (ibid). Revenue generation and job creation play central role in building and sustaining the power of the states, legitimacy of the state, accountability between state and citizens and shapes their ties to society.

Nepal is a rentier state that was financially depended on others, majority of its budget both developments as well as administration consisted of outside aid. When we are so heavily dependent on the outside world, surely, our policies will be dictated by the others, which may not be in our interest. Even the economic policies that we adopted during 1990s were largely anti-people. For example, the neo-liberal agenda of strengthening markets and weakening state, trade unions, popular political movements and other loci of organised political power ( Fjeldstad and Moore 2008: 238) could not contribute towards state-building. The low capacity of tax administration and state's inability to use coercion against high profile bank defaulters has provided great opportunities for fraud and corruption. In fact ability to tax and ability to take action against defaulters is directly related to state capacity. The rising budget deficits, spiraling inflation, declining tax revenues, shrinking job market (both intern and external) and prevalence of protest politics has threatened to destabilise democratic transition. It appears that tax system (represented by VAT) is not the wrong tax for poorer countries ( Fjeldstand and

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Moore 2008: 244) like Nepal but it has probably been extended too fast without making proper preparation. State cannot sustain if they don't impose strong tax administration as Schumpeter noted, in Europe taxes not only helped to create the state but helped to form it (See Sweberg 1991: 108 cited in Brautigam 2008: 2). Unless we strengthen the capacity of the state (monopoly on taxation) in terms of revenue collection we cannot build-up strong and accountable institutions.

### **Policy Paradox**

Politics, its Nepali equivalent *RAJNITI*, as per Chanakya - the doyen of statecraft, theoretically is about - 'to govern' and devise the rules for governance and policies (*niti nirman*) for the overall welfare of citizens. Politics therefore, has to be guided by the philosophy of generating stable governance<sup>53</sup>, development, people friendly policies, investment in human capital in the country. If we look from this perspective, Nepali politics over the years has not been able to dispense noble goals of *rajniti*. And it appears that *rajniti* seems to have been drifting away from its original stance of producing policies (*nitis*) and keeping people in the centre, rather than politics and power.

The crisis in politics and subsequent crisis in policy is real, immense problematic and poses substantial threat to move ahead Nepali state without hurting the spirit of people's movement and sentiments of public at large, for that reason. Ideally, politics should generate sufficient collective energy to enable individuals and groups

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<sup>53</sup> In the context of Nepal there has been perpetual crisis of governance, which is often has been taken as main source of political instability in the country. In terms of development, Nepal has already completed 10 five year plan but we have not moved ahead. A classic example is we have not been able to produce sufficient electricity, another example is state owned Nepal Airlines which had over 20 aircraft few years ago is less left with less than 6 aircraft. Most of the today's infrastructures are built during the Panchayat era. All the ministerial buildings were built during the Rana regime.

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to assess for themselves - the balance of pluses and minuses. But to our dismay, each political movement, and policy persuasions are ending up producing a set of winners and losers with losers having little or no stake in the polity. The critical problem that confronts us today is how to create conditions conducive to bringing all societal and political forces into a political mainstream as a bid to introduce basic transformation in society and, more importantly, how to garner semblance of public approval for those transformative political changes, durable peace and policies into national development.

The established tendency that who stands to benefit from the status quo resists any change; those who are closer to the power centre or are in a position to capture power formulate slogans, arguments, emotions, claims, and even policies to mobilize the crowd either to resist change or to introduce necessary changes to meet their group interests. This approach is putting successive movements into the potholes and policies into paradox. That is where the role of leaders and political parties becomes critical. This has partly been happening because those who make policies (either parliamentarian or member of planning commission or top bureaucrat for that matter) are also found to have been engaged in the private business such as in the operation of private schools, hospitals, transportation, NGOs, manpower agencies etc.. So these people will never make policies that will jeopardise their own business interest. This class makes development projects, educational institutions, public contracts, licenses and public corporations new *birtas* and *jagirs*, to be distributed among their *affno manchhe* according to political criteria. A rent-seeking society, where privileges comes from positions (Gyawali 1991: 2; Mishra 1998: 2-37) and power naturally blurs the distinction between the private and public realm thereby reducing citizens rights in favour of clients and relatives. Policies would be formulated to support their business rather than interest of the common people as this class has no genuine stake in the nation's future, the members of this class educate their

