

*To those
who fell in the cause of democracy in Nepal*

**Politics in Nepal 1980 - 1991:
Referendum, Stalemate and
Triumph of People Power**

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“Under any social order from now to Utopia, a management elite is indispensable and all enduring. . . . The question is not: ‘Will there be a management elite?’ but ‘What sort of elite will it be?’ ”

—*Sydney Webb*

“I am a gentleman; I live by robbing the poor.”

—*Bernard Shaw*

Preface to the First Edition

These essays, although written and first published at different times for different purposes, have been carefully revised and brought up to date for publication in this form.

The first essay discusses different aspects of elitism with a focus on the character of the patrimonial system of elitist politics as it has prevailed in Nepal. An attempt has been made in the two subsequent essays to delineate the features of the patrimonial pattern of elitist politics in vogue during the direct rule by the kings of the Shah dynasty (1769-1846) and also during that of the *de facto* rule of the hereditary Prime Ministers of the Rana family (1846-1951).

Much has already been published by many, including the present writer himself, on the half-baked democratic experiments in Nepal in the years following the abolition of the Rana family rule. Hence the fourth essay in this book, without going over familiar ground again, seeks to analyse the role of the monarch and patrimonial elites in Nepal during the post-Rana period, especially in the post-1960 era of monarchical rule, with a view to discerning the basic pattern of politics in recent times.

The fifth essay briefly outlines the immediate sequence of events leading to the Royal Proclamation of the Referendum on 24 May 1979, and the sixth one examines the prospects for constitutional reforms against the background of constitutional arrangements in the past and particularly in the light of the recent referendum verdict. The seventh

essay briefly deals with the latest amendment to the Constitution of Nepal that followed the referendum.*

The author hopes that these essays taken together will provide the reader with a coherent picture of the kind of politics practised in Nepal throughout the modern period of its history (1769-1980).

What strikes one most about the practice of government in Nepal is the resemblance of the future to the past. Any serious study of the subject turns out to be but “an enquiry into the persistent unwisdom of government”, to borrow an eminent historian’s expression. If we are to go by our past experience, rational suggestions for reforms will have little or no use for governments in future.

In this connection, I am reminded of a French cynic’s observation that there are two kinds of fools in the world—those who offer advice and those who do not accept it. If I may inject a personal note, while His Majesty’s Government of Nepal is never tired of belonging to the second category of fools, I for one am getting a little weary of belonging to the first. According to G.K. Chesterton, an acknowledged master of wit and paradox in English literature, the most probable and awesome forecast is that the future will resemble the past.

“We would rather be ruined than change,
We would rather die in one dread,
Than climb the cross of the moment
And let our illusions dry.”

18 February 1982

Kathmandu

RISHIKESH SHAHA

* The eighth essay examines the 1981 general elections in Nepal. The ninth and final essay discusses King Birendra’s proposal of having Nepal recognised as a zone of peace, which has of late aroused considerable interest both in Nepal and India.

Preface to the Second Edition

The book was first published under the title, *Essays in the Practice of Government in Nepal* and was warmly received by the press and public both inside and outside Nepal.

However, after more than 100 copies of the book had been actually sold in the open market in Kathmandu, the royal government of Nepal under the prime ministership of our Surya Bahadur Thapa decided sometime in 1982 to confiscate arbitrarily altogether 200 copies at the border customs office at Birganj and at the International Airport in Kathmandu. The Kathmandu booksellers had rightly sensed the mood of the government beforehand, and some of them requested me to make the books available to them by ordering them in bulk in my own name in the hope that the government might not touch them for fear that I might go to court against it. The booksellers had also told me how they had to remain helpless in the past against the government's arbitrary confiscation of the books they had ordered from abroad. The author's attempt to move the Supreme Court for the redress of his grievance through a writ petition elicited the ruling that his plea for the redress of the grievance did not hold water because the government was still considering whether it should ban the book or not. The court tended to forget conveniently that the government had no right to confiscate copies of the book without giving a valid reason for banning it. The author's lawyers have after a lapse of a reasonable period of time once again filed a petition with the Supreme Court for the redress of this long standing grievance but the case is still pending at the time of writing.

The essays in the first edition of the book covered a wider range of Nepal's history and dwelt on evaluation of the role of the Shah dynasty rulers in the earlier phase, the rise of Jang Bahadur Rana as the strong-man of Nepal who established the system of the hereditary Maharaj-cum-Prime Ministers of the Rana family with the Kings as mere figure-heads. The second edition of the book does not contain some of these essays and is confined mainly to Nepal's partyless monarchic rule from 1960 onward with a focus on King Birendra's political innovations which eventually led to its collapse in April 1990 under the pressure of a broad-based popular movement for the restoration of multiparty democracy and human rights.

The second edition of the book contains a detailed account of the recent pro-democracy movement as it builded up to its climax in 1990 along with the essay from the first edition depicting the circumstances and the 1979 students agitation that had forced King Birendra to subject his so-called "immutable" partyless panchayat to the dubious test of a highly controversial referendum in 1980 and an additional note on the Nepali Congress Satyagraha for the restoration of the multiparty democracy in the spring of 1985, which was followed in June by the explosion of bombs in Kathmandu for which full responsibility was solely claimed by the Janabadi Morcha (The People's Front) of Ramraja Prasad Singh who declared his aim as the violent overthrow of monarchy.

The title of the second edition of the book has been changed to *Politics in Nepal 1980-1990: Referendum, Stalemate and Triumph of People Power* which it is hoped will give the reader a better idea of what the book is all about.

The author's efforts will not have gone in gain if this edition of the book satisfies even in a little way the readers' interest in the evolving and ongoing political process in Nepal.

18 June 1990
New Delhi

RISHIKESH SHAHA

Preface to the Third Edition

The author is highly grateful to the press and public for their abiding interest in this publication and for the warm welcome they have given it once again. As the publishers were eager to meet the continuing demand for the book, it has been updated. We hope that this edition may succeed in sustaining the readers' interest in the ongoing political process in Nepal.

20 December 1991
New Delhi

RISHIKESH SHAHA

Contents

<i>Preface to the First Edition</i>	<i>vii</i>
<i>Preface to the Second Edition</i>	<i>ix</i>
<i>Preface to the Third Edition</i>	<i>xi</i>
1. Monarchy in Nepal	1
2. Patrimonial Elites of Nepal: Their Identity, Role and Character	14
3. The Referendum in Nepal	48
4. The Aftermath of Referendum: Prospects for Constitutional Reforms	75
5. Third Amendment to the Constitution of Nepal	98
6. The 1981 Elections in Nepal	106
7. Nepal as a Zone of Peace	114
8. The 1986 Elections in Nepal : Implications for the future	131
9. Nepali Politics (1985-1989)	148
10. The Human Rights Situation in Nepal before April 1990	168
11. Towards the Movement for the Restoration of Democracy and Human Rights	178
12. Performance of the Interim Coalition Government (19 April 1990 - 26 May 1991)	228
13. Formation of the Post-election government	249

14.	Visit of the Prime Minister of Nepal to India and after	261
	Epilogue	279
	<i>Appendices</i>	
I	Treaty of Transit Between His Majesty's Government of Nepal and the Government of India	283
II	Treaty of Trade Between His Majesty's Government of Nepal and the Government of India	301
III	Agreement of Co-operation Between His Majesty's Government of Nepal and the Government of India to Control Unauthorised Trade	314
	<i>Bibliography</i>	325
	<i>Index</i>	339

Monarchy in Nepal

Two Kinds of Rule by Kings

Monarchical societies presuppose rank orders or hierarchies. The ruler's status is supreme. He can change the ranking position of individuals to suit his purpose. Acceptance of the king's consecrated authority is quite compatible with fierce competition for his favours because even high-ranking men regard the divine ancestry of rulers much in the same way as they regard the Supreme Being: an authority that cannot be questioned but to whom one could appeal for grace or indulgence.

However, the nature of the authority of the king varies with external conditions. In *The Prince*, Machiavelli states that:

Kingdoms known to history have been governed in two ways: either by a prince and his servants, who, as ministers, by his grace and permission, assist in governing the realm; or by a prince and by barons, who hold their positions not by favour of the ruler but by antiquity of blood.¹

The Patrimonial and Feudal Principles

The above quotation points to two distinct principles underlying a society politically organized under a king - the patrimonial and the feudal. The patrimonial principle visualises the king and his servants in

¹ Niccolo Machiavelli, *The Prince* (New York: The Modern Library, 1940), p.15.

the royal household with the implication that the king rules through peremptory commands because he is master in his own house. The feudal principle presupposes the association between the king and nobles whose families also possess their own standing of various degrees of importance in the community on the basis of ancient lineage, wealth and legitimate authority accompanying these attributes. In the feudal system, the king rules by granting them rights in return for their services, because he recognises the position of the great families in his realm. Both patrimonial and feudal forms of monarchical government can be found in many societies but a combination of them only in a few. In Nepal, the patrimonial principle appears to be so pronounced as to predominate. Even the king's younger brothers or sons do not seem to have had any inherent status in the political hierarchy independently of the ruling king's wishes or whims.

Political Unity of the Supreme Ruler

A certain political unity can always be derived from the awe and grandeur of the supreme ruler, as Robert G. Wesson states:

The most ordinary man becomes awe-inspiring when encased in the riches of a huge realm and all the pomp humans can deliver; surrounded by glitter and jewelled trappings, with color and pageantry infinitely beyond ordinary men, the hallowed autocrat seems superhuman to the simple, and tingles the nerves even of the educated. . . . Power, no matter how come by, is almost equivalent to greatness in the ordinary estimation; when it is made manifest by a brilliant display, few can avoid being at least a little dazzled. The higher the one stands over the many, the more easily are mysterious powers attributed to him. . . . Certainly, the power of the ruler over their lives is apparent and conducive to deep respect.²

Rule by peremptory command means government by the will of the ruler, which suffers no limitation in theory but allows for much exercises of grace or indulgence in practice. Although apprehension of the use of force plays as important a role in monarchical rule as in any other type of rule, yet the latent threat in the case of the former tends to be shrouded in the splendour of supreme majesty.

2 Robert G. Wesson, *The Imperial Order* (Berkeley: University of California Press, 1967), pp.85-86

The Real Nature and Basis of the Real Authority

In his book, *Kings and People – Power and the Mandate to Rule*, Prof. Reinhard Bendix had made some observations which are highly relevant to the delineation and understanding of the nature of the authority of the traditional absolute monarch. The following points raised by Bendix find ample illustration in the actual functioning of Nepal's monarchical system of government, as the subsequent paragraphs and chapters in this book will show. According to Bendix, a king's position will be most secure when it is upheld by those whose positions depend on the king in the situation where ranking is not static but remains fluid. In such circumstances, important men will be deterred from overt opposition by fear of losing the favour they enjoy.

The king's absolute authority will be better supported if appointed officials come from lower social classes – as was the case in the Ottoman Empire and in Czarist Russia – than if the government is composed of aristocrats with inherited power, prestige and wealth.

Both the merchant class and an independent aristocracy are constrained by the rule of peremptory command. A weak ruler may suffer encroachment on his authority by his servants and court officials, but when his position, or the position of his heirs improves, the palace servants may well be deprived of their temporary gains.

In an effort to shore up a centre of power which is basically unstable, the ruler, under patrimonial rule, will try to inflate his own power by increasing the insecurity of his servants. If, to this end, the terms of office are deliberately kept short, the royal servants will try to enrich themselves quickly. Their attitude to the people will be a reflection of the king's attitude to them. The resulting arbitrariness precludes a steady and developing policy. As Professor Bendix has pointed out:

Government by peremptory command can be seen as a vast elaboration of the apparatus needed to manage the royal estates. Personal and governmental authority are indistinguishable and so are personal services to the ruler and service in an official capacity. Such rule approximates what the ancients called tyranny, or unlimited government by an individual ruler.³

³ "Kingship and Aristocracy as a Type of Traditional Rule". Chapter VII in Reinhard Bendix, *Kings and People-Power and the Mandate to Rule*.

The Patrimonial System of Nepal

During the period from 1769 to 1846 and also from 1960 to the present day the kings of Nepal have ruled in fact as well as in theory. Their exercise of authority may be best characterized as rule by Hukum or peremptory command, which has been patrimonial rather than feudal.

Jang Bahadur Rana, the founder of the system of semi-hereditary Rana Prime Ministers, which prevailed in Nepal until 1951 under which the succession of kings were mere figureheads, claimed to have obtained from the king in 1856 the right to rule by peremptory command himself in perpetuity. The Hukumi Shashan or rule by peremptory command of the Rana continued up to the beginning of 1951.

After 18 February 1951, following the 1950-51 political revolution, the king regained his own right to rule by peremptory command subject to the condition that he would abide by constitutional arrangements to be made by a constituent assembly directly elected by the people. However, even after the nation's first ever general elections were held in February-April, 1959 according to the terms of the 1959-Constitution promulgated by the late King Mahendra, the king retained the emergency power to dissolve the elected parliament and rule by peremptory command, and he soon made use of this power and dissolved the first ever elected parliament in Nepal on 15 December 1960. He thus continued the tradition of rule by peremptory command under the cover of "the partyless democratic Panchayat system" with all powers vested in himself.

The Economic Aspect of Nepal's Patrimonial System

In Nepal, land has always been regarded as the property of the state or the ruler who represents the state in his person. In the early days of Gorkhali rule, it was believed that all land belonged to the King. Feudal retainers such as *Birtawals* and *Jagirdars*⁴ owed to the ruler their authority which they derived from the temporary use and possession of the land.

Jang Bahadur and his successors as all-powerful hereditary Rana Prime Ministers started the practice of preempting both state and private

The *Birtawals* are the recipients of the *Birta* land in the case of which the historic rent generally accruing to the state was appropriated by the beneficiaries of this kind of land-grant and the *Jagirdars* are the recipients of the *Jagir* land granted to the state employees in lieu of cash payment for their services.

land and other property for the private use of the members of their family and of their favourites.

The concept that land belongs to the ruler or to the government continues up to the present day in some form or other. It was the prevalence of this concept, only superficially related to the legal theory of eminent domain, that enabled the successive Nepali governments to acquire in the post-1951 period private landed estates and forests without compensation. It was this very concept again which enabled the late King Mahendra to confiscate the property of his political opponents and present it to his favourites in the post-1960 era, much in the same way as he had all along given government land and forest revenues to his relatives and retinues. Extended to the field of private business, this concept, according to which the wealth of the people belongs to the ruler or the state, implies the ownership of profitable businesses by members of the ruling family and elite; and it also embraces their obtaining export and import licences and other profitable contracts and franchises.

The King at the Apex of the Patrimonial System

Although Nepal's planning and governmental apparatuses are superficially modern in their external features and seem to be geared to the needs of development and modernisation, their basic political patterns are fundamentally patrimonial in character. Nepal's political-cum-bureaucratic elite are interwoven with the general pattern of the country's social fabric. In order to analyse elite formation and elite relation in Nepal, it is necessary to delineate the general features of its political pattern.

This system centres around the person of the King who is its model, mentor and innovator. The Nepali type of the patrimonial system is characterised by the highly personal manner in which power is exercised. There prevails a perpetual state of rivalry between groups and individuals at all levels in society, and the essential political reality consists of the drive to expand one's personal power and influence.

The elite is at the heart of the Nepali patrimonial system and may be given some credit for its role in securing the independence and territorial integrity of the country against heavy odds and in the most trying of circumstances. The individuals in the higher echelons of the government, who enjoy a fair measure of power and privilege in the system, constitute the governing elite. They may be regarded as the national policy - and

decision-makers, and in Nepal those are the people who closely surround the King.

The questions which may be asked in this connection are: whom are the elite composed of and what are their main traits? What are their antecedents and their educational and professional backgrounds? What is the nature of the problems of cohesion and conflict, which confront the elite? What is the attitude of the elite toward the basic issues of continuity and change? What is their stand on the questions of reform and revolution? What are the vital factors of elite maintenance and circulation? What are the mobility patterns through which the members of the non-elite are assimilated or accommodated in the elite? What do the continuity and vitality of the elite and its policy indicate about the future of Nepali politics?

An attempt has been made in the following chapters to answer some of these very questions with reference to the distinctive phases of Nepal's history so as to provide an insight into the actual practice of government and politics in the state throughout the modern period.

Traditional Institutions and Processes of Government

Hereditary monarchy, rule by peremptory command, the authority of the monarch as the final court of appeal for justice in both civil and criminal cases, the monarch's sole power of conducting *pajani*, the annual routine renewal and termination of tenures of all those employed in military and civil service, the practice of despatching royal commissions for tours of inspection (*daudaha*) and of requiring regular attendance at the royal court or camp of everyone who was somebody in the area (*salam* or *darshan*) - these were some of the main features of the government and administration under unfettered Shah monarchy (1769-1846).

All these practices were continued when the power to rule by peremptory command along with supreme authority in every matter was delegated to the Rana Maharaja-cum-Prime Minister after the office was made hereditary and kept open only to the "legitimate" or "pure" members of the Rana family on the basis of a predetermined roll of succession regulating all ranks in the ruling hierarchy. This arrangement with a few aberrations was continued for a period of 104 years till February 1951 when the Rana family rule was abolished and the King was restored to power.

During the years 1947-51, the Rana government found itself face-to-face with the most serious crisis in its history, following the withdrawal of the British from India and the establishment of Chinese authority in Tibet. At such a critical time, the Rana family proved to be a house divided against itself. It must, however, be noted that the political change could not be consummated in Nepal until after King Tribhuvan and some other members of the royal family had sought asylum in the Indian Embassy in Kathmandu on 6 November 1950, and were flown to New Delhi in an Indian Air Force plane four days later. The Rana government initially displayed an unyielding attitude, and on 7 November, it replaced King Tribhuvan and put his three-year old grandson, Prince Gyanendra, on the throne. However, within three months Maharaja-cum-Prime Minister Mohan Shamsheer Jang Bahadur Rana yielded to the insurrectionary tactics of the Nepali Congress and to firm diplomatic pressure applied by India.

On 18 February 1951 King Tribhuvan, upon his return to Nepal, made his historic declaration avowing his intention to have the country governed in accordance with a constitution drawn up by a constituent assembly composed of representatives elected by the people. The Interim Government of Nepal Act, 1951 or *Nepalko Antarim Vidhan, V.S 2007*, promulgated by King Tribhuvan has in retrospect proved to be the most progressive constitutional document in Nepali history, approximating to standards prevailing in other democratic countries in the world. The subsequent amendments of the Interim Government Act of Nepal 1951 had the effect of detracting from its democratic substance rather than adding to it. The net result was a steady decline in the powers of the democratic institutions established after 1951, and a corresponding rise in the trend toward traditional absolutism of the King.

Faced with the threat of countrywide non-violent rebellion from 8 December 1957, proposed by the United Democratic Front (UDF), King Mahendra convened a conference of party representatives and leaders on 6 December, but the conference failed and on 8 December, the satyagraha movement was launched. On 15 December 1957 a week later, King Mahendra, under popular pressure, proclaimed 18 February 1959 as the day of General Elections.

However, on 1 February 1958, while continuing negotiations for the formation of a popular interim government, he made a momentous declaration which marked a significant departure from the path originally laid down by King Tribhuvan in his historic proclamation of 18 February 1951.

King Mahendra's proclamation blamed political instability for lack of development in the country for seven years, and as a remedial measure he proposed the early establishment of (1) a constitutional drafting commission to draw up a constitution for a bicameral legislature, (2) a nominated advisory assembly for the interim period, and (3) a council of ministers without a prime minister, consisting of independent persons as well as representatives of political parties.

Consequently, in February 1959 King Mahendra announced the replacement of the Interim Government of Nepal Act of 1951 by the 1959 Constitution of Nepal under which the King retained supreme executive power and extensive discretionary and emergency powers. The constitution sought to change the concept of popular sovereignty on which the 1951 Interim Government Act was based. This adversely affected the authority of the first ever-elected government of Nepal.

Nepal's first general election was held in the spring of 1959 under the new constitution. Although the Nepali Congress party led by B.P. Koirala, which stood for the attainment of socialist objectives through democratic and parliamentary means, won the largest majority of 73 out of 109 seats in the lower house of parliament, the experiment in parliamentary democracy proved to be short-lived. On 15 December 1960, King Mahendra in exercise of his emergency powers on the ground of the preservation of "unity, national integrity and sovereignty" dissolved both houses of the legislature and imprisoned B.P. Koirala and other ministers of the 19 months old elected government.

Nepali politicians, under the leadership of General Subarna Shamsher Rana, organized a movement in the name of the Nepali Congress for the restoration of democracy from their self-imposed base of exile in India. By the end of 1961 armed raids across the border into Nepal had become the order of the day but these raids which were possible only with the connivance of the Indian authorities, failed to bring about the same results which they had achieved against the Rana rulers in 1950-51.

By 1962, China had consolidated its authority in Tibet and was in a position to provide countervailing weight to the Indian support of the rebel cause. King Mahendra also took full advantage of anti-Indian sentiment in Nepal engendered by India's patronizing attitude in the years immediately following King Tribhuvan's restoration to power with India's diplomatic support. King Mahendra successfully projected his nationalist image by withstanding Indian pressures and expanding Nepal's diplomatic contacts with a number of other important countries. Another important factor was the Royal Nepal Army which, thanks to the

Indian military mission, was better trained and equipped than the army of the Ranas. King Mahendra, therefore, was in a position to trust it more fully than were the Ranas, and he was in a stronger position to deal with the situation created by rebel activities. In all this, King Mahendra's father's as well as his own association with the popular struggle against the Rana rule made his action less suspect in the eyes of the people. Last but not least, the Chinese military attack on India in the fall of 1962 necessitated a change of attitude on the part of the government of India without any *quid pro quo* from King Mahendra. King Mahendra thus had reason to feel grateful to China for relieving him of the pressure of armed raids by India-based rebels.

The Nepali Congress leader, General Subarna Shamsher Rana, presumably on the advice of the government of India, suspended in November 1962 the movement for the restoration of democracy in Nepal and formally stopped it for good by the end of 1962. Although the release of former Prime Minister B.P.Koirala, who had been in prison since December 1960 and the simultaneous pardon of Subarna Shamsher and some of his associates in October 1968, came belatedly and under some pressure from India, King Mahendra's gestures were made to appear to be proof of his own generosity and large heartedness.

The helplessness of the Nepali people against the king's action may be partly explained by the failure of the modernising political elite in Nepal to adapt a modern western form of government to a social milieu which lacked the necessary social and cultural infrastructure of democratic polity. The success of the democratic experiment in Nepal presupposed the cooperation between the king, who derived his position of authority from the time honoured institution of monarchy and the newly elected prime minister, who symbolised popular hopes but had yet to create popular tradition and institutions to sustain his democratic ideas. Unfortunately for Nepal, such a cooperation was not forthcoming. The result was the revival of traditional panchayat polity under the absolute authority and leadership of the king.

The royal takeover of 15 December 1960 initiated a new phase of the kind of direct rule which had been put into effect during the post-Rana period between 1951 and 1959. There was, however, one very important difference - what had been regarded in the past as a stopgap measure at best, became a permanent feature of the new era. The political model that was adopted in Nepal after the political change in 1950-51 was that of parliamentary democracy under the aegis of a constitutional monarch. After 1960, the parliamentary system was publicly disavowed

by King Mahendra, who described it as an alien system unsuited to Nepal's tradition, history and objective conditions. He expressed his determination to devise a political system that conformed to conditions 'peculiar to Nepal'.

King Mahendra, a master tactician, used considerable skill to avoid emphasizing certain aspects of his political system. To justify his dissolution of parliament and to present his subsequent political actions in a favourable light, he attempted to create a cultural myth about the panchayats to support claims of legitimacy by royal authority. He put forward a vigorous plea that his 'democratic' panchayat system, with its roots in the soil of the country, was better suited to the social-psychological climate of Nepal than parliamentary democracy, which was 'alien to its tradition and genius'. The panchayats, however, had never in the past functioned as regular units of local self-government and had been at best councils of elders drawn from a particular caste to conciliate minor disputes relating to caste matters.

In support of his climate-and-soil theory, King Mahendra refurbished the panchayats on a model of traditional polity that basically derived its authority from the spirit of reverence for hierarchy based on caste and age in a caste-ingrained society.⁵ King Mahendra's panchayat system was in practice a means of exploiting, under the garb of 'tutelary democracy', the age-old Nepali tradition of unquestioned obedience to autocratic authority of any kind. Even so, King Mahendra took great care to avoid the impression that his panchayat system had, in practice and theory, discarded the basic democratic tenet that power belongs to the people. He professed faith in the concept of popular sovereignty by emphasizing in public the principle of decentralisation. He did not, however, make it clear whether or not decentralisation implied in actual practice any gradual diminution of his royal powers and prerogatives.

However, the inherent contradiction in the panchayat system as improvised by King Mahendra between a theoretical concept of a decentralised political and administrative structure and the existence and maintenance in practice of a highly centralized political-cum-administrative structure was highlighted by the revival in a surreptitious manner of such traditional institutions of the old Shah and Rana despotisms, as Pajani (annual renewal of conditions of service), Daudaha (commission

⁵ For a well-informed and perceptive account of the parliamentary experiment in Nepal and its replacement by King Mahendra, with his partyless panchayat system, read Bhuwan Lal Joshi and Leo E. Rose, *Democratic Innovations in Nepal: A Case Study of Political Acculturation* (Berkeley: University of California, 1966).

for a tour of inspection) and Salam or Darshan (individual or group audience with the ruler in his court or camp), parallels for which could be found only in the medieval Mogul administration of India.

The frequency of the changes in administrative personnel, euphemistically described as "administrative reorganization" was merely a revival in new form of the traditional practice of Pajani or annual renewal of service.

The Daudaha or commission for a tour of inspection was a temporarily appointed body which was sent to an outlying area with wide discretionary powers to inspect all government offices, suspend higher level government officials and dismiss lower level staff. It had power to hold summary enquiry and trials and to dispense quick justice on the basis of an on-the-spot investigation. It had judicial authority similar to that of a district court (zilla adalat) and openly entertained petitions for justice. It was also authorized to look into problems of economic development with a view to recommending new changes in the on-going projects.

The Salam or Darshan was the traditional institution of individual or group audience with the ruler to secure direct justice and a quick redress of grievances. The practice of Salam or Darshan in its traditional form and spirit was subtly resuscitated by King Mahendra's much-talked-about tours in the countryside for popular contact (*jana samparka*) and mobilisation.

In addition to the above institutions, special tribunals, reminiscent of the Star Chamber and Courts of Commission in Tudor England, became the order of the day. However much these institutions might have suited the needs of absolute personal rule in the past, they were not only outdated in the modern context, but were also antithetical to the spirit and methods of institutionalisation and modernisation. These practices tended to interfere with the recently established legal and constitutional forms and to obstruct the healthy growth of due process of law and popular participatory institutions which were vital to the process of nation-building in the modern democratic sense. The renewal and prevalence of the traditional practices during the post-1960 era led many serious minded observers to believe that what King Mahendra had attempted since 1960 was to institutionalise personal rule within the panchayat framework.

The palace secretariat once again became the nerve-centre of the administrative and political structure as it was during the pre-Rana period (1769-1846). It assumed the same key role as the Vinti Patra-Niksari Adda, or the Rana Maharaja-cum-Prime Minister's private office for the

disposal of petitions, and that of the office of Khadga Nishana for legitimising the ruler's personal wish or command, even in disregard of the laws, existing during the time of the Rana rule.

Under King Birendra, the palace secretariat, which also includes the Investigation and Enquiry Centre (Janch-Bujh Kendra), functions not only as a relay station between the King and the government, but also as a policy - and decision-making body using the central secretariat merely as an instrument for implementing policy decisions. This has led to the kind of situation characterized by Edmund Burke as 'double government', with the central government Secretariat directly responsible and accountable to the people for error in implementation of the government's policy-decisions, and the palace secretariat, screened from the view and criticisms of the people, in a dominant position to dictate the policies of the government.

After the accession of King Birendra to the throne in 1972, the Centre for Enquiry and Investigation was the king's top investigative arm for several years, functioning, something like the high-powered Imperial Inspectorate Organization for the Shah of Iran. The Centre enjoyed the freedom to investigate anything and anyone including cabinet ministers. It not only investigated charges of corruption in government, but also handled many of the personal pleas for royal justice sent to the king by mail.

The spirit in which King Birendra introduced the second constitutional amendment in 1975 could be best understood and analysed in the light of his own novel concept of constitutional monarchy, which was said to have been derived from a certain aspect of Hindu dharma or religious code of conduct, and which was not the usually accepted one in which both the king and his people derive their rights and responsibilities from a constitution which can be changed at any time by the required majority of the votes of the people or of their representatives in popularly elected national legislatures. His theory of constitutional monarchy seemed to be largely influenced by his concept of a king as God among the people.

King Birendra's published statements at the time suggested that he placed himself above the government and the constitution because both of them were his creations. He was evasive on the question of whether the constitution defined the relation between the king and the people, thereby putting limitations on the royal powers.

He merely said, 'my government and people are governed under a constitution'. Concerning himself and his relationship to the people, he

stated, 'the monarch and his subjects have been governed by *dharma*, a system drawn from the Hindu religion....The King cannot change this value system. Therefore, he too is governed by the ethical code.' And what did this ethical code imply? In the King's own words, "according to this code, the king lives and has his being only to protect the people, to dispense justice to them and punish the wrong-doers." To emphasize his point, he added, "indeed, the king embodies the collective identity of the people and, as desired by his people, it is he who grants and amends the constitution."⁶

The obvious implication is that the interests of the king and the people are one and indivisible. Independently of the king, the people, as individuals or as a body, cannot have any wishes or interests of their own. Both the king and his subjects are bound by the very same ethical code, which compels the latter to merge their individual selves into the king, and the king himself is powerless to change this value system. When pointedly questioned by a journalist about how he felt at being looked upon as god, King Birendra replied that his people accept him as a god, and that his feelings did not enter into the matter. King Birendra has thus clearly stated his position on the question of the ultimate source of political authority in Nepal in these written answers to questions submitted by a newspaper correspondent.⁷

⁶ *Newsweek* of 10 September 1973, p.63.

⁷ For a detailed account of the working of the panchayat system under King Birendra read "The Structure and Dynamics of Panchayat Politics" (pp.62-97) and "Domestic Policy: New Directions in Panchayat Politics" (pp.189-238) in Rishikesh Shaha, *Nepali Politics—Retrospect and Prospect* (Delhi: Oxford University Press, 1978.)

Patrimonial Elites of Nepal : Their Identity, Role and Character

An Overview

In all those petty principalities that came together to form the territory of modern Nepal the governing class in its recent history has always been composed of the so-called high caste Chhetri and Brahman families whose ranks were subsequently joined by some Newar families after the Kathmandu Valley became the nation's centre. Nepali society has been a pyramidal hierarchy consisting of the four Hindu castes and several other ethnic and linguistic groups with a few elite Chhetri, Brahman and Newar families at the very top running the show.

For hundreds of years, the central government in Nepal was run by a number of interrelated families, with the most influential and powerful of them keeping the chief executive position to themselves. Centrally appointed governors provided the link between Kathmandu and the rest of the country. The principal functions of the government were to maintain law and order and a semblance of justice within the territory, to protect it against encroachment from outside, and to raise revenue from the inhabitants of the territory for the services of order and protection. Revenues realized from the people were not necessarily in the nature of taxes in the modern sense. The system was feudal in nature; land was, as it is now, the primary resource in Nepal, and land-grants were made by the central government for services or favours. Land revenues were largely appropriated by a handful of the ruling elite as a consequence of the exercise of political power. To promote one's status, it was necessary

to become part of the ruling hierarchy or to undertake some activity with its favour and sanction. For those who could not belong to the ruling hierarchy, the landed aristocracy was the second-best choice as long as opportunities for reclaiming new land in the tarai and the hills existed.

After all the suitable land had been brought under cultivation, the system became static, as education, mercantile activity and other avenues for economic, social and political enterprise were ignored. The result was that room at the top became extremely limited; the elite class did not have wide scope for economic enterprise and was small in number compared to the total population. Under these circumstances, a political system was evolved which relied for its effectiveness on plots and rumour-mongers, bluster and bullying, and primarily on manoeuvres and counter-manoevres. The governing elite did not envisage a constituency in the masses but operated on the basis of co-opting individuals as temporary allies in the struggle for position, power and related benefits. Under this system, it was the primary obligation of the common people to support the elite in the government and the landed aristocracy. The government existed for the elite rather than for the people.

Even after successive changes in the structure of the government and even after the formal adoption of the principles of the welfare state, the common man's well-being and social justice have not been promoted in Nepal. According to a study on problems of employment and income levels, even on the conservatively estimated national annual per capita income of five hundred Nepali rupees, the tarai has 56.1 per cent and the hilly region 72 per cent of its total population below the poverty line, *i.e.* in 1973 as many as 2.2 million people in the tarai and 5.5 million people in the hills were below minimum subsistence levels.¹

The exploitative nature of the old political style seems to remain unchanged to this day. Those in government, continuing to practise the same old style of politics, tend to become corrupt with the result that the people are demoralized by submitting to them and ineffective in opposing them. The landed interests, the merchants and small traders contribute to corruption and malpractice by resisting reforms that might undermine their exploitative positions. The ministers in power are never tired of repeating that the people have been the beneficiaries of the government's actions, even when the masses are being actually subjected to the

¹ Vijaya Laxman Kelkar and Mahesh K. Banskota, *Problems of Economic Employment and Income Levels in Nepal* (Kirtipur, Kathmandu: Centre for Economic Development and Administration), pp. 29-30.

worst kind of exploitation. The end result of all this is that although the masses still remain submissive, they are increasingly discontented.

Even after the 1951 political change the possibility of social mobility for various ethnic groups other than the three socially dominant castes of the Brahmans, Chhetris and Newars has been minimal. According to a study conducted by the Centre for Economic Development and Administration, 80 per cent of the positions of power and profit are still held by the Brahmans, Chhetris and Newars, who represent a small minority of the total population of Nepal.² A subsequent survey has revealed that more than half of the government civil service is drawn from the Kathmandu Valley, which contains about three per cent of the population of Nepal.

This chronic state of inequality, which has tended to give the widest possible opportunity for government service and education to only three castes and to one small area of the country, cannot be said to be consistent with the modernization goals of the country. Hence the need for a deliberate and coordinated policy of national integration.

