

# **Election Process and Political Institutionalization in Nepal**

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National Seminar

on

**"Issues and Challenges of  
Electoral Reforms in Nepal"**

organized by

Centre for Economic and Technical Studies (CETS)

in cooperation with

Friedrich-Ebert-Stiftung (FES)

July 7 & 8, 2007

## 1. Importance of election in the democratic system

In the Nepalese history, first time the election of Constituent assembly going to be held in on 22 November 2007. At this juncture, the intellectual debate is going to be held what kinds of electoral designs should adopt that could help to enhance the democratic system and institutionalize political process. Some political scientists called that adopting appropriate election system would help in building of democracy. That's why the election process and institutionalization of politics are interlinked to enhance the democratic process.

The 1948 Universal Declaration of Human Rights recognizes the right to vote as fundamental rights and the Article 21 Declaration stated that "Every one has the right to take part in the government of his country directly or through free chosen representatives ... the will of the people shall be the basis of the authority of the government, this will be expressed in periodic and genuine elections which shall be by Universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures". Likewise, former Philippine President Fidel Ramos had said "Governments may come and go, but the people remain. It is the Majesty of the people power that exalt when we build functionary and free electoral system". **Thomas Paine** in his Dissertation on the first principles of Government (1795) argues that there are only two "primary divisions" of government," first, government by election and representation and secondly, government by hereditary succession" The former, **Paine** contents is "founded on the rights of the people". As for representative government, its only true basis is equity of rights". Every man has a right to one vote and no more in the choice of representatives". Paine holds "the right of voting for representatives is the primary right by which other rights are protected". Paine regards the system of representation as the key of good governance.

Elections have always been deemed import in the democratic system. It is said that elections were the main guarantee against oppressive government. American founding fathers saw elections as essential protection against oppressive rulers, and at the extreme, against tyranny. In the Declaration of Independence of America, the founding father's argued as a "self-evident" "truth" that governments derived "their just powers from the consent of the governed". Even before the revolutionary war, colonists had argued that lack of opportunity to vote for representatives to parliament made its laws illegitimate when applied them.

The basic concept of democratic government is to be a government of the people, by the people and for the people. In democratic country, every citizen has the right to freely elect his or her representative through fair conducted election. The basic concept of democratic system is that there is no governance without representative. In the represent democracy, election is the best means by which political parties get the mandate to rule the people. Election is the key by which the people of the state can choose the political parties and leaders to govern them and make the government accountable to them. An electoral system in a democracy is required to perform two functions: first to ensure that the majority rules, and second, to ensure that all significant minorities are represented (Vernon Bogdone, power and people: A guide to constitutional Reform, 1997 Victor Gollanez. Wellington House, 125 strand London p,53). Thus free and fairly representation system and process for electing the representative is the central essence of democracy

## **2. Designing an electoral system**

Designing an electoral system is an easily identifiable fundamental step in building a sustainable democracy. There are some models of election system but not universally accepted model for enhances sustainable democracy. Designing an electoral system is imperative to consider a country's historical, cultural and sociological traditions and characteristics. Countries need to consider historical, cultural, and social factors in the choice of an electoral system. Electoral System that works well in one country at one time may not be so in another country or even in the same country at another time. The effective functioning of electoral systems is linked to political party systems, constitutional development and other institutional framework issues. But the success of any electoral system also requires its acceptance as legitimate by the people themselves. A good electoral system is one, which ensures for the representation of all segments of the society (i.e. balance representation in terms of gender, case, religion, and all economic strata of the society).

It does provide the framework that guarantees people the right to have a voice in how they are governed. Electoral systems is 'the most specific manipulative instrument of politics'. Ill-conceived electoral systems can undermine popular support for the democratic governance, while well-designed electoral systems can help establish systems that encourage popular participation and ensure long term success of democracy. Most of the countries around the world that have adopted democratic political practices have paid particular attention to design their electoral systems. It would be wrong to imply those electoral reforms alone will enhance democracy, but these issues are vital elements in democratic constitutional design.

Quality of electoral practice means a situation where the state establishes legitimacy of a political order, which increase the voices, and the participation of citizens in public affairs. I think good and democratic representative system could be judged with the answer of the following questions:

- (a) How far the election system is simple?
- (b) How far the money and muscle influence the voting?
- (c) Do have independent election commission, which have enough professional integrity, capability and expertise to the conduct free and fair elections? to what extent the election process is independent of government influence?

## **3. The problems faced by democratic election system**

Competitive elections are an intrinsic part of a representative democracy. A fair and free election not only stimulates popular confidence but also increase the legitimacy of system. But there are so many challenges to hold fair and free election. These challenges have undermined not only popular confidence of people but ultimately to democratic system.

### **(a) Criminalization of politic**

Politicization of crimes and involvement of entire political class in personal gain, graft and corruption are the basic challenges of fair and free election which has undermined the basic values of democracy. These are the basic characters of south Asian politics.

So the struggle against electoral malpractices and related political maladies is one of the central challenges faced by our democratic polity. If we could not reduce these challenges, the democracy will be meaningless.

**(b) Lack of institutional culture**

Politics in Nepal is largely based on personality rather than institutional cultures. As a result, leadership roles within the government, the parties and the public institutions are personalized without any sense of accountability to the general people. System and Institutional process in every political party is very much weak which ultimately undermine democratic values.