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children abroad, seek medical treatment abroad, foster luxury consumption of goods, participate in the flight of capital and rely on external expert and advice producing “collective insecurity of the people” (Sharma 1998). This results in the growth of distance between the culture of the experts and that of the larger public (Habermas 1987:149). A noted Nepali planner was of the view that implosion of ideas does become a matter of concern when one realises the overexposure of Nepali intelligentsia to alien concepts in contrast to their ignorance of native reality (Gurung 1989:293). The habitual dependence of planners, policy –makers and general intellectuals on outside has evoked self-doubt on their own self-confidence and lack of political will to develop the nation on its own resource and skills (Khadka 1988:4). The lack of intimacy with local problems went to the extent that foreigner after a brief visit could consider themselves authorities on Nepalese problems to be quoted, in due course, by native officials (Gurung 1989: 71). The elite culture that separates itself from the life of ordinary citizens also expresses a lack of faith in the nation’s plan (Gurung 1989: 118).

Recent unfolding of events in different areas such as education, (private versus public), health (private versus public),<sup>54</sup> foreign policy (appointment of partisan versus professional ambassadors, and signing of treaties), employment (national versus foreign), land reform (modernisation versus redistribution) and the looming energy crisis<sup>55</sup> are the classic examples of manifestation of mismatch between politics, policies and development in the country. The Nepalese

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<sup>54</sup> This author’s field visit in more than forty five districts as part of state-building project found that majority of the people wanted private schools to be shut down and health care and schools free of cost provided by the state.

<sup>55</sup> Nepal faces the worst national electricity crisis in Asia, with power cuts lasting upto 16 hrs a day which is having serious impact on economy. Although first electric lamp was lit some 100 years ago and during this period Nepal has produced less than 600 MW.



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establishment has not defined what type of education system, health-care and economic system<sup>56</sup> wanted to have and overall who are going to be served and how, that is who are to be the real beneficiaries: whether we are targeting the urban middle class elites or ordinary citizens. A clear distinction has to be made. In a country like Nepal state should act as a weapon of the weak rather than making policies for those who are already 'super rich'. State's intervention is necessary to embed the economy in society and serve the security of habitat provided by land, labor and indigenous means.

In the same vein, the urban political classes have floated land-reform agenda for more than half-a-century and many commissions have been formed. Yet it has not been clear who are to be 'benefited' and how it is to be done? The top 5 percent of landlords own 27 percent of agricultural land, the bottom 44 percent occupies only 14 percent of the land. This makes land-reform essential for the Nepali masses to dismantle the multiple structures of the feudal system that still dominates the country. But the questions are do Nepalese have sufficient land to distribute and finally how long we will keep on doing this land-reform? At the end of the day somebody definitely will have to be landless squatter. Can we come up with some other policies of uplifting people out of poverty rather than ranting and selling slogan of land-reform for political purpose? Or should the government opt for property tax? The Nepalese establishment has also not defined land reform clearly – that is, is it about mere distribution of 'surplus land' if there is any, or is it about land productivity by facilitating irrigation, modern tools, seeds and access to the market as well. All these issues demand clear answer. But the way things stand at the moment does not seem to offer answer to

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<sup>56</sup> Currently we are producing two-types of policies one for the urban elites and another for the rural poor's. The private-public dichotomy is the classic example to this end.

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these questions. It seems that Maoist will also distribute land to their cadres and there are ample evidences to this end, like the earlier governments. And again real losers, as usual, will be the one who have been on the losing game historically.

The policy paradox that exists in critical areas (health, education, employment youths and land reform) is immense and needs immediate policy intervention (affirmative) which, up till now, is heavily influenced by the utilitarian concept of 'power politics' – that makes few to enjoy benefit of change and forces rest to suffer as usual. This paradox in fact invites some fundamental questions as how we mobilize a leader or a government policy maker draw and implement policy perception in the best public interests in line with changed socio-political context? This stands as a major challenge which has not yet been echoed. Political leaders make their own calculations based on their own personal and partisan interests. Nepali leaders neither use knowledge nor do they try to learn from the history and education, nor from institutional memory of social learning which would otherwise help them to address challenges generated by the timeframe in the history of the nation.