This following practical suggestions, if implemented, may help evolve a coordinated policy of national integration:

- (1) The Public Service Commission should be required to follow a policy of keeping to a minimum the number of new entrants to the civil service from Kathmandu or from the three dominant castes. This might be accomplished by giving some kind of handicap in favour of all other groups for recruitment to government service. A tiered system of handicaps would have to be worked out to ensure justice to all backward ethnic groups at different stages of development. Some of the ethnic groups such as the Magars, Gurungs, Rais and Limbus suffer less discrimination and disadvantage than those on the lowest rungs of the ladder, such as the Tamangs, Tharus and Satars. Educational scholarships from the lowest to the highest levels of education should also be allocated on a similar basis. The government must find extra funds to finance such an elaborate system of scholarship. The Guthi (public religious trust) funds might fruitfully be used for this purpose.³

² A. Beenhakker, *A Kaleidoscopic Circumspection of Development Planning, with Contextual Reference to Nepal* (Rotterdam: Rotterdam University Press, 1973), p.25.

³ Rishikesh Shaha, *Nepal Politics : Retrospect and Prospect*. 2nd ed. (Delhi: Oxford University Press, 1978), p.22.

- (2) Recruitment to the army and the police must be widely extended to the Tamangs, the Tharus and the Satars on a favoured basis and there should be no discrimination against them as in the past on the basis of a kind of 'apartheid' myth of the so-called martial and non-martial races.
- (3) The national language must be brought much closer to the language of everyday speech with a view to making it an effective medium of national communication. Words should be borrowed extensively from the dialects in order to enrich Nepali vocabulary, since words borrowed from Sanskrit or coined by the traditional Sanskritic method do not always have the same natural vigour, simplicity and raciness as the expressions borrowed from the dialects.
- (4) More could be done to provide for a wider dissemination of folklore and culture and for the popularization of folk songs and dances.

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

The spokesmen of the government of Nepal have claimed from time to time that the panchayat system, despite the indifference of the urban educated elites towards it, has benefited the countryside by promoting the growth of local initiative and leadership in development efforts. But two inquiries of an empirical nature into the impact of the panchayat system on the pattern of changing social life in certain rural areas of the hills and the tarai in eastern Nepal have belied their claims.⁴ These studies by Nepali and foreign scholars have shown that the panchayat system has not only strengthened the traditional hold of the influential castes and families on the economy and politics of the villages but has, in some cases, as for example in the far eastern hill district of Ilam, alienated the indigenous inhabitants such as the Limbus by encouraging the dominance of the Brahmans.⁵ Because of the lack of nationally organized platforms and clear-cut election manifesto promising the

⁴ Pashupati Shamsher J.B. Rana and Mohammad Moshin, Appendix A, in *A Study Report on the Pattern of Emerging Leadership in Panchayats* (Kathmandu: Training and Research Section, Home Panchayat Ministry of His Majesty's Government, 1967).

⁵ Lionel Caplan, *Land and Social Change in East Nepal, A Study of Hindu-tribal Relations* (London: Routledge and Kegan Paul, 1979), pp.169-70.

removal of economic and social injustices on ideological grounds, the panchayat elections at all levels have involved merely an undisguised play of selfish and personal interests, and have tended to accentuate ethnic, tribal and religious differences.

In today's context what is important from the viewpoint of integration is the evolution of a national consensus and a national political culture capable of mobilizing the nation as a whole. This has to be done by educating those involved in the political and economic processes of nation-building to understand new mental attitudes, new ideas and new forms of social organization. Considered in this light, a multi-party or non-party system appears to be only an instrumental aspect of the more basic problem—namely, the creation of a national unified political culture or consensus.

Problem of National Integration

The Gorkha conquest had given Nepal a single name and a strong central government. But even before the Shah dynasty came into prominence, Nepal had a long-established identity and a history characterized by antiquity. Centuries before the Christian era, Nepal had acquired a distinct territorial character. However, Nepal has yet to resolve the psychological aspect of the problem of national identity.

Until 1951 even the people from the tarai region of Nepal needed a permit from their own government to visit Kathmandu. They were not employed in the military and police service and only a very few of them were accommodated in the civil service. These considerations together with the fact that the tarai people were only marginally involved in the national adventures connected with territorial expansion in the eighteenth and the early part of the nineteenth centuries, have created for them a problem of identification in psychological terms. Some of the ethnic groups in the northern border region seem to experience the same kind of problem for more or less the same reasons. The problems of both tarai and northern mountain peoples may have been further aggravated by their frequent contact and dealings with people across the international frontiers.

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

mountains, the mid-montane valleys and the tarai plains can be imbued with a sense of identity of national purpose if inhabitants of those regions are allowed to participate fully and without discrimination in the political and economic process of modernisation.

The problem of integration in Nepal will become more serious as the demands for an equitable allocation of development resources to different regions acquire force. The integration of various geographic regions and ethnic groups in socio-psychological terms may be promoted in the future through the implementation of a comprehensive long-term national development plan aiming at the harmonious development of the country as a whole. By involving the entire people in the common enterprise of development, a judiciously conceived national plan may also foster a viable integration of people of different ethnic and linguistic origins.

Nepal is faced with its own peculiar problems of emigration and immigration, which have a bearing on the question of integration. Only about a century ago, people from the adjoining areas of India had actually to be lured into the Nepali tarai and cultivating the land there. However, an outflow of emigrants from Nepal to India commenced soon after the pressure on land in the hilly regions in Nepal had increased with the rapid growth in its population. But the people in the mid-montane region initially dreaded the malarial hot climate of the tarai and showed greater interest in seeking employment as mercenaries in foreign armies and, at times, in emigrating to the hill areas of India, Sikkim, Bhutan and Burma.

Tension is building up at present in the Nepal tarai between the immigrants from the Nepali hills and those from across the Indian border. There has of late been an exodus of people from the hill areas to the tarai, which, till half a century ago, was largely inhabited by immigrants from India. Meanwhile the government of Nepal has enacted legislation forbidding the sale of land to foreigners, including Indians, even in the tarai. Now the tarai is populated by both groups of immigrants while the indigenous tribal populations are losing importance.

Elsewhere in South Asia, the intrusion of divergent linguistic and cultural groups into a competitive economic situation has often created social and political tensions. Controversies and tensions have already arisen in the tarai as to who is a 'local Nepali' and who is an 'outsider', meaning an Indian citizen. Again, there is tension between recent emigrants from the Nepali hills who consider themselves to be representative of Nepali culture and the indigenous tarai dwellers, most of whom are of purely or more pronouncedly Indian social and cultural origin. The

Nepali government's attempt to integrate the tarai emotionally, politically, and economically into Nepal by reducing links with India, wherever possible, also produces political tensions. The tarai people have genuine grievances in so far as they are not adequately represented in the power structure of Nepal, be it in the army, the administration, the national legislature or the cabinet. The continued settlement of Indian-born immigrants into the tarai may eventually pose severe problems. Despite the provision in the 1950 Nepal-India Treaty for reciprocity in the matter of residence and the acquisition of property in one country by the nationals of the other, the government of Nepal has not been and is not in a position to allow an unrestrained immigration of Indian nationals into the country. If a compulsory birth-registration scheme is not introduced and implemented strictly in the near future, the Nepal tarai may also be involved in the citizenship disputes that have characterized the politics of the Indian State of Assam, Sri Lanka, Burma and East Africa.

For physical, psychological and historical reasons the central government in Nepal has failed to enforce an equitable distribution of goods and services throughout the society. For a long time the vision of the government at Kathmandu did not extend beyond the confines of the Valley. More than half of the development budget has for a long time been spent entirely on the Kathmandu Valley and its environs. Indeed the Kathmandu Valley alone was treated as Nepal for all practical purposes. Even the present government of Nepal under King Birendra's leadership, with its professed goal of an equitable allocation of resources for development of various regions in the country, has not been able to do better than allocating a mere 17.2 per cent, 13 per cent and 11 per cent of the 1973-74 development budget for the eastern, western and far-western regions respectively, while 58.8 per cent of the development budget has been set aside for the central region comprising the Kathmandu Valley and the adjoining areas.

The lack of transport and communications also posed a handicap to the central government in meeting the problem of an equitable distribution of goods and services. The east-west mountain ranges and the north-south river systems make transport and communication difficult to this day. It is often easier and more economical to travel to destinations in the hills by way of the tarai or Indian territory than by a direct mountain route. The terrain of the country makes air transport cheaper, although it is naturally beyond the reach of most people, than travel by road or trail. But the people have by force of habit become apathetic towards the central government and do not expect prompt action from it to benefit

them. Nor are the people in the outlying areas politicized enough even to formulate their demands upon the central government in an effective manner. The local and national elite continue to come from the same old families as in the past and there has been no change in the traditional power structure in the countryside, either in the hills or in the tarai.

The Modernizing Oligarchy

The traditional political system of Nepal had over a period of time attained, though not without considerable violence and bloodshed, an equilibrium based on the harmonization of the interests of four important groups the royal family, the religious establishment, the army and the vested interests in land. These interest groups, acting in collusion with the Shah or the Rana court, had brought about political changes from time to time, but this basic pattern of traditional politics did not undergo a radical change even after 1951. It was only temporarily submerged under a new political tide which brought to the surface new interest groups who, despite their modern political labels and vocabulary, failed to bring about any changes in the existing power-structure.

The new interest groups that appeared prominently on the surface after the 1951-political change were the crown in its influential role; the modernising political, bureaucratic and military elites; and the traders and businessmen. Each of these groups endeavoured to enhance its influence and further its interests by subsidising pressure groups such as the press, student bodies, governmental ranks and positions, political parties, and social and cultural organisations. Among the traditional interest groups, the religious and the military establishments continued to play a minimal role until the royal takeover on 15 December 1960. In addition, the landed interests were all along active and wielded influence as non-party independent politicians. The defeat of independent candidates in the 1959 general elections compelled them to pool their resources and put up a United Front against the Nepali Congress in collusion with some of the commercial interests. The concrete result of these efforts was the emergence of the ultra-conservative Jana Hit Sangh (Organization for the Good of the People) which played an active role on the eve of the December 1960 royal takeover by protesting against taxation, land reform and other progressive measures of the Nepali Congress government.

The 1951 political change also brought into existence a large number of occupational and professional organisations, ranging from a drivers'

union to a low paid civil servants' union. As the social structure was not sufficiently differentiated nor the population adequately specialised to create a wide range of specific interests with quite definite but still limited political objectives, these vocational groups did not prove themselves capable of protecting and promoting their goals. Hence, they became, for the most part, mere tools in the hands of one party or the other. Since 1961, some of the occupational groups have been combined into government-sponsored and controlled class organisations, but they have not as yet been truly effective as pressure groups.

The modernising oligarchy responsible for initiating the 1951 political change and for conducting the period of transitional politics proved to be the most immature and ill-organised of the vocal political groups in Nepal. The members of the modernising elite group expended great effort in organising political parties, running newspapers, directing educational institutions and acting as administrators for the new government. But partly owing to a lack of consensus among them on the nature of the political and social landscape of the future and partly owing to their selfish and individualistic outlook, they were hopelessly divided among themselves and fragmented into innumerable political parties and splinter groups. They were thus unable to shape the future course of events and the destiny of the country as a collective entity.

Students, journalists and civil servants emerged as the most influential pressure groups in the post-1951 era. Students were largely responsible for the agitational activities of political parties. Journalists, particularly the so-called 'independents', turned out to be impassioned critics of the activities of the government in power but voiced mainly ultra-nationalist and jingoistic sentiments with the covert financial backing of the land-owning interests.

The civil servants also emerged as a pressure group under the peculiar circumstances that prevailed in Nepal both before and after the 1951 political change. Before 1951, the bureaucracy had functioned as the guardian of law and order and as managing agency for the ruling Rana family. After 1951, they had not only a higher status but were also called upon to undertake welfare and developmental activities. During the interim period between 1951 and 1959, civil servants, in their quest for security, had tended to look to the palace for support and invite royal intervention in the process of government. In 1959 the elected government tried to adjust the administrative machinery to the purposes and procedures of parliamentary government. Some of the leading members of the secretariat, in keeping with the changed circumstances, began to

look less to the royal palace and more to the cabinet so that the civil servants were prevented temporarily from encouraging palace participation in politics. The administrative reorganisation on a wide scale both at the district and the central levels that followed the royal takeover of 1961 was primarily motivated by the desire to reinstate in the higher echelons of the administration persons who were prepared to link their fortunes with those of the royal palace.

The Political Elite

Modernising political elites had little or no place in the traditional power structure that prevailed in Nepal during the Rana rule. Although the leaders of the 1951 revolution came from the dominant castes of the Brahmans, Chhetris and Newars, they were extra-systemic since they stood on the outer edge of the operational political framework of the Rana rule, and their attitudes and their beliefs were typical of 'the marginal men'. A great majority of the educated elite of the time (who were, incidentally, both few in number and educated in the English-language medium) were absorbed in the Rana bureaucracy and remained indifferent to the movement of liberalisation and democratisation. Only a handful of the educated elite—those who had come under the influence of the Indian nationalist movement—provided the hard core leadership of the 1951 political revolution.

The Modernising Bureaucratic Elite

The political change of 1951 not only conferred the highest administrative posts and responsibilities on the educated bureaucratic elite of the previous Rana period but also provided vastly increased job opportunities to the educated elite in general, all of whom were readily absorbed into the newly created and expanded government ministries and departments. Before 1951, the non-Rana officers in the Nepali army and civil bureaucracy could not aspire to a rank higher than that of a commanding colonel and a Bada Kazi, the topmost non-Rana civilian officer during the Rana rule in Nepal; it was only after the 1951 revolution that the highest civil and military positions were thrown open to every qualified Nepali. The educated bureaucratic elite, who had thus acquired a new social status and higher salaries, without even having to struggle or compete for them, developed the irresponsible habit of promoting its

own self-interest without regard for the larger interests of the society as a whole.

The Military Elite

What was true of the bureaucratic elite also applied to the military elite and the soldiers of whom the following description given by Henry Ambrose Oldfield in the nineteenth century is still remarkably apt: 'The Nepalese soldiers are at all times, and under all circumstances, most singularly obedient to the "powers-that-be"; and they obey the constituted authority be it Rajah, Rani, Prince or Minister most unhesitatingly, and without any reference to the duty required or its consequences.'⁶

Following the Kot Massacre of 1846 which led to the establishment of the Rana family oligarchy, the army stood by Jang Bahadur Rana, the new strongman, and later founder of the system of hereditary Rana prime ministers, in his struggle against the plenipotentiary queen, Rajyalakshmi, and subsequently also against King Rajendra Bikram Shah in 1847. A century later during the armed insurrection in Nepal shortly preceding the 1951 political change, the army stood by the Rana government of the day and did everything in its power to crush the popular armed insurrection even after King Tribhuvan had shown his sympathy for the popular democratic cause by seeking asylum in India. After King Tribhuvan was back and secure on the throne, the same army now sided with him and his newly appointed popular Home Minister, B.P. Koirala, and kept itself aloof from a violent pro-Rana demonstration at Kathmandu in 1951. Again, in 1952 when the armed police force, the Raksha Dal, composed mainly of the elements of the erstwhile liberation army of the Nepali Congress, revolted against the Congress government of the day, the Nepali army came to the government's rescue. When King Mahendra, in exercise of his emergency powers, dissolved parliament on 15 December 1960 and imprisoned the first-ever elected Prime Minister of Nepal, B.P. Koirala, and other members of his cabinet, the army firmly stood by the king. After this takeover, King Mahendra also used the army successfully to deal with the insurrectionist activities of the Nepali Congress from its base in India.

For well over a century, the Nepali army has had no occasion to fight in defence of the country's freedom and frontiers. It has been used merely

⁶ Henry Ambrose Oldfield, *Sketches from Nepal*, Vol. 1 (London: W.H. Allen and Co., 1980), p. 349.

for internal security. During the Rana rule, several contingents of the Nepali army were sent to India not only during the First and Second World Wars but also at the time of Indian military action against Hyderabad and the Indo-Pakistan armed conflict in Kashmir in 1948. As they were primarily used for garrison duties in India, they had no opportunity to gain experience of modern warfare except in the Assam-Burma theatre of the Second World War in 1942. (These remarks apply only to the Nepali army itself: Gorkha soldiers in the employ of the British and Indian forces have of course seen active service in many parts of the World.)

After the political change in 1951, the army was trained by an Indian military mission for over a decade. As a result it is a more efficient force now than during the Rana regime. As the 'serviceable' elements of the old Rana army were retained intact even after 1951, the character and composition of the army and especially of the officer corps did not change. There has been an addition of Sandhurst and Dehra Dun Military Academy-trained junior officers over the years. The officers of the Royal Nepal Army are mostly drawn from the same castes and families which supplied the officers during the Rana Rule, and promotion to ranks above Lieutenant-Colonel is not based only on professional skill and recommendation of the army but also requires approval of the king and the government. After the royal takeover of 15 December 1960, King Mahendra became his own defence minister for a considerable period and brought about numerous changes in the command of the army at all levels.

King Mahendra's personal interest in the welfare and training of the officers and men of the army, and the bestowal by him of special favour on them in the form of royal grants of land and other concessions, have in recent years created bonds of a personal nature between the king and the army. The Royal Nepal Army thus regards the king as the sole personification of the state, with the result that to the army it appears there is no such thing as loyalty to the state and the people as distinct from loyalty to the King as a person.

However, the existence until 1970 of a separate corps of Royal Guards consisting of the Kali Bahadur and Gorakh Bahadur battalions stationed inside the palace grounds, separate from the general body of the army, while serving the purpose of checks and balances from the viewpoint of the monarch, had also created a state of mutual jealousy and friction, which could eventually undermine the concept of loyalty to the crown. In 1971, the late King Mahendra sought to remedy the situation by

arranging for all the battalions of the regular army to act as Royal Guards by rotation.

Although at one time during King Mahendra's rule in the mid-1960s there were suggestions in a section of the controlled Kathmandu press about the desirability of royal rule through the army, and rumours were aired from time to time about the possibility of a takeover by the army, the prospects for either seem most unlikely at present. The Royal Nepal Army has neither the kind of leadership that is needed to run the government of the country nor are its historical background, character and composition of such a nature as to make it suitable for undertaking political adventures of a risky nature. In Nepali society where traditional habits of mind have always been strong, the military is apt to be more strongly conservative than most other social forces.

However Nepal has a valuable human resource in retired soldiers from the British and the Indian armies' Gorkha regiments. With their experience of life, service and travel abroad, and especially with their background of training and the skills they have acquired, they are a great potential for social change. The problem is essentially one of mobilisation. They do not find employment in the Royal Nepal Army.

The Attitude of the Emerging Elite

With the rapid spread of education, Nepal like other developing countries, is faced with a problem created by new emerging elites. As the pre-1950 generation of educated elites came into power at the relatively young age of around 35 to 40, they are unlikely to fade from the scene as quickly as the present younger generation would like. The new generation of educated youth have had more formal education than their elders, and some of them were trained in overseas countries. Hence they have escaped the corrosive influence of the closed autocratic regime at home during the crucial formative years of adolescence and may well find themselves in serious conflict with the government. If the conflict has not yet become intense in Nepal, it is only because the educated youth have not so far had great problems in finding some kind of government job. But if jobs cease to be easily available, the young men will naturally side with one of the extra-governmental bases of power in the country.

The educated youth are no more likely than their elders to bridge the gap that separates them from the masses, since vital linkages to the masses will only diminish the distinctive character of their elitist position without necessarily giving them corresponding political advantage. If

there is no opportunity or scope for a loyal open opposition, then a disloyal covert opposition may seem the only choice. The emphasis on rapid social and economic change also poses problems for the narrowly-based autocratic regime at the level of the masses. If through economic and social planning the regime increases the rate of popular mobilisation, the demands made on the government will grow both in number and intensity.

Overriding Importance of Informal Processes of Government

In the king-dominated elitist politics of today's Nepal reality of power has no connection with a formal constitutional position, and informal processes of government have always been more important and effective than its formal processes. For example, the real powers and functions of the most potent government body, the royal palace secretariat, are not defined in any laws or constitution of the land, but its principal officers enjoy not only a higher ceremonial rank of precedence than other public servants at the same level but also greater privilege and power in practice without commensurate responsibility or accountability for the administrative errors of omission and commission. The king's principal secretary, principal military secretary and secretaries in charge of information and of foreign relations are undoubtedly more powerful today than the prime minister, the commander-in-chief or chief of the army staff and the foreign and information ministers respectively. While analysing Nepal's political and constitutional processes, one must be on one's guard against being deceived by what may superficially appear to be the reality.

Factions : A Dominant Feature of Elitist Politics

Despite the exaltation of the king to the supreme position of the one and the only leader of the nation, factions have not been done away with and do exist for the distribution of patronage. There are factions which revolve around important personages, each of which attracts his own coterie and seeks to outdo his rivals in lavish and ostentatious expenditure. A similar state of affairs prevailed at the time of the Rana rule prior to the restoration of effective power of the Shah monarch in 1951 but with the significant difference that previously the wealth used in the support and entertainment of dependents was mainly private wealth and not public wealth as has been the case in the post-1951 era. In recent times

the scope for using public resources for creating and maintaining ties of patronage has been widely expanded.

There may be disagreement among students of Nepali society on whether it is primarily based on caste or class. But it can be stated without fear of contradiction that both caste and class are of great importance in Nepal's larger social and historical context. However, the immediate environment of a great deal of official life in Nepal is neither the one nor the other but the faction. It is a mistake to think that factions are merely relics of an ancient or traditional mode of social existence with an appeal to the baser instincts of human nature and without having anything to do with morality as such. But, in fact, Nepali society has not been free from factions either at present or in the past both single caste factions and multi-caste factions.

An act of patronage may initiate a faction but cannot by itself create the social environment conducive to the durability or the pervasiveness of factions. It is the fluid and uncertain nature of the environment itself which makes for the growth of factions. The impact of modernisation has slackened the obligations of kinship and community, but obligations appropriate to the modern workplace have yet to be developed. Under the circumstances, the people have nothing else than the faction to fall back upon, and factions provide not only scope for patronage but also special security.

Nepal's craze for modernisation has resulted in the creation of a large number of institutions, but Nepalis possess little or no experience in managing them. These modern institutions, whether they are Nepal's civil and political institutions, or its public corporations or its educational institutions, are all faced with critical problems of management. People have lost faith in the rules that were initially framed for their guidance as they were respected more in their breach than in their observance. As a result of this, what had once appeared to be viable institutions have proved to be rootless and lifeless imitations or scissors-and-paste jobs. When the rules meant for the operation of these institutions prove undependable, the only recourse left for the people involved is to turn to personal loyalties and attachments.

The ties of family and kinship still prove to be the most dependable in this society as compared to professional and other associational ties. The way in which children are brought up and socialised within the household has also something to do with it. However, what is implied is only that in Nepali society social obligations of kinship take a kind of precedence over all other obligations, not that relatives always help each other. It is

not uncommon in Nepali society even today to extend the idiom of kinship (to denote a specific kind of reciprocal relationship on the ritual basis) across caste notwithstanding the fact that kinship hardly exists between members of different castes.

It is difficult to see how the ties of real kinship or even the idiom of kinship can be legitimately accommodated in the modern workplace, as the difference between the two does not relate merely to the degree or scale of activities but to the very principles of recruitment, placement and promotion, which are of an altogether different kind in the modern workplace. The old idiom of relationship does not tend to disappear even in today's changed context. But on the other hand, the uncertainties inherent in the changed situation seem to revitalize the old idiom of relationship even when its legitimacy can no longer be openly acknowledged. Thus what appears to be a faction when viewed from outside proves actually to be a reliable human arrangement for mutual support and security.

No wonder that in such a social milieu political processes operate through informal groups and cliques. Formal and rigid associations and institutions do not provide the setting for political decision-making and bargaining; factions, cliques, coteries and ad hoc gatherings of all sorts are the groups that actually matter. Thus cutthroat competition for personal power and self-aggrandizement is often shrouded in a stylized code of polite expression and respectful and well-meaning pretensions of behaviour. The basis on which this pervasive network of personal cliques is organized may be professional, familial, religious, recreational, intellectual and political.

These informal groups of people meet from time to time usually at meeting places provided by the members in turn. The most important thing about the group meeting is that it fosters and reinforces patterns of personal ties. Members help one another in their political and economic enterprises and endeavours so that when fortune favours one particular member, and he becomes a minister or a secretary of the government or a head of one of the public corporations, other members of the clique can also gain political advantages.

The decisions and actions of the formal organs of government are very much influenced by the informal politics at work at the level of these personal cliques or groups. The informal groupings also influence the trends of discussion in the national legislature to the point where there is an overriding prompting from above, that is, from the "Castle".

This prompting or direction from on high may actually have already been conditioned by the informal politics operating through the web of personal cliques. However, the device of remote control by the invisible hand of someone in the Castle is always difficult to identify unless one is prepared to put all the responsibility directly and squarely on the monarch himself. But such a device is not without utility as it serves to mitigate at times the gall and wormwood of personal defeat in the event of the failure of one's tactics, and it also acts as a safety-valve for instant explosions of wrath and hostility. On the other hand, this situation creates constant problem of communications between the ruler and the ruled, because the only really effective communication is face to face in a patrimonial system of government.

The devastating effects of remote controls are depicted very well in Franz Kafka's novel, *The Castle*, in which the authorities have hired the services of Mr. K., a land surveyor, but no one knows how and why. He seeks clarifications of his position because all the people he comes across tell him:

Unfortunately, we have no need of a land surveyor. There would not be the least use for one here.

Mr. K. makes every effort to encounter authority face to face and goes to various people who appear to be important; but other people tell him:

You haven't once up-till now come into real contact with our authorities. All these contacts are mere illusory, but owing to your ignorance...you take them to be real.

He cannot do any real work at all but receives a letter from the Castle:

The surveying work you have carried out thus far has my recognition....Do not slacken your efforts. Bring your work to a successful conclusion. Any interruptions would displease...I shall not forget you.

In Nepal, I know of a concrete case in which a highly trained geologist with a Ph.D. found himself in the plight of Mr. K. and finally ended up in the prime minister's office doing nothing for which he was trained.

These informal groups in Nepal have sometimes been composed of highly trained and educated middle and upper class members. In 1968-69 half a dozen ministers in the Nepali cabinet and two or three

secretaries of the government were members of such a group. Second, these informal elitist groups and cliques draw their membership not only from the non-elite class but also from the entire range of the class structure, thereby tending to close the wide gap between the elite and the masses, albeit in a limited manner, by siphoning off discontent at all levels and preventing or softening confrontation. The informal character of the social and political system in Nepal has an impact on the process and pattern of elite formation and elite rule.

The Nepali political process is also characterized by personalism which is closely related to the characteristic of informality. Patrimonial politics is in essence personal; and everything is regarded as personal in Nepali politics. Informal contacts take precedence over formal procedures and power vests in the hands of persons or personalities rather than in institutions. For example, during most of the post-1960 period of the rule of King Mahendra, the Chief Zonal Commissioner of the Bagmati Zone, Bishnu Mani Acharya, exercised with impunity power far in excess of what was ordinarily vested in the office he held. His successors found themselves in an uneasy situation because of their vastly decreased authority even as incumbents of the same office. By the same token, persons in high offices who have no inside track in the palace have found themselves inhibited even in the exercise of their legitimate authority because of the prevalence of the practice of government by men rather than by rules and laws.

Proximity to the centre of power, be it physical or social, is a matter of vital importance in the kind of personalistic politics prevalent in Nepal. The king represents the centre of power and therefore whoever is close to the king physically or socially or whoever has easy access to him has more power in actual practice than someone who holds a high office but has no direct access to the king. This explains why the queen is the next most powerful person and also why the military secretaries, who are always in attendance on the king, are the most powerful of the palace officers. It follows from the very same principle of correlation between power and proximity to the king that the palace secretaries are more powerful than government ministers and secretaries.

Determined desire and relentless drive to be close to those in power are in evidence all around. Bureaucrats scheme to draw themselves close to the ministers both socially or on the job. The prime minister, ministers and deputy ministers spare no pains in cultivating the palace secretaries and other close confidants of the king, while the prime minister and other royal confidants and advisors vie with each other in spending as much

time as possible in the actual presence of the king. The infallible maxim of success in Nepali politics has been that the closer one can get to the king and the longer one can remain in his presence, the greater the chances of one's success. I remember to have actually heard a colleague of mine in the late King Mahendra's cabinet telling His Majesty in a fond manner how much he enjoyed remaining in the king's presence. This colleague of mine may have sounded naive but he was the most cunning of us all.

Personal groupings are the key to personal advancement in the elitist system of Nepali politics. Persons who are not born with the right connections cannot promote themselves or move into the political elite without developing strong personal ties with someone who is already a member of the elite group. As elite politics operates almost exclusively on a personal level, the overriding importance of proximity to the king combined with the informal character of Nepali government and politics has made the personal attendants of the king formidable members of the political elite irrespective of their formal rank or position. In answer to the author's question about the sources of his "reliable information", King Mahendra once told him that in addition to the intelligence services, he had his valet, gardener, chauffeur and other household servants, plus a large number of his retainers who volunteered information to him.

Apart from the members of the royal family, the most formidable members of the present Nepali political elite are the next immediate group surrounding the King which includes a former private tutor and a companion of student days, both of whom are palace secretaries now, and a personal physician.

King Birendra's novel view of kingship has accentuated the personalistic character of elite politics in Nepal. Members of the royal family, the queen and the king's brothers and sisters and aunts have been assigned more than just the ceremonial functions which they had carried out in the past. At the time of King Birendra's grandfather, King Tribhuvan, almost the only occasion on which members of the royal family were assigned even a ceremonial function was when King Tribhuvan's second son and the son's wife, Prince Himalaya B.B. Shah and Princess Princep Shah, were included in the Nepali delegation to the coronation of Queen Elizabeth the Second in London in 1953.

King Mahendra, King Tribhuvan's son and successor, deliberately followed the tactic of setting up several rival bodies of equal status and nominal power with overlapping jurisdictions, while actually retaining absolute power in his own hands. In addition to the Council of Ministers,

he set up a National Planning Commission under the chairmanship of his brother, Prince Himalaya and another National Council under the chairmanship of his half brother, Prince Basundhara, to advise him on political matters. However, after the 1959 elections, these bodies were dissolved and were never revived following the royal takeover on 15 December 1960.

One exception to the foregoing must be noted. Even in the pre-1960 era, as in the post-1960 period, the immediate members of the royal family including the queens were appointed members of the temporary regency councils called the councils of royal representatives, which were set up from time to time to carry on the king's formal and routine duties during his absence from the country.

During King Birendra's rule, which began in January 1972, the king's brothers, besides serving as chairmen and member of the councils of royal representatives, had performed numerous ceremonial functions such as attending state funerals and coronations (abroad) and also have undertaken goodwill visits of a semiofficial character to neighbouring countries such as India, China and the Democratic People's Republic of Korea. They supervise the National Sports Council and the Scouts and the King's brothers and sisters attend embassy national-day functions as the King's representatives.

Members of the royal family, the king's sisters and aunts, have also been put in charge of different committees looking after various social organisations such as the Nepal Red Cross, not just as honorary chairpersons or patrons but as effective heads of the executive committees of these organisations. The active involvement of the royal family in the day-to-day administration of the affairs of large variety of social organisations may have consequences in future all of which cannot be foreseen. But the one inevitable result is that such an arrangement is apt to involve members of the royal family in a situation of conflict with commoners, impressing upon the latter the inequality of the competition between the two.

In such personalised politics controversies revolve around personalities rather than issues or programmes and invariably degenerate into personal recriminations and polemical exchanges. A major pattern that emerges from the political process in Nepal is one of a subdued but ever present state of rivalry caused by the ruthless drive for power or just survival, which manifests itself in the lowest level of personal insults considered acceptable in both private and public exchanges. These personal exchanges of a recriminatory nature seem to serve as a counter-

vailing device in view of the fact that an almost anarchic state of universal competition without rational agreement on rules or conditions leads to the absence of political leadership.

This state of affairs, however, tends to make the king the hub of the system and the true balancer, and power is not allowed to accumulate in anyone's hands except his. When power begins to concentrate in groups, the groups are broken up, and when an individual becomes too influential after a long term in office, he is demoted, dismissed, prematurely retired or penalized in other ways. The retirements of Tulsi Giri and Surya Bahadur Thapa as chairman of the council of ministers and prime minister in 1965 and 1969 respectively are cases in point, and many a time the late King Mahendra would discuss with the author the necessity he had felt for smashing power or interest groups that had sprung up in the government secretariat. King Mahendra had designed the system in such a way as to provide for the almost automatic emergence of countervailing rivals.

A system of this kind, of course, causes a state of insecurity and uncertainty as indicated by the dramatic rise and fall of individuals. Those who appear to be formidable members of the political elite one day find themselves unemployed and disgraced the next. The way in which successive prime ministers were forced to resign, were disgraced and sometimes even jailed after their removal from office bears ample testimony to the above fact. The imprisonments for a short period of Tulsi Giri and Bishwa Bandhu Thapa during King Mahendra's rule and of Surya Bahadur Thapa during King Birendra's rule may be cited as examples in point. Even top-ranking civil servants and military officers were subjected to this kind of treatment. This was shown by the premature retirement of Chief Secretary Sobhag Jung Thapa, Secretaries Kulnath Lohani and Biswashankar Shukla and from the army, Major General Padma Bahadur Khatri and Major General Dazzle Jang Rana during King Mahendra's rule and the high-handed jailing of one of the secretaries of the government, Surendra Raj Sharma, during King Birendra's reign.

The feeling of rivalry increases with the proximity of the competitors to the centre of power, and competition reaches the highest level of intensity among those who are very close to the king. The struggle for power between Major General Sher Bahadur Malla and Brigadier General Samar Raj Kanwar, both officers of the Royal Guards and military aides-de-camp and secretaries to king Mahendra, resulting in the dismissal of the latter in 1965, and that between Sardar Hansa Man Singh

and Mir Subba Daya Ram Bhakta Mathema, both officers of the royal palace secretariat, ending in the eventual ouster of the latter after the fire in the Janaseva Cinema Hall in 1961, are examples in point.

Since most power is concentrated in the centre, antagonistic forces also prevail there to maintain an equilibrium so as to ensure, as it were, the preservation of the system itself. Innumerable strands of rivalry, therefore, are woven into the elitist political pattern depicting a myriad of shifting alliances forged by the cliques and personalities as the exigency of the situation demands. The king's role is crucial in that he shuffles personalities in and out of office to maintain the equilibrium at the centre. In short, the elite politics of Nepal is characterised by ever present rivalry, indifference to formal rules and reliance on manoeuvre and agility. Only the hypocritical code of civility and polite behaviour prevailing in Nepal tends to mitigate the effects of this cutthroat competition in the eyes of the outsider.