**(b) Expensive elections and corruption**

The election politics in South Asia has increasingly become a rich mans game (VA, Panandicar, problems of governance in South Asia, Center for policy Research, new Delhi, India 2000,p-10). Elections have become costly affairs leading political parties and candidates to look for ways to raise donations and funds by any means available. The present election system requires a lot of expenses to complete election. Expenses can be categorized as one expenditure required for conducting the election and another one expenditure made by the candidates. These expenses have created a lot of problems for good governance and resulted into tremendous increase in corruption. Every candidate needs money to meet his election expenditure then he always thinks how to earn money? One of the root causes of corruption is the election expense. Because of high election expenses the political parties are also tilted towards the wealthy, criminal's smugglers and corrupt people and provide them the ticket for their contribution in election expenses.

**(c) Lack of internal democracy within the political parties**

Political parties are in the center of democracy and proper functioning of democracy basically depends upon the internal democracy of the political parties. Unless, political parties are democratized, undemocratic practices will continue to rule and route the election. Our political parties have no tradition of holding democratic elections within their party and deciding policies and issues in a democratic manner. That's why elections within a party at all levels in a transparent manner should be mandatory precondition to it participation in general election.

**(e) Poverty, illiteracy and vote of conscience**

In south Asia 45 percent of total population live below the income required to meet maximum daily needs and around 51 percent of total population are illiterate (Human Development Report in South Asia, 1998 and 1999, oxford University press, New Delhi, India). There is a tendency of influencing the poor voters by distributing money on the day of election, which reduces the chances of voting by the conscience. This is the real challenges faced by especially South Asian countries in the functioning of democracy.

#### **4. Reforms**

Fairness in election and institutionalization of politics is essential which enhance the legitimacy of a political order. The constitutional behavior of the institutions, authorities of government, political parties and voters can help consolidate democracy. Likewise, separation of powers among governance branches can ensure fairness of democratic process. The constitutionalising of democracy is necessary to get fruitful democratic system. Democracy vests decision making in majorities but constitutionalism restricts the capacity of the majority to arbitrary exercise political will. The process of democratization is never ending and ever evolving. Democracy is a constant struggle by the people, for the people to do what is right and just under the rule of law. In the absence of true representation of citizens, democracy becomes a force. So we should fight two battles, 'the first is against a tendency toward what we call the criminalization of politics, which occurs mainly when criminal elements exploit loopholes in the law to gain to entry into legislature bodies. The second is against the tendency of political parties, which content for preeminence within the democratic arena, to conduct their internal business in an entirely undemocratic manner. To enhance the process of democratic system, some lacuna have to improve, otherwise democratic system will be worthless. That's why some reforms have to done immediately.

##### **(a) Scrutiny of election expenses incurred by political parties**

The income and expenditure of political parties should be transparent. Political parties should oblige to maintain proper accounts that must clearly give details of the amount received and spent. These accounts must be audited by the agencies specified by the election commission. The political parties must be required to publish there annually for information and scrutiny of general public and other concerned. It should be made mandatory for every candidate to declare one's property and income at the time of nomination, the declaration should be made public and false declarations should be made punishable. There should be strong law in terms of election expenses. If possible, the government should provide fund for the election expenses. If it is not possible, there should be rigorous punishment for taking illegal gift. In order to ensure transparency, all political parties should compulsory submit their annual audited accounts to the election commission of to the tax office showing all details of their receipts and expenditures. The commission should have the authority to nullify the candidature if it found taking donation illegally.

##### **(b) State funding election**

The State should seriously think about the state funding of elections, which can or not help to eliminate illegal money for political campaigns. In India, the Indrajit Gupta committee on election had recommended that it be fully justified the state funding of election for the recognized parties and their candidates. It checks an election related expense and transparent in fund of political parties.

##### **(c) Independent and assertive election commission**

Election commission has the big responsibility to conduct free and fair election. So it needs to be strengthen. Commission should be assertive and independent that could function fairly and judiciously and it should be well equipped in terms of manpower and other physical infrastructure.

#### **(d) Political parties and political culture**

Holding general elections alone is not the only prerequisite for democracy. Promotion of democratic culture in all fields particularly in political parties and all associations of persons is imperative for strengthening for democratic institutions and norms. It was widely agreed that the conduct of political parties was fundamental to the organization and administration of free and fair elections. Political party is the instrument democratic political system. However, a great deal of electoral malpractice occurred due to the conduct political parties. It is needed ensure the democratization of political parties in relation among others, needed to inter party elections, make transparent, auditing of party funds and broad based (in terms of gender, caste, ethnicity ,class etc) representation within the party. A democratic political culture pre-supposes elimination of the use of violence, responsiveness of leaders, especially the elected ones and correct relationship between government and opposition. A lawbreaker should not be a lawmaker. Lawbreakers, persons with criminal records and corrupt individuals should be debarred from the political context. Election means sanctity of a position to represent people-losing this sanctity means devaluation of politics and politicians, which, in turn hampers the civic political culture.

#### **(e) Political leaders should show statesmanship**

Our political leaders have deserted the 'nationalistic and rational approach' to the national problems. They all appear to be the enthusiastic followers of **Machiavelli** for whom what mattered was the end not the means. Every political party is planning and acting in purely in partisan manner and only aim appears to be winning political power. They count votes not corpses that they create in the process of winning vote. It seems that our leaders do not know about what the former American President John F. Kennedy said in his inaugural address "**Ask not what the country can do for you, Ask what you have done for your country.**" Our leaders seem to have the other principle, "**Ask not what we have done for the country, tell us what the country can do for us.**"

We are going to restructure the whole political and state structure. We all know the nation is led by political leaders and political system. That' s why at this time, it is urgent to reform our political system so that it could help political institutionalization.