Principally, a leader becomes transforming leader and a movement becomes successful, only when he or she is able to interpret correctly the public mood and popular aspirations and transform them into policy content. Introduction of just politics and fair policies is necessary means to reach to this end. But in reality, both leaders and movements are far from this end. For most of the time, leaders are highly induced and dependent upon their political parties to create a constituency in support of their policy prescription which is detrimental to tap emotions and sentiments that can be calibrated behind or against a policy. Nepali political leaders have failed in delivering governance and formulating policies because they have not been able to address and attend periodic task of re-

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establishing dynamic policies based on secular politics. The political leaders are hesitant to come forward and address demands generated by the critical mass whose perception of politics and policy is completely different from that of career politicians. Equally challenging for Nepali state is to come up with policies that can bridge the existing social, gender and intergenerational gaps.

Historically Nepali society is a male dominated society. Female literacy rate stands at 34.9 percent as against male literacy rate of 62.7 percent. Representation of women in public positions-- bureaucracy, judiciary and politics is highly skewed. For example, the CA elected 197 women, 33.22 percent of the total seats. They mirror diverse ethnic cultures, tradition, group and geography. Still, the composition of cabinet is skewed, women represent only 17 percent. In higher level category of public administration they occupy only 6.2 percent and in the special class category 2.4 percent. Women's share in the civil service stands 8.55 percent, judge 2 percent, teachers 20 percent, media 12 percent, foreign employment 10.85 percent, ownership over landholdings 10.84 percent and agriculture production 60.5 percent (Acharya, 2007). This data show that they are mostly confined to the private realm. In 83 percent of the households, there is no property in women's' name. They occupy mostly informal and agricultural sectors where wage is relatively low, workload high, working conditions very poor and social security missing. Women's are subject to various forms of violence. Proper policies have to be drafted for their upliftment. Democratic opening of 1990 allowed establishing women's organisations in the country and, as a result, there are many women's organisations in the country but most of them are centered in the urban areas and the services they provide has not trickled down to the grass root level. The activities of High Level National Women's Commission are confined to Kathmandu only due to fund crunch. Similarly Nepali state has never tried to come up with policies that would help to encompass youths in the national mainstream.

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Successive political movements, in contrast, have used and abused youths for the political purposes and left at the destiny once movements per se are over. The classic example, how state machineries are involved in abusing youths is reflected on trading of youths, both male and female, for foreign employment through media advertisement. This rent-seeking state policy will not help to cultivate citizenship values among youths in the long term. Time has come how to set a coherent vision for a stable and peaceful Nepal.

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## **PART - 5**

### **State-Building from Outside**

External endeavour to nation-building is seen as an imperialist approach but they perform a decisive role in the state and administration of a range of countries experiencing post-conflict situations: for example in Kosovo, which is governed by a UN administration, in Bosnia, where a representative of the international community played crucial role, in Afghanistan and Iraq – the US and UK are playing a crucial role. External players have played a decisive role in the shaping of the political situation in other countries e.g. the US after its intervention in Haiti (1994/95), the UN in the organisation of election in Cambodia (1993) and the preparation of the independence of East Timor (1999-2002), to name just three examples (Hipper 2005: 175).

This shows that involvement of external actors for nation-building, by and large, in the post-conflict state is on the rise. In the context of Nepal, the presence of United Nations Mission in Nepal (UNMIN) and active presence of various international agencies, donors, and engagement of neighbouring countries particularly India and China is noteworthy. The UNMIN has limited mandate whereas others have their own agendas, recipe and playing overt and covert role in terms of political stabilisation in Nepal. While China does not seem to have much influence in the domestic politics other than her own security interest, India seems to have been maintaining upper hand since the signing of 12-point agreements in New Delhi in 2005. Indeed signing of 12 point agreement in Delhi has brought home grown conflict into regional geopolitics. Since then donor and other international organisations are influenced by India per se factor which