Locating the Political Elite

Those who wield a full measure of political power in the society are said to have political leadership, and in Nepal, as in all patrimonial systems, it belongs to those who have the most frequent or the highest level or the easiest access to, and influence with, the patrimonial leader who is the king. We may focus our primary attention on the political elite and its policy, taking into account other elites in the economic and intellectual spheres only insofar as they have a part to play in forming the political elites. There are as many kinds of elites as there are value hierarchies in society.

If it is easy, in a sense, to identify the political elite by referring to the leader and his circle of advisors as such, it is extremely difficult to determine to a fine degree of accuracy which of the personalities within the circle are actually important and powerful. Thus the informal and personalistic nature of patrimonialism may be said to render the process of identifying the elite both simple and complex at the same time. Competition among the elites makes it difficult to assess the relative strength of their positions in the real distribution of power because elite actors and their allies are apt to exaggerate their own importance. It is only with the help of a combined positional, reputational and decisional approach that it may be possible to identify the real elite.

The Nepali elite personalities may be classified into seven major groups on the basis of their origin and character. These categories, in

ascending order of influence are as follows: (1) quasi-governmental personalities, high-ranking businessmen and professionals; (2) members of Rastriya Panchayat (National Legislature) and of the Standing Committee of the Raj Sabha (State Council); (3) assistant ministers, ministers of state, cabinet ministers, and prime minister; (4) military-security organisation officers; (5) palace courtiers and confidants; (6) members of the royal family; and (7) the king's innermost circle.

Figure I is an attempt at diagrammatic representation of these seven groups that comprise the Nepali political elite. While indicating the relative size of the groups and illustrating how the innermost circle is composed of the members of the other six elite sections, the diagram seeks to emphasise the manner in which the elite revolves around the person of the patrimonial leader. It will be unbelievably difficult nay well-nigh impossible to determine beyond certain manifestly arbitrary numbers who belongs to the elite and who does not. Further, such a restriction of the number of the elite to manageable proportions may also facilitate an in-depth study of the mode of elite formation.

Just 18 individuals may be said to represent the hard core of the Nepali political elite in the sense that they enjoy more influence with the patrimonial leader than anyone else. The innermost circle to the best of the author's knowledge and information consists at present of the following persons: (1) Queen Aishwarya Rajyalakshmi, (2) Queen Mother Ratna, the King's brothers, (3) Prince Gyanendra, and (4) Prince Dharendra, (5) Chief of the Royal Household or Principal Royal Palace Officer Kazi Hansha Man Singh, (6) Principal Military Secretary, Lt. General Dana Gambir Rayamajhi, (7) Principal Secretary Ranjan Raj Khanal, (8) Principal Personal Secretary Ishwari Man Shrestha, (9) Principal Private Secretary to the King, Narayan Prasad Shrestha, (10) Principal Press Secretary to the King, Chiran Shamsher Thapa, (11) Assistant Military Secretary Major General Rishi Kumar Pande, (12) Royal Military Aides-de-camp Lieutenant Colonel Shanta Kumar Malla, and (13) Lieutenant Colonel Tara Bahadur Thapa, (14) Prime Minister Surya Bahadur Thapa, (15) Chief Justice of the Supreme Court of Nepal Nayan Bahadur Khatri Chhetri, (16) Chairman of Rastriya Panchayat Marich Man Singh, (17) Chairman of the Standing Committee of the Raj Sabha (Council of State), Brigadier General Bhupal Man Singh Karki, (18) Chief of the Army Staff, General Singha Pratap Shah.

Queen Aishwarya is the most important and pivotal member of this group. The king has now by royal ordinance put her officially and formally in charge of the council for coordinating the activities of social

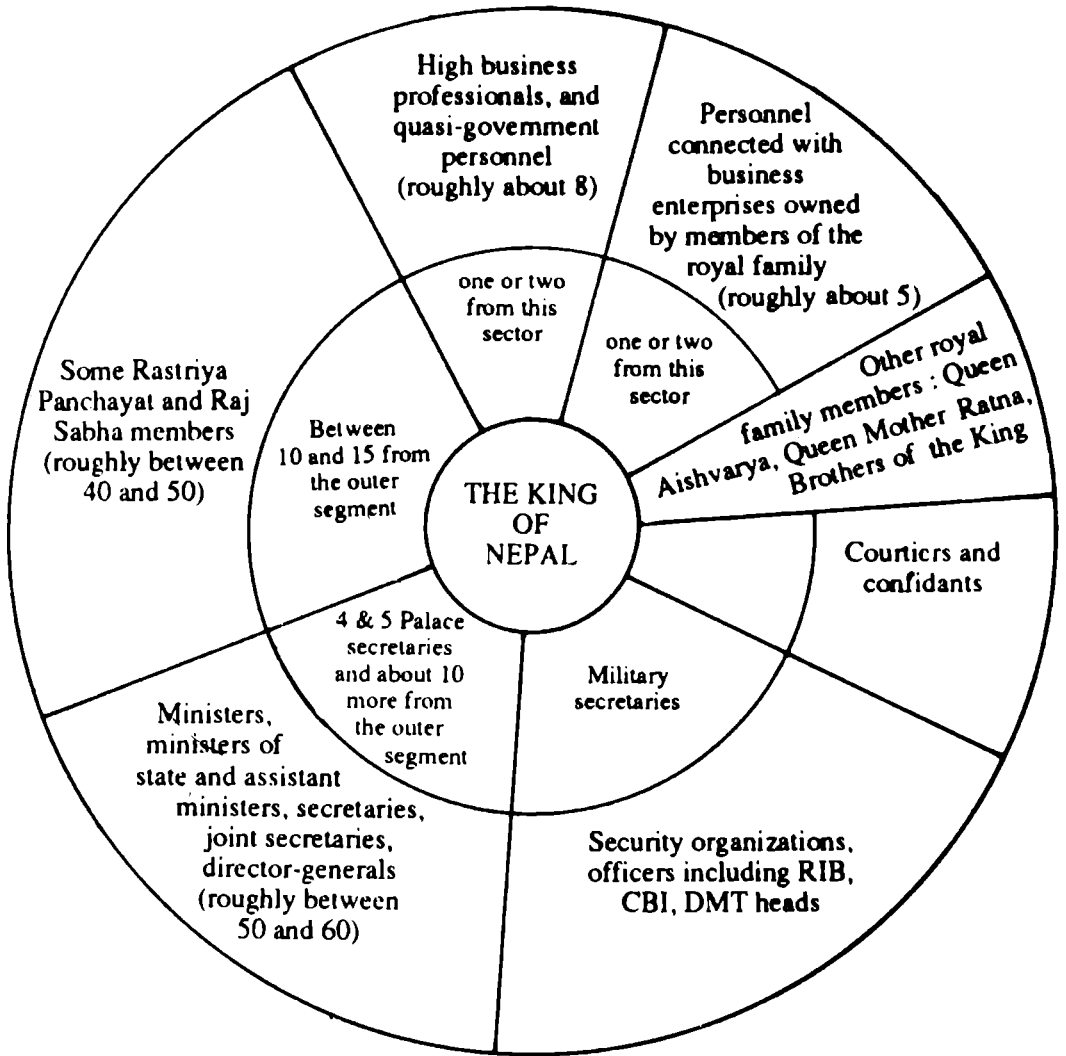


Fig. 1

organisations in the country. She has also a private secretariat through which Nepalis from all walks of life can petition to her for help.

It is only natural for Queen Mother Ratna Rajyalakshmi to have influence with the King because His Majesty King Birendra, having lost his own mother early in life, grew up under her fostering care. She had been the sister of King Birendra's own mother. King Birendra's younger brothers, Prince Gyanendra and Prince Dhirendra, seem to be close to the Queen Mother for the same reason and also because their share of inheritance of the late King Mahendra's private estate depends on her will and choice. Hence there are occasional rumours that the king's two younger brothers have teamed up with the Queen Mother to influence the king in sundry matters.

The second segment of the political elite consists of other royal relatives and in-laws. The King's uncle, Prince Himalaya was known for his interest in business. It was he who set up Kathmandu's well-known five-star hotel Soaltee Oberoi and retained controlling shares in it. Another international hotel in the heart of the city, the Hotel de l'Annapurana, and a hotel in Pokhara are owned by Prince Himalaya's brother's wife, Princess Helen Shah. The King's sisters' husbands own hydrogenated oil mills, saw mills and distilleries and one is building a new hotel. Prince Gyanendra who is now the third in the line of succession to the throne after the child crown prince and another infant prince, has acted as a pioneer in starting a shipping industry. The king's father-in-law has a share in another well known Kathmandu hotel called Hotel Shanker. The royal relatives also own and control travel agencies, and transport businesses.

The active interest shown by the royal relatives in carrying on business enterprises shows that they also exercise influence as business interests independently of their blood relations with the King. King Birendra has at times appeared to be quite sensitive about the business undertakings of the royal relatives and even taken some steps, albeit in a faltering and hesitant manner, to reduce the influence of members of his own family in the sphere of private business.

The segment of the political elite composed of relatives and in-laws of the ruling Shah family also includes three or four relatives of Queen Aishwarya; Queen Mother Ratna; Princess Princep and Princess Helen, wives of King Mahendra's brothers, the late Prince Himalaya and the late Prince Basundhra respectively; as well as some other minor members of the Shah family and their spouses. Not all of the princes and princesses in the Shah family can be said to be part of the political elite. It may be

noted here that as a strange but meaningful coincidence, all the wives of the members of the immediate male members of royal family belong to the family of Maharaja Juddha Shumsher Jang Bahadur Rana, the Rana prime minister of Nepal from 1933 to 1945 who had seventeen sons and eighteen daughters by innumerable wives and concubines. Those royal relatives completely lacking in talent and reputation have of course not much influence in national politics.

Among a large number of courtiers and personal confidants are, Bada Kazi Pushpa Raj Rajbhandari, former chief royal palace officer, and General Sher Bahadur Malla, former principal military secretary, both of whom also served the late King Mahendra in the same capacities. The sons of the Bada Kazi and the General are also retained in the Royal Palace Secretariat and the Royal Guards respectively. Although the late King Mahendra abolished the hereditary basis of the office of the Royal Preceptor (Rajguru) by formally laying down that the position in future would be open to anyone of the Brahmin caste on the basis of merit and competition, yet he thought it fit to adopt ascription rather than merit as the basis for the appointment of top military aides-de-camp to his sons. For example, military aides-de-camp to his son, Crown Prince Birendra, and his other two sons, Prince Gyanendra and Prince Dhirendra, were appointed from among the sons of the late king's military secretaries. Similarly, most of the sons of the secretaries of various ranks in the royal secretariat hierarchy have been retained in palace service.

After the 1951 political change some of the old-time employees of the royal palace temporarily came under a cloud for their role at a crucial time during the absence of the principal members of the royal family in New Delhi in the course of their struggle to regain power from the Ranas. However, all of them were actually retained in the palace service. King Tribhuvan and his successors had limited options in the matter insofar as their contact with state officialdom during the entire period of more than a century of the Rana rule was strictly confined to a select few, seconded by the Rana ruler themselves on the basis of their absolute personal trust. All that the two of King Birendra's immediate predecessors could do under the circumstances was to make the best use of the contacts they had had from before. In retrospect both of them must be credited with success in utilizing those contact to their advantage when the time came.

General Yog Bikram Rana, who was the late King Tribhuvan's principal military secretary and trusted man till the end, was, in the transitional period occasioned by the 1951 political change, charged with sole responsibility for selecting a special corps of Royal Bodyguards

from among the troops that had remained loyal to the Rana prime minister even after the king had joined the side of popular forces. Time and events later proved that the general was worthy of the trust King Tribhuvan had reposed in him. King Mahendra's trusted principal military secretary, General Sher Bahadur Malla, was initially brought into the Royal Guards by General Yog Bikram Rana as a subaltern officer to assist him. General Malla had a chance to create a favourable impression on King Mahendra for the first time in 1955 when as a major he accompanied the king as crown prince to Europe, where he was summoned by his ailing father. After the accession of King Mahendra to the throne that year, General Malla, as a result of quick promotions, rapidly rose to the rank of principal military secretary, outclassing both Major General Mohan Bikram Shah who was the husband of Queen Ratna's eldest sister and also the military aide-de-camp of King Mahendra ever since he was Crown Prince, and Brigadier General Samar Raj Kanwar who was also known to be an old-time favourite of King Mahendra.

Among the royal palace employees on the civilian side, the cases of two highly influential personal secretaries, Mir Subba Daya Ram Bhakta and Mir Subha Lok Darshan, at the time of King Tribhuban and King Mahendra respectively, will repay close attention inasmuch as their eventual ousters show how preponderant influence with the patrimonial leader, is apt to excite jealousy among the entire range of servants both in the palace secretariat and the government secretariat, provoking them to act in concert to destroy or displace their outstanding rivals for royal favour and patronage. On the basis of the above two cases and also on that of a cursory survey of the holders of posts in the royal palace service in general, it may be stated that the members of families with a long record of connection with the palace have generally done better than others and certainly have outlasted the newcomers the intruders as it were in most cases.

Although the influence of the patrimonial retinue of old has considerably weakened, some of the remaining retainers continue to play an important part in Nepali politics. This segment of the political elite has usually included royal secretaries, tutors, entertainers, physicians, valets, stablemen, astrologers, fortune-tellers and soothsayers. They owe their power and position in the political elite to the institutionalized access they have to the king. Many of the members of the political elite have links with the king not only through the royal secretaries but also through other servants of the royal household, including of course the

secretaries, who serve as an intermediary between the patrimonial leader and important personalities in society at large.

The high-ranking officers of the military and security organizations hold a specially important place among the elite. The reason for this is that they are in charge of the coercive apparatus of the state in a situation where, other subtler forms of influence notwithstanding, force is the ultimate basis of power. Unlike other informal leaders who have to operate individually and personally, the security and military intelligence officers have institutional bases to fall back upon. When the author was serving under the late King Mahendra as his finance and foreign minister for a little less than two years he had a firsthand experience of the capability of the men connected with this apparatus to manipulate and manoeuvre the King himself in certain situations by playing on His Majesty's suspicions and susceptibilities. Though the author's direct contact and personal relations with the king saved him on many an occasion, the manipulators of the intelligence apparatus finally succeeded in getting the author 'finished' from their point of view, that is dismissed from the government.

The bureaucratic elite in Nepal is the largest and the most obvious reservoir of members of the national political elite. The government apparatus is headed by an elite whose number may fluctuate between 50 and 60 who are drawn from several hundred persons comprising ministers, ministers of state, assistant ministers, secretaries, joint secretaries and directors-general. All the ministers and half of the ministers of state and assistant ministers and members of the planning commission may be included as members of national political elite. Among secretaries, directors-general and joint secretaries, half a dozen of each category together with a few technical advisors such as the heads of a public corporation or governmental agencies like the one for industrial consultation service may be regarded as part of the national political elite.

The second largest number of elite are found among the members of the Rastriya Panchayat, District Panchayat Executive Committees, and the standing committee of the Raj Sabha. However, the number of those fit to be included in the national political elite from all the categories mentioned above will not exceed that of those to be drawn from the civil bureaucracy as outlined above and probably is in the neighbourhood of between 40 and 50.

The final category of the Nepali political elite is composed of leading business, professional and quasi-government personalities. A few of the biggest contractors and industrialists with an inside track in the palace,

heads of such quasi-governmental organisations as Industrial Consultation Service, Agricultural Research Centre, Centre for Development and Administration and the Tribhuvan University etc. may be included in this class. The members of this group are the least influential politically with the exception of those who also belong to the other groups mentioned above and one or two who may even be inner circle members.

The above classification of political elite membership reveals quite a few patterns. The most obvious pattern is one of simultaneous membership in two or more elite categories by what may be described as "linkage figures". Undoubtedly, the king is the archetype of the linkage figure because of his final authority over and direct contact with each of the above-mentioned elite classifications. Besides the king, the members of the inner circle are also central linkage figures. As our diagram clearly illustrates, each of the inner circle members is also a leader in one of the key elite areas. Thus they also act as linchpins, preventing the individuals and groups forming the national political elite from falling apart and thus helping to hold together the larger political system as a whole. As some of the occupants of the elite positions exercise direct influence in more than one area, the number of the individual members of the elite is considerably lower than that of the apparent elite positions.

Educational Background

Most of the bureaucratic, professional and technocratic elite in Nepal at present are fairly well educated, widely travelled and linguistically skilled. But the educational backgrounds of the members of the indirectly elected bodies in the panchayat hierarchy generally speaking fall far below those of the bureaucratic, professional and technocratic elite, thus making the political component of the administrative apparatus weak and ineffective as compared with its bureaucratic component.

Another anomaly about the so-called partyless democratic panchayat system in Nepal is that a great majority of the college and university educated elite of whom the administrative bureaucracy and technocracy are largely composed, repeatedly voted against what is played up as the fundamentals of the panchayat system. They elected from the graduates' constituency to the national legislature candidates who had advocated complete restoration of fundamental rights and democratic processes, including a system of representative government responsible to the national legislature elected on the basis of direct universal adult suffrage. After three subsequent elections at the end of every four-year period

since 1963, the graduates' constituency was finally abolished by the king in his 1975 constitutional amendments.

But the mere abolition of the constituency did not change the thinking of the constituents. Nor did it help the powers that be to enlist the willing cooperation of the constituents for implementation of development and modernisation programmes. How could the members of the administrative bureaucracy and technocracy be expected to give the best of themselves to work a system in which they do not have much faith themselves? It is only for the sake of their livelihood that a majority of the educated employed are working for the government as there is still very little opportunity for employment outside it.

Elite Cohesion and Challenge of Modernisation

The political elite, merely bound by selfish interests for the maintenance of the status quo, however cohesive it may appear outwardly and temporarily, cannot withstand the pressure of social forces generated by the process of modernisation. For example, the Iranian political elite appeared to be a remarkably cohesive group for quite sometime. The Shahinshah as the patrimonial leader had up to a point acted as an anchor to the elite and had also been effective temporarily in neutralising the centrifugal tendencies which were generated by the process of modernisation. However in the long run, none of these factors, neither the balancing effect of the personal rivalries dominating intra-elite relations nor the apparent role of competition in discouraging explosive division and binding together the various elite levels, nor even the increased contact and communication provided by clusters of cliques and family groupings, could prove an integrating factor in the face of serious social challenges arising out of the implementation of the programme of the so-called White Revolution or modernisation. The Iranian system towards the end proved to be no better than any patrimonial system which encouraged sycophancy, opportunism and intrigue.

The powers that be in Nepal and many of the opportunistic members of the political elite who are from among the intelligentsia have many useful lessons to learn from the experience and failure of the Shahinshah's regime in Iran. The patrimonial sociopolitical system, even while temporarily providing elite cohesion and checking centrifugal tendencies, cannot withstand forever the pressure of forces released by social and intellectual mobilisation. Unless the powers that be and the educated elite evolve a viable political process which can contain these social

forces by responding to them in a constructive manner so as to canalise them profitably from the national point of view, they are sure to be overwhelmed by them with anarchic consequences for the nation for a considerable period of time.

Elite Recruitment and Circulation

It has been fashionable to take two divergent views of elite recruitment and circulation in Nepal as in other patrimonial systems. According to one view, the Nepali political elite is a closed circle which has been reluctant to admit outsiders to it. The expression "twenty-one families" implies that the Nepali society is tightly ruled and controlled by these families that have remained relatively constant over a long period. According to a second view, however, the Nepali society has been one of unrestricted social mobility and has not got an ancient heritage of familial, dynastic politics, but has had an astonishingly quick succession of elites and dynasties. Both these views have relevance of the study of elite recruitment and circulation in Nepal.

Elite Continuity

Family, caste and tribal relations have traditionally had a crucial role in the Nepali political system. Although family seems to have less impact on political decision-making now than in earlier times, yet it still continues to be a factor. A number of families have been continuously represented in the political elite since before the mid-nineteenth century. Representation in the Nepali elective bodies in the panchayat hierarchy is a further indication of the extent to which these local and national elite families saturate them. Family continues to play a much more important role in Nepali politics and elite formation than is apparent on the surface. Marriage must be regarded as a major means of access to the elite. The Shah-Rana marriage since about the mid-nineteenth century and the Pande-Basnyat marriage since the mid-eighteenth century may be cited as prototypes and this tradition is followed by other elite families to this day. Thus the position of the national elite families has been considerably strengthened and consolidated by intensive inter-marriage. But one cannot understand elite formation and political processes in Nepal by studying family relations alone.

Elite Circulation: The Challenge of the Educated Middle Class

The offspring of merchants, bureaucrats, priests and professional people, none of whom belong to the traditional elite families, are also moving into the political elite. The insistence on recruitment of the intelligentsia for elite positions does not date any further back than the 1951 political change. But even this relatively recent emphasis upon recruitment of the intelligentsia for key positions in the government has strengthened Nepali society and politics in some important ways. Educated Nepalis could go overseas for higher education and training only after the 1951 political change, and over the period of the last three decades, Nepal has been able to acquire an intelligentsia that is cosmopolitan in outlook and at least familiar with modern tools and techniques of knowledge.

The second important way in which recruitment of middle class members of intelligentsia for elite positions has strengthened the Nepali system is political. This is clear from the fact that the greatest threat to the ongoing political system comes from the intelligentsia as was shown by the results of the successive elections from the graduates' constituency to the national legislature. Despite the political elite's sensitivity to the threat from the middle class intelligentsia and its attempt to reduce their discontent, the professional middle class remains alienated. Personalism, informality, and tension imply lack of security, growth of opportunism and ascription and disregard of merit and efficiency. Even technocrats have often been accused of securing admission to the elite by having recourse to nepotism and sycophancy.

The future seems to depend on the capacity and willingness of the contemporary political elite to gain the willing support and commitment of the middle class intelligentsia whose role in mobilising public opinion against the regime must not be underestimated. The root cause of dissatisfaction lies in the distrust that many leading middle class intellectuals and politicians feel about the patrimonial style of politics.

The Modernising Elite and the Masses

In recent years the gap between all the educated modernising elites the political, the bureaucratic and the military and the masses, has grown more rapidly and become much wider than that between the traditional or feudal elites and the masses. The gap between a traditional elite and the masses can, to a large extent, be bridged overnight, by abolishing

ascribed distinctions of caste and status. But the distinction between an educated elite and the masses cannot be removed easily because the population cannot be educated overnight.

The educated class in Nepal belongs to the tiny upper crust of the privileged section of society called the middle class, as distinct from the majority of the people who live below the poverty line. But a large proportion of this middle class is itself subject to innumerable pressures because of its comparative poverty. And the degradations of poverty can be resisted only with the help of a basic sense of integrity. Unfortunately for Nepal, the educated middle class in general has been found wanting in this regard. The relative prosperity of some members of the more fortunate elite has created in them an utter indifference to the principles of social morality or the interests of the society as a whole. The irresponsible habit of advancing more self-interest is widely prevalent among them. One even wonders whether the level of social consciousness or responsibility has suffered a decline. In traditional Nepali society, the individual at least thought beyond his own self-interest in terms of the interest of the family, the tribe or the clan. Now the social ties between individual and family or tribe or clan are fast disappearing under the impact of rapid social change, and at the same time the elites have not been able to forge new social ties in the shape of increased awareness of their responsibility towards the nation. More understandably the masses have also failed to do this. Sunk in their age-old way of life, they are merely intrigued by the forms of technological, social and psychological changes which they see about them, but whose contents are largely inexplicable to them.

The modern educated elite have thus not been able to withstand either the strain of poverty or that of prosperity. They have developed a split mentality which is the worst enemy of national character and which can be cured only by an intensified effort on their part to coordinate their belief and action as much as possible. Their education in western values has made the elite neglect traditional values without being able to adopt western values in practice. They find themselves cut off from the mainstream of national life and culture with the result that they can fit in nowhere.

In the opinion of the present writer, the main threat to Nepal's political stability and territorial integrity is likely to come not from its neighbours to the south and the north but from its own failure to cope with internal social forces whose momentum and pressures are likely to increase as popular discontent rises. What happened in Sri Lanka in the wake of the

1971 armed revolution, engineered by a few thousand determined and socially conscious young people, under a hastily improvised organisation called *Janata Vimukti Peramuna* (People's Liberation Front), can also happen elsewhere in South Asia. Countries forced to meet the challenge of internal social forces cannot always count on outside help in withstanding their pressure.

In South Asia, among unemployed youth and students, it has become an article of faith that international intervention in Sri Lanka crushed the genuine revolt of youth in that country. Outside support in favour of the Banderanaik government is popularly regarded as having swung the balance in favour of establishment forces. Experience in other developing countries also shows that disaffected students, as their numbers and the acuteness of their dissatisfaction grow, are likely to rebel against the government in power, whether it be indigenous or alien in character. If the mass base of discontented urban workers and/or rural peasants should rise, such protest movements can seriously undermine stability anywhere, and external help and guidance to revolutionary movements may be easily available under those circumstances. The recent history of the erstwhile kingdoms of Afghanistan, Laos and Cambodia makes this prospect of infiltration from outside a serious cause for alarm. In the course of a decade or so, conditions in the South Asian region may deteriorate to the extent that the prevailing power structures will not be able to sustain the pressure of internal social forces. Popular social upheavals in Bangladesh and the adjoining Indian states of West Bengal, Bihar and Uttar Pradesh are bound to have repercussions in Nepal. In the changed context of social revolution in the South Asian region, Nepal will be exposed to the infiltration of revolutionary ideas and agents from the Tibetan region of China as well. Already ethnic minorities of the Mongoloid stock have begun to share vicariously a sense of pride in what Tibet has achieved under the Maoist revolutionary influence. If, in the interim, Nepal cannot develop a sociopolitical structure which can effectively contain new social forces, not only its political stability but also its territorial integrity will be seriously undermined.

The Referendum in Nepal

The fragility and the vulnerability of the King-dominated patrimonial elitist political structure to the growing pressure of internal social forces and to the winds of change blowing from outside was more than proved by the circumstances and events in spring of 1979, which compelled King Birendra to pledge reform in the panchayat system, theretofore regarded as being without alternative and immutable, and subject it to the test of a popular referendum.

Developments Prior to Royal Proclamation of the Referendum

Great happenings have at times humble beginnings. On 6 April 1979, some students took out a procession to protest against the execution of the former prime minister of Pakistan, Z.A. Bhutto. At the back of the students' minds at the time were also the breath-taking events that had overtaken the Shah of Iran and the belated execution on 8 February 1979 of two Nepalis, Captain Y.B. Thapa and Bhim Narayan Shrestha, who were respectively charged with taking up arms against the state and making an unsuccessful attempt on King Birendra's life as far back as 1974. When the processionists were stopped by the police on their way to the Pakistani Embassy in Kathmandu, there were clashes leading to a lathi charge.

This apparently minor incident set off a series of developments culminating in the Royal Proclamation of 24 May 1979 announcing what superficially looked like a popular referendum on Nepal's political future.

How all this happened may be summed up briefly. Students resented police force against their procession and drew up a long list of twenty-two demands for immediate fulfilment by the authorities. Following a series of meetings and demonstrations by the students voicing their demands, the authorities felt compelled to close the campuses in the Kathmandu Valley from 13 April to 21 April.

On 23 April, that is, the day after the campuses had officially reopened, some students, instead of going back to their classes, gathered in the Amrit Science Campus to air their grievances against the excesses perpetrated by Rastravadi Swatantra Vidyarthi Mandal (National Independent Students' Union) as the government's storm troopers. It is reported that on the occasion, the police not only entered the campus and brutally assaulted the students but also surrounded the adjoining area in such a way as to prevent any student from fleeing to safety. There were unconfirmed reports of two or three deaths among the students, but the police denied this and instead claimed that 64 of their men were injured in the scuffle.

The authorities then closed the campuses *sine die*; students were given only 24 hours to clear the hostels. The students left for their homes in the hilly regions of Nepal and the tarai, carrying with them tales of police brutalities, whereupon disturbances, previously confined to the valley, gradually spread to many other areas of the country.

However, it was not until 27-28 April 1979 that the first major incident took place outside the Valley. At Hetaura, students and the local populace went out in a procession to the local administrative office and held a visiting minister incommunicado for about ten hours. The police opened fire and several persons were killed. According to official sources, there were only three deaths, whereas unofficial estimates put the figure as high as seventeen.

Following the first day of the Hetaura incidents a number of political leaders were arrested in Kathmandu in the small hours of the morning of 28 April; while former Prime Minister B.P. Koirala, was placed under house arrest. By that time the movement seemed to have gained a momentum of its own.

After Hetaura, the agitation spread like wildfire. It caught on and went apace at Bhaktapur and Patan in the Kathmandu Valley, at Bharatpur, Birganj, Kalaiya, Janakpur, Biratnagar, Rajbiraj, Siraha and Sarlahi in the tarai and at Pokhara and Syangja in the central hills.

Pashupati Shamsher Rana, the education minister of the day was forced to resign and thus proved to be the first casualty of the students'

agitation. On 2 May 1979, King Birendra set up a five-man royal commission to report to him on the students' agitation after fully investigating the major incidents connected with it all over Nepal and to suggest solutions to the students' unrest. The commission readily conceded the demands of the students, which were mainly academic, and as a further concession to the students, all those detained in connection with the students' agitation, including political leaders, were released on 9 May 1979. According to the official version, 224 persons had been taken into preventive custody under the Public Security Act in the course of the students' unrest for a period of three months. 160 of them were released between 2 and 3 May and the remaining 64 were released along with political leaders.

The student leaders belonged to Nepal Vidyarthi Sangh (Nepal Students' Union), Akhil Nepal Swatantra Vidyarthi Union (All Nepal Free Students' Union) and Nepal Rastriya Vidyarthi Federation (Nepal National Federation of Students) which are front organizations of the banned Nepali Congress, the pro-Chinese Communist Party of Nepal and the pro-Soviet Communist Party of Nepal respectively. As the main overt opposition to the present regime inside the country has consistently come from the students, their activities deserve considerable attention from the political point of view.

If the political leaders were not directly involved in the students' agitation, it was because they were not quite sure of what response it would evoke from other sections of the people. However, popular response to the students' movement apparently exceeded the most optimistic expectations of these leaders, who were caught unawares and were inclined to seek an explanation for the fast-moving events not only in the pent-up feeling of discontent among the people but also in the machinations of foreign powers. Popular discontent in itself, however, does not start revolutions unless it is backed by leadership and organisation.

After leaders of all the above students' organisations had duly accepted the offer of the royal commission to meet all their demands, they were questioned by a militant group of students as to how they could have agreed to call off the movement without consulting the general body. It is always easy to start a bandwagon rolling but difficult to stop it once it has picked up speed. The task becomes all the more difficult if others on the wagon, however insignificant they may have been at the beginning, are pushing it hard to roll even faster. The competing interests began to raise all kinds of doubt and suspicion in their attempt to press their own respective lines: What is the guarantee that the students'

demands will be fulfilled unless the government gives something to the students in writing? Did not the authorities back out of their commitments in 1975? Some of the students even argued that the students should not call off the movement until the demands of the peasants and workers, who had supported them, were fulfilled.

On 23 May 1979 about 3,000 students assembled in the Amrit Science Campus apparently to deliberate on the acceptance of the royal commission's offer by the student leaders. Two of the student leaders, who were alleged to have been won over by the authorities to accept their terms, were forced to submit to the humiliation of having their faces smeared black and wear garlands of shoes and were taken round the city on a push cart. (Only the leader representing the Students' Front of the pro-Moscow Communist Party was missing under mysterious circumstances).

The student crowd, whose number was swelled by a large body of onlookers and others, some of whom were firmly set on fishing in the troubled waters, soon turned into a huge unwieldy mob of tens of thousands. It milled around the city shouting slogans, such as "We do not trust the corrupt Bista Government nor the deceitful royal commission" and "We want direct dialogue with the king". The attempt by Prime Minister Kirtinidhi Bista, to keep politics out of the students' agitation through his public press statements had clearly backfired on him.

The unprecedentedly violent action of this undisciplined mob of diverse political elements proved to be the last straw. Twenty or thirty thousand strong, they proceeded to New Road near the offices of Royal Nepal Airlines and set fire to four airlines vehicles. From there it surged to the nearby offices of the government newspapers and set them on fire.

According to reliable sources, disturbances had already broken out in 37 of Nepal's 75 districts and the government's police forces had had to be dispersed all over the country leaving only 700 policemen in the entire Kathmandu Valley by 23 May. Outnumbered and helpless against the mob action on this eventful evening, the police sought help from the army and troops were brought into action. There was firing and according to official reports, a total of five rioters were wounded and forty policemen were injured, one of whom died a week later.

However, the moment of truth had arrived. The very next morning, that is on 24 May 1979, King Birendra made the historic proclamation that a popular referendum on the basis of universal adult suffrage would be held to enable the people of Nepal to choose by secret ballot between the existing panchayat system with timely reforms and a multiparty system.

The following rendering in English of the actual words spoken by the king in Nepali on the occasion was made available by Rastriya Sambad Samiti, the official Nepali news agency.

We therefore proclaim hereby that in the view of the situation as it obtains in the country today, in order to *explicitly understand the kind of change our countrymen desire* (italics supplied), we shall arrange to hold a national referendum on the basis of universal adult franchise. Through secret ballot in the referendum, all eligible citizens will be asked to vote on one of two choices: whether we should retain the present panchayat system with suitable reforms or whether we should set up a multiparty system of government.

If we are to take the king's words at their face value, the incidents connected with the students' movement had convinced him that the people wanted change in the constitution, and the referendum was going to be held merely to find out the kind of the change the people actually preferred.

Recourse to Direct Democracy

Under the circumstances prevailing in Nepal, the move to have a recourse to direct democracy was apt to be suspect. Referendum, plebiscite, recall and initiative are well-known devices in countries where democratic processes and representative institutions have been fairly well-established and direct universal adult suffrage has been the rule.

Referendum has been used in a narrow or restricted as well as in a wide or general sense. In a restricted sense, referendum refers strictly to constitutional provisions made for it on certain clearly specified matters, whereas in a general sense, it may be taken to imply popular national vote on any issue of public importance. For example, a referendum was held on the question of Britain's entry into the European Common Market because opinion within the parties and the country was found divided on the issue. But the French Constitution and some of the state constitutions in the U.S.A. have provisions for referenda on certain specified issues. The 1978 constitution of Shri Lanka also provides for the referendum on issues mentioned in Chapter XIII.

Although referendum and plebiscite are more or less synonymous insofar as both imply popular national votes, the latter is as a rule used to determine the question of political union or separation of the entire population inhabiting certain territory. For example, in undivided India a plebiscite was held to decide the future of North West Frontier Province and the district of Sylhet in Assam.

Initiative is the constitutional means of enabling the people to propose legislation directly, and recall is the constitutional method of enabling the electorate to demand the dismissal of office-bearers elected by them if they are not satisfied with the performance of the officials. The constitutions of some of the Swiss cantons provide for both of these devices.

The successful use of various forms of direct democracy presupposes a small compact territorial unit of homogeneous population with a democratic tradition. Therefore, when referendum and plebiscite are proposed where conditions of political freedom have not existed and where there has been no established tradition of representative government and universal adult suffrage as in Nepal, the motives behind them and especially the manner in which they are actually conducted, have to be carefully examined, because under those circumstances the powers that be are apt to misuse these democratic devices to influence the people to endorse what the rulers themselves want and in the process to deprive the people of democracy.

Most of the referenda held in Southeast Asian countries in recent times fit the above description and seem to have been merely intended to refurbish the image of the despotic rulers for both domestic and international consumption. The referenda conducted by Field Marshal Mohammed Ayub Khan in Pakistan in 1959, by Sheikh Mujibur Rahman in Bangladesh in 1975, by General Zia-ur Rahman in Bangladesh in 1977 and by President Ferdinand Marcos in the Philippines in 1979 may be cited as examples of this. It is against this background that the referendum in Nepal has to be viewed and its significance for the future assessed.

In the Wake of the Announcement of the Referendum

On the very day of the royal proclamation about the referendum, Bista resigned as prime minister. He was asked to continue as a caretaker until a hurriedly convened session of the national legislature could recommend a successor to him on 30 May 1979. The next to go was the apparatus of the Back-to-the-Village National Campaign, whose office-

bearers at all levels were said to have tendered their resignations almost simultaneously. Their resignations were accepted by the king on 28 May and the BVNC machinery itself was suspended. By 30 May the national legislature had recommended Surya Bahadur Thapa's appointment as prime minister and his 28-member council of ministers was sworn in on 1 June.

On 30 May, within a week of the Royal Proclamation about the referendum, a 15-member national election commission was formed under the chairmanship of a retired supreme court Chief Justice to supervise the national referendum. On 2 June, the Chairman of the Election Commission told the press that it would not be possible to hold the referendum by the end of 1979.

The entire political atmosphere immediately and dramatically changed for the better after the royal proclamation about the referendum and another proclamation on 30 May granting freedom of public assembly and expression. People began to breathe more freely and to deliberate on their future course of action with the sense of responsibility that comes only with freedom.

Conditions on the Eve of the Referendum

There was a section of opinion among both adherents of the panchayat system and its opponents that the referendum might have the effect of permanently dividing the nation into the believers in one kind of system or the other, and that the only way out for the king was to permit the restoration of the party system without holding the proposed referendum. As a matter of fact some important former ministers and legislators who had served under the panchayat system itself, went about actively organising what they had chosen to call the panchayat party. At the same time, the Nepali Congress and the Communist Party of Nepal with their various factions and other minor parties of the pre-1960 period were engaged in consolidating their respective party positions while urging the restoration of the party system at a time when they could not make use of their underground party machinery officially since the parties were still legally banned.

Other advocates of the restoration of the party system, notably those with political standing in the past, seemed to be merely on the look-out for a suitable opportunity to secure a place for themselves in the interim government in case the king restored the party system without holding any referendum. Indeed some former political leaders actually tried to

bring pressure on the king to remove the restriction on the parties and form an interim government to hold elections for a national assembly on the basis of universal adult suffrage.

The Koirala View

B.P. Koirala, the first and until then the only elected prime minister of Nepal, who had been the spearhead of the democratic movement for the restoration of the party system in the country, stated that it was entirely up to the king to fulfil his commitment to hold the referendum, and if the caretaker government was unable to maintain the law and order necessary for the impartial conduct of the referendum, it should quit to make room for those able to do so.

It may be pointed out in passing that Koirala had earlier put forward his own claim as the leader of the Nepali Congress Party to form the interim government on the plea of legitimacy that his party acquired by virtue of its convincing victory in the 1959 general elections, and also on the ground of being the most aggrieved party since King Mahendra removed from power the Nepali Congress on 15 December 1960 when it still had a majority in parliament and he was the legitimate prime minister of Nepal.

Completely shaken at the beginning were all those elements which had acquired privileges and benefits from the so-called partyless democratic panchayat system by seeking shelter behind the king and exploiting the time-honoured institution of kingship itself for the furtherance of their own selfish interests. However after some time, with direct and indirect encouragement from the powers that be they came forward to make a last ditch fight to bolster their declining position by holding mass public meetings, an unfamiliar experience for them. They were the very same elements who had until the announcement of the referendum, never felt the necessity of going to the people. Nor had they in their heyday permitted the people themselves to exercise even the limited fundamental rights given in the constitution of 1962.

There were also those, like the present author, who inclined to view the king's offer of the referendum as merely a device for defusing the crisis created by the students' agitation. Extreme leftists publicly expressed their determination to oppose the referendum at all costs, and the fact that open air rallies organized both in favour of and against the multiparty system were frequently being disturbed occasioned deep concern. The attack on Ganesh Man Singh, a prominent Nepali Congress

leader, at Hetaura seemed to be a signal for repeated disturbances at open air rallies and meetings. According to former Prime Minister B.P. Koirala the police fired at his party workers on 24 September 1979 in the western hill district of Syangja while they were returning to Pokhara with him after a successful mass rally. Koirala himself said to reporters, "The general feeling was that the rifle was aimed at my car." But the Gandaki Zonal Commissioner's office contradicted the above version by issuing a press statement that the firing had taken place long after B.P. Koirala had left the scene; a scuffle between Koirala's supporters and those in favour of the partyless system compelled the police to open fire for their own safety and also to restore peace. There were also newspaper reports of attempts having been made to subject to public humiliation some of the advocates of the partyless panchayat system, such as former Prime Minister Kirtinidhi Bista, and Rajeshwar Devkota, a former chairman of Nepal's panchayat legislature. Furthermore, attempts were also made to assault pro-Soviet Communist Party leader Keshar Jang Rayamajhi and Kashi Nath Gautam, a member of the 1959-60 Nepali Congress government.

On balance, the law and order situation did not actually get out of hand during the referendum campaign and was easily managed once the government decided to handle it with tact and firmness. However, there was for some time a real concern for stability even at the highest level of the government. According to an article in the English language Indian daily newspaper, *The Statesman*, of 22 September 1979 by its special representative, King Birendra was reported to have told the Indian government that if it were not willing to intervene to curb Soviet activities aimed at promoting rebellion in Nepal, China might feel it necessary to do so. The report added that the king also wanted the Indian authorities to do whatever possible to prevent Indian Marxist Communist workers from entering Nepali territory so that they might not be able to join hands with their Nepali counterparts in creating disturbances in Nepal. In his belated reaction to this report, the foreign minister of Nepal seemed to take exception to it solely on the ground of propriety and not on that of accuracy.

The King's Role

The significance of the dissolution of the Back-to-the-Village National Campaign (BVNC) machinery cannot be properly understood without reference to its key role in Nepali politics following the 1975

constitutional amendments. The constitution of Nepal, as amended in 1975, had raised the status and authority of the BVNC machinery and had also sought to redesign it as the direct instrument of the king's will and power for controlling Nepali politics. It was charged with the responsibility for drawing up concrete programmes of political action and was also assigned the task of interpreting and disseminating the panchayat system's political ideology. Its professed goal was popular mobilisation for development; but it was difficult to see how a body composed of salaried officials, with no experience of working among the people, could have been able to mobilise them while restricting their participation in the panchayat and class organizations. All the same, the BVNC had proved to be more or less the king's political party except in name.¹

In the constitution of Nepal, as amended in 1975, the BVNC enjoyed a highly favoured and sheltered existence. The privileges of its office-bearers were surpassed only by the king and the royal family. Even the rules framed by the central committee of the BVNC for the conduct of its business were placed above the law and the constitution of the land. The amended constitution provided that the rules framed by the BVNC in consultation with the king would prevail even if they were found to be inconsistent with the existing laws or any other article in the constitution itself. The salaries of the members of the central committee of the BVNC were directly charged on the consolidated funds of the state and were, therefore, not subject to annual appropriation by the national legislature.

The creation and operation of the BVNC had adversely affected the king's position as a symbol of unity and impartiality. It involved the king in the political process as an active contestant. Two other possible consequences of the evolution of the BVNC gave cause for concern. First, if the BVNC had continued to differentiate between "loyal" and "disloyal" subjects, it would have ended up dividing the nation, and as the king's creation, it would have involved the king himself in the act of division. Second, the attempts to remove the officials of the BVNC from the normal competitive political life in Nepal had made clear what the king's advisors had failed to take into account—that if political competitions were not openly permitted, the contestants would turn to other, more questionable method for gaining political ends. Political organisations of any kind could not be insulated from the conflicting pulls and pressures from both within and without.

¹ For an account of the genesis and growth of the BVNC and criticism of its role, please see Rishikesh Shaha, *Nepali Politics: Retrospect and Prospect* (Second Edition) (Delhi: Oxford University Press, 1978), pp. 216-238.

In sum, the BVNC, with an apparently innocuous but highly misleading name, merely served as a classic device for the exercise of power in the king's name without responsibility of any kind for the actual wielders of authority. It was by far the most powerful body in the partyless panchayat system, for nobody could contest elections to any elective office in the panchayat hierarchy unless his candidacy was cleared by the BVNC. BVNC officials were open to bribery from aspiring candidates. In short, the BVNC committees had grown into self-perpetuating privileged cliques without grassroot support and with a vested interest in interposing themselves between the king and the people in such a manner as to insulate the monarch from popular feeling and aspirations. For these reasons, the suspension of the BVNC proved to be a welcome step; it served to reinforce the king's position as a symbol of unity and impartiality above the day-to-day controversy of politics. The present writer who had served a prison term of solitary confinement from May through August 1977 for criticising the concept and role of the BVNC in his article on the second 1975 amendment to the constitution, published in an Indian periodical found himself fully vindicated.

The king, instead of consulting the BVNC Central Committee about the appointment of the prime minister, as provided for in the constitution, chose to ask only the national legislature to recommend the name of a successor to Kirtinidhi Bista. Even this royal gesture was significant insofar as it indicated a preference for the elected national legislature—something utterly disregarded by the constitution as amended in 1975. All this, however, did not mean that the proposed referendum was going to be fair and impartial or that it might not create more problems than it would solve.

Notwithstanding an unequivocal embargo put by the constitution on all political parties and on politically motivated organisations, the king granted by *hukum* or peremptory command full freedom to carry on propaganda in favour of the restoration of the party system. This propaganda had to be done, however, without actually setting up political parties or using existing underground party machineries under their own names.

Every group of leaders of the banned political parties of repute made use of this freedom by addressing open air mass rallies in the capital and elsewhere, indirectly proving their actual existence as parties. These leaders understandably pleaded for the restoration of the party system. Even some of those who belonged to various panchayat bodies resigned and came out openly in support of the multiparty system.

King's Complete Identification with the Panchayat System in the Past

Both the present king of Nepal, King Birendra, and his father, King Mahendra, had totally identified themselves for a period of 19 years with the so-called partyless democratic panchayat system. However, it appeared that King Birendra, through his historic proclamation of 24 May 1979, had boldly and wisely sought to extricate himself from the position of complete identification with the existing panchayat system by making a suggestion about its timely reforms and by undertaking to submit to the test of a popular referendum this system which had heretofore been regarded as immutable. Notwithstanding the fact that partylessness was certainly not the birthmark of the panchayat system insofar as the original 1962 constitution did not even contain the word "partyless", the restoration of the party system became a highly sensitive referendum issue. For most of the last nineteen years, people were encouraged to believe that restoration of the party system was out of question for all time to come.

Concern About the Impartial Role of the King and the Government of the Day

Although His Majesty's Government cannot be absolved from direct responsibility for incidents of lawlessness that had taken place at the beginning, it soon realised that the king's position itself would be seriously compromised if the referendum were not held as a result of deterioration in the law and order situation, no matter what excuse was found. Notwithstanding the king's firm commitment to a free, fair and impartial referendum on the nature of the future political set-up in Nepal, there were clear indications from the beginning that the panchayat government was being encouraged to use the machinery of the state itself at all levels to induce the people to vote for the partyless panchayat system. As a matter of fact, the government after the first flush of popular feeling against the panchayat had subsided, seemed to be so confident of the final outcome that it had at one stage decided to hold elections for membership in the national panchayat legislature on the basis of universal adult suffrage enacting a law to restrict candidacy for its membership only to the sitting members of the village, town and district panchayats. However, the Thapa government was compelled to give up the idea of holding those elections in the face of growing public criticism, and the elections

to the Rastriya Panchayat from the three zones were not held even in the months immediately following the referendum.

Despite the fact that the Back-to-the-Village National Campaign machinery was suspended, the government passed a bill transferring to the Home and Panchayat Ministry the key powers which previously belonged to the BVNC machinery in respect of recall of members duly elected to fill vacancies in such bodies arising out of the recall or resignation of original members.

The arbitrary dissolution of the Narayanghat town panchayat (municipal committee) and the Tansen town panchayat after they had unani- mously opted for the restoration of the party system had already shown that it was idle to expect fair play and impartiality on the part of the government in conducting the referendum. The haste the government showed in acquiring the powers of the BVNC in the matter of recall and co-option of the members of the elected panchayat bodies at various levels suggested its intention to induce the people to vote for the existing system. Even philanthropic and relief aid from outside the country, including funds available from external sources for the training of women in useful and profitable trades and crafts, along with emergency funds at the disposal of the Home Minister, were, it was said, politically used by the government to influence the popular vote.

Again, the policy measures adopted by the government to pay a regular monthly salary of two hundred rupees to all village panchayat heads and that of five hundred rupees to the heads of the village panchayat where development land tax was introduced, may be cited as another concrete example of the government's attempt to mobilize even the local government machinery to influence the outcome of the referen- dum. Also the appointment of hardliners and panchayat activists as zonal commissioners, who held statutory positions as the king's direct appoint- ees, pointed in the same direction.

All the three consecutive elections in 1963, 1967 and 1971 for membership from the nationwide graduates' constituency in the pan- chayat legislature, until the constituency itself was abolished by the 1975 constitutional amendment, had convinced the government that whatever it might do, the educated Nepalis, be they scientists, engineers, doctors, teachers, lawyers and bureaucrats, were by and large against the existing panchayat system. Therefore, the government felt compelled to use coercion all the more in motivating the people in the government bureaucracy to help the cause of the existing partyless panchayat system in the name of the status quo and the King.

The committee for campaigning in favour of the partyless panchayat system, led by one of the sitting members of the panchayat national legislature, went so far as to openly declare in the village of Sanishchare in the far eastern tarai that the advocates of the multiparty system shall not be allowed to set foot in the area.

The Actual Conduct of the Referendum

If the suspension of the BVNC were a welcome measure of the King's sincere intention to hold an impartial referendum, the continuance of the panchayat government at the national level and other levels made it possible for it to influence the outcome of the referendum in an unfair manner. A neutral administration run by permanent civil servants instead would have served as the best guarantee of a free and impartial conduct of the referendum.

The referendum was not carried out in an atmosphere of impartiality, ensuring equality of opportunity to advocates of both sides to educate public opinion. Limited publicity was given in the official newspapers to the views of advocates of the restoration of the party system, and the government-controlled radio did not give any time whatsoever to the views of those in favour of the restoration of the party system.

The panchayat side advocating partylessness at one point went to the people with suggestions of its own for timely reforms in the panchayat system. Suggested changes even went so far as to imply that the panchayat system would provide full fundamental rights, thereby implying eventual freedom to form political associations or parties and also a government representative of and responsible to the national legislature, Rastriya Panchayat, to be elected in future on the basis of direct universal adult suffrage. In that case, the panchayat system itself would not have been different from a multiparty parliamentary system. The advocates of the multiparty system seemed inclined to equate it with a parliamentary system and sought to contrast this favourably with the partyless panchayat system with limited fundamental rights. But a multiparty system may not necessarily have to be a parliamentary one as in Britain or India: it could also be a presidential type of government as in France or the USA or the kind of the system Nepal itself had before parliament was established after the general election of 1959.

A vital question that might have been pertinently raised at that time and was sure to arise after the referendum and for ever afterwards was where the source of authority would remain for making a new constitution,

and how it would be drawn up and approved. Although the present writer raised this question in his writings and public speeches times without number, political leaders with vital stakes in the referendum conveniently chose to dismiss this question as purely academic.²

*Thoughts on the Referendum :Three Alternatives*³

I had expressed the following thoughts on the referendum prior to the King's message on Constitution Day on 16 December 1979 and the subsequent publication of the Referendum Rules of 21 January 1980 that "His Majesty shall make such provisions in the Constitution of Nepal as he may deem necessary" following the outcome of the Referendum. As I feel that these thoughts have relevance to the constitutional issues even now, I have taken the liberty of reproducing them below.

The referendum on the nature of the future political set-up in Nepal actually consisted of three apparently distinct components of one and the same process, viz., first, the popular vote on whether the restoration of the party system was preferred to the existing partyless panchayat system with timely reforms; second, the drawing up of a constitution by a duly elected constituent assembly or by a constitutional drafting committee consisting of constitutional experts and others with firsthand experience of government and politics; and third, the holding of elections for the national legislature in accordance with the terms of the constitution.

Thus, the determination of the nature of the future political set-up in Nepal by free popular choice was not a simple or straightforward one-shot deal which could be resolved by a popular referendum once and for all. It was a highly complex process beset with the proverbial imponderables of politics and comprising these three interlinked stages which were actually part of one and the same process directed at discovering a national consensus by a free popular vote on the nature of future political set-up in Nepal.

The question naturally arose as to whether it was feasible and desirable from the viewpoint of the long-term interests of the nation to divide this complex process into three watertight compartments and take

² However, former Prime Minister B.P. Koirala, while expressing his opinion of the third amendment to the constitution of Nepal in Nepali press has acknowledged the fact that the present author was the one who had from the beginning insisted on having this constitutional issue defined. Transcript of B.P. Koirala's taped interview, *Yauban* (December 15-April 15), p.6.

³ *The Commoner* (daily), the *Motherland* (daily) and the *National Star* (weekly) of 22 November 1979.

them up one by one as they followed in the predetermined sequence of time, or to see if it were possible to short-circuit the entire process so as to achieve a national consensus on the future political set-up and thus end the prevailing uncertainty by giving a direction to the march of political events within as short a time as practicable.

If the referendum took one year to organize, the convening of the duly elected constituent assembly and the drawing up and finalization of the constitution by it might easily take up another three to four years, and the holding of general elections under the solemnised constitution at least another year. Thus if these three steps were taken separately, one after another, it would not only be a time-consuming process but might also give rise to unforeseen conditions at the completion of each step or stage, placing new obstacles in the way of arriving at a national consensus on the future political set-up. Meanwhile the state of uncertainty in the intervening period of five or six years might cause grave consequences which may be difficult to foresee at this time.

Since some of the stalwarts of the panchayat system had already begun their efforts to organize a panchayat party, and since a sizeable body of opinion seemed to have grown among the erstwhile adherents of the partyless panchayat system that the king should concede the multi-party system without holding a referendum, it might not have been difficult to merge these three stages into one if the king had restored the party system without much ado, held a political convention for putting together a set of constitutional stipulations to be regarded as solemnly binding on the king and the people in future and finally held general elections in accordance with the terms of the adopted constitution within a reasonable period of time, not exceeding a maximum period of two years.

Yet in another way also this long and complex process might have been somewhat shortened and simplified without tampering with the basic procedure of determination of the method of government in future by holding elections for a parliament-cum-constituent assembly within a reasonable period of time after the restoration of the party system or even before it.

However, even if the referendum were to be held as proposed, the process of discovering by popular vote a national consensus on the nature of the future political set-up could have been shortened and clarified by plainly stating that one of the choices offered was *the multiparty parliamentary system* and the other choice a *partyless panchayat system* with the reforms specified, thereby offering clear definitions of the

content of the constitution which might then be drawn up by an expert body and elections might be held accordingly for the parliament without losing several years' time.

These, then, were the alternatives, as I saw them, before the Nepali nation at the time. I put them before the King and the people in the hope that this might help to clarify the thoughts of those who were truly concerned about the political situation.

Plea for a Political Conference

Major representatives of different shades of political opinion in the country had almost wholeheartedly welcomed the proposal for the referendum. Only extremists of the far left and some over-zealous supporters of the existing panchayat system appeared as possible spoilers of a smooth referendum. Cases of collusion between these two elements in disturbing open air meetings and rallies held by advocates of both partyless and multiparty systems were frequently reported. In retrospect, it was good that this historic opportunity for the Nepali people to exercise their right of self-determination, although in a highly restricted manner, was not lost in confusion created by extremists or the mismanagement of selfish shortsighted persons in positions of authority.

The political situation in Nepal was grave. The need of the hour was the consolidation of national democratic forces at the popular level on the basis of a minimum programme acceptable to all. The best course of action would have been for all concerned to hold a political conference of representatives of different shades of political opinion to see if a consensus could have been reached on what was to be done to meet the situation in the country, resulting from the king's proclamation on the referendum.

Towards this end a political convention could have been held with the following agenda and objectives:

(1) To deliberate on current political problems in the country since the royal proclamation and to find constructive solutions to them on the basis of national consensus, and (2), To, explore the prospect for securing collective efforts to restore the party system in the country.

The sole object of the conference should have been to seek peaceful and democratic solutions to the problems that faced the Nepali nation.

Some of the questions to which the convention might have addressed

itself profitably were as follows: was greater clarification needed about the choice offered in the referendum? Did the question as to the ultimate source of authority or the position of the king in future, which was likely to come up immediately after the referendum, need to be settled beforehand to ensure democratic stability? To what extent were preconditions needed for the free and impartial conduct of the referendum?

The great efforts and expenditure of public funds that the proposed referendum was certain to entail would have been better justified if it could have been turned into a regenerating and educating process producing a renaissance in the political outlook of the Nepali people. It was especially important that the younger generation of Nepali men and women should have taken a leading part in this process.

However, the efforts of a few individuals including the present writer to hold a political convention along the above lines did not bear fruit until very late in the day. Although the B.P. Koirala-led Nepali Congress did not take part in it and decided to "go solo" in the referendum, all other sections advocating the multiparty system with various political shades of opinion took part in the convention which was belatedly held on 18 April 1980 under the chairmanship of Chuda Prasad Sharma, a former foreign minister and a veteran political leader associated with the Praja Parishad activity since 1940. The convention accused the Surya Bahadur Thapa ministry of openly using the manpower and financial resources of the state to influence the voters in favour of the panchayat system and demanded the replacement of the government by a neutral administration directly under the King as a basic guarantee of a fair and impartial referendum. It also asked for the fulfilment of other conditions such as equal time and opportunity to both sides on the government radio and the end of other kinds of discrimination against the advocates of the multiparty system. In addition, the convention expressed its regret at the fact that the government had by electoral law wilfully debarred from participation in the referendum youths between the age of 18 and 21 years who had attained the age of majority in terms of Nepali law and were mainly instrumental in causing the King to make the offer of referendum. The convention also demanded the release of all political prisoners including those who were convicted for political offences on the pretext of criminal charges.

The Changed Context

Once again in his Constitution Day message on 16 December 1979

King Birendra referred to the incidents at the beginning of the year as having occasioned the need for the referendum when he said that “. . . Accordingly we had assured our beloved people that we shall always stand by the ideals of democracy. It was precisely in reference to these commitments that, *following the situation at the beginning of the year* (Italics supplied), we decided to call for the holding of a national referendum in Nepal.”⁴

Pursuant to the royal proclamation of 24 May 1979, King Birendra from time to time gave royal messages clarifying different aspects of the proposed referendum, but this message changed its entire context. It made clear that irrespective of whether the multiparty system or the partyless system was victorious in the referendum, stipulations would be made providing for (1) universal adult suffrage as the basis for election to the national legislature, (2) the appointment of the prime minister on the legislature's recommendation, and (3) the collective responsibility of the cabinet to the legislature.

In the course of the above Constitution Day message, the king further added that the day-to-day administration of the country could be best shouldered by the representatives of the people themselves. This point deserved special notice in view of the king's identification with the government in the partyless panchayat system.

Thus did the king in his Constitution Day message clearly delineate many features of a parliamentary system of government for the future. The panchayat system if reformed strictly along the lines suggested by the king would be basically different from the existing panchayat system.

Further, the referendum rules brought to public notice by the National Election Commission on 21 January 1980 provided that following the outcome of the referendum, the king would make such provisions in the constitution of Nepal as he might deem necessary. Subsequent clarifications by the king made it quite plain that this referendum could not be interpreted by any stretch of imagination as an unlimited opportunity for the people to exercise their right of self-determination to frame a new constitution.

It was about time that those who had allowed themselves to be carried away by exuberance largely generated by their own romanticised interpretation of the royal proclamation, should have cast off their illusions about it and realised the situation that actually confronted the country. In the context of the royal message on Constitution Day, the proposed

⁴ English translation of King Birendra's statement as supplied by Rastriya Sambad Samiti, Nepali's government controlled news agency).

referendum was not going to be anything more than a popular vote on whether the people wanted the parliamentary system with parties or without parties. The choice originally offered to the people as to whether they want “the existing panchayat system with timely reforms or the multiparty system of government” was thus substantially modified. Under the circumstances, the outcome of the vote could not be in any way interpreted as for or against the existing panchayat system and its performance in the past.

The panchayat system, according to the then existing constitution, did not merely prohibit political organizations, but it also provided for consultation by the king, if he so desired with the central committee of the Back-to-the-Village National Campaign machinery, *not* with the legislature, about the appointment of the prime minister, and the vote to dismiss the premier, even by a two-thirds majority of the legislature, being subject to the king’s approval. These provisions of the then existing panchayat constitution did not at all fit in with features of the parliamentary government projected by the king in his message on Constitution Day.

I felt that in this changed context, the referendum would merely lead to an excess of politicisation without offering any immediate prospect for realising the hopes which this politicisation was certain to arouse. I made the following pleas in widely circulated newspaper articles:

The King’s intention to reintroduce a parliamentary system of cabinet government in Nepal is most welcome, but such a system cannot function effectively and successfully without political parties. Parties based on healthy rivalry, alone can ensure the success of a system in which the prime minister is elected by the majority in the House and the cabinet functions on the principle of collective responsibility. Nowhere in the world do we come across a governmental system as visualised by the King functioning without parties. When the government is made responsible to the legislature and through it to the people, prohibiting parties will lead not to stability and democracy but to anarchy and mobocracy. It will appear ridiculous for the Nepali people to be voting in the fourth quarter of the twentieth century on whether they want freedom of political association, a basic human right contained in Article 20 of the Universal Declaration of Human Rights and Article 22 of the International Covenant on Civil and Political Rights.⁵

⁵ *The Commoner* of 13 and 14 March and *The Samaj* of the same date; *The Times of India* of 3 March 1980.,

In his Constitution Day message, and also in his remarks on Democracy Day, on 18 February 1980 the King asked the people to reflect on the following questions before making their choice in the referendum: "which system will unite the Nepali people rather than divide them, promote unity in diversity, will enable the country to become a zone of peace rather than an area of tension in the present international situation, brighten the future of the Nepali people by mobilising the valuable human and natural resources of the nation; provide every Nepali the opportunity to enjoy civil rights fearlessly and without pressure from anyone, guarantee each Nepali the right to speak, write and express his views in decent manner; permit public criticism of shortcomings seen in public welfare measures and provide an opportunity to rectify those shortcomings because of the fear of such potential criticism; enable every Nepali to grant others the rights he seeks for himself; help us to preserve the values, culture and traditions of this Kingdom, and finally safeguard the independence, sovereignty and territorial integrity."

These questions, viewed against the background of denunciations of the party system by King Mahendra and then King Birendra himself in the past as being alien to the political genius and tradition of the Nepali people and prone to developing extra-territorial links and loyalties, contained unmistakable overtones about the King's predilections in favour of the partyless panchayat system. But the fact remained that these questions had not been seriously considered in the wanton play of selfish interests which was inherent in the partyless panchayat system. Thus there had been no free national debate on these issues. With the restoration of the party system, these problems could be solved, or at least reduced to manageable proportions, as has been done in other parliamentary democracies.

If the referendum had been held after dissolving or suspending the panchayat administrative units at all levels, many people both inside and outside the country would have had reasons to believe in its fairness and impartiality. Extremist political elements from the very beginning had dubbed the proposed referendum as a fraud, while others in favour of the restoration of the party system had all along insisted on preconditions which the government completely ignored.

The Referendum Statistics

As an overwhelming majority of voters were illiterate, they were enabled to exercise their right to vote by putting their stamp of approval

literally against the margin of one of the two colours on the ballot, yellow and blue standing respectively for the panchayat and the multiparty system. Although some analysts are of the opinion that the yellow colour, as compared with the blue one, might have had a greater psychological appeal for ignorant voters because of the former's association with godly and saintly qualities in popular religious belief and tradition, I do not think that those considerations seriously weighed with the voters in the referendum.

The referendum was held on 2 May 1980 but the Election Commission took twelve days to announce its results. The delay in announcing the results gave rise to all kinds of rumours and suspicion. The number of registered voters totalled 7,192,451 which proved to be one-half of the entire population. 4,813,486 persons or 66.92 per cent of the electorate voted in the referendum. 372,096 votes or 07.30 per cent of the total votes cast were invalid. 2,433,452 votes were cast in favour of the reformed panchayat system and 2,007,965 votes for the multiparty system: the panchayat and multiparty systems respectively polled 54.7 and 45.21 per cent.

The breakdown of the votes by regions was 33.9 per cent in the central region, 25.6 per cent in the eastern region, 21.5 per cent in the western region and 18.9 per cent in the far western region. The percentage relating to the voters' turnout increases progressively from the west to east: 58.8 in the far-west, 66.7 in the west, 68.1 in the central and 72.7 in the east and also from the north to the south: 61.2 per cent in the mountain districts, 61.4 per cent in the hill districts, 64.3 per cent in the inner tarai districts and 75.2 per cent in the plain districts.

Among the districts, 19 districts had a turnout of more than 75 per cent of voters. Dolpa and Manang with the 91.9 per cent and 90.2 per cent turnout of voters had the highest level of voter participation and Baitadi (38.8%) and Doti (41.4%) the lowest level of voter participation. In the inaccessible mountain areas with a low level of literacy and political consciousness the ratio of invalid votes to valid votes was lower than in the plain areas: 7.3 per cent in the mountain districts as against 8.1 per cent in the plain districts. The panchayat side obtained a majority of votes in 54 out of 75 districts. On the average, it did very well in most mountain districts and fairly well in the hill districts. The highest gain made by the panchayat side in the plains was in Parsa (67.9%) and Banke (64.1%) and it was victorious in nine out of the 18 plain districts. The highest percentage of votes secured by the panchayat side was in Dolpo (96.4%) and the lowest percentage in Bhaktapur (34.4%).

The multiparty side did very well in Bhaktapur (65.6%) in the Kathmandu Valley, Udayapur (65.1%) in the inner tarai, Siraha (64%) in the eastern tarai and Bardiya (62.1%) in the western tarai. It obtained a high percentage of votes in 12 districts, but polled less than 45 per cent of the vote in 42 districts. The multiparty side was victorious in four out of five inner tarai districts and in three out of four regional development head quarters with the exception of Dhankuta.

The index of social and economic progress rather than such factors as the hill-plain dichotomy or ethnicity or religion will serve better as a critical variable to explain the referendum results. Out of eight districts with a high percentage of literacy i.e. above 20% during the 1971 census, seven were carried by the multiparty side, whereas 18 out of 23 districts with a low literacy rate of below 10 per cent went to the panchayat side.

According to information gathered from multiparty workers and other reliable sources, among the religious groups the Muslims voted solidly for the panchayat side whereas the Hindu vote both in the hills and the tarai was equally divided between the two sides. The ethnic minorities in the hill, such as the Tamangs, Magar, Gurungs, Kiratis, Sherpas, etc. were said to have voted largely for the panchayat side while the Tharus were reported to have voted solidly for the multiparty system.

The following tables and figures prepared by Dr. Harka Gurung and reproduced here with due acknowledgement, will furnish details regarding the voting patterns, and the breakdown by region and district of the percentage of votes, the total votes polled, the invalid votes, the panchayat vote and multiparty vote.