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is not liked by Nepalese<sup>57</sup>. Government has virtually no information about mushrooming numbers of INGOs as what exactly is their contribution (if any) in the name of post-conflict political recovery. What has normally known and seen is that donor agencies have doled out large amount of money in various headings such as human rights, federalism, inclusion/exclusion project, constitution making process, democratisation and on other sensitising programmes. Very few donors have contributed towards state-building project. The Enabling State Programme (ESP) of the DFID has foreseen the challenges when it was established but the earlier goals have been discontinued. Nepal Development Forum sustained the spirit of engaging fragile state but public policies were not attuned to such policies to overcome security and order deficit. Some of the donors are doling out money to support the programme of particular groups like, NGOs, civil society, community and region without respecting diversity and considering its implications in the local community.

Donors in Kathmandu have always produced recipe for development, conflict resolution, arms management, security sector reform, transitional justice without looking outside the 'bubble' or searching for stories in the remote villages of Nepal, asking local people the future direction of their country (Denskus 2007: 659). In fact donors and their so called specialists who come straight from their Western headquarters or other post-war countries start drawing up their agendas merely by meeting same people, consulting same organisations who might have been doing the same job for so many years might have consulted their predecessors but have given no credible solutions. In contrast this produces same knowledge what James Scott calls the "recycling of knowledge." This recycling of

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<sup>57</sup> For example British Government appointed special envoy Sir Jeffery James always used to travel to India before he traveled to Nepal. Same goes with other Kathmandu based diplomats as well.

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knowledge cannot be helpful as it has already been employed. In fact policy formulation under the leadership of NGOs carries danger for political stability, particularly when NGOs are seen and blamed as partisan and too much dependent outside for their existence. Donors funding has been skewed towards certain interest groups who have the best organisation and most resources; it can be skewed towards certain politically powerful state agencies and it can be skewed by intense rivalries between different sectors of government itself (Held 1996: 208). This merely provides an opportunity to the donors to sell the policy packages but does not help to draft policies that can address the challenges of post-conflict politics.

Donors and their effort to enabling state lies with the fact that they expects too much from civil society and spend large amount of money in taming urban based NGOs and CSOs without understanding the nature and composition of civil society. These NGOs and CSOs may bring skills but in reality they are not expanding the civic sphere which is crucial for citizen's participation in state-building from bottom-ups. In this regard it is worthwhile to quote one Afghan analyst in Kabul who wryly observes that "NGOs are cows that drink the milk themselves" (Ignatieff et al 2004: 13).

Donors have been able to subdue intellectuals, academicians, media, members of civil society, political leaders and skewed them in favour of particular interest either by putting them on the payroll as consultants, funding their clientalist research, and organising think-tank that will hire them directly and help disseminate their messages to maintain status quo (in favour of particular political leaders, party, organisation, country etc). Policies adopted, thus will backfire on donors as well as on the state and system itself. International community and donors should be careful in mobilising resources. Merely funding interest based, urban and partisan CSOs/NGOs (the inorganic civil society) and converting them into political parties

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(Ghimire 2009:4) will not resolve problems. Resources and commitment should be skewed to help strengthen state in way that state is embedded in society and is genuinely effective on a nationwide basis, capable and sustainable. Focus should be made to strengthen rural civic groups who are well connected to the broader society.

Whether 'democracy aid' will make Nepali state strong or weak is yet to be seen but what is clear is that non-state actors and rights groups are definitely challenging the state. Perhaps, what states like Nepal need is assistance to improve economic conditions and strengthen state institutions to improve governance and strengthen democratisation process. This requires coordinated assistance from international community and donors. Moreover, rather than aiding and promoting urban based NGOs and CSOs donors should ensure the upliftment of rural civic organisations who will serve as the pillars of state-building efforts in the long run.

Finally, states cannot be made to work from the outside. International assistance is necessary but it is never sufficient to establish institutions that are legitimate and sustainable (Ignatieff et al 2004: 17) owned by the citizens. Understanding of local dynamics of power is important as it will help to build up local power structures based on the indigenous knowledge and would be more legitimate and sustainable with local ownership.