TABLE I: VOTING PATTERN

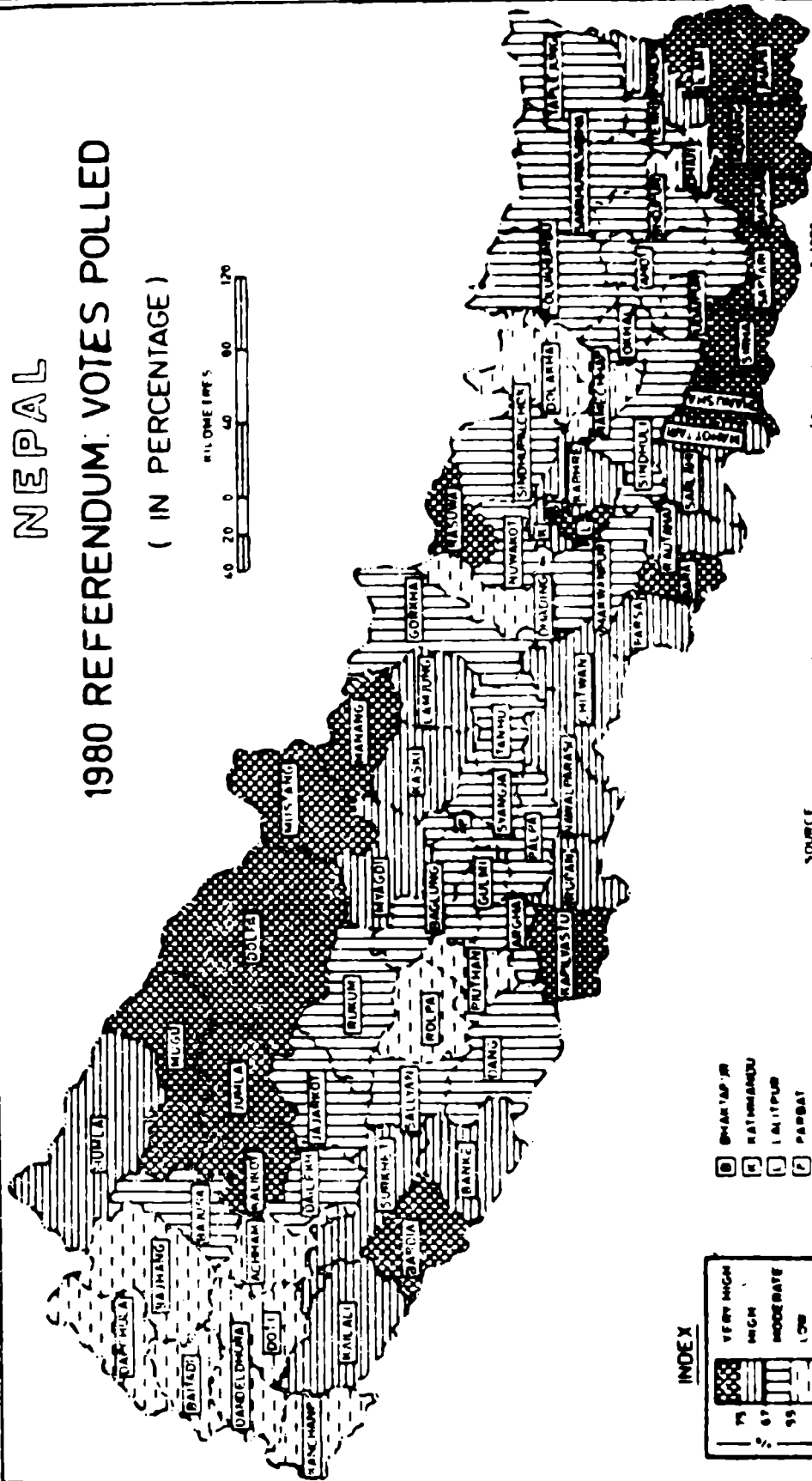
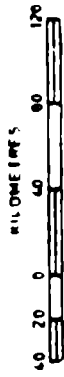
<i>Geographic Region</i>	<i>Total Votes</i>	<i>Votes Polled</i>	<i>Percentage Polled</i>	<i>Invalid Votes</i>	<i>Percentage invalid</i>	<i>Valid Votes</i>	<i>Partyless Vote</i>	<i>%</i>	<i>Multi-party Vote</i>	<i>%</i>
15 Mountain Districts (Regional %)	555,913 (7.7)	340,338	61.2	25,061	7.3	321,275	228,617	71.1	86,658	28.9
37 Hill Districts (Regional %)	3,461,068 (48.1)	2,127,615	61.4	158,581	7.4	1,967,295	1,126,169	57.2	844,124	48.8
5 Inter Tarai Districts (Regional %)	433,233 (6.0)	278,780	64.3	20,645	7.4	258,135	87,895	34.0	139,021	66.0
18 Plain Districts (Regional %)	2,747,237 (38.1)	2,066,753	75.2	169,041	8.1	1,897,715	848,754	44.6	938,162	55.4
TOTAL	7,192,451	4,813,486	66.9	372,069	7.7	4,441,417	2,433,452	54.7	2,007,965	45.3

TABLE II : PERCENTAGE OF VOTES BY REGION

Region	FAR WEST		WEST		CENTRAL		EASTERN		TOTAL	
	Party-less	Multi-Party	Party-less	Multi-Party	Party-less	Multi-Party	Party-less	Multi-Party	Party-less	Multi-Party
Mountain Districts	73.2	26.8	88.4	11.6	71.3	28.7	65.7	34.3	71.1	28.9
(Regional %)	(24.7)	(11.1)	(1.7)	(0.2)	(4.5)	(2.1)	(10.2)	(6.3)	(9.3)	(4.3)
Hill Districts	62.4	37.6	53.2	46.8	64.3	45.7	65.4	34.6	57.2	42.8
(Regional %)	(43.7)	(39.3)	(68.8)	(68.6)	(28.1)	(18.5)	(35.4)	(22.0)	(46.2)	(42.0)
Inter Tarai Districts	45.7	54.3	-	-	31.7	68.3	34.8	65.2	34.0	66.0
(Regional %)	(10.0)	(17.0)	-	-	(3.2)	(8.3)	(2.0)	(4.4)	(3.6)	(6.9)
Plain Districts	48.5	51.5	51.7	48.3	44.5	55.5	47.8	52.2	44.6	55.4
(Regional %)	(21.4)	(32.4)	(29.3)	(31.1)	(32.9)	(48.2)	(52.2)	(67.2)	(34.7)	(46.7)
TOTAL	58.8	41.2	53.1	53.1	46.9	54.1	45.9	54.0	54.7	45.3

NEPAL

1980 REFERENDUM: VOTES POLLED (IN PERCENTAGE)



INDEX



- BHARAPUR
- KATHMANDU
- LALITPUR
- PABPA

SOURCE: Dr. Nisha Gurung, 'Nepal Geography of Referendum', The Kathmandu Times, June 9, 1980

NOTE: Map redrawn by P. N. Jang, CSRD, JNU, N. Delhi

Map A

The Aftermath of the Referendum : Prospects for Constitutional Reforms^{1,2}

A constitution is the embodiment of power relationships in a given state at a given time. The state is nothing but a human grouping in which there exist certain power relationships amongst individuals and different kinds of associations, and these relationships are embodied in political institutions. The system of fundamental political institutions is the constitution.

It was only during the rule of Maharaj and Prime Minister Padma Shamsher Jang Bahadur Rana in 1948 that a written constitution appeared for the first time in Nepal. As this constitution failed to reflect the existing state of power relationships in the country, it was never seriously implemented and soon disappeared.

But Nepal did not exist without constitution before that. A constitution does not necessarily have to be a written one. Even today Great Britain has no written constitution.

¹ Based on the author's address to the Nepal Council of World Affairs on June 1980, which was reproduced in *Young Indian*, an English language weekly published from New Delhi, of 29 January 1981; its translation in Nepali was published in a Nepali language monthly journal published from Kathmandu and called *Paristhiti* of Aswin 2037 V.S. and Kartik, 2037 V.S.

² With due apology to the readers for being repetitive and subjective, the author has ventured to reproduce this essay in the form in which it was originally conceived—that of a public address with a passionate appeal to the powers that be for introducing constitutional reforms along the lines suggested by him. His purpose in doing so is only to put on record his suggestion for constitutional reforms, which he believes, will have to be accepted in due course of time much in the same way as the reforms in the panchayat system which had been advocated by the author some 15 years ago were eventually incorporated in the constitution albeit in a diluted and grudging manner.

As we have seen in earlier chapters, before the days of the Rana administration, Nepal had a constitutional set-up which was precariously balanced on a frequently changing power relationship between the king and the elite families including royal kin. The king enjoyed near absolute power and ruled by peremptory command. In carrying on the administration of the country, he was assisted by a principal *Chautara*, who always happened to be royal collateral, and by a number of officials of the state combining civil and military duties.

Hereditary monarchy based on male primogeniture, rule by peremptory command only slightly modified in practice by the formality of consulting the council of notables at critical times, and the monarch's sole power of conducting *pajani*, the annual routine renewal or termination of the conditions of service with no restriction whatsoever on arbitrary dismissals -- these were the fundamental features of the government of this period (1769-1845).

Incessant feuds among the elite families including the royal family caused widespread instability and created a feeling of uncertainty and insecurity among the people at large. This paved the way for the eventual emergence of Jang Bahadur as the strongman of Nepal and the system of hereditary prime ministers of Rana family who became all-powerful.

Political power became the monopoly of the Rana family actually from 1846 but formally only from 1856. It was in the later year that a royal edict, authenticated by the Red Seal (*Lal Mohar*) in the form of royal palm prints in red (*Lal Panja*), granted in perpetuity the power of rule by peremptory command to the office of the Maharaj and prime minister, which was reserved for the members of the Rana family alone. The same edict also laid down the roll of succession to the office of Maharaj and Prime Minister for eligible members of the Rana family. This system of government prevailed in Nepal for a period of 104 years till 1951.

The fundamental political arrangement in the country during the period of Rana rule (1846-1951) was the delegation by the king to the Rana maharaj-cum-prime minister in perpetuity of (1) the power to rule by peremptory command (*Hukum*), (2) to discipline the king himself, as and when necessary, (3) to conduct the *pajani*, (4) to hold trial of and inflict punishment on those guilty of five cardinal offences (*panchakhat*) of high treason, murder, rape, dacoity and robbery, and (5) to regulate the roll of succession to the hereditary offices of prime minister and other ranks in the ruling hierarchy open only to members of the Rana family.

As a result of the popular revolution of 1950-1951, the system of government by the Rana family was abolished and the Interim Government of Nepal Act, which was called constitution or *Vidhan* in Nepali, came into force. Although it was termed merely a fundamental law for the interim period and not a formal constitution as such, it remains the most progressive of all constitutional documents in Nepal's history from the viewpoint of rights granted to the people.

Successive amendments to this interim constitution also reflected the changes that occurred over a short period of time in the power relationship between the king and the popular forces. Finally, a written constitution was handed down by King Mahendra to the people in February 1959 in disregard of the right given by the Interim Government Act to the people to be governed by a constitution drawn up by their own elected representatives.

The first-ever general elections in Nepal were held in the year 1959 on the basis of this new constitution, and the Nepali Congress Party secured a two-third majority in these parliamentary elections, which were held on the basis of direct universal adult suffrage. However, despite the fact that the Nepali Congress retained its majority till the end, parliament was suddenly dissolved in 1960 and finally abolished by King Mahendra. The only valid explanation for this royal action can be, with the benefit of hindsight, that the 1959 constitution did not truly reflect the relationship of forces represented by the king and the people. A new and rather different document was presented to his people by King Mahendra in 1962.

As this 1962 constitution tended to reflect the real state of power relations between the king and people, it is still Nepal's basic document, although it has been drastically amended three times. By 1979 it appeared as though these power relations were beginning to shift, and on 24 May 1979, King Birendra proclaimed that the people would be asked to express their view of it in a referendum. Certain constitutional reforms were announced in a royal message even before the referendum was held, as recounted in the last chapter, on 2 May 1980, and showed widespread popular interest in change. On 14 May 1980, the king established a commission to recommend changes.

That a constitution is the *system of fundamental* political institutions reflecting the change in power relationship, is proved by events in Nepali history. Let us now concentrate on these two principal terms.

'System' implies an interrelationship between the fundamental political institutions on the one hand and the nature of the society in which they

exist on the other hand. The word '*fundamental*' implies which institutions are to be regarded as fundamental. While leaving the meaning of fundamental to unfold itself, it may be stated here that the search for certitude, order and security has prompted men to establish certain institutions as fundamental, and constitutions in all countries are fundamental laws.

From one point of view fundamentality is just a matter of detail. As a result of the emergence of new social forces, the purpose of government changes, governmental obligations expand, and in due course of time, there occurs a change in the very pattern or system of the government.

Fundamental Aspect of the Proposed Constitutional Reform

In view of the foregoing, the features of the future constitution of Nepal as laid down by King Birendra in his message of 16 December 1979 must be regarded as fundamental. As stated in the last chapter, this projected a change in the basic pattern of the existing panchayati constitution, for it made clear that irrespective of whether the partyless system or the multiparty system was victorious in the forthcoming referendum, the following new features would be introduced into constitution: (1) universal adult suffrage as the basis for elections to the national legislature, (2) the appointment of the prime minister on the legislature's recommendation, and (3) the responsibility of the council of ministers to the legislature.

The king further added that the day-to-day administration of the country could be best shouldered by the representatives of the people themselves. The point deserves special mention in view of the king's complete identification with the government during the entire previous life of the panchayat system, and also because this leaves no doubt about the king's intention to avoid direct involvement in future day-to-day administration. This alone can bring about a considerable change in power relations.

It is clearly shown by the experience of other countries in the world that the kind of the government King Birendra has visualised cannot be run effectively without the help of political parties. If the prime minister is truly to be elected by the legislature, there are bound to be two sides, one consisting of those who support him and the other composed of those who are opposed to him. This indeed was how the party system emerged in Great Britain. Further, the conduct of the business of government itself will not be possible without a modicum of understanding between these

two sides, so they must be properly organized even to ensure minimal discipline and orderliness for the performance of legislative functions.

Relevance of the Referendum Verdict

As we have seen that the kind of the government visualised by King Birendra cannot be run without the help of political parties, the question naturally arises as to what is to be done about the referendum verdict.

Only 45 per cent of the voters favoured a multiparty system, it was announced. But even if we are to take the referendum verdict as it is, it is difficult to accept that the people have opted for partylessness as we have already noted. Speaking in strict legal and technical terms at the risk of being accused of pettifogging, the word "partyless" was not even mentioned either in the choices offered to the people in the royal proclamation announcing the referendum on 24 May 1979 or even in the ballot papers actually cast by the people in the referendum itself held on 2 May 1980.

Again, it is difficult to contend that the people have given a negative vote against the multiparty system of government because they were not asked whether they were in favour of the panchayat system as it existed. After the referendum was proclaimed, I for one pointed out several times in my public statements that the choices offered were not precise enough. After the king in December 1979 had laid down the basic features of the future constitution, I felt that the May 1980 referendum had become redundant and publicly pleaded with the king to grant freedom of association to the people as a basic human right and forget about the referendum.³

Another important consideration was that in view of the king's Constitution Day message laying down parliamentary features for the future constitution, irrespective of whichever side was victorious in the referendum, the referendum verdict could be interpreted neither as having favoured the panchayat system as it had existed nor as having endorsed its past performance and record.

Furthermore, even if we were to accept all the votes for the reformed panchayat system itself as favouring partylessness the victory of the panchayat system by not quite 10 per cent was not very impressive. After all, despite one-sided hostile propaganda against the multiparty system

³ Rishikesh Shaha, "Drama in Nepal: Democracy's Second Chance", *Vasudha* (An English language monthly), Vol. 18, (July-August 1979) and "Restructuring Nepali Polity", *Horizon* (An English language periodical), (September-October 1979).

over a period of 19 years, accompanied by a constant praise of the partyless panchayat system through every means of propaganda at the government's command, 45 per cent of the voters voted for the multi-party system. In a democracy it is not practical or wise to impose the view of 55 per cent of voters on the remaining 45 per cent on such a vital issue with great significance for the future. Under the circumstances, popular votes cast for both the reformed panchayat side and the multiparty side should have been considered as positive, and a genuine attempt should have been made to bring about a reconciliation between the two points of view. National problems cannot be resolved by a legal and technical device or by an arithmetic of numbers. Solutions to national problems can be achieved only by vision, understanding and foresight.

Another point to be borne in mind is that young people between the ages of 18 and 21, who qualified as majors in terms of Nepali law but were debarred by the electoral law from voting in the referendum, were those mainly responsible for creating the circumstances which led the king to subject the reformed panchayat system to a vote of confidence. If young people in this age group are not allowed to vote in future also, the government may have cause enough to regret the fact.

Why Political Parties ?

Apart from a substantial vote in the referendum for the restoration of the multiparty system in the face of a strictly enforced ban for 19 years even on oral propaganda for the need for parties, our experience of the working of the partyless panchayat system during that period of time has shown that it has not actually been possible to do away with political groupings and factions in practice. The panchayat system actually operated on the basis of shortlived and frequently changing political groupings and factions which centred mainly around selfish and personal interests, at times reinforced by regional and ethnic-communal considerations.⁴ Even the Back-to-the-Village National Campaign machinery was openly used from 1976 through 1978 as the King's party, although it did not bear that name.⁵

It is not that political parties are not at all motivated by considerations similar to those that inspired groupings inside the panchayat system. But there is a significant difference between them inasmuch

⁴ Rishikesh Shaha, *Nepali Politics - Retrospect and Prospect*, Second Edition, (Delhi : Oxford University Press, 1978), pp. 265-266.

⁵ *Ibid.*, pp. 215-219 and pp. 234-235.

as political parties at least swear by and profess political ideologies and public programmes based on them, and they debate issues as well as personalities.

Political parties create public enthusiasm for their published principles and programmes and serve as the effective means of constructively canalising their enthusiasm. Information concerning the parties' proposals for the future of the nation can be effectively communicated on a nationwide scale only through a network of grassroots organisations, and not through governmental orders, notifications, directives and slogans.

Parties provide ideological criteria and norms for guiding public opinion on vital issues. The party system serves as the means of articulating the demands of the people and various organised interests. It also acts as a filter for those demands for the formulation of a public policy through the process of interest articulation and interest aggregation, which produces a practical and widely acceptable common denominator amongst competing and at times even conflicting attitudes.

It must also not be forgotten that any society, as it embarks on the course of modernisation, is apt to develop a diversity of conflicting pulls and interests which have to be harmonised and profitably channelled to ensure ordered progress. Under the partyless panchayat system in Nepal during King Birendra's rule this role of political parties, which mainly consists in filtering and reconciling competing demands and interests before directing them as tentative measures of public policy to the centre of power, has been played by the palace secretariat-cum-enquiry and investigation centre except for a few years when it shared this function with the Back-to-the-Village National Campaign.

As channels of communication to the king are routed through the palace secretariat, this group is in a position to act as a filter for the flow of information to the king from various official and informal sources. It is precisely in this respect that the function of the palace secretariat approximates the aggregational role of political parties in modern democratic societies.

Autocratic or authoritarian regimes of the traditional type are not possible in a highly complex society of today. This is the reason why even authoritarian regimes have adopted the one-party system in modern times. The partyless system is a traditional system which cannot serve the needs of modern development.

Freedom of Association a Must for Economic Development

Despite the fact that there is no dearth of people in Nepal who hunt for silver linings even in an advancing front of cumulonimbus, I for one

cannot help feeling that hopes are being merely strung out, and that also without much conviction. A sombre piece of warning contained in the following excerpt from the Report for the Development Centre of the Organisation of Economic Cooperation and Development (OECD) Overseas Development Group, prepared by the University of East Anglia (January 1979) and entitled *Basic Needs in Different Environmental Setting - A Case Study in Nepal* deserves special notice:

Unless major changes take place within Nepal to increase production, particularly in agriculture, and to ensure that the surpluses generated are productively reinvested within the country, Nepal is threatened, probably within a decade, with economic and political collapse.

I fully endorse the alarming note the above report sounds. There has of late been a lot of talk about the adoption of a basic needs strategy in the sixth development plan. A basic need strategy is inherently revolutionary. It allows the deprived and the poor to escape from their deprivation and poverty, not through their identification as a 'target' for assistance from above, but through their own involvement in the process of development and, most crucially, through their control over production, and thus over the conditions under which deprivation and poverty are generated and reproduced.

This essential element of an effective basic needs strategy is inevitably in conflict with the interests of the land-owning classes which the Nepali government broadly represents, and therefore it can only be incorporated in policy statements for political purposes. By now, the language of 'participation' and 'involvement' has become very common in Nepal's official pronouncements on development. For example, a 1978 document enunciating the principles of the Sixth Plan gives the call for "broad-based and people-oriented development strategy enlisting people's participation and mobilising local resources and skills." But structural changes in the political organisations of the decision-making process are not envisaged. One clear proof of this is the ease and complacency with which the sixth five year plan could be formulated by the National Planning Council and approved by the National Development Council in total disregard of the outcome of the critical political experiments on a popular level such as the 1980 referendum and constitutional amendments. Genuine involvement by the people in decision-making through organisations of their own choice may not guarantee an

immediate dramatic transformation of the political economy and the fulfilment of their basic needs, but it is a prerequisite, a necessary if not a sufficient condition, for development. Viewed from this stand point, freedom of association or organisation is a *sine qua non* of development.

A Retrospective View

Ten years ago, only three months after King Birendra had ascended the throne, I wrote a signed article entitled "Hami Kata?" ("Where Do We Go From Here?") in the Nepali language weekly, *Rastra Pukar* of 27 April 1972. In that article I pleaded that the King should not involve himself in active politics and the day-to-day administration of the country and that he should thus extricate himself from the position of complete identification with the panchayat system, and at the same time he should permit the people to exercise in practice all fundamental rights including the right to freedom of forming political parties.

The article in the Nepali weekly opened with words of King Birendra, who had then been on the throne only three months:

In my opinion, development is not only an economic proposition, it is a human problem. It is man who manages and sets in motion the use of natural resources, labour and capital. Man is guided by his psychological make-up, social attitudes and the values he absorbs from his community. Consequently, progress in the extent desired cannot be achieved unless there occurs a corresponding change in social habits and psychology.

I added my own comment:

The quotation is from King Birendra's reply to a joint address of felicitation presented to him by a large number of social and professional organizations on 13 April 1972. In the present political context, the views expressed by our beloved youthful King Birendra are of considerable significance. In fact, the entire responsibility for taking decisions on the vital question of shaping the future of the country now rests with him. It is therefore natural that everybody should have affection, sympathy and goodwill for him.

And I stated:

The level of development of any society is correlated to the political institutions existing in that society. During the Rana regime

there existed no political parties, no parliament and no popular organisations. All these appeared on the Nepali scene in the wake of the 1951 democratic revolution brought about through the joint efforts of the king and his subjects.

It was certainly difficult to lay the foundation of a democratic political system in Nepal. In a society which believed for centuries in the adage that none can defy royal commands and the will of providence, it was not an easy task to establish in practical terms the supremacy of the popular will and rule of law within a period of eighteen months or even ten years. In a country where parents warned their children not to talk politics and told them that their tongues might be pulled out if they did so, it was certainly going to take a long time to inculcate in every person an interest in political matters. In an atmosphere in which every order given by the father or any other senior member of the family was habitually carried out blindly, it would have taken some time to make people assert their individual freedom and common sense. In a society, ridden with fatalism as well as social and religious taboos, time was certainly needed to convince the people that a man can build his destiny and that of society through his own efforts.

A little further in the very same article, I again quoted the king:

The year 1951 witnessed a political revolution brought about by the united effort of the king and people. But the change in 1960 confirmed the fact that a political system cannot sustain itself only on the winds of change blowing from without. Instead, it reaffirmed the need for a genuine awakening rooted in the minds and hearts of the people.

And I further commented:

These words of His Majesty King Birendra are very true and nobody can disagree with him that development cannot be achieved to the desired extent unless the attitudes of the people change. Everybody must admit that it is not easy to bring about a change in attitudes. The question therefore is how such changes can be brought about.

Only political parties or organizations can acquaint the masses with the problem of national reconstruction and take the nation

ahead towards development through mobilization of popular energy on the basis of organized public opinion. It is only through the agency of political parties or organizations which have entered into the life of the masses that such changes can be brought about, not through official notifications, publicity and broadcasts alone. Autocratic or authoritarian regimes of the traditional type are not possible in the highly complex society of today. Political parties are an extension of politics in the modern form, particularly of social mobilization and the political participation of the masses. Political parties are the only effective means of formulating and presenting to government the demands of different sections of the people in the determination of policy and selecting candidates for public office. Thus they serve as indispensable instruments of popular representation in the government and legislature. The partyless system is a traditional system which cannot serve the needs of modern development. This is the reason why even authoritarian regimes have adopted the one party system in modern times. Nowhere in the world did political parties in the form we know them exist prior to the political revolution of the latter part of the eighteenth century. They do not exist even now in many places where the processes of political modernization have not yet been initiated.

When King Birendra proclaimed a referendum on 24 May 1979, I joined my voice with others in welcoming the proclamation not only as his firm commitment to abide by the will of the people but also as his gesture to extricate himself from the position of complete identification with the panchayat system. I also felt personally vindicated not only because I had written the aforementioned article but also because of the conclusion I had separately arrived at in a booklength study on Nepali politics which was published for the first time in 1975.

I crave your indulgence to bear with the following quotation from the book, which, I think, still retains its relevance:

All in all, the safest course for a traditional yet modernizing monarchy such as Nepal's is to ensure conditions in which the people can express their opinion freely and to create processes and institutions through which popular aspirations can be ascertained and translated into reality. Any kind of personal involvement of the monarch in the day-to-day politics of the country is apt to expose

him as the main target of public criticism and render him open to uncalled-for risks in the future. Although this is simply a matter of plain common sense or practical wisdom, monarchs have seldom been capable of acting on it. One striking exception was King Tribhuvan Bir Bikram Shah Dev, who proved himself to be a unique King by risking his life and throne in 1950-51 in order to secure democratic rights and freedom for his subjects. King Tribhuvan's firm commitment to constitutional and democratic rule has brought him acclaim as 'the father of the nation', and 'the chief architect of Nepali democracy'. His historic declaration of 18 February 1951 expressed his desire and resolve 'that the government of our people be carried on henceforth according to a democratic constitution prepared by a constituent assembly elected by them.'

If the present King of Nepal, King Birendra, endorses grandfather's solemn commitment to the people in some form or other and endeavours sincerely to fulfil it, Nepal may have stable and ordered progress as a modern nation. The people of Nepal should be able to evolve in due course a viable political structure on a trial and error basis by learning from their own experience and that of others. Such a course of action could ensure not only the permanent interest of the people but also those of the monarchy in Nepal.⁶

However, I was one of those who had all along entertained doubts about the referendum serving the real good of the country. It was for this reason that I had repeatedly appealed to the king in public that he should grant the right to freedom of association as a basic human right. From the very beginning I did not agree with some of the stalwarts in Nepali politics who tended to interpret the king's offer of the referendum in vague and symbolic terms as an unconditional grant to the people of the absolute right to self-determination in all matters for all times and purposes. I pointed out that the form in which the issues were submitted for the referendum were vague, general and elastic and needed to be made specific. My plea was that it was the king who had made an offer of choice to the people between the existing panchayat system with reforms to be introduced from time to time and the multiparty system of government, and by the same token it was up to him to clarify for all

⁶ Ibid., pp. 53-54.

concerned what these timely reforms in the panchayat system as of now implied in concrete terms.

One of the alternatives I suggested in a widely circulated newspaper article was that if the King really wanted the people themselves to decide on the form and substance of the future constitution, he should hold elections for a constituent assembly-cum-legislature, which could save the duplication of efforts and expenditure for the nation. But perhaps this was not intended.⁷

After this on 16 December 1979 came the royal announcement of constitutional reforms to be implemented in the future irrespective of the referendum's verdict. It may be recalled here that these were the very same reforms which I along with 10 other members of the national legislature had advocated 13 years ago both on the floor of Rastriya Panchayat, the national legislature, and outside it as well.⁸ All these reforms were at the time considered antagonistic to the very spirit and form of the panchayat system and we were relentlessly persecuted till very recently. To me and some of my friends, the King's Constitution Day message was not merely a vindication of our old stand but also of our more recent plea that the terms of choice initially offered to the people in the referendum ought to have been made more specific and clear.

After the Constitution Day message of 16 December 1979, I felt all the more that the referendum had become redundant for all practical purposes because the people could no longer be said to exercise, except in a highly limited sense, their right of self-determination in the matter of shaping the future constitution. It was about time that even those who had allowed themselves to be carried away by exuberance largely generated by their own romanticised interpretation of the royal proclamation of the referendum, should have cast off their illusions about it and realised the reality of the situation that faced the country. In the context of the royal message on Constitution Day, the proposed referendum was not going to be anything more than a popular vote on whether the people wanted the reformed panchayat system which appeared to be some sort of a parliamentary system or the full-fledged parliamentary system with parties.

But the fact remained, as was clearly shown by the experience of other countries in the world, that the kind of the government he had visualised could not be run effectively without the help of political parties.

⁷ Rishikesh Shaha, "Thoughts on the Referendum", *The Commoner* (an English language daily) and *The National Star* (an English language weekly) of 21 November 1979 and the *Motherland* (an English language daily) of 22 November 1979.

⁸ Rishikesh Shaha, *Nepali Politics - Retrospect and Prospect*, pp. 79-80.

In view of the above considerations, I appealed once again through articles published in national and international periodicals to the King to grant the freedom of association, and make the changes in the constitution along the lines suggested by himself and immediately proceed to hold the elections for the national legislature. Such a course of action, in my opinion, would have avoided the risk of the divisive effect which the referendum was apt to produce upon the nation and would have also saved the unnecessary expenditure of time and efforts.⁹ My appeals once again went unheeded and the referendum was held without fulfilling most of the preconditions which I along with many others advocating the multiparty system of government had insisted on.

The Conduct of the Referendum

To say the least, the cards were heavily stacked from the beginning against the side favouring the multiparty system. The so-called banned political parties were not allowed to use their underground machinery openly. On the other hand, the supporters of the reformed panchayat system were allowed to remain solidly entrenched at the different levels of the government and use their government position to commandeer the manpower and other resources of the state openly to coerce the people to vote for the panchayat system to be reformed along the parliamentary lines as suggested by the king. Advocates of the multiparty system were not till the end allowed even time and publicity on the state-controlled radio. Following the official announcement of the referendum verdict on 14 May 1980, several advocates of the multiparty system representing different shades of public opinion and even leaders of national stature like Ganesh Man Singh and Man Mohan Adhikari, did not hesitate to charge the government openly with rigging the referendum in favour of the panchayat system.

The victory of the side favouring the reformed panchayat system in the referendum by a wafer-thin majority of 425,487 votes (2,433,452 votes cast for it as against 2,000,965 votes polled by the side favouring the multiparty system) does not appear to be at all impressive if we take into account two facts in particular: first, that despite the popular demand

⁹ Rishikesh Shaha, "Democracy's Second Chance in Nepal-King Birendra's Offer of the Referendum", *The Round Table - The Commonwealth Journal of International Affairs*, Number 277, January 1980); "Choice before King Birendra. No Democracy Without Parties", *The Times of India* (3 March 1980); and "Referendum in Nepal: The Changed Context", *The Commoner* of 13 and 14 March 1980.

for lowering the voting age, young people between the age of 18 and 21 years, whose action last year had led the king to make an offer of the referendum, were debarred by the electoral law from being enrolled as voters; and second, the name of the king himself, on the plea of his complete identification with the panchayat system in the past, was freely exploited by the panchayat government to make the people vote for the panchayat system.

The higher percentage of the votes cast and also the ratio of valid votes to invalid votes in most remote and inaccessible areas, which have widely scattered population and settlements and a definitely lower level of political consciousness, go to prove that panchayat government official must have got the boxes stuffed with ballots stamped in favour of the panchayat system wherever the multiparty side was not represented or was poorly represented at the polling booths. The higher percentage of votes cast and the higher ratio of valid to invalid votes in the Karnali and Dhaulagiri zones can be explained only in these ways. At a well attended open-air rally held in the heart of Kathmandu on 6 June 1980, Man Mohan Adhikari went so far as to accuse the government of rigging the referendum with the help of army personnel by printing and using extra ballots for the purpose.

Effect of the Referendum on the Country's Economy

Let us now turn to the effect the referendum has had on the country's economy. The present government was so busy scheming how to manipulate the state apparatus to ensure at all costs a victory for the reformed panchayat system that it did not, on its own admission, take time even to think of the serious economic crisis facing the nation.¹⁰ Thanks to the referendum, there was such a wide scale remission of land taxes and other public dues on the pretext of the drought that the Sixth Five Year Plan which was said to come into force from mid-July 1980 was not even published and the 1980-81 fiscal year proved to be a year of undeclared plan holiday. In an ill-conceived design to influence the people in favour of the reformed panchayat system the government not

¹⁰ Prime Minister Surya Bahadur Thapa's speech at the Open Air Theatre in Kathmandu on 22 May 1980, as reported by Rastriya Sambad Samiti, the government controlled National News Agency, in English: "The Prime Minister warned and said that the top priority would be given to ensuring peace and order in the country. The task had not received due attention earlier as the focus was holding the national referendum successfully"; he said further "likewise His Majesty's Government has not been able to give due attention to problems facing the people."

only misused public funds but also seriously tampered with the right to life itself of both the present and future generations by allowing the country's ecology to be irreparably destroyed through its policy of open encouragement to cut trees indiscriminately. According to the World Bank's report, there will hardly be a tree of any commercial value left in the country in about fifteen years' time. A popular adage until recently was that Nepal's wealth lay in its forests.

Unbridled inflation has proved to be the bane of economic well-being. The issuance of licences by the government on the eve of the referendum for the export of snake skins and the import of luxury items such as zip fasteners, transistor radios and parts worth large sums of money attained the proportions of a national scandal. The balance of trade situation has of late been so unfavourable that there are constant rumours about the devaluation of the Nepali rupee vis-a-vis the Indian rupee. Rising prices tend to place even such necessities of life as sugar, rice and other food-grains beyond the reach of common man. The decrease in agricultural output has created conditions of starvation or semi-starvation in the far western region.

Again, Nepal which has always boasted of its self-sufficiency in food, has become dependent on imports from foreign countries even for the supply of foodgrains. The government has proved incapable of even ensuring a satisfactory distribution throughout the land of the most essential commodities, such as sugar, matches and cigarettes all of which are produced in Nepal.

The panchayat hierarchy, while thus neglecting the people by remaining oblivious even to their genuine hardships and grievances, has, on the other hand, placed corruption on the high pedestal of "a new value" of national life and culture. This is proved by the light manner in which the government has treated the cases of a number of public servants and export-import traders.

This is yet another glaring example of the government's utter incapacity to deal with corruption cases in which big business houses are allegedly involved. The prime minister's assurance about unearthing the mystery of a missing ship chartered by some of the biggest import-export business houses in Nepal through the Hong Kong based Ming Ring Shipping and Trading Company and alleged in newspaper reports to have been carrying tens of millions of rupees worth of merchandise destined for Nepal, remains unfulfilled even after a year.

Reaction to the Formation of the Constitutional Reforms Recommendation Commission

The formation by the King of the 11-member Constitutional Reforms Recommendation Commission, under the chairmanship of a justice of the Supreme Court with the Secretary of the Ministry of Law and Justice, as member-secretary, was announced on 21 May 1980. Their terms of reference were to recommend necessary and appropriate reforms in the constitution in the larger interests of the country and the people in the light of the proposals contained in the royal message of 16 December 1979 and the clear majority indicated by the recent referendum in support of the partyless panchayat system with gradual and appropriate reforms. The commission was further directed to prepare the draft of the amendments in consultation with Nepali citizens as mentioned in the royal proclamation of 14 May 1980.

Frankly speaking, I for one saw no need for the constitutional reforms commission as the King had already in his Constitution Day message last year stated the reforms in the most precise and concrete terms. As far as the drafting of specific amendments to the constitution was concerned, it was a highly technical matter which could be best assigned to a small committee of trained legal and linguistic experts and did not seem to require consultation with the citizens as envisaged by the terms of reference of the recently established commission for recommending constitutional reforms.

However, I found the prefixing of the word “partyless” to the panchayat system both in the commission’s terms of reference and in the royal proclamation of 14 May 1980 rather ominous especially in view of the fact that the word “partyless” was not prefixed to the panchayat system either in the choices offered in the King’s proclamation of the referendum on 24 May 1979 or on the actual ballot papers. The proclamation of the referendum mentioned one of the choices as the existing panchayat system with reforms from time to time, which in my opinion did not even preclude the introduction of political parties in due course. The terms of reference of the commission for recommending constitutional reforms, like the royal proclamation of 14 May 1980 following the announcement of the referendum verdict, significantly prefixed the word “partyless” to the panchayat system, apparently for emphasis, and also substituted the words “gradual and appropriate reforms” for “timely reforms” or reforms from time to time.

King Birendra’s proclamation following the announcement of the result of the referendum, besides prefixing the word “partyless” to the

panchayat system and mitigating the circumstances that had occasioned the need for the referendum, sought to interpret its verdict as having approved of even the performance of the panchayat system in the past. These were the actual words spoken by the King in the course of his proclamation on 14 May 1980:

We consider the will of our people to be truly inviolable, and while honouring it, we accept the popular mandate to perpetuate the partyless panchayat system as our verdict in the belief that the will of the people should constitute the main basis in deciding the polity for Nepal.¹¹

Conclusion

The referendum verdict, if viewed in proper perspective, could not be said to have been decisive. However, there was no doubt that the future of the nation depended on how the verdict would be interpreted by the powers that be. As the verdict has been interpreted too narrowly and an attempt has been made to impose the will of the majority too rigidly and literally, the consequences might be disastrous for the nation as a whole. If, a farsighted and imaginative view of the referendum's verdict was taken and a way was provided or at least left open, in the name of justice and fair play for the subsequent realisation of the legitimate aspirations of almost half of the population, the nation might have been able to embark on the course of modernization and development with a measure of confidence in the future.

However, in conclusion, I cannot help feeling that what I had said on an earlier occasion still retains its relevance. Hence, with due apology to the reader, I reproduce below what I had stated on political prospects in Nepal at the end of my lecture at the meeting held under the auspices of the Nepal Council of World Affairs at Hotel Shankar in Kathmandu on 14 June 1980:

“I shall not be honest with myself and less than frank with you if I fail to state that the holding of the referendum with the partyless panchayat elements solidly entrenched at all levels of the government from the village to the centre, and also in view of the King's unqualified support of the record and performance of the panchayat system in his Tribhuvan Anniversary Celebration or Democracy Day message of 19 February

¹¹ English translation of King Birendra's statement supplied by Rastriya Sambad Samiti, Nepal's government controlled news agency.

1980, does not augur well for the future nor does it reflect credit on the monarchy as a nonpartisan institution and as a symbol of impartiality, national unity and continuity.

“Yet in today’s Nepali context, there is no use denying the fact that it is only with the cooperation of the King and through him that reforms can be introduced so as to ensure the ordered and stable progress of democracy. But time is of the very essence, and students and youths of the country who played a historic role last year in paving the way for the referendum seem to be getting impatient and restless once again. To debar young people between 18 and 21 years of age from participation in the national referendum has been unwise, to say the least and, may produce backlashes if the mistake is not duly rectified.

“The existing Rastriya Panchayat has no moral right to continue after the referendum which after all favoured the reformed panchayat system with universal adult suffrage as the basis of election for the national legislature. Perhaps this is also the reason that elections have not yet been held to fill the quota of membership in Rastriya Panchayat from the Sagarmatha, Lumbini and Seti zones.

“Under the circumstances, the dissolution of the present Rastriya Panchayat will serve as an earnest of contemplated reforms and a meaningful gesture of impartiality on the part of the King. An impartial caretaker government must be formed without delay to hold elections for the national legislature on the basis of universal adult suffrage. To reinforce the image of monarchy as a nonpartisan institution and as a symbol of national unity and continuity forever, an interim caretaker government may be formed of persons of standing, integrity and ability, who are willing to subject themselves to the self-denying test of foregoing even the right and privilege of running for elections for the national legislature this time. Such an arrangement alone will make the people enthusiastic about the proposed reforms and foster the growth of a congenial atmosphere for their implementation in the future.

“After all is said and done, we must face the fact that the referendum has not ended the state of uncertainty in the country. The prevailing condition of incertitude is sapping the nation’s strength. The King can forthwith give a new sense of direction and purpose to the future course of Nepal’s history if he holds a national political convention or a round table conference of national leaders from among advocates of both the partyless and the multiparty system to formulate a set of constitutional stipulations solemnly binding on the King and the people without denying the latter the right to freedom of association in practice. By

leaving out the mention of parties as such in the constitution due respect may be shown for the referendum verdict. It must, however, be left to the people to open or not to open political parties or to join or not to join any political parties. These stipulations will regulate the rights of the people and the relations between the ruler and ruled, while at the same time amending the constitution along the lines the King has suggested. Then, finally, should come General Elections, in accordance with the terms of the adopted constitution, within a reasonable period of time not exceeding a maximum period of one year. Thus will the vital problems of the nation be addressed.

“At this critical juncture we are faced with the problem of reshaping our political destiny. The task is by no means easy. Yet we may succeed in meeting the challenge if we draw for ourselves the right kind of inspiration from the immortal words of President Abraham Lincoln of the U.S.A. in his second inaugural address in 1865 and proceed in accordance with their spirit to restructure our polity in the wake of this controversial referendum verdict:

With malice toward none; with charity for all; with firmness in the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle and for his widow, and his orphan – to do all which may achieve and cherish a just and a lasting peace, among ourselves, and with all nations.

For the sake of the record, if not for anything else, the following suggestions, given to the Constitutional Reforms Recommendation Commission by the author along with Chuda Prasad Sharma and Tilak Raj Shahi are reproduced below.

Suggestion I

As a concession to the aspirations of almost half of the nation's voters, who voted for the multiparty system in the referendum, the word 'partyless' be deleted from the second paragraph of the Preamble and the entire Article 11 sub-clause (2a) in Part 3 of the Constitution, banning politically motivated organisations and political parties also be deleted.

Suggestion II

As Nepal is a polyglot, multi-ethnic multi-religious state, the word

“Hindu” before the word “state” in Article 3(1) of Part 1 in the constitution be deleted to bring the constitution in line with the Nepali tradition of religious tolerance and the secular policy followed in reforming the Legal Code (*Mulki Ain*). Such a step will help nation-building and the genuine growth of nationalism.

Suggestion III

All the fundamental rights including the right to freedom of organisation must be guaranteed both in theory and practice. The referendum verdict cannot certainly be used as a pretext for depriving the people of freedom of association which is a basic human right contained in Article 22 of the International Covenant of Civil and Political Rights.

Suggestion IV

“Directive Principles of Panchayat System” (Part 4) of the existing constitution are vague and imprecise as compared to “Objectives and Principles of Social Policy” as given in Part 4 of the original 1962 Constitution. As the original Objectives and Principles of Social Policy are more in accord with the spirit of the time and the objects of the Sixth Plan, they should replace the existing “Directive Principles”.

Suggestion V

In order to make the constitution conformable to the spirit that led the King to offer the referendum and also to the assurance given in the Royal Proclamation of 14 May 1980 about “respecting popular will as expressed through public opinion,” the first sentence of Article 20(2) of the constitution, that “the sovereignty of Nepal is vested in His Majesty and all powers, executive, legislative and judicial emanate from him” be altered to imply that the King is a symbol of the state and the unity of the people from whom he derives all his powers.

Suggestion VI

The pyramidal structure with the Rastriya Panchayat, the national legislature, at the top of the panchayat hierarchy consisting of zilla (district) and gaun (village) panchayats (executive committees) and sabhas (assemblies), has in practice caused confusion as a result of an overlapping of functions and jurisdictions between national and local governments. Such an arrangement has, while giving a limited measure of self-government to panchayat institutions at local levels, tended to prevent

even members of the highest legislative body from developing a broad national outlook on politics. The spheres of national and local government must be kept distinct at least in major areas of both administration and policy- and decision-making.

Therefore, an attempt should be made here and now to keep the spheres of national and local government distinct from each other as is the case in every kind of developed and developing polity. District (zilla) and village (gaun) panchayats (executive committees) and sabhas (assemblies) should be retained and developed solely as institutions of local self-government. The Rastriya Panchayat, the national legislature, should be made to acquire breadth of participation and representation by providing for its election on the basis of direct universal adult suffrage. Everybody who is entitled to vote on the basis of universal adult suffrage in General Elections must also be made eligible for seeking election for membership in the national legislature from anywhere in the country.

The Rastriya Panchayat, with rule-making as its function resembles in its form the gaun (village) and the zilla (district) sabhas (assemblies) rather than the gaun (village) and zilla (district) panchayats (executive committees) which are essentially smaller bodies for rule-application. This confusion caused by a misleading use of 'panchayat' nomenclature in relation to both the local panchayats and national legislature, Rastriya Panchayat, may be removed by calling the latter Rastra or Rastriya Sabha or by some other suitable name.

In this connection it may be considered whether we should have a bicameral legislature, and, if so, whether the Raj Sabha (Council of State or the King's Council) mentioned in Part 6 of the constitution should be retained. In case these changes are to be made, it must be ensured that the will of the popularly elected lower house of the legislature shall prevail ultimately in every matter of importance. Otherwise there may be unforeseen obstacles to the government's running the administration in accordance with the wishes of the people. From the viewpoint of cutting down the public expenditure, we see no necessity for ornamental bodies such as the Raj Sabha (Council of State) including Standing Committee or the Upper House of legislature.

Suggestion VII

Parts 10A, 10B, and 10C of the Constitution with the headings, "Panchayat Class Organization," "Go-Back to-the-Village National Campaign" and "Prevention of the Abuse of Authority" should be deleted. We think that the system of having an *Ombudsman*, as prevalent

in Scandinavian monarchies, may be adopted to replace the commission for preventing the abuse of authority.

Suggestion VIII

All the external or formal safeguards of democracy, such as an independent judiciary with effective powers to secure the redress of legitimate grievances of an individual against the government, an independent audits and accounts body and a public service commission for impartial recruitment on the basis of merit and for promotion on the basis of seniority and efficiency must be further strengthened.

Only effective provision in the constitution for the exercise of fundamental rights and the maintenance of the external safeguards of democracy will lend meaning and substance to the royal assurances about the right to dissent and respect for the minority opinion.

Suggestion IX

The emergency powers of the Crown should be made exercisable only on short-term ad hoc basis in the event of the complete breakdown of the constitutional machinery or in the event of a grave internal or external threat to the very existence of the nation.

Suggestion X

The real test for the constitution will be whether it will prove flexible and dynamic enough to contain and channel in a constructive manner the political and economic forces to be released by the process of modernization. The constitution should be made amendable by a two-third majority in the national legislature elected on the basis of direct universal adult suffrage.

Suggestion XI

As the procedure in the existing constitution for the direct appointment by the King of the Commander-in-Chief of the army, zonal commissioners, ambassadors and representatives of the country abroad without consultation with the Council of Ministers, if continued, will show the King's lack of confidence in the elected government, Article 83 (A) (1), Article 86A and Article 86(c) should be deleted. It may be pointed out here that the original 1962 Constitution did not contain the aforementioned articles

Third Amendment to the Constitution of Nepal

At the end of November 1980, roughly three weeks before the amendments were finalised, what was said to be their tentative draft was handed over to some former prime ministers and palace-oriented politicians apparently for the benefit of their advice and suggestions and in the process conveniently leaked out to the press and public in general. As the tentative version of amendments was actually worse than the final promulgation, it might have been a calculated move by the Government to sound out politicians and the people. The object was perhaps to make the king appear more progressive than his advisors and also to prepare people for the shock and disappointment of the royal proclamation on the third amendment to the constitution.

The formal ritual of having the constitutional amendments recommended by the special committee (consisting of the members of the Steering Committee of Nepal's national legislature, the *Rastriya Panchayat* and of Standing Committee of *Raj Sabha*, a merely formal and nominated body of the King's counsellors) was gone through on 14 December 1980. Thus was the stage set for King Birendra to proclaim the third amendment on the following day. Ironically on this very day twenty years earlier the present king's father, King Mahendra, had taken over all powers after dissolving the first ever elected parliament of Nepal, dismissing the popular government of the day, and imprisoning the prime minister and members of his cabinet. It was also on the same date that King Mahendra had, eighteen years before, promulgated the current constitution of Nepal; and this day was since consecrated as Constitution

Day and subsequently gazetted by King Birendra as King Mahendra Memorial and Constitution Day.

The King an Absolute Ruler

In point of fact the present amended constitution, contrary to all expectations, has maintained intact the position of the king as an absolute ruler in the literal sense of the word. As in Nepal prior to the rule of the hereditary prime ministers of the Rana family (1846-1951) and in post-1960 Nepal, the king's traditional authority to rule by peremptory command or *hukum* and to exercise royal prerogative of conducting *pajani* or dismissing any public officials at the will of the ruler at any time has been retained in the amended text of the constitution. The amendments thus contravene accepted democratic norms and beliefs by reserving for the monarch under Article 26(4d) the right to dismiss an elected Prime Minister and under Article 39(3e) to dismiss the elected presiding officer of the legislature.

Parliamentary Form Conceded Just for Window Dressing

Merely for the sake of window dressing the constitution introduces some of the features of parliamentary government, which the king had, irrespective of the outcome of the referendum held on 2 May 1980, promised to the people in his Constitution Day message on 16 December 1979. What King Birendra had pledged then was that the legislature would be elected on the basis of direct universal adult suffrage, the prime minister would be appointed on the legislature's recommendation and that the cabinet would be responsible to the legislature. Further, the King had, in the course of the above message stated on record that the day-to-day administration of the country could be best shouldered by the elected representatives of the people themselves. These assurances along with the suspension of the Back-to--the-Village National Campaign (BVNC) machinery which had fallen into disrepute as the king's political instrument or party except in name, had aroused many hopes. People expected that the amendments would seek, at least in theory to place the institution of monarchy above the rough and tumble of day-to-day politics. But unfortunately that has not been the case.

The reforms provide for a legislature of 140 members, out of whom 28 are nominated by the king. This would mean that one-fifth of the legislature will always look to the king or the palace for guidance and

abide by the royal advice in crucial votes or issues. Again, in order to be even eligible to run for election to the legislature a potential candidate must prove one's loyalty to the partyless panchayat system by enrolling as a member of one of the six officially sponsored and controlled class organizations. Strictly speaking, it would be immoral for anyone of those more than 2 million voters who opted for the multiparty system in the 1980 referendum to profess loyalty to the partyless panchayat system or to belong to these organisations.

The election of the prime minister by the national legislature is also made part of an ingenious scheme. The successful candidate must secure a 60 per cent majority of votes and if none of the candidates for the prime ministership obtains the required majority, there will be a run-off election between the two who obtain the highest numbers of votes. Should this also fail to resolve the issue, the legislature is required to forward any three names from among its members to the king who will be free to appoint one of them even if it means excluding those who fought for the office in the election on the floor of the House. If recent practice is to be taken as a precedent for guidance in future, one should note that when the matter was referred to the king after the election for the office of the vice chairman of the legislature failed to be conclusive because of a two-third majority rule, the king resolved that deadlock by appointing someone other than the original contestants for office.

The King or Monarchy Directly Involved in Active Politics

According to Article 41(1) and (2) of the amended constitution, the all-powerful Panchayat Policy and Enquiry and Investigation Committee shall be responsible to the king alone for its rules of procedure, actions and decisions; these cannot be questioned in any court of law. Article 38(2) of the Constitution authorises this Committee to initiate action against any member of the legislature, who in its opinion, has not acted in a manner befitting his position or has acted contrary to the constitution. The Committee is empowered to express its disapproval by adopting a resolution to that effect. In case the resolution is endorsed by the legislature, the member is liable to be reprimanded, suspended or expelled. Article 41(1) and (2) read together with Article 38(2) of the amended constitution once again raises the spectre of the Back-to-the-Village National Campaign.

Coordination Council: A Super Cabinet

Article 20 A(1) of the amended constitution leaves it to the King to set

up this Coordination Council “with a view to maintaining coordination among the crown’s executive, legislature, judicial and other functions by weaving all Nepalis into one thread through the partyless panchayat system by ensuring security, order, peace and justice in the country and by preserving national independence, sovereignty and integrity.” (Literal translation of the Nepali text by the present writer.) According to Article 20A(2), rules relating to the composition, function, responsibility and working procedure of the Council and other important matters relevant to it shall be approved by the King and no question shall be allowed to be raised in any court of law whether these rules have been observed. Now if such a Council is ever created, there will be no need for a cabinet or council of ministers. If, however, a Council of Ministers is retained, it will be under the circumstances definitely subordinate to the Coordination Council.

Provision for Special Circumstances

It may be appropriate to point out in this connection that Article 81 has been added to authorise the King to rule with the help of the appointed Prime Minister and ministers or in any other manner under special circumstances. It is difficult to see any valid reason for this kind of provision especially when the emergency powers have been kept intact. One wonders whether this article has been introduced to experiment with a non-parliamentary executive and see how it works on a trial basis as and when necessary.

What has never been realised by the powers that be in Nepal is the simple fact that coordination and harmony in national life and activity cannot be brought about or enforced by an individual or a committee, however powerful and exalted his or its position may be, if an open democratic society is the goal. All that the king can do is to allow the people freedom and scope for the free play of individual initiative and efforts to evolve voluntary organisations of their choice to fulfil their needs as they arise. This is precisely what the Constitution of Nepal tends to deny both in theory and practice. Thus the third amendment may truly be characterised as the abnegation of the spirit of democracy.

Freedom of Association Denied Once Again

King Mahendra, the founder of the panchayat system, felt that political parties were function--oriented by their very nature and as such

were disruptive to national unity. He, therefore, created government-controlled class organisations. The avowed object was to free them from the government's control as and when they matured, so that these organisations could be substitutes for political parties.

But, in practice, these so-called class organisations had such a sheltered existence that they could never stand on their own feet. The futility of the experiment was so conclusively proved during 13 years of operations that King Birendra himself dismantled the national or central level set-up of these organisations and debarred them from direct representation in the national legislature through the second constitutional amendment in 1975.

Now, the third amendment to the constitution adds an Adults' (Praudha) organisation to the existing list of class and professional organisations for women, peasants, youth, workers and ex-servicemen, bringing their total number to six. Article 13(2) of the amended constitution lays down that a person shall have to belong to one of the above government-controlled organisations in order to be eligible to contest elections for the national legislature and for other elective panchayat bodies and offices. One cannot but sense a sinister motive behind stipulating a precondition of eligibility by even going to the extent of creating a new organisation which can only be hastily improvised by the government under the present circumstances.

The amended constitution of Nepal has proved once for all that both the referendum and its verdict have been used merely as a pretext for depriving the people of the right to freedom of association--a basic human right enshrined in Article 20 of the Universal Declaration of Human Rights and also in Article 22 of the International Covenant on Civil and Political Rights. Apart from the fact that even after recent reforms the constitution continues to ban political parties and politically motivated organisations, there may be yet another hurdle in the way of starting even non-political associations which are apparently permitted by the constitution.

It is worth noting that the International Red Cross has found its connections with the Nepali Red Cross untenable after the former found out that, like all other non-profit, humanitarian, social and professional organisations in the country, the Nepal Red Cross was also subject to the control and guidance of a body called National Social Services Coordination Council of which no less a person than the Queen of Nepal is the president. It has to be seen whether the practice of having to obtain clearance from this coordination council before any social or humanitar-

ian organisation is formally registered will continue even after the amended constitution comes into force.

Making Nepal a Zone of Peace as a Directive Principle

A new directive principle and object of the panchayat system has been added as Article 19(6) which reads as follows:

The foreign policy of the panchayat system shall be to strive for making Nepal a zone of peace in pursuance of the basic purpose of the United Nations Organisation and the principle of non-alignment.

If the inclusion of this clause with regard to Nepal's foreign policy is intended merely as reaffirmation of Nepal's enduring faith in the purpose of the U.N. Charter and the principle of non-alignment, no one will have any quarrel with it. But the aim of making Nepal a zone of peace must be seen in the context of Nepal's existing treaty obligations. It seems to acquire political overtones of considerable significance, particularly in view of India's hesitation in supporting the proposal. And the question naturally arises as to whether this directive principle implies a conscious effort to bring about changes in the existing edifice of understanding, treaty and agreement with India in respect of mutual cooperation in matters relating to security. Notwithstanding the fact that altogether 27 states including all countries in South Asia (except India and Bhutan), the ASEAN countries, China and Great Britain have supported Nepal's zone of peace proposal, India is still seeking clarification on it. In view of this, it has become imperative for Nepal to spell out its proposal more clearly to the Nepali people themselves and also to the world outside so that there might be no doubt or misunderstanding about Kathmandu's stand on its existing arrangements and treaties relating to its security.

It is up to the king and his government to tell the Nepali people if they are contemplating any alternative to the present arrangements for the country's defence and security. In any case, no one whether in Nepal or abroad should be left in doubt about the government's stand on the status of its treaty obligations. Otherwise a situation may arise in which Nepal may at some time in the future have to accept whatever interpretation or construction interested parties may choose to put on them according to their convenience or needs. It would certainly be dangerous for any state

to leave such vital matters open to subjective interpretation by interested parties at critical times.

Constitutional Amendment Process

Like the 1975 constitutional amendment, the 1980 reforms reserve for the king the right to amend the constitution by deleting Article 44 of the original 1962 constitution, which, at least in theory empowered the members of the legislature formally to petition the King for constitutional reforms and on other matters of consequence. Under the present circumstances, the initiative and power of amending the constitution vests solely in the king. This is, however, quite consistent with King Birendra's novel concept of constitutional monarchy, according to which, to quote the actual words used by the king in his written interview published in *Newsweek* of 10 September, 1973, "indeed the King embodies the collective identity of the people and, as desired by the people, it is he who grants and amends the constitution."

Conclusion

All told, the King of Nepal has been ill advised to strain the confidence of people while seeking to exploit their gullibility for a temporary advantage of doubtful nature. It must not be forgotten that while some people may be fooled for all time and all people for sometime, all people cannot be fooled for all time. Playing tricks on the confidence of people is always fraught with grave risks. Public opinion is like fire and it is dangerous to play with it. After all, the situation created by the popular agitation spearheaded by young people and students had compelled King Birendra to recognize the need for change. The following words were spoken by the King himself while making an offer of the referendum:

We therefore proclaim hereby that in view of the situation as it obtains in the country today *in order to explicitly understand the kind of change our countrymen desire* (italics supplied), we shall arrange to hold a national referendum on the basis of universal adult suffrage.

From the above it is clear that events before the referendum seem to have already convinced the King about the popular desire for change in the form of government. The referendum was held merely to determine

the nature of the change. But for the purpose of introducing constitutional amendments, the outcome of the referendum seems to have been interpreted as having favoured the continuation of the panchayat system intact to permit the exercise of unlimited power by the king.

In considering the continuation of rule by peremptory command or *hukum*, two questions must, however, be examined: whether the King should be viewed as part of the government, when he can appoint and dismiss the government without reference to popular sanction of any kind, and whether he can escape criticism for the failure of policy of such governments. For the future the problem is: While absolute monarchy may seem to succeed temporarily in projecting its nationalist image, maneuvering for small gains by exploiting rivalry between neighbouring powers and among internal political factions, will it prove strong enough to withstand the growing pressure of internal social forces as the pace of modernization increases?

The 1981 Elections in Nepal

It was after 22 years that general elections were held once again on the basis of adult suffrage for four-fifths of the membership in Nepal's national legislature called the Rastriya Panchayat. The major difference between the first-ever general elections, staggered over a period of 6 weeks from 18 February to 3 April 1959 and those held on 9 May 1981 is that this time there were no organised political platforms, programmes, and campaigns because of the ban on political parties and also because of the open boycott of the elections by major factions of the remnants of political parties such as the Nepali Congress and the Communist Party.

In the absence of manifestos or programmes for implementation in future, the 1981 general elections in Nepal proved to be no better than a popularity contest among individual aspirants for office. The electorate was thus in practice denied the opportunity for enlightenment on the burning political issues of the day through organised debates on a nationwide scale, which are of the very essence of competitive democratic polity. In fact, the role of the electorate was reduced to that of merely casting a ballot in favour of the candidate of one's choice with no say whatsoever in the policy and programme of the government to be elected.

However even this modified exercise in adult suffrage has served to highlight certain features and trends which cannot be ignored by people with serious interest in Nepali politics.

The present author went on an election-eve-cum-post-election tour of the entire southern breadth of the country from the Mechi River on the

east to the Mahakali River on the west and also visited some districts in the mid-montane region which were easily accessible by bus. There was a conspicuous lack of popular enthusiasm about elections as such, and in most of the constituencies even efforts by the candidates themselves to organise popular campaigns for their election victories were not much in evidence. No attempt was made by any candidates to organise open air mass rallies for the public discussion of political issues as had been done at the time of the elections in 1959 and again during the campaign prior to the May 1980 referendum.

Candidates concentrated their efforts merely on person-to-person contact and door-to-door canvassing, and they sought to exploit, wherever and whenever possible, personal, family, caste and ethnic connections to secure electoral support for themselves. Not even in Kathmandu, or in any one of the townships in the tarai for that matter, was any sizeable open air mass rally addressed by any of the candidates.

The candidates advertised themselves through posters and slogans on walls and also wherever possible rented cycle rickshaws, jeeps or cars fitted with loudspeakers to carry on propaganda in their favour much in the same way as new films and *Nautankis* (folk-dramas) are advertised in the towns. The people, in the midst of their everyday business of life, by and large tended to ignore pure commercial advertisement of this kind and did not seem to take parliamentary candidates more seriously than cheap soap-box-orators.

There appeared to be a lot of popular resentment against official candidates no matter whether they were believed to be put up by the palace or by Prime Minister Surya Bahadur Thapa. In some constituencies both the palace and the prime minister were said to support one and the same candidate. But in some others it was said that they had fielded separate candidates, for in the kind of the monarchical system of polity we have in Nepal, there is an inherent conflict of interest between the prime minister and the higher echelon palace officers who for their own reasons do not want the prime minister to be too powerful.

For example, in Biratnagar, the second largest town in Nepal, it was an open secret that the palace was supporting former Prime Minister M.P. Koirala, a veteran hill Brahman political figure, whereas Prime Minister Thapa was supporting another hill Brahman candidate, Shiva Prasad Rijal, a multi-millionaire landlord and money-lender-cum-businessman whose family, like Koirala's had settled down in the tarai for a generation or two. However both Koirala and Rijal were defeated and a local candidate of the indigenous Gangai tribe, Badri Mandal, who enjoyed the

support of both the palace and the prime minister, and another candidate of the local Dhimal tribe, Karna Bahadur Dhimal, who although backed by the prime minister at the end, initially enjoyed the support of neither but who evoked popular sympathy primarily because of his indigence, won the two seats from Biratnagar.

Parliamentary election constituencies were not organised strictly on the basis of population; the existing administrative territorial units were simply turned into electoral constituencies. Out of 75 districts, 40 have been made double-member constituencies, and the remaining 35 are single-member constituencies with only rough regard for the population of the districts, thereby placing the tarai districts with a larger population at a disadvantage. The remote mountain district of Manang with a population of hardly 10,000 has been assigned one member whereas the tarai district such as Dhanusha with a population of 330,601 and Saptari with a population of 312,565 have been allotted two members in the national legislature.

In the easternmost plains district of Jhapa, where the ratio between the originally hill-based Pahadi and indigenous tarai Madhesi populations is relatively favourable to the former, all the hill Brahman, Chhetri and Newar candidates were defeated by two indigenous candidates, Gopal Chandra Singh Rajbanshi and Puhato Chaudhari (Tharu). Similarly, in the westernmost tarai district of Kanchanpur, official candidates said to enjoy the support of the palace and the prime minister happened to be two hill Khas Chhetris, Padam Thakurathi and Lok Pratap Bista, both of whom were defeated by a member of a local matriarchal Tharu tribe named Labru Rana Tharu. In another tarai district, Banke, a local political and social worker of the Baniyan sub-caste, Mul Chand Azad, enjoying the support of both the palace and the government, was defeated by a local Tharu candidate Fateh Singh who holds an M.A. degree and belongs to one of the local land-owning families.

However, it will be wrong to infer from the above that hill Brahmins, Chhetris, and Newars have not won from tarai constituencies: As many as 10 of them have been elected from 18 such constituencies.

The electoral success of a proportionately large number of hill Chhetri, Brahman and Newar families in the country as a whole reveals that even now the traditional power structure dominated by members of the Brahman, Chhetri and Newar elite castes remains intact. 43 Thakuri and Khas Chhetris and 13 Brahmans have won seats in the national legislature this time.

However, the former system of indirect election had discriminated against the tarai population at large. The now-abolished panchayat electoral college for electing members of the national legislature consisted of an equal number of voters from every district in a zone irrespective of the size of the district's population, thus making it difficult for candidates from the tarai districts to win representation in the national legislature without the support of a majority of electors from the hill districts in the zone. Thus, the old procedure for election discriminated against the people of the tarai area in two ways: first, by allotting the tarai districts with much larger populations the same voting strength as that of the hill districts, and secondly by, making it impossible for the tarai candidates to be elected to the Rastriya Panchayat from their own districts without the support of the members of the hill district panchayat in that zone.

The partyless panchayat system, having deliberately sought to do away with the politics of ideology and collective programmes on a national basis has encouraged fissiparous tendencies based on localism and regionalism and also on ethnic, tribal and linguistic considerations. The fact is that the ethnic and linguistic minorities both in the hills and the plains have begun to assert their rights more than ever and are becoming increasingly aware of their suppression and exploitation by the elite castes and families in the past.

Among the ethnic minorities in the hills, the Tamangs (who represent 5% of the total population of Nepal and are actually more numerous than the Newars, who are only 4% of the total population), not to speak of the other hill ethnic minorities such as the Magars (2.5% of the total population), Rais (2%), Gurungs (1.5%) and Limbus (1.5%), have in spite of their age-old backwardness and under-representation in the social and political structure managed to win five seats in the recently elected legislature.

The Newars, who have all along been prominent in the field of civil administration, architecture, trade and commerce, seem to have done quite well even politically in the recent elections for a group representing only 4% of the total population. They have won a total of 8 seats in the national legislature.

There are only two elected Muslim members in the national legislature: Ismail Ansari from Mahottari and Sheikh Siraju from Rautahat.

A word of caution must, however, be sounded with regard to population statistics of various ethnic groups. Their population figures are based on language identification rather than on the actual counting of heads

belonging to different ethnic entities. In the collection of census data, the people are asked what their mother-tongue is, and not to which of the ethnic groups they belong. This procedure might have caused some discrepancies, but more in the figures for ethnic groups in the hills than in the tarai, because people of the hills who generally speak Nepali might have mentioned it as their mother-tongue no matter what ethnic group they belong to.

The belated assertion of the power of their number by the intermediate castes such as Yadavs, Kurmis, Kewats, Koeries and the tribals such as the Tharus and Rajbanshis in the neighbouring Indian states of Bihar and Uttar Pradesh has had a visible effect on the election politics of the Nepal tarai. The result has been that only one tarai Rajput and no Brahmin, Bhumihar or Kayastha has won from there notwithstanding their superior caste or social and educational status in the area similar to that of the Brahmin, Khas -Thakuri Chhetris and Newars in the hills of Nepal. The Tharus, Rajbanshis and Yadavs who may be said to correspond to the intermediary or backward castes in the Indian states seem to have done quite well in their respective areas. 7 Tharus, 7 Yadavs and 1 Rajbanshi in addition to two Guptas have been elected to the Nepali national legislature. Hill Khas-Thakuri Chhetris and Newars have won there only when three or more equally influential Tharus and Yadavs have contested elections against one influential originally hill-based candidate. The indigenous tarai people are apt to learn from their experience this time and avoid their mistake in future.

There are other details about elections which are worth noting. According to official sources, 63% of the voters took part in the elections despite the boycott by the banned political parties. But the author, on the basis of the personal observation and reliable reports based on on-the-spot inquiries, is inclined to question this figure. It is the author's considered judgement that generally speaking not more than 40 to 45 per cent of the enrolled voters have taken part in recent elections, if we are to make allowances for so-called proxy-voting and other questionable methods practised by government candidates and local administrative machinery to exaggerate voting participation figures for obvious reasons. The government's propaganda about the voting participation is not supported even by the official figures of the percentage of actual votes cast in a locality. For example in the district of Khotang in the eastern hills 48% of the voters had cast their ballots according to official Election Commission records whereas the government media gave the figure as 53%. Such discrepancies are widely in evidence. There were many

instances of the total number of ballots found in the box not tallying with the number of ballots said to have been cast according to records which were endorsed by the polling officers and election agents of the candidates.

With the exception of one cabinet minister, two assistant ministers and the deputy presiding officers of the legislature, all other incumbent top office-bearers have become victorious in elections. Of the former Prime Minister who contested the elections Dr. K.I. Singh won and M.P. Koirala lost. No prime minister who held the post during the panchayat era, with the exception of the incumbent prime minister, Surya Bahadur Thapa, actually contested. All four members of the constitutional reforms advisory commission who contested elections were squarely defeated. Their names are Mrs. Kamal Rana, Achyut Regmi, Kamal Thapa and Narendra Chaudhari.

Of the 28 women candidates who ran for office, only 2 of them, Nani Mainya Dahal and Bhadra Kumari Ghale were winners. The highest number of votes in the elections was polled by Hem Bahadur Malla, a cabinet minister, with 76,270 votes, and the lowest number of votes among the victorious candidates was polled by Tej Bahadur Bham with mere 3,137 votes. There are several cases of partyless candidates polling hardly 6 to 7 thousand votes in a constituency of 80,000 having been elected to the national legislature.

Regarding the election performance of the banned political parties' splinter groups that took part in the elections, it is said that the Nepali Congress faction led by Bakhan Singh Gurung succeeded in getting four members elected. They are Dr. K.I. Singh, Kashi Nath Gautam, Bhagwat Yadav and Bakhan Singh Gurung himself. The Rayamajhi faction of the pro-Moscow Communist Party of Nepal apparently failed to get any one its candidates elected notwithstanding the fact that Rayamajhi had professed to have put up more than fifty candidates.

Among independent advocates of restoring the party system who won their elections may be mentioned Shribhadra Sharma, Arjun Narsingh K.C., Prakash Chandra Lohani and some well-known leftists such as Govinda Nath Upreti, Rup Chandra Bista and Karna Bahadur Hyuju from Kabhre, Makwanpur, and Bhaktapur.

No account of the 1981 election in Nepal will be complete without a specific reference to the election of two persons to the national legislature, that of Prime Minister Surya Bahadur Thapa from the district of Dhankuta in the eastern hills and of a previously unknown woman, Nani Mainya Dahal, from the highly prestigious Kathmandu district constitu-

ency, Nepal's capital. Both these candidates won by an overwhelming majority: Thapa secured 40,546 votes and Dahal, 65,777. Dahal's 56.8 per cent of 119,367 votes cast in the Kathmandu district compares with that of a former minister, a Newar, who was successful in retaining his membership in the national legislature from the same constituency but secured only 29,534 or 24.74% votes.