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## **PART - 6**

### **Way forward**

*“The immediate and the proximate enslaved our spirits and barred the line for our wider and remote visions” (Devkota 1997: 35).*

A political conflict resolution process requires a functioning state apparatus, democratic tools, locally owned conflict resolution process (long-term stability cannot be imposed from outside) and visionary leadership who is committed in writing the history of the state (rather than writing personal history). But when we analyse the run-down political history of Nepal of past few decades it appears that Nepali political leaders are enslaved by the immediate personal benefits and are unable to think for the future generation as a result successive generations have to struggle to establish “democracy”.

Nepal faces numerous challenges and there are enormous tasks to be done to bridge the ‘sovereignty gap’ in governance, make state institutions more effective and create the ‘fellow feeling’ among various communities. Given the contradictions it has witnessed both in understanding the state and politics in practice, political leaders need to develop spirit of understanding, tolerance to compliment each other (political and social necessity) which will help to put an end to all internal strife and violence amicably and get rid of the web of systemic crisis. This study has sought to demonstrate that only by incorporating varying approaches through mass political engagement can the government account for state-building. Sustained mobilisation of organic, duty-based civil society actors is necessary to introduce democratic political culture in order to construct civic citizenship,

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accomplish the project of peace-building and straighten internal politics of the state so that state-society coherence is established.

Although each interest group is likely to remain too weak, and internally divided to secure a share of power in commensurate with its size and objectives. And clearly there are many social and economic inequalities in society (of schooling, health, income, wealth etc) and not all groups have equal access to all types of resources, let alone equal resources. However, nearly every group has some advantage that can be utilised in the democratic process to make positive impact in state-building project. There is no guarantee that increased and extensive participation can make democracy strong, and there is no guarantee (Held 1996: 204), as there had never been, that everybody will get into the helm of power its always elites who have been ruling.

For example in dictatorship it is *minority* that rules and in democracy it remains as *minority* but what matters is that those who govern should be able to win the trust of those who are governed (Held 1996: 204-6). Citizen can control leaders through periodic election, parliamentary oversight, oppositional politics, media, civil society and a '*system*' of pressure groups politics (Held 1996: 209). The Nepalese leaders should stress on improving the electoral mechanism and civilising the pressure group what Rousseau has said through civic education (expansion of enlightenment) for their socialisation, mobilisation and collective action. The Nepalese civil society should work towards shifting the power from individuals to the institutions. This is particularly important in the case of political parties as in majority of political parties' individuals and families are holding powers for decades. The only way to bring a political party to its senses and pressure it to change is through the popular will of the ballot paper exercised in the general elections. This is the only way to make the future of democracy secure in Nepal and for that we have to have our electoral system more effective. If electoral systems are not

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made effective the manipulation of state machinery by some privileged elite fending off their opponents might create conditions for political decay (Baral 1989: 331). The dynastic succession of political leadership in civic institutions is essentially an anti-democratic process as it bars the choice of alternative leadership, policies and programmes. Succession of political leadership should take place on the basis of meritocracy, with equal treatment, no one possesses hereditary rights superior to others. Leadership has to provide national purpose; otherwise, national life becomes rudderless lacking historical heritage and the roots of its democratic message (Dahal 2000). There is an urgent need to develop shared vision about the nation's future with participation from all societal elements which will promote inclusive nationalism.

In the past we have failed to appreciate the systematic differences in society, culture, political ideology, orientation of people that came along with the tide of time. As a result there is less consensus more dissension between different groups. It is understandable that many of Nepalese are proud of their culture, history, legacy, language and some of them are hostile to them and restoring to post-modern deconstructionist twist. True, we cannot homogenise society but certainly some degree of homogeneity of the political culture is the key to democratic stability because majority of citizens at least share minimum necessary values for the functioning of the polity, achieving institutional stability and nurturing necessary political engagement. In other words, maintenance and legitimacy of political regimes essentially depend on the development of a participant civic culture.