But there the similarity ends. Thapa exploited not only his position in the government but also the manpower and financial resources of the state itself to defeat his opponents. For Dahal, who had few funds, there was an outpouring of spontaneous popular support from all sections of the people. There were no conspicuous signs of warmth and enthusiasm about Thapa's candidacy notwithstanding the fact that he used state helicopters for his election campaign to attract popular attention in the mountain hamlets of the Dhankuta district.

It may be pointed out here that Thapa had spent little or no time in the district in the years following his defeat at the hands of a Nepali Congress candidate in the 1959 general elections, and he had failed to get himself elected more than once to the national legislature even by the panchayat system's narrowly-based indirect elections. Indeed he became prime minister as one of the King's nominees to the national legislature. This time Thapa understandably took no chances and made sure even by questionable methods that he would trounce his opponents notwithstanding reports about his unpopularity in the district. Thapa's political opponents have charged that he spread a reign of terror in his constituency following the so-called Naxalite incident at Chhintang in 1980 involving the indiscriminate killing of several innocent villagers, and resorted to coaxing, cajoling and coercing the voters by means of bribery and intimidation.

Nani Mainya Dahal's election victory, significant as it was in itself with second largest number of votes obtained by a single candidate, was obviously a result of negative votes against the powers that be and symbolized widespread popular protest against the manner in which so-called political reforms were being carried out. No wonder that the officers in charge of counting the votes took hardly seven hours to count the ballots said to have been cast in Thapa's favour and declare him victorious, whereas they took several days to count Nani Mainya's ballots and announce the result in her case.

One final word about the election, the campaign and some implications about the partyless nature of the panchayat system. As noted earlier, the partyless panchayat system produced a campaign where

individuals—without apparent ideology or even without apparent ideas of how to proceed on the urgent tasks of national development—contested against one another.

Because there was no appeal to programme or ideology, there was an appeal to communal, ethnic and even linguistic distinction. This is a danger in the current system: in practice the partyless system may encourage the divisive factors in our society. Parties sometimes function to do this too; but they also often function to unite diverse peoples behind specific programmes. Thus in the absence of parties or ideology, we may encourage those very forces we must overcome to achieve progress and development and national unity.

Nepal as a Zone of Peace

Nepal's attempt to have the country declared a zone of peace has been central to its foreign policy initiatives in recent years. The proposal can be traced back to the statement attributed to King Birendra in *The Rising Nepal*, a government-owned newspaper, when he addressed the non-aligned summit in Algiers on 8 September, 1973:

Nepal, situated between two of the most populous countries in the world, wishes within its frontiers to be enveloped in a zone of peace.¹

However, it must be pointed out here that despite the above report in the newspaper, King Birendra's statement at the non-aligned summit in Algiers, as recorded officially, does not contain any reference to the zone of peace proposal as such. The Nepali delegation must have had second thoughts on bringing up this matter and dropped it at the last moment. The official Nepali newspapers supplied with the text of the speech in advance, might have had no time to incorporate the last minute deletion. But again the pointed reference to the same proposal in the article, referred to above, in the official newspapers after a lapse of ten days, inclines one to think that the authorities at some point of time deliberately intended to retain, at least for domestic consumption, the reference to the zone of peace proposal.

¹ *The Rising Nepal* of 9 September 1973, and another article in the same newspaper of 19 September 1973, under the caption "The Algiers Summit: The Nepalese Perspective Sharpened."

It is difficult to say whether Nepal's Ministry of Foreign Affairs and the King's Prime Minister and Foreign Minister had sounded out other governments beforehand on their likely reactions to the King's proposal. Diplomatic efforts by Nepal to have the peace zone proposal endorsed by other countries were not in evidence until after the King's coronation on 25 February 1975.

In his historic address at the open air public reception on the occasion of his coronation, attended by many foreign dignitaries, King Birendra expressed his wish that all friendly powers, and the neighbouring states in particular, would recognize Nepal as a zone of peace:

And if today, peace is an overriding concern with us, it is only because our people genuinely desire peace in our country, in our region and everywhere in the world. It is with this earnest desire to institutionalize peace that I stand to make this proposition--a proposition that my country, Nepal, be declared a zone of peace.

To underline his plea, the King added:

As heirs to a country that has always lived in independence, we wish to see that our freedom and independence shall not be thwarted by the changing flux of time when understanding is replaced by misunderstanding, when conciliation is replaced by belligerency and war.²

The King's overriding desire to immunize Nepal against the periodical ups and downs in the relations between its neighbours, and against the possibility of the ultimate breakdown of those relations, leads one to believe that what he has in mind is an international guarantee, more or less on the Swiss model, of Nepal's independence, sovereignty and neutrality in the event of war in the region. *The Motherland*, an English language Nepali daily, which reportedly has close connections with the Palace, dropped a discreet hint about the nature of this concept of a peace zone by characterizing it as the 'often-expressed but never seriously taken' idea of making Nepal a Switzerland of the East.³

² A Souvenir Birthday Issue of *The Journal of the Nepal Council of World Affairs*, 1975, pp.3-4.

³ Cited in A. G. Noorani, "Renewed Amity in India - Neapl Ties" *The Indian Express*, 28 August 1975.

Immediate Reactions to the King's Proposal

The Deputy Chairman of the Presidium of the Supreme Soviet of the USSR, Tura Bai Kulatov, somewhat unwittingly became the first foreign leader to endorse the royal proposal. However, Soviet enthusiasm about the zone of peace seemed to suffer a subsequent decline and the Soviet Ambassador, K.B. Udumyan, at a press conference on 5 March 1976, interpreted the initial gesture merely as soviet support of Nepal's policy of positive non-alignment and of the King's desire not to allow Nepal to be an area of tension and a centre for hostilities against other countries.⁴ The change in the Soviet attitude apparently reflected an attempt to tie the King's proposal to the oft-repeated Soviet demand that the allegedly anti-Soviet and anti-India propaganda conducted by the embassies of China and Pakistan in Nepal cease.

China and Pakistan took a little longer than the Soviet Union to express their approval of the royal wish to have Nepal accepted as a zone of peace but, in the course of only two or three days, they not only welcomed the zone of peace proposal but also pledged their full support for its implementation. The reaction of India's two adversaries and competitors in the region was predictable. The proposal, if put into effect, would embarrass India by making untenable some of the obligations and practices under the existing Nepal-India treaty.

As far as the other powers having diplomatic relations with Nepal are concerned, their endorsement of the royal wish to have Nepal as a zone of peace entailed no policy consequences or commitments for them. Hence, they appeared to be more than willing to gain the personal goodwill of the ruler of Nepal by lending verbal support to his proposal. India—whose interests would be affected by any change in Nepal's traditional policy of cooperation with it in military, political and economic spheres—hesitated to react quickly to the King's proposal.

As Edward Mirow, a former Ambassador of the Federal Republic of Germany, had remarked, if the royal proclamation about Nepal being a zone of peace were just a pious declaration of peaceful intent and purpose on the part of Nepal, the land of the birth of Buddha, the Enlightened, no one would or should have any objection to it.⁵ However, if this declaration is meant to be the first step toward the realization of a definite diplomatic goal by restructuring the existing pattern of regional interrelationships, it must be presumed that the King's government, particularly the Ministry of Foreign Affairs, had already undertaken a full and

⁴ *Gorakhapatra*, 5 March 1976.

⁵ *Ibid.*

detailed analysis of the impact of such a declaration on the existing treaty obligations and practices of Nepal, and had also examined Nepal's options in the changed context. If the King's government had done its homework, it should not have been difficult for it to explain to all concerned the practical consequences and implications of the change in the existing pattern of relationships in the region likely to be brought about by a general endorsement of the declaration. Any momentous declaration of this nature presupposes a broad range of diplomatic initiative and effort

Nothing was known until very late in the day about Nepal's diplomatic activity and efforts in preparing the ground for the King's declaration of Nepal as a zone of peace. Had Nepal's tactic been to gain its diplomatic end in such a vital matter by a surprise announcement, it was foredoomed to failure. Following the King's coronation speech, his Foreign Minister and the Ministry of Foreign Affairs appeared to be in great haste to solicit and secure endorsement of the proposal by as many states as possible. But unless the proposal is accepted by India it will have no significance in practical terms. Because of the geopolitical and economic reality which faces Nepal, India's acceptance of the proposal is crucial to the attainment of whatever aims Nepal may have had in putting it forward. India does not seem to have responded to the pressure from Nepal so far.

According to the government-controlled newspapers and radio in Nepal, the Indian authorities were fully informed of all the implications of the zone of peace proposal immediately after the coronation. Again, neither of the governments revealed to the press or public even the barest outline of the proposal. It is not known whether this matter was discussed at the meeting King Birendra had with Prime Minister Indira Gandhi in the autumn of 1975 in New Delhi, following the Nepali Foreign Minister's 'atmosphere building' visit to India earlier in the year. It was only towards the end of January 1976 that the Indian Foreign Minister, Y.B Chavan visited Kathmandu at the invitation of his Nepali counterpart. No joint communique was issued at the end of this visit, notwithstanding the Indian Foreign Minister's meetings with the King and then newly appointed Prime Minister, Dr. Tulsi Giri. When Chavan was asked by the press about the result of his visit, he used the formula 'instructive and useful', often employed when little has been achieved.

The government of Nepal may have initially felt that Prime Minister Gandhi's Emergency declaration on 26 June 1975, might facilitate the settlement of a wide range of long-standing economic and political

differences for two reasons. First, because the Indian government might no longer find it convenient to connive at the anti-Nepal government activities of the Nepali democratic opposition in India; second, because in the post-Emergency era some of the India-based Nepali leaders would not be able to exploit their connection with certain political factions in India. Palace circles in Kathmandu expressed marked satisfaction at the similarity between Prime Minister Gandhi's arguments in support of her resort to Emergency powers and the late King Mahendra's justification of his abolition of Nepal's parliamentary system. However, despite the mutual recognition of the need for a re-definition of Nepal-India relations on more relevant terms, no settlement could be reached on the outstanding political and economic issues. The restrained glee with which the palace circles welcomed the emergency in India soon gave way to a growing concern that, in the absence of democratic restraints, Prime Minister Gandhi might prove more intractable.

Immediately after his appointment as Prime Minister on 1 December 1975, Dr. Tulsi Giri said he would do everything possible to set Nepal's relations with India on a secure footing. He recommended a political rather than an administrative approach to the problem of improving relations between Nepal and India, and creating a stable basis of mutual understanding on all matters of common interest. It was not, however, clear what Giri precisely meant by a 'political approach' to the solution of the problem. Did his expression merely reflect a change in tactics by implying that the talks between the two governments should henceforth take place at the Ministerial or the Prime Ministerial level, or did it go further and embrace the broader question of achieving political understanding between the two governments on substantive issues? The issues on which political accommodation between the two countries were most urgently needed were, firstly, the present Nepali government's suspicion of India's inherent sympathy and support for the democratic movement in Nepal and secondly, India's uneasiness about Nepal's willingness to respect the existing treaty understanding in the context of future security threats. Dr. Giri, an experienced politician known for his pragmatism and skill, was expected to play his cards adeptly in negotiating terms with the government of India during his visit to the country in April 1976. However, the atmosphere in the Nepali court, as reflected by editorial comments in the controlled press, seems to have hindered Dr. Giri from achieving any understanding with India on vital issues.

On the eve of Giri's April visit to Delhi, the media started finding fault with India's lack of warmth and support for the King's zone of peace

proposal. Since the press was then operating under strict censorship in India, as a result of the state of Emergency, the following excerpt from Sunanda K. Datta Ray's article in *The Statesman* was taken by the Nepali press to reflect the official attitude to the proposal:

There is no reason to suppose that Nepal's geopolitical importance to India is greater than it is to China. Sino-Indian relations are hardly of a kind to permit Peking and New Delhi to set aside their differences and agree to underwrite Nepal's peace. The kind of rapprochement that would permit an encouraging joint venture would surely wipe out the *raison d'etre* for King Birendra's proposal. It hardly makes sense to suggest a zone of peace sandwiched between two friendly countries.⁶

The Nepali newspapers have refused to accept the geopolitical reality as represented by this quotation. There is disagreement not only on interpretation but also on the facts themselves, as will be clear from the following excerpt from an editorial in *The Rising Nepal* of 23 February 1976:

Though the proposal for a zone of peace has won the support of a fairly large number of countries, including those in this region, there are, apparently, some reservations in India, judging from the fact that the proposal has still to be endorsed by New Delhi, and the sporadic comments published in the Indian press. Much of the hesitancy is due to the feeling that the proposal ignores the so-called reality that Nepal lies South of the Himalaya and that Nepal's geopolitical importance cannot be the same to India and China. *But since Nepal's Territory lies both to the north and the south of the Himalayas, there is no reason to suppose that Nepal's geopolitical importance to India is greater than it is to China.* Prospects of institutionalizing peace in this region cannot certainly be less appreciable to one than to the other. In other words, there is certainly no cause for alarm or misunderstanding over the implications of Nepal's proposal for a zone of peace. (Italics supplied)

The Nepali language daily, *Gorkhapatra*, also government owned, which has the largest circulation in Nepal, has been more explicit. It stated succinctly in its leader of 26 February 1976, Nepal's reasons for advocating the zone of peace proposal:

⁶ Cited by a 'Commentator', *The Weekly Mirror*, 10 March 1976.

Nepal may be involved in the current rivalry and conflict in the region because of its geopolitical situation. Nepal has been successful in remaining neutral in such regional rivalry and conflict in the past, and the proposal for a zone of peace has emanated from the desire to institutionalize peace in order to be free from worries in the future.

Another English language periodical tried to turn the tables on India by expressing surprise that India, which had itself sought to institutionalize peace in the Indian Ocean by having that area declared as a zone of peace, should fail to see the reason behind the Nepali proposal. The *Weekly Mirror* pointed out that Nepal's proposal for a zone of peace was intended as an insurance against the extension of sino-Indian conflict into Nepali territory. The editorial sought to commend the proposal to India by suggesting that it would relieve India of the responsibilities for protecting Nepal's 600-mile border with China, thereby leaving all the Indian armed forces free to be deployed entirely along the Sino-Indian border. All these arguments were put forward to counter the Indian contention, advanced in *The Times of India* editorial, that:

India's security is tied up with Nepal's in a way China's is not. An Indian presence in the Kingdom cannot threaten China's security. The China-Nepal border is demarcated by the world's mightiest mountains but there is no natural barrier of any kind on the India-Nepal frontier.⁷

As opinions expressed in the controlled press of both countries are likely to present official points of views they deserve that much more attention. Apart from being concerned with the royal ego, the differences between Nepal and India as reflected in the press comments of the respective countries, can be reduced to three basic questions: (1) What is the geopolitical reality? (2) Are the security interests of Nepal and India indeed bound up together as recognized by the treaty? (3) Will the acceptance of the proposal for having Nepal declared a zone of peace perpetually free the region, or even Nepali territory alone, from being the scene of armed conflict?

To begin with discussion of the geopolitical reality, the fact that some of Nepal's high Himalayan valleys lie beyond the main Himalayan crest and are enclosed between it and the Tibetan border mountains does not

⁷ Ibid.

mean that Nepal has an equal degree of interdependence with its neighbours on both sides. Virtually the entire population of Nepal lives to the south of the Himalayas, and the largest portion of Nepal's gross national income comes from the low-lying flat plains of the tarai region which is, geographically speaking, part of the Indo-Gangetic plains. Apart from the often-mentioned traditional ties of religion and culture between Nepal and India, there are two other compelling practical considerations which are bound to incline Nepal, in practice, towards India, notwithstanding Nepal's inherent psycho-political fears of Indian dominance. Nepal is bounded by Indian territory on three sides and has no access to the sea except through India. The Tibetan region of China, which borders Nepal to the north, is far removed from the centres of population, and of agriculture and industry in China. It is, therefore, not in a position to supply Nepal's basic needs as promptly and economically as India can. The tradition of mutual understanding between Nepal and India on matters of security and defence, extending over a period of more than a century and a half, cannot be abandoned at will. Nepal may feel that it can defend itself without India's cooperation, but India can exert leverage to make Nepal cooperate in India's vital defence aims.

Nepal-India Treaty Compared with the Soviet-Finnish and the Soviet-Mongol Treaties

Nepal's existing treaty relations with India respect tradition in matters of mutual security. The treaty of 1950, and the letter exchanged with it require the two countries 'to consult with each other and devise effective counter-measures in the event of any threat to the security of the other'. This provision has more teeth to it than the Indo-Soviet Treaty of 1971 which provided merely for mutual consultations in the case of the emergence of a threat to the peace and security of either country. The Nepal-India Treaty of 1950 resembles the Soviet-Finnish Treaty of 1948 (which provides for joint action against foreign aggressors on Finnish soil), with the important difference that the former does not restrict joint actions against a foreign aggressor attacking on Nepali soil alone. However- to make a parallel with another Soviet treaty of 1966 between the USSR and Mongolia-the 1950 Nepal-India treaty while envisaging possible Nepali-Indian joint action on Indian soil, does not compel Nepalis to accept, 'for their own protection', Indian soldiers on Nepali soil.

Nepal's attempt to have itself declared a zone of peace may require a change in mutual obligations and understandings. It may end the practice

of allowing the recruitment of Gorkha soldiers for the Indian and British armies, regulated by the Tripartite Agreement of 1947 and periodically amended.⁷ Last, but not least, is the question whether general endorsement of zone of peace will, in itself, ensure perpetual peace in Nepal and free it once and for all from involvement in armed conflict. In this connection, it is appropriate to consider whether Nepal is in a position to follow Switzerland in having its permanent neutrality universally recognized.

Historically, the scant regard shown by the warring sides for their declarations confirming the permanent peace and neutrality of Belgium in the First World War points to the unreliability of such pious declarations as effective protection for a small country. In today's world the Charter of the United Nations itself extends to member states some kind of protection against aggression.

There are several reasons why Nepal is not in a position to copy the Swiss model. First, Nepal is not economically and militarily as strong as Switzerland. Second, Switzerland borders on three countries—Germany, Italy and France—and is economically interdependent with all three to approximately the same extent. Nepal borders on two giant neighbours but is more dependent on one, India. Furthermore, the historical antecedents in the case of Nepal and Switzerland are different. Switzerland has retained its freedom by compelling the neighbouring countries to respect its neutrality. Nepal, during the last century and a half, has maintained its peace and national independence by acting in concert with the stronger government of India.

Nobody can find fault with Nepal's desire to free itself from entanglement in potential armed conflict in the region. But Nepal successfully avoided being involved in the regional armed conflicts of 1962, 1965 and 1971 even without having any generally endorsed certification such as a zone of peace. If Nepal's experience in the past is to serve as a guide to the future, Nepal should rely on its diplomatic skill in manipulating its relations with its neighbours as the exigencies arise. No country can be immune to the pressure of ideas and events in neighbouring regions, least of all Nepal, one of the least developed countries. The changing pattern of interrelationships between the south Asian countries, particularly fluctuations in the relations between India and China, will no doubt affect Nepal in the future as in the past. While Nepal cannot be insulated from the effect of the state of relations between its neighbours, empty

⁸ *Gorkhapatra*, 17 July 1977.

declarations of peaceful intent and purpose, and treaties of permanent neutrality are not a substitute for diplomacy. Nepal's purpose will be served by continuing to regulate its dealings with its giant neighbours on a pragmatic basis rather than by seeking to institutionalize a procedure based on an entirely theoretical concept. It is neither diplomatic nor politic for public officials to arbitrarily define their nation's ties to immediate neighbours whose goodwill they need in all circumstances.

The Janta Governemnt's Stand on Nepal's Peace Zone Proposal

Nepal continued its efforts to seek India's recognition of Nepal as a zone of peace with greater vigour after the exit of Prime Minister Indira Gandhi's government following its defeat in the 1977 General Elections. However, Nepal failed to obtain India's support for the peace zone proposal even during the Janta Party's rule. Notwithstanding the Janta governemnt's professed intention to cultivate the friendship of the neighbouring countries by genuine gesture of generosity becoming of a bigger neighbour, its response to Nepal's peace zone proposal did not go beyond the bland suggestion by A.B. Vajpayee, then Minister of External Affairs, during his visit to Nepal in the summer of 1977 that New Delhi was prepared to consider it sympathetically within the framework of the existing treaty of perpetual friendship between the two countries. When Vajpayee, upon his return from Nepal, was questioned by Y.B. Chavan, then Leader of the Opposition, about the implications of India's willingness to consider Nepal's peace zone proposal, the former made it clear that the Janta governemnt's attitude did not envisage any changes in the existing treaty, understanding and arrangements between the two countries with regard to mutual security.

Nepal's Subsequent Efforts at Seeking India's Acceptance of the Peace Zone Proposal

Even after the return of Prime Minister Indira Gandhi to power in January 1980, the government of Nepal has not stopped harping on its peace zone proposal. King Birendra has not passed up a single opportunity to air the proposal in formal state banquets and international conferences.

The king personally attended the international conference of the least developed countries, held in Paris in the fall of 1981 to highlight the problems of the need for, increased external aid and assistance to help the

least developed countries overcome their economic backwardness.⁹ As the king was supposed to address the conference on behalf of some of the other least developed countries in Asia and the Pacific region as well, he did not directly refer to his peace zone proposal in his statement. But all the same he stated at his press conference in Paris that should it be found necessary, he might even take his peace zone proposal to the United Nations in order to secure wider international support.¹⁰

It is reliably learnt that King Birendra thought it fit to make the above suggestions even after he was privately and informally advised by the then UN Secretary General, Kurt Waldheim, that no useful purpose would be served by having the proposal discussed in the UN General Assembly unless and until the proposal had the prior support of all the countries in the region and that of India in particular.

Circumstances Behind India's Apprehension

It is only against the following background of events that India's apprehensions about Nepal's peace zone proposal can be properly understood.

In an exclusive interview published in the official English language daily, *The Rising Nepal*, on 25 June 1969, Nepal's then prime minister, Kirtinidhi Bista, more or less contradicted Nepal's traditional foreign policy of maintaining with India specific understandings and assurances about mutual security by expressing Nepal's inability to accept any restrictions on its sovereignty 'for India's so-called security'. He also denounced unilaterally the January 1965 arms agreement. In the same interview Bista stated that since India had not consulted Nepal either at the time of the 1962 Sino-Indian armed conflict or during the 1965 Indo-Pakistan war, the commitments with regard to mutual security based on the 1951 Treaty of Peace and friendship had fallen into disuse and by the same token were no longer binding on either party. These suggestions were accompanied by the demand for the immediate withdrawal both of the Indian 'wireless operators' from the checkpoints on the Nepal-China border and of the Indian Military Liaison Group. This interview temporarily gave indications of a serious turn in Nepal's foreign policy.

Bista's unilateral denunciation of the 1965 arms agreement with India should be viewed in the light of the fact that King Mahendra had earlier explored the possibility of securing military assistance from countries

⁹ *The Rising Nepal*, 4 September 1981.

¹⁰ *Ibid.*, 5 September 1981

other than India but had succeeded in obtaining merely a limited quantity of military assistance from Britain and the United States on a short-term basis in 1964. The texts of Nepal's agreements with the United States and Great Britain in 1964 and with India in 1965 for military aid have never been made public. However, it has been widely publicized that the United States gave Nepal merely military transport and communications equipment whereas Britain supplied a number of automatic rifles and light bren guns with ammunition. It is alleged that Nepal's 1965 arms agreement with India, while recognizing Nepal's right to buy arms from other countries, clearly provided that Nepal would do so only when India was not in a position to meet Nepal's requirements. It is also believed that all these agreements were discussed at the time among all the four countries concerned. Since 1965, however, India has assumed its traditional role of supplying arms and ammunition from any other source.

At the outset, the Indian Ministry of External Affairs pretended not to take notice of Bista's press interview. A spokesman of the Ministry invited formal communication from the Government of Nepal to 'discuss' the points raised in the Prime Minister's press statement.¹¹ But, almost immediately after Bista's interview was published in *The Rising Nepal*, Yadu Nath Khanal, then Foreign Secretary, when passing through Delhi on 5 July 1969 took the opportunity to explain the real purpose and significance of the Prime Minister's statement. According to Khanal, the statement was meant to strengthen Nepal-India relations and 'not to weaken them' by removing confusion created by the press about the joint communique following Indian Foreign Minister Dinesh Singh's visit to Nepal in June 1969. In September 1969, Yadu Nath Khanal further led a formal delegation to India to clarify matters. In the course of talks with the representatives of the Government of India, the need for continuance of understanding and assurance between Nepal and India on mutual security was reappraised in the context of India's threat to close the border as a reaction to Nepal's demand for the withdrawal of the Indian Military Liaison Group from Kathmandu and the Indian wireless operators from the military checkpoints on Nepal's northern border with China. Dinesh Singh had earlier threatened to close the border for security purposes should Nepal insist on going back unilaterally on the existing understanding and assurance about mutual security.¹² The joint statement issued at the end of the talks with the delegation led by Khanal

¹¹ *The Times of India* (New Delhi), 26 June 1969.

¹² Foreign Minister Dinesh Singh's statement in the Indian Parliament, *Lok Sabha Debates* (English Session, Vol. XXX, No. 1, Cols. 230-44, July 1969).

emphasized the existence of 'an identity of interests' and of mutual 'understanding, trust and confidence' between the government and the people of Nepal and those of India. The statement reinforced a plea for strengthening cooperation between the two countries for mutual benefit. It was on the basis of this understanding that, in September 1969, the Indian Military Liaison Group and the Indian wireless operators were finally withdrawn from Nepal by August 1970. Neither of the governments has taken the people into confidence about the actual nature of the understanding and assurance about mutual security concluded in September 1969. Bista himself went out of office in mid-April 1970 after his term as a member of the national legislature expired.

Kirtinidhi Bista's anti-Indian posturing during his first term of office in 1969-70 and King Mahendra's open and public demand at the wedding ceremony of Crown Prince Birendra, and subsequently at the Lusaka non-aligned conference in 1970, for 'justice' for Nepal in accordance with the principles of international law applying to landlocked countries had both been intended to pressure New Delhi into granting concessions in the 1960 trade treaty which was due to expire in 1970. In an exclusive interview with a representative of *The Times of India* on 19 October 1970, King Mahendra was reported to have said that Nepal and India had agreed to exchange 'military information' about developments harmful to each country. The King was said to have further stated that Nepal had agreed to the Indian proposal for stationing senior military personnel at the Indian Embassy in Kathmandu for 'an agreed period and job.'¹³ After the conclusion of the trade and transit treaty between India and Nepal in August 1971 more or less on India's terms notwithstanding eight months' delay caused by prolonged negotiations, both the late King Mahendra and the then Prime Minister Kirtinidhi Bista began to assert in public that relations with India were cordial and all the traditional ties including the treaty commitment were intact.¹⁴

Recent Moves to Secure India's Acceptance of the Peace Zone Proposal

In December 1981, President Sanjiva Reddy visited Kathmandu, following the Indian External Affairs Minister, Narasimha Rao, who had refused to respond publicly to the suggestion of Indian support for the peace zone proposal, which his hosts mentioned even in the banquet

¹³ *The Times of India* (New Delhi), 26 June 1969.

¹⁴ See my book, *Nepali Politics-Retrospect and Prospect* (Oxford University Press, 1978), pp.130-135.

toast. The External Affairs Minister, while assuring Nepal of his earnest effort to “understand” the peace zone proposal, thought it fit to warn that Nepal remain on its guard against deliberate attempts by superpowers and other states to vitiate the atmosphere for the growth of its friendship and cordiality with India. However, President Reddy sought to show an appreciation of Nepal’s fears when he made a departure from the written text of a banquet speech and suggested that the Prime Ministers of two countries should discuss the peace zone proposal. The Nepali side seemed to interpret even this little gesture as a significant change in New Delhi’s attitude. But the President, while addressing a meeting held under the auspices of the Nepal-India Friendship Organization, sought to dismiss lightly what he had said the previous day by proclaiming that Nepal and India had lived in peace since the days of Buddha and would do so for ever.¹⁵

Further Reddy also committed a diplomatic faux pas on that occasion by addressing the Prime Minister of Nepal who was personally present at the meeting as Mr. Chief Minister, thereby hurting Nepal’s national sensitiveness and susceptibilities and also giving those critical of India’s attitude towards Nepal a pretext to complain that the President was accustomed to regarding Nepal at least mentally as one of the constituent states of India. To say the least, the visits of Sanjiva Reddy and Narasimha Rao toward the end of 1981 made public confusion about Nepal’s peace zone proposal worse confounded.

Again, when V.V.Kuznetsov, first deputy chairman of the Supreme Soviet, visited Nepal also in December, a few days after the Indian President, Nepal’s Prime Minister, solicited Soviet support for the peace zone proposal but to no avail. All that the Nepali authorities could elicit from Soviet delegation was a non-committal statement that Nepal’s zone of peace proposal would remain under official consideration.¹⁶ Unlike the Indian President, the visiting Soviet dignitary did not publicly respond to Nepal’s plea for Soviet support of the peace zone proposal.

Palace Ideologues at Work Once Again

As is customary with palace ideologues, apologists for the peace zone seem once again to choose to remain anonymous while testing public opinion by leaking details of the proposal and its implications to the press. Comments in the December 9 issue of the Nepali weekly newsmagazine, *Manasa*, deserve notice:

¹⁵ *The Rising Nepal*, 8 and 9 December 1981.

¹⁶ *Ibid.*, 28 and 29 November 1981.

Nepal faces danger from India. China has already extended its support to the peace zone proposal. Hence, any intervention by that country would be totally illegal. Therefore danger from China cannot be visualized. Nepal is a small and sensitive country. Apart from India's committing the same type of military intervention as Russia has perpetrated in Afghanistan, there is no question that India will respond to the call of any future Amin to enter Nepal with troops under the 1950-treaty. India occupies a special position in relation to Nepal under that treaty.

Had Nepal been as powerful as India, the situation would have been different. Nepal must also bear the impact of floods, famines, population explosions. *Even social, cultural and religious intercourse through the open border is harmful for the Nepalis. Closure of the border and the introduction of a passport system are, therefore, component aspects of the peace zone proposal of Nepal. The proposal also envisages the demilitarisation of the entire international border. India should sign a multi-national treaty to declare Nepal a peace zone, whereby the unnatural situation created by the despotic Rana era could be put to an end, Nepal be spared the harm generally befalling small countries while interpreting bilateral treaties, and the world community be apprised of the illegality of the situation in case India commits intervention or prepares any such moves against Nepal at any time in the future. The peace zone proposal has thus sought to illegalise possible Indian intervention in Nepal, which is legalised by the 1950-treaty.* (Italics supplied) ¹⁷

Considered in the light of Nepal's past relations with India, these comments are clearly unrealistic. They exaggerate out of all proportion Nepal's fears and suspicions, even imputing motives to India. However, there is little doubt that the opinion expressed in the Nepali newsweekly not only represents the thinking of ardent advocates of the zone of peace proposal but also clearly reflects their mental process.

Nepali's Belated Explanation of the Peace Proposal

As a rather odd sequel to India's insistence on further explanation and

¹⁷ Yugma Gautam, author of the quoted passage, has in a letter to the editor of *Manasa* meanwhile disowned inspiration from any sources. My apology to him.

clarification from Nepal of its peace zone proposal, the Nepal government is said to have circulated among the governments supporting its zone of peace proposal a note outlining its seven specific features. The seven-point explanatory note which was discussed at great length in an article in *The Statesman*.¹⁸

Based on the principles of reciprocity and mutuality of obligations Nepal would be willing to undertake the following obligations:

- (a) Will adhere to the policy of peace, non-alignment and peaceful co-existence and will consistently endeavour to develop friendly relations with all countries of the world, regardless of their social and political system, and particularly with the neighbours, on the basis of equality and respect for each other's independence and sovereignty;
- (b) Will not resort to the use of or threat of force in any way which might endanger the peace and security of other countries;
- (c) Will seek peaceful settlement of all disputes between it and other state or states;
- (d) Will not interfere in the internal affairs of other states;
- (e) Will not permit any activities on its soil that are hostile to other states supporting this proposal and in reciprocity, states supporting this proposal will not permit any activities hostile to Nepal;
- (f) Will continue to honour the obligations of all the existing treaties which it has concluded with other countries so long as they remain valid;
- (g) In conformity with its policy of peace and non-alignment, Nepal will not enter into military alliance nor will it allow the establishment of any foreign military base on its soil. In reciprocity other countries supporting this proposal will not enter into military alliance nor will they allow establishment of military base on their soil directed against Nepal.

Six of the above seven items merely reaffirm a commitment to non-alignment and the well-known principles of peaceful co-existence, renouncement of the use or threat of force, belief in peaceful settlement

¹⁸ Sunanda K. Datta-Ray, "Peace in the Himalayas", *The Statesman* of 1 January 1982; the seven-point explanatory note has been subsequently endorsed by Major General Padma Bahadur Khatri, advisor to the Ministry of Foreign Affairs and also by Prime Minister Surya Bahadur Thapa in their public statements.

of disputes, acceptance of the validity of existing treaties and the banning of military alliances and bases directed against one another. Most of these features appear to be innocuous except the fifth one that in general terms relates to the forbidding of hostile activities against one in the territory of another. The general fear that this clause may be so stretched as to check the free interchange or interflow of ideas between the two peoples and countries or even to interfere with the right of political asylum, freely exercised in the past by inhabitants of both countries in the hour of their peril, may be overcome by suitable safeguards in this regard.

Further, although the items (f) and (g) appear to be irreconcilable in view of the existing treaty and agreements between Nepal and India on mutual security, a suitable form of words may be found to suggest a way out.

Goodwill

As the King has involved himself directly in promoting the proposal, it may be difficult for Nepal to withdraw it without loss of face. Therefore, the Indian Government might find its own interests best served by making some sort of brief declaration supporting Nepal's peace zone proposal in principle, provided all other nations also do so. Such a vaguely worded statement, which Britain has issued, would earn considerable goodwill in Kathmandu and would get this increasingly contentious issue out of the way so that more important substantive matters between India and Nepal can be focused upon.

The 1986 Elections in Nepal : Implications for the Future

On a day in May 1986 Nepal conducted its second unique quinquennial ritual of holding nationwide elections on the basis of adult suffrage for four fifths of the membership in the national legislature, the Rastriya Panchayat. Nepal's first-ever general elections, held to choose members of the Pratinidhi Sabha (House of Representatives), had to be staggered over a period of six weeks from 18 February to 3 April 1959 owing to the non-existence of roads and communication facilities and also owing to the shortage of ballot boxes and trained personnel for conducting elections simultaneously in the entire country. However, the most significant difference between the 1959 general elections and those held on 9 May 1981 and more recently on 12 May 1986, is that on the last two occasions there was no scope for nationally organised political campaigns on the basis of alternative programmes because of the legal ban on political parties and also because of the open boycott of these elections by major factions of the remnants of political parties such as the Nepali Congress and the Communist Party of Nepal.