The creation of effective and democratic political parties, formulating policies, foreign policies, and establishing governance in response to state and citizens needs should be viewed at the heart of state-building efforts. Understandably, Nepali people's dearest hope was that there would be an end to political instability, plethora of

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violent activities, rampant culture of impunity and corruption but the new regime has not been able to work as per the public expectations. Corruption on a massive scale, too, is tending to erode the substance of statehood and, what's more, is fomenting public antipathy to the state and system. The majority of the rural population may not be opposed on the principle of state-building, as is seen in the different parts of the country through field visits, as long as this brings peace and stability and conditions of life. What we currently lack, however, is the social base for democratic state-building, the longer and greater the reliance on urban class and external actors, the greater the state's alienation from Nepali society. We have only extended the political class, a leisure class, which neither makes policy nor produces goods, by contrast, huge amount of budget is being spent in service of this 'political class'.

The state-building is a delicate and complex process of organizing citizens in a sovereign territorial state through constitutional, normative and institutional means and entrench their constitutional and human rights. In many developing countries promise of success have been belied by conflicting tendencies of the population affected and they perceived that practical improvements in its actual living circumstances have not scaled up. If living conditions further deteriorate or stagnate at a low level, the legitimacy of the every project which the population regards as this responsible for this will suffer. The process of state-building is sustained over the long time if it does provide at least some credible indications of improvement on the lives of the people, if it does not, there is then, a danger of the resulting dissatisfaction providing strength for alternative political models (of a secessionist, ethnic or religious nature) at the expense of the integration process (Hippler 2005: 185). The new 'nation' must therefore – first- have the feeling that 'its' new nation-state can solve the social problems in the interests of the population, otherwise, it will be extremely difficult to convey (ibid) the message of social contract.

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Restoring the monopoly of power, taxation, loyalty of people and other core functions is essential to beef up its capacity to create a democratic social order. One must not ignore the creative role of the state with its capacity to intervene in the social process and provide mechanism for liberation from age-old inequities and exploitative strangleholds (Kothari 2005:87). While the concept of democracy cannot be limited to the political arena but must extend to the socioeconomic process, it is equally true that the only manner in which democratic forces can be stabilized and strengthened is by operating through the institutional structure of the viable state (Kothari 2005:87). For that it is necessary to strengthen state institutions so that state can function effectively by embracing inclusive approach, that is, by addressing underlying problems of societal forces linked with caste, ethnicities, regional issues, religions etc. These strategies would help to bridge sovereignty gap and produce “unified sovereignty” across different societal groups which ultimately renders an effective state capable of fulfilling core governance functions.

Equally important is if the state does not adopt inclusive policies there are chances that much talked achievement of people’s movement of 2006 will falter away and country will meet the same fate. Hence, in order to avoid this cyclic violence of political instability there is an urgent need for state to include voices of all groups during constitution making process and devise a mechanism for power-sharing. One of the most effective ways of raising voice in favour of inclusive democracy is through civil society mobilisation as they help to raise voices of excluded group and truly promotes inclusive political culture. The involvement of civil society actors is crucial to facilitate the political process by linking it to people’s aspirations, maximising their participation, lobby for the voices of marginalised groups in order to create constant pressure on political forces to make sure that they do not deviate from people’s legitimate needs and

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expectations. Civil society actors can support the political process by raising awareness of the general public about constitutional issues, identifying structural causes of conflict to be addressed, sensitising stakeholders on issues to be dealt during constitution making process, building relationship of trust amongst different actors and mobilising them in the broader political process for constitutional and political stability. Further civil society is strategically placed to link actors and communities at different levels in society (vertical connections) and various political affiliations (horizontal connections) for their engagement in the multi-task process of state building. Civil society organisations have the potential to bring relevant actors together and achieve the synergy of various stakeholders and achieve common end.

Finally what has to be realised that all forms of exploitations of man by man have to put a complete end so as to perpetuate the division of society into unequal classes. State provides that constituency which can be used for good or bad purposes. We should draw our concentration towards what holds us together in order to be able to participate in the democratic community of nation-states rather than subsumed with the factors that divides us together, which would ultimately label Nepal as a 'failed state'. The due support of international community is noteworthy to realise the Nepalese vision of a stable, peaceful and prosperous state.

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# Challenges of State-Building in Nepal

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## Foreword

Building modern state is a multifaceted undertaking. The impact of modernity defined by human rights, globalisation and regionalisation entails the state to become a responsible member of the international community. Global frame helps erode primordial consciousness and links nationalism with claims to popular sovereignty. New social movements for civic restructuring are, however, reclaiming local democratic conditions. This disjuncture between territorial state and de-territorialized ecology, society, economy, communication, technology and terrorism requires a new coordinating capacity of governing institutions for the dissipation of unintended consequence, protection of public interest and matching national spirit and capacity to perform core governance functions.

A functioning state is a necessary condition to manage the aspirations of bewildering variety of peoples and bridge several gaps: vision gap between the changing Spirit of the Age and indigenous idea, power gap between its juridical international status and actual political capacity for internal social cohesion and system integration; development gap between unequal social classes of society causing structural injustice and conflict; and legitimacy gap between the ability of leaders to govern and their capacity to fulfill popular aspiration for liberty, property, justice, peace and identity. Before entering into state building discourse in Nepal a consensus among four contesting strands of views existing so far about the state-- as a motherland, a neutral arbiter of plural group interests of society, imagined community and instrument of class oppression-- must be settled within constitutional thought. Without consensual rules of conduct, a common process of civic education and corresponding

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coordination of institutional means to achieve state goals cannot be secured.

The Nepali state, founded on local vision, has undergone huge adaptation with the changing narrative of global discourse-- the Westphalian legitimate monopoly on power, paternalistic welfare, neo-liberal calculation of rationality and democratic coordinator of various forces of society for national cohesion. The new balance of power following Constituent Assembly election in Nepal has shifted the meaning of negotiation and political dispensation as well as replaced old hierarchy by new ones. What has not changed is the excessive aid dependence of the Nepali state classes which continues to define its public policy and ideology, institutional structures and political culture. An increasing interpenetration of state, non-state and international regime has also made its institutional closure flexible to the migrants, market and civil society and weakened the space for the citizens to secure their livelihoods. Now, the lack of a strong center has surrounded the Nepali state by widespread social and anti-social revolts and decaying its institutional power of social control. So long as anarchic, anti-state and context-free activism of inorganic civil society and cultural industries continues, it will be difficult to abolish the state of nature by national sovereignty.

The Comprehensive Peace Agreement demands of Nepalese leaders full application of democratic principles to the decision-making process through the restructuring of public institutions to address gender, caste, ethnic and regional disparity. The party-controlled executive has made the nature of Interim Constitution imprecise, has generated new social closure and new opening and has inspired the disparate groups to carry out social transformation the way they like. This marks the deficits of civic values and conflict resolution. Peace can be maintained only if the state can coordinate social functions, create legitimate order, facilitate provision,

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production, exchange and mediation and give stake to all in its *raison d'etre*. What sort of state can better serve the Nepalese citizens? What are the appropriate educational, institutional and constitutional means to foster collective problem solving capacity and balance the reason of state and society's instinct for freedom? How the basic ends of a state, such as order, justice, peace and identity of citizens can be realised through the shared responsibility of public institutions, market and civil society? How can the state reap benefits from the virtuous cycle of coherence of domestic forces in external relations?

Obviously, a modern state is a civic state governed by the consent of its citizens and constitutional provisions. A state based on rational consensus has better legitimacy than those backed by rituals, force, exclusive identities and manufactured opinions of experts. Its effectiveness rests on accomplishing educational, economic, technological and institutional conditions of modernity, the ability to stand above social relations and steer diverse citizens of society to a common constitutional vision. After the Constituent Assembly elections, the Nepali state has gone into huge transmutation as social power now excels the political power and reflects a new equilibrium. It is, therefore, opening itself to contesting visions of society. The responsibility of national leaders lies in synthesizing these visions into a rational framework and mobilizing citizens' support for its articulation. Public participation in constitutional discourses on rights, participation, equity and entitlements provides them an opportunity to exercise legislative power and occupy optimal space. But, a constitution devoid of disciplinary power of executive to enforce law and fair judicial means cannot secure the rights of Nepalese, bind them to rule-governed polity and allow communicative integration.

Democratisation of the infrastructure of democracy, such as political parties, media of communication and civil society, civilisation of the style of protest and realisation of subjective freedom

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and objective needs of citizens are important means for the rationalisation of the reason of the state and the establishment of an inbuilt mechanism of power balance and power devolution. There is equally a valid task: capacity building of the state for the mediation of ecological, gender, social and inter-generational justice through suitable policies so that political power becomes proportional to social inclusion, operates in a transparent and accountable manner and moves in the direction of generating a vibrant public sphere for participatory democratic change. The state's capacity to care for its vulnerable citizens reflects its embeddedness and the ability to fulfill the obligation of social contract for public good, for citizenship and nationality are tied to national spirits.

Leadership talent lies in aligning national vision with political will and resources, mustering both internal and external support and capturing the synergy of hard institutions of state— such as bureaucracy, judiciary and security agencies and soft social capital of national symbols, identifications, trust, networks and relational webs. Without overcoming some groups' grievance to blame others for their suffering, others nursing the feeling of humiliation, still others sensing the stigma of suppression and certain groups' lust for geographical determinism, the primordial tribal reaction will continue to suffocate the common purpose of mutual coexistence. Reconstruction of national sovereignty in no way becomes a realistic option unless security and authority deficit is surmounted and citizens are given choice in their legitimate pursuit.

Meeting out spiritual, emotional and material rewards within the same political sovereignty is, therefore, essential for a satisfying role of citizens in the political system and cultivating a sense of ownership in it. A society's capacity to grow depends on the state's ability to compress the anarchy of free wills, manage fair rules of the game, fiscal and macro-economy, economic growth, protection of national

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commons and a balance in the trade off between short-term electoral legitimacy of leaders and long-term development planning of the nation. This study prepared by Chandra Dev Bhatta spotlights many of the complexities in building a modern state. I believe, it will be useful for those interested in Nepalese politics and stimulate those who are dedicated to make Nepal's future peaceful and stable.

**Dev Raj Dahal,**

Head, FES,  
Nepal Office

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## Acknowledgements

State-building has occupied an important place in the current political discourse. The term, however, is used in various contexts such as democracy building, conflict management and, development policy without its specific meaning being clarified in each case. The debate on state-building in Nepal is relatively new. It demands considerable attention because of erosion of Nepali State's legitimate monopoly on power and current discourse on state restructuring to make it inclusive of social diversity and perform core governance functions. This book hopes to contribute toward broadening and systematizing the understanding of state-building process. This study is built on the field-work that was carried-out during the year 2007-08 and is the reflection of many participants who contributed in the seminar proceedings organised by Friedrich-Ebert-Stiftung (FES), Nepal Office, in more than fifty districts.

In the course of this study, I have accumulated enormous insights and I shall be failing in my duty if I do not acknowledge my deep gratitude to all those who have been helpful in the preparation of this study. At the very outset, I must express my sincere gratitude to Daniel Reichart, South Asia Chief of FES, who has kindly introduced me in the State-Building Programme of FES in Nepal. I am grateful to him for the support to bring-out this study to light. In fact, it was his idea to carry out such a study in Nepal and without his support and encouragement the book would not have come out. I also take this opportunity to thank Dr. Peter Hering, Advisor of Civic and Voters Education in Nepal, who was a great source of inspiration in early phase of this project.

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I owe a debt of gratitude to Dev Raj Dahal, Head, FES – Nepal Office, for his intellectual as well as moral support throughout these years. His works and reflections on politics, society and state have always inspired me. I am grateful to Kashi Raj Dahal for his intellectual insights. I am also thankful to Nav Raj Dahal of FES for his support in various stages of writing. I thank Samira Paudel and other staff members of FES for their cooperation. Besides, I also would like to thank members of state-building team of FES Nepal Shiv Raj Dahal and Puspa Raj Prasai. Finally, I would also like to acknowledge my profound sense of gratitude to a number of participants whose perspectives have enriched my understating of state-society relations in manifold ways.

The views expressed in this volume are my personal reflection. With the help of all these it is manifest that errors and failings are my own doing, purely personal ones.

CDB

Kathmandu  
December, 2008

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