Voting in 73 out of 75 districts began at 8 a.m. on Monday, 12 May 1986 and continued to 5 p.m. in the evening. Elections in two other districts, Syangja and Kaski, were put off until 19 May and 26 May 1986, respectively, because of the death of two candidates shortly before the scheduled date for the elections, and there was some delay in counting the ballots in 20 districts because repolling had to be conducted during the following week as there had been disturbances at polling booths and technical irregularities on the part of the election officials. It was

therefore not until the last day of May 1986 that all 112 elected members of the national legislature became known.

The total number of eligible voters had risen from 7.9 million in 1981 to 9.044 million voters in 1986. 9 million voters in 75 districts had to fill 112 elective seats in the legislature from an amorphous mass of 1,548 candidates. 58% of the Kathmandu district's electorate voted for 74 candidates, out of whom 70 forfeited their deposits when they failed to secure even 10% of the votes cast. According to official sources, 63% of the eligible voters had taken part in the 1981 elections whereas only 60.32% of the total electorate voted in the 1986 elections: the participation of the voters actually declined by 2 or 3 percentage points instead of increasing by 8% as misleadingly claimed by the Election Commissioner in his press statement of 19 June 1986.

If the official figures about the voters turnout are to be believed, the Mechi Zone in the east recorded 68.48% the highest percentage of the participation of the electorate, while Kathmandu, the most politically enlightened district, recorded only 58.14% of the voters' turnout, Dolpo, one of the most inaccessible and backward districts in the trans-Himalayan zone, recorded 84.44%, the highest percentage of the votes polled, and the Doti district in the Seti Zone 40.70%, the lowest percentage in any district.

Despite the fact that the banned political parties did not actively campaign against the voters participating in the elections, as they had previously in 1981, there was a conspicuous lack of enthusiasm about the elections as clearly indicated by the decline of 3 percentage points in the overall voters' participation. Not even in Kathmandu, nor in anyone of the townships in the Tarai, for that matter, was any sizeable open-air mass rally addressed by any of the candidates. Candidates concentrated their efforts on person-to-person contact and door-to-door canvassing, and they sought to exploit personal, family, caste and ethnic connections to secure electoral support for themselves.

The candidates advertised themselves through posters and slogans on walls and also wherever possible, rented cycle rickshaws, auto-rickshaws, jeeps or cars fitted with loudspeakers to carry on propaganda in their favour much in the same way as new films and Nautankis (folk dances) are advertised in Nepali and Indian towns. The people, in the midst of their everyday business of life, by and large tended to ignore pure commercial advertisement of this kind and did not seem to take legislative candidates more seriously than cheap soap-box orators.

There appeared to be a lot of popular resentment against official candidates, no matter whether they were believed to be put up by the Palace or by the Panchayat Policy and Evaluation Committee or by some of the politically oriented office-bearers of the National Sports Council acting in concert with their partisans in the government administration. In some contingencies, both the Palace and the Panchayat agencies were said to support one and the same candidate. But in some others they fielded opposing candidates, for in the kind of monarchical system of polity we have in Nepal, there is an inherent conflict of interest between the elected members of the government and other institutions on the one hand, and the higher echelon Palace officers, who for their own selfish reasons, do not want elected officials to be powerful.

Electoral constituencies were not organized strictly on the basis of population; the existing administrative territorial units were simply turned into constituencies with the provision that districts having a population of up to 150,000 people and above would be entitled to two representatives in the legislature and those with a population of less than 150,000 would be eligible for electing only one representative. Out of 75 districts, 40 were treated as double-member constituencies and the remaining 35 as single-member constituencies with only rough regard for the population of the districts, thereby placing the Tarai districts, with a larger population at a disadvantage. The remote mountain district, of Manang, with a population of just over 10,000 was assigned one member, whereas Tarai districts such as Dhanusha and Saptari with population of more than 400,000 each, were allotted two members in the national legislature.

Again, there could be a wide difference in the number of votes polled by the representatives elected from the same constituency, thereby rendering one of them, truly speaking, unrepresentative of the voters. In cases where one of the representatives polled disproportionately larger number of votes than other candidates, the second elected member may have received an utterly inadequate electoral support for himself. Unless the constituencies are more scientifically delineated on the basis of population, and the present method of electing the first two candidates for the post is suitably modified, the unscientific, inequitable and unrepresentative character of the elections in Nepal will continue. Nothing will illustrate the anomalous situation better than this: If Hem Bahadur Malla who was elected from the double-member constituency of Dhanusha polled the highest number of electoral votes, 93,146, Pema

Tshering Gurung, elected to the national legislature from the single-member mountain district of Manang, secured only 1,379 votes.

Who Got Elected

The electoral success of the proportionately large number of hill Chhetri-Thakuri, Brahmin and Newar candidates in the elections revealed that the traditional power structure dominated by members of the above castes and ethnic groups had remained intact. 45 Chhetri-Thakuris and 16 hill Brahmins won seats in the national legislature.

The Newars, who have all along been prominent in the field of civil administration, art, architecture, trade and commerce seemed to have done quite well even politically in the recent elections for an ethnic group representing only 4.5% of the population. They won a total of 7 seats in the national legislature—one less than last time. But their loss of one seat was more than compensated for by the appointment of a Newar as Prime Minister. Marich Man Singh Shrestha, who had chosen to add the surname Shrestha for the first time in the voters' list, was hailed by some as the first Newari Prime Minister during the Shah rule of 217 years, and by others as the first Mongoloid one. However it may be mentioned here just to put the record straight, that the late Sardar Gunjaman Singh, who belonged to the Newar community, also headed the government under the late King Mahendra as Chief Counsellor in 1955. And it is also noteworthy that not all Newars have Mongoloid features nor do they claim their descent from the Mongoloid stock.

Among the ethnic minorities in the hills, the Tamangs (who represent 5% of the total population of Nepal and are more numerous than the Newars) won only 3 seats. The Magars (2.5 % of the total population), Rais (2%), Gurungs (1.5%) and Limbus (1.5%), in spite of their age-old backwardness and under-representation in the social and political power structure, managed to win seven, four, four and three seats respectively in the recently elected legislature. The Thaklis who represent the smallest minority of 4,14 persons in the hills according to the 1961 census, because of their important role in trade and other enterprises, won 3 seats in the legislature.

No Muslim was elected to the national legislature in 1986, though it had two elected Muslim members previously. However, Mohammed Mohsin, who was nominated by the King as a member of the national legislature is a Muslim. He is an old-time ideologue of the court and had a big hand in the shaping of the New Education System and the Back-to-

the-Village National Campaign machinery, set up to control and guide Panchayati politics on a countrywide scale. After both of those hare-brained schemes had proved to be flops, his name was suggested to Saudi Arabia for appointment as Ambassador but Saudi approval was not received reportedly on account of the hostile representation made to the Saudi King by a section of Nepali Muslim community.

With regard to the ethnic minorities in the Tarai, no Rajbanshi or Dhimal has won a seat this time as in the previous election. The Yadavs and the Tharus also won fewer seats this time—four and three respectively, in place of seven each previously, there was only one Rajput before but the number of Rajputs increased to three in the newly elected legislature. One Gangai, one Mallah and one Jayaswal and one Gupta (Baniya) were also elected from the Tarai in addition to members of the other larger ethnic groups mentioned above.

Three women were elected to the Nepali legislature this time. In the 1986 elections both of the incumbent members, who were from the hills, lost their seats but three others were elected from the Tarai. Chanda Shah, a member of the family of royal collaterals, who had all along been active in the women's organisation, was elected from the district of Bara in the Narayani Zone. The other elected lady, Lakshmi Singh of the Sarlahi district, had been a mere housewife and was elected because of sympathy for her husband Ram Chandra Singh, whom the local administration had unjustly imprisoned with the sinister purpose of preventing him from filing his own nomination papers to be a candidate for election. Hem Bahadur Malla and his wife, Sharada Malla were also elected from the double-member constituency of Dhanusha.

There is one important feature in which this legislature differs from the previous one. Nine leftists including five (declared) Marxist-Leninists, all of whom were openly committed to the restoration of the multiparty system had been elected.

Rup Chandra Bista, an independent progressive member of the legislature with the highest reputation for personal character and honesty, was also elected from the Makwanpur constituency in the 1981 election and was acclaimed as the only one member in the previous National Panchayat, who followed the dictates of his own conscience in all matters. He was held in detention for sometime since October 1986 on the alleged charge of sedition for getting one of his old poems carried by his election manifestos reprinted in one of the local weeklies.

Padmaratna Taludhar, who has been a dedicated worker in the literary and cultural field and a crusader for the release of political prisoners and

for greater freedom and equality for linguistic and ethnic minorities, did not belong to any political party, but he claimed to be a leftist in his political orientation and advocated the restoration of the multiparty system. Drona Prasad Acharya from Jhapa, Noble Kemi Rai from Ilam, Parshuram Khapung from Tehrathum, Somnath Adhikari 'Pyasi' from Kaski and Jagrit Prasad Bhetwal from Chitaur form the Marxist-Leninist contingent in the Nepali legislature. All five of them had been school teachers and journalists of a sort. Bhim Bahadur Shrestha, said to have been a politburo member of the pro-Soviet Communist Party of Nepal, had been elected to the National Panchayat even before the Panchayat system was reformed. Gobinda Duwal was put up by the 'Rohit' Group of the Communist movement under the leadership of Narayan Man Bijucche, who had successfully fielded his own candidate from the Bhaktapur constituency in the 1981 election as well.

Among non-leftist members with pro-democratic learnings who can be said to have been in favour of the restoration of the multiparty system, mention must be made of Birendra Keshari Pokhrel from Khotang, Lekhnath Adhikari from Lamjung, Kul Raj Sharma from Baglung, Birendra Kumar Pokhrel from Gorkha, Keshab Kumar Budathoki from Jhapa, Umesh Jung Thapa from Biratnagar, Benu Parsai from Ilam and Bishwanath Jayaswal from Bara.

It is yet to be seen whether all these members of the legislature who are inclined toward the restoration of the multiparty system in varying degrees will be able to form a nucleus of their own inside the house and conduct their activities among the masses in collaboration with the rest of the multiparty elements outside. But if they do so, these elected members may run the risk of being subjected to disciplinary action and even being debarred from continuing as members of the national legislature. In view of this, a section of Marxist-Leninist is said to have decided to go slow for the present without unduly provoking the establishment, planning to resort to popular action only after they will have strengthened their position through district and village panchayat elections in 1987.

Only 40 out of 112 sitting members of the previous legislature were re-elected, and five of the previously nominated members were re-nominated. In other words, 45 of the members of the 1981-85 National Panchayat have retained their membership. 27 other current members had been elected or nominated to it at one time or the other before 1981.

Five chairmen of the district panchayats and two chairmen of town panchayats were elected and thus graduated into membership of the

National Panchayat. Two suspended chairmen of district panchayats were also elected members of the National Panchayat. 50 of the members of the National Panchayat were college graduates among whom there were four Ph.Ds and two professional engineers. Most of the members had vested interest in land; traders, businessmen and industrialist were conspicuous by their absence. The oldest member of the legislature, Drona Shamsher Rana, was 68 years old while the youngest members, Lakshmi Singh and Jagrit Prasad Bhetwal were 29.

The prime minister and the three other members of the interim government set up by the king to conduct the 1986 elections in a fair and impartial manner were nominated to the legislature: Nagendra Prasad Rijal, Krishna Raj Aryal, D.P. Adhikari and Lila Raj Bista. Two zonal commissioners, Lakshya Bahadur Gurung and Rituman Tumbhamphe along with Mr Khadgajit Baral, a retired inspector-general of police who had also served as ambassador to Burma were also among the nominated members of the National Panchayat. Five women were nominated members including the chairperson of the women's organisation, Sushila Thapa; the others were Indira Atreya, Kamal Neupani, Kalawati Singh and Sita Devi Garga. With the exception of Bhajan Lal Rana Tharu who could be said to represent the matriarchal Tharu community of the far Western Tarai, most of the nominated members belonged to the privileged caste of Brahmins and Chetri-Thakuris. Among the nominees from among the minority hill ethnic groups such as Magar, Gurung and Kirati most of them were retired government servants and thus retained a distinct bureaucratic-elitist character. Nominations seemed to have been made not entirely on political considerations nor on those of merit or popular national standing but on pure ad hocism prompted by the desire to accommodate the jobless among the friends and relatives of His Majesty's Principal Secretary who handled political affairs and dealt with politicians.

Allegations of Rigging

The counting of the votes commenced everywhere only after all ballot boxes from the polling booths and sub-booths had been brought to their district headquarters. This accounted for delay in announcing the results and also for the widespread suspicion that the ballot boxes must have been tampered with in cases in which they had not reached the district headquarters with the seal and signature of polling agents intact, and especially when the candidates' agents were not allowed to accompany

ballot boxes while they were being transported to the district headquarters either by porters or by vehicle.

Rup Chandra Bista who was eventually elected from Makwanpur had long before the results were announced, made it known to the press and public from exactly which booths the ballot boxes had been carried without being properly sealed and signed by the candidates' agents so that one of the least popular rivals could be declared elected. True to his forecast, that particular person was declared to have polled more votes than Bista himself, while in fact at least two other candidates were also said to have polled more votes than the person declared to have won with the highest number of votes.

In another case the entire local administration in the district of Dhanusha was involved in helping one of the candidates and his agents capture booths on a wide scale so that he might poll the largest number of votes in the kingdom. This candidate who had been a former minister polled 93,14 votes and his wife 53,99 votes.

Apart from hundreds of defeated candidates, several candidates, who had won handily from their respective constituencies, including former Prime Minister Surya Bahadur Thapa, fully endorsed the charge of rigging in a number of constituencies as a result of the machinations of certain influential members of the National Sports Council and their partisans in the administration and government whom a large section of the local press had chosen to describe as the underground gang (Bhumi-gat Giroha) with a preponderant influence of an extra-constitutional character in Panchayat politics.

The National Sports Council was for quite sometime functioning as a sort of parallel government, funding its central and local offices with the help of unaccounted and unaudited funds made available to them by excise, revenue, customs registration and other regular government offices which were obliged to raise this money in the same way as other government taxes, only with the difference that the levies collected for the Sports Council were designated "donations"

Nominated Members

Although names of all the elected members of the Nepali legislature were known by the end of May, the picture of its overall composition was by no means clear. It was only on 2 June that out of one-fifth of the total to be nominated by the King, twenty names were published. But the best was yet to be seen, and it was only on the morning of 9 June 1986 that the

nomination of the then Prime Minister, Nagendra Prasad Rijal, and four other members of his interim Council of Ministers was announced, with three of the royal nominees' seats not filled at all. That very day the 37th session of Nepal's legislature was duly convened.

The momentum which the Election Commission and the government controlled media sought to build up speedily over a period of months by a daily count-down to election day proved too mechanically contrived: firstly because there was no airing of national and international issues of public importance by the candidates in their election campaign, and secondly the campaigns were poorly organised as they had neither political workers nor programmes to enthuse the people over their election. And finally whatever suspense and excitement the election rehearsals may have provided those actively involved in them as well as passive spectators about the high drama that was in the offing, were laid to rest in the week of 9 through 16 June.

New Legislature Meets: Three Short Acts

The curtain went up and the first act of the drama began when the session convened at the scheduled time on 9 June 1986 and was chaired by Drona Shumshere J.B.Rana, who, as the oldest member of the house, had been duly administered the oath of office by the King on the previous day and authorised to chair the session of the legislature until it had its own duly elected president. Rana promptly invited the nomination for the President of the Rastriya Panchayat at the very first meeting of the session in the morning, and set a time later that afternoon for the closing of nominations. Navaraj Subedi's was the only nomination filed for the high office. The following morning on 10 June, Subedi's name was sent to the King for appointment as President of the Rastriya Panchayat and by the afternoon he was duly sworn in by His Majesty.

The second act began on 11 June when Subedi, the newly appointed President of the legislature, asked for nomination for the prime ministership from among the assembled members, and set 13 June as the last day for filing nominations. Mr. Marich Man Singh Shrestha's was the only nomination received for the prime ministership and he was duly sworn in as prime minister on 15 June (the previous day, Saturday, is a public holiday in Nepal).

The final act of the drama came to an end and the curtain was down with the swearing-in at the Royal Palace on 16 June of a 17-member Council of Ministers consisting of 10 full-fledged cabinet ministers, 4

ministers of state, and 3 assistant ministers, all of whom were said to have been nominated on the recommendation of the prime minister. "This all a chequer-board of Nights and Days/Where Destiny with Men for Pieces plays/Hither and thither moves, and mates, and slays/And one by one back in the closet lays."

The events that took place in the week beginning 9 June at the Nepali capital apparently moved in an orderly procession. But there were reports of sharp exchanges and encounters between some of the independent-minded among the elected members of the national legislature on one hand, and some of the nominated members, the apparatchiks of the Panchayat Policy and Inquiry Committee,¹ and the Royal Palace Secretariat, who were busy collecting signatures for the nomination of the two candidates who were subsequently elected to the two high offices without any overt opposition.

This writer gathered from the Kathmandu grapevine that Nagendra Prasad Rijal the then Prime Minister, had himself approached one of the prospective candidates for prime ministership, Rajeshwar Prasad Devkota, and told him that His Majesty did not want him to run for the office. Devkota's supporters were sorely disappointed when he thereupon refused to stand at the last moment as a candidate. None of the elected members claimed to enjoy the support of 84 or 85 members of the legislature, but there was no question that some of the members could have secured 40 or 50 votes on their own even without promptings from external and extra-constitutional sources.

Implications for the Future

The private and public expenditure of money and effort in political campaigns and general elections are socially justified in terms of their contribution of the political education of the masses and the instant prospect they hold for alternative government by offering different programmes and policies for the people to choose between. But the last two elections held in Nepal within an interval of 5 years fell far short of the above goals and criteria, and instead they degenerated into popularity contests among individual aspirants for office. In fact the role of the electorate was reduced to that of merely casting a ballot in favour of the candidate of one's choice with no say whatsoever in the policy of the government thus being elected.

¹ See Appendix on page 144

Again, the prospects for the people to choose an alternative government were dimmed by the so-called partyless character of Nepal's Panchayat system which discourages group or collective action on the basis of clear-cut alternative programmes by making everyone subscribe to the so-called national programme put forward by the government and the Panchayat Policy and Enquiry Committee in the name of the King. Thus the partyless panchayat system continued to involve the King directly in the day-to-day politics and administration of the country instead of placing him above controversy arena beyond the range of the rough and tumble fight in the political arena with all its vicissitudes.

Under the partyless Panchayat system candidates for membership in the legislature were obliged not only to pledge their allegiance to its principles and purposes but also to subscribe in good faith to the programmes of the government said to have been formulated under the active guidance and leadership of the King. Thus, irrespective of who were elected to the legislature and who formed the government, they were supposed to follow the policy guidelines laid down by the King. That was why none of the candidates during their election campaign deemed it fit to address the national and international issues of public importance such as the steady decline in agricultural production and economy, the growing trade and balance-of-payment deficits and the aggravation of ecological and environmental conditions or for that matter, the foreign policy problems relating to the establishment of the new international economic order and the attainment of the goals of world peace and complete and general disarmament.

The Reformed Panchayat Legislature at Work

According to some of the more knowledgeable members of Nepal's national legislature, who had belonged to it under both the previous partyless system and the "reformed" partyless system, there had been hardly any change in the legislature's style of functioning. Nor had its power to influence public policies and exercise effective control over the government's high-handedness and excesses been increased in any way.

During the previous 5-year term of the legislature, amendments to the budget proposal were tabled by certain members but were shelved by the presiding officer of the legislature on the same old pretext that prior approval of the King had to be obtained for consideration of motions by

the House, thus involving the King in the day-to-day administration of the country.

The role of the presiding officer of the legislature as an impartial referee in the legislative debates had also been seriously impaired by making him ex-officio Chairman of the Panchayat Policy and Inquiry Committee. It was the duty of this committee to bring the policy of His Majesty's government in line with the views and aspirations of the people and panchayat workers, and to make them toe the official panchayat line by disciplining them, as and when necessary—an onerous responsibility which would not be discharged without direct involvement in active politics.

Surya Bahadur Thapa, who had since 1965 been prime minister several times during the Panchayat Raj before and after the Referendum of 2 May 1980, openly accused Marich Man Singh Shrestha, then president of the national legislature, of a partisan role at the time of the ouster of the Thapa government through a resolution against the prime minister in the House in mid-1983, and then again immediately afterwards when Shrestha in the capacity of the presiding officer did not permit Thapa and his followers to table a similar resolution against the newly appointed prime minister, Lokendra Bahadur Chand. However, Thapa for reasons best known to himself did not table any resolution against Chand or his government during the rest of its 3-year tenure, which was smeared by the billion-dollar scandal, devaluation of the Nepali rupee and a conspicuous rise in inflation.

When Thapa himself was reappointed prime minister in 1981 after the referendum, it appeared as though he enjoyed the support of the entire membership of the legislature with the exception of 13 members who did not participate in elections. It was alleged by some members at the time that had it not been for guidance from above, that is from the Palace or the Kafkaesque castle, it would not have been possible for him to be elected unopposed. The allegation was more than borne out by the abrupt manner in which Thapa later lost the support of the House and of his cabinet once he decided to face the motion against him regardless of the suggestion from several quarters that he should resign beforehand. When Marich Man Singh Shrestha was elected prime minister unopposed this time like his predecessors, Thapa and Chand, it was alleged by several elected members that if they were left really free to choose someone from among them as prime minister, there would have been a contest because some other candidates also would have found 35 sponsors for their nomination for the office. Navaraj Šubedi like his predecessor, Shrestha

was elected unopposed as the presiding officer of the legislature, and the deputy president of the House, Parshuram Rai, was also elected in a similar manner. And the unopposed election of the prime minister and the presiding officer of the House was played up once again this time as a demonstration of the unity of the adherents of the reformed partyless panchayat system and proof of the feasibility of running the legislature along parliamentary lines without parties or an organised opposition.

But it was the magic of kingship more than anything else that had therefore made it work apparently in an orderly manner and the credit for it also went to the attitude of most of the elected members who seemed to believe in the principle of carrying out royal commands wherever they came from. I remember to have been once reminded by one of the sharpest prime ministers in the Panchayat Raj of the following quote: "You should know that I have neither a mind nor a will of my own—I am merely a blind tool of the Emperor's will." To him my reply was "Sir, loyalty and flattery are not synonymous."

The Constitution of Nepal did not provide that His Majesty the King was required to appoint the Council of Ministers on the basis of the recommendation of the prime minister. Article 25(3) of the constitution merely stated that "His Majesty shall constitute the Council of Ministers under the chairmanship of the prime minister." But the royal proclamation relating to the formation of the Council of Ministers stated that it had been formed on the recommendation of the prime minister as was the case in the parliamentary monarchy of Great Britain where the cabinet system of government prevailed. But in view of what had actually taken place prior to the formation of the Council of Ministers both in 1981 and 1986 it would not be incorrect to assume that the governments on both occasions were formed in strict conformity with the letter and spirit of the constitution rather than in accordance with what has been stated in the royal proclamation for purposes of public consumption and external propaganda.

It was very likely that if the prime minister was allowed to be elected in future without any promptings from the Palace, two parties would have at once sprung up inside the legislature itself: one consisting of the prime minister's supporters and the other composed of his opponents. As a matter of fact it was from such a beginning that the party system emerged in the British House of Commons, which is regarded as the mother of parliaments.

Even in Nepal the legislature elected in 1981 was clearly divided between the supporters of Surya Bahadur Thapa and those of Lokendra

Bahadur Chand, and both of these gentlemen became prime minister by turn. However, the factions supporting them had centred around personal and selfish interests rather than around fixed principles and policies with the result that they proved to be temporary make-shift alliances in the end. The extra-constitutional elements with vested interests in the maintenance of the partyless character of the panchayat system were deliberately and wilfully obstructing the natural evolution of the party system by preventing members of the legislature from organising themselves into identifiable groups with public commitments to certain programmes of political action and thus putting themselves in a position to draw support and sustenance from the people on the basis of their records of performance.

Appendix

The Panchayat Policy and Enquiry Committee was established in Article 41B in Chapter 2 of the Constitution of Nepal as amended for the third time on 15 December 1980. (The Committee was also called the Panchayat Policy and Evaluation Committee in the official English language media). The constitutional provision stated that

“(1) There shall be a Panchayat Policy and Enquiry Committee under the chairmanship of the chairman of the National Panchayat.

(2) The composition of the committee and its powers required to act in all matters relating to the promotion of the partyless Democratic Panchayat System and its procedure shall be as provided in the Rules approved by His Majesty. No question shall be raised in any court as to whether or not such rules have been complied with.

(3) The Panchayat Policy and Enquiry Committee shall ensure implementation through concerned institutions, in accordance with the Rules made under Clause (2), the decisions taken by various committees of the National Panchayat constituted under Clause (1) of Article 41A after necessary deliberations of the annual reports of the constitutional bodies which have been referred to them by His Majesty.”

The Clause 3 of Article 41B, which is given above empowered the Panchayat Policy and Enquiry Committee (PPEC) to act as a parallel or even super government by conferring on it the responsibility to ensure implementation of the decision taken by various committees of the National Panchayat under Clause 1 of Article 41A. The committees referred to were the five committees of the National Panchayat--the Economic Committee, the Social Committee, the Panchayat Committee,

the Development Committee and the Water Resources Committee composed of members of the National Panchayat with a view to "associating them to a greater extent in the administration of the country." Those committees were to make policy decisions on various matters in the light of the reports of the constitutional bodies such as the annual reports of the Chairman of the Public Service Commission and the Auditor General to the King, who referred them back to the legislature in a routine manner. As a rule the government was charged with the responsibility for implementing the policy decisions made by the legislature through its five committees. But this particular Clause of Article 41B enabled the PPEC also to supervise the implementation of the legislature's policy decisions.

Apart from this, neither were the powers and functions of the PPEC defined in the text of the constitution nor was its composition clearly spelled out. It was cryptically stated that its composition and its powers to act in all matters relating to the promotion of the partyless democratic panchayat system and its procedures, like the Rules themselves, were placed beyond the pale of the courts of justice.

It was in this respect that the PPEC strongly resembled its forerunner, the Back-to-the-Village National Campaign Central Committee (BVNC), which was first incorporated in the constitution when it was amended for the second time on 12 December 1975. The clauses relating to the BVNC machinery in the constitution had to be suspended after all its office-bearers throughout the country felt compelled to resign simultaneously in the wake of the students' agitation in 1979. The constitution as amended for the third time on 15 December 1980 dropped the BVNC machinery altogether and avoided even mention of it by name.

Like the Central Committee of the BVNC, the PPEC was also deliberately designed as the direct instrument of the King's will and power for conducting organised politics under the 'active leadership' of the King. However, the PPEC appeared to be a modified or watered-down version of the BVNC machinery with its central committee and its ramifications in all the district and zones of the country and with all the paraphernalia of a full-dress political party. The PPEC was intended to perform the same functions as those of the BVNC machinery such as (1) furnishing the correct interpretation of the panchayat ideology, (2) training and indoctrination of cadres, (3) educating voters along right lines, (4) evaluating political workers, and (5) enforcing political discipline.

The composition of the 21-member PPEC may be outlined as follows: In addition to the chairman of the National Panchayat as its ex-officio chairman, the vice-chairman of the National Panchayat as its ex-officio member and member from the Council of Ministers to be nominated at the recommendation of the prime minister, the other 18 members of the PPEC were to be nominated by the King in this manner:

- (a) 7 royal nominees one of whom was to be nominated member-secretary.
- (b) 5 from among the members of the National Panchayat one from each of the five development zones.
- (c) six from among the members of the six class organisations one from the central committee of each of them.

The members of the PPEC chosen by King from among the members of the National Panchayat and the Central Committee of each of the class organisations had only a two-and-a-half-year tenure whereas the rest of nine had a five-year-term. Again the nine members were always required to be present at every meeting of the PPEC whereas the rest were to be treated as permanent invitees insofar as the meeting of the committee could be held even in their absence.

That was how the PPEC was said to be composed and functioning until the new government was formed following the May 1986 elections. It was after the tenure of the previous committee had expired that the King amended the PPEC Rules or Regulation for the third time and constituted a new 25-member committee under the chairmanship of the Chairman of the National Panchayat. Thus the provision of nominating one member from the council of ministers at the recommendation of the prime minister, six members from the Central Committee of each of the six class organisations and a member-secretary from among the members directly nominated by the King had been kept intact, the quota for representation of the National Panchayat members has been reduced from five to one insofar as the Chairman of the Panchayat Committee of the National Panchayat was the only one to be given representation on its behalf along with its vice chairman who had been an ex-officio member of the PPEC previously also. The tenure of the members with the exception of that of the Chairman and the Vice-Chairman of the National Panchayat and the Chairman of its Panchayat Committee will be normally of three years. The number of the direct royal nominees from outside the National Panchayat in the PPEC was doubled from 7 to 14.

The loosely structured panchayat political set-up in Nepal and its informal processes and procedures afforded an ample field for members of the royal secretariat and the direct royal nominees in various panchayat bodies to influence decisions in the King's name by involving the King in day-to-day administration and in politics even without His Majesty's knowledge and consent. But there was no doubt that this sort of involvement of the King would not be conducive to the lasting good of the institution of monarchy in the long run.

Nepali Politics (1985-1989)

By the end of May 1985 hundreds, if not several thousand of Nepali Congressmen and a number of communists were in prisons throughout Nepal for their participation in a peaceful protest campaign against the ban on political parties. Small groups of people continued to demonstrate their protest during the first weeks of June.

On 19 June 1985 King Birendra read out his address from the throne. It was intended to be the policy statement of Lokendra Bahadur Chand's government, and was just a pedestrian recital of the development activities that His Majesty's Government would be carrying out in the coming twelve months. But the opening paragraph would have convinced those who had set in place the network of explosive devices that they were right in their belief that only violence would bring about significant political change. When the King started reading that afternoon, he uttered the following words :

As in the past years, we are happy to address the present session of the Rastriya Panchayat. The Nepalese people are determined to discourage any attempt to undermine peace and order in the country. It becomes the bounden duty of all Panchas to counter those who seek to create an atmosphere of instability in the country by spreading unnecessary confusion about the system chosen by the people themselves in free exercise of will. Maintaining peace and order in the country, my Government has formulated the following programme for the coming year as a part of the process

of establishing a society envisioned by the partyless democratic panchayat system.

The first bomb went off that evening evidently by mistake. An unidentified man was killed at Pokhara while the authorities said they believed he was carrying the device. No special notice of the event seemed to have been taken at the time – certainly no extra security precautions were evident in Kathmandu by early afternoon next day, June 20, when the first blasts occurred there. By the end of that day, five bombs had exploded, five people (including a member of Nepal's national legislature) had been killed and 17 injured in Kathmandu, one woman had died in Birganj and unactivated explosives were beginning to be discovered in Kathmandu and elsewhere in the country. Two days later, an explosion injured three more people at Bhairawaha airport.

According to an aide to the King, the King and the Queen left Kathmandu after two bombs had gone off at the outer gates of their palace and took refuge at their forest lodge atop Nagarjun hill on the north-western edge of the valley. The Hotel d'Annapurna closed its doors (three staff members were killed at the reception desk), police diverted traffic away from streets around the palace, from Darbar Marga and from the entrance to the grounds of Singha Darbar (where two persons were killed at the Rastriya Panchayat hall and where are located the offices of the Prime Minister, Home Ministry and Foreign Ministry as well as the studios of Radio Nepal) and increasing numbers of lathi-wielding, flak-jacketed armed police patrolled the city. Telex communications with the outside world went dead at 3.00 p.m. but were restored four hours later. Trunk telephone lines worked throughout this time. The Chief of Army Staff, General Arjun Narsingh Rana cut short his official visit to India by two days and returned to Kathmandu on 22 June.

Who did the bombing? A spokesman for the Nepali Congress said this was none of his party's doing, and the Congress immediately called off its non-violent campaign. One widely circulated theory was that hardliners within the palace secretariat fearful that their powers were about to be diluted in some sort of political liberalisation in accommodation with the Congress, planted the bombs themselves to reverse what they saw a threatening trends (on 5 July the Home Minister denied that HMG had any involvement in the explosions).

A leaflet signed by an unknown group called United Liberation Fighters (Samyukta Mukti Bahini) was distributed in Kathmandu on 20/21 June saying they had carried out bombing and that "there is more

to come, for our struggle will go on until our objective is achieved which is the liberation of our people''. On 22 June the Janabadi Morcha (the People's Front), the party of Ramraja Prasad Singh, claimed in Delhi that it was they who carried out the attacks; a spokesman of this group, the People's Front, said they had planted 50 bombs to proclaim the start of their attempt to topple the monarchy eventually, install a democratic republic and abolish private property.

Neither General Subarna Shamsher nor B.P. Koirala even when they were actually engaged in organising armed raids against the royal regime from their base in India from 1961 to 1976, had ever advocated the abolition of monarchy as a solution to Nepal's political problems. For the first time in the history of Nepal Ramraja Prasad Singh in 1985 advocated the abolition of monarchy as the only solution to Nepal's ills.

He had organised his own party called Janabadi Morcha after breaking with Nepali Congress upon his release from prison following the announcement of the referendum in 1979, and in June 1985 he accepted full responsibility for the explosion of bombs that had first gone off in Kathmandu and in some other places in Nepal as a warning to the King and the royal government.

Ramraja Prasad Singh had been elected to Nepal's national legislature from the prestigious nationwide graduates' constituency in 1971 with the restoration of the existing situation before 15 December 1960 as his aim. He was subsequently barred by a resolution of the legislature from taking part in elections to it for his lifetime and was imprisoned until his release in 1979.

Also on 22 June 1985 the government-owned daily, *The Rising Nepal*, published an editorial which said, "There would seem to be no doubt about the terrorists' main purpose. That is patently clear from the fact that the two special targets of their baleful attention were the royal palace and the Rastriya Panchayat. Very plainly this suggests that those who are behind these nefarious deeds are elements deadly opposed to the institution of monarchy and the panchayat system". The editor was roundly denounced in the Rastriya Panchayat for daring to suggest that anyone could be opposed to the sacred institution of monarchy.

The present author also chose the occasion to tell His Majesty King Birendra publicly through the press what he had told him in private 12 years ago that His Majesty was sitting on the top of a volcano, and his palace had become a centre of corruption but he could still save his institution by putting the political process on track and not involving himself directly in it. This particular statement of mine received world-

wide publicity and was on the front page of the leading newspapers not only in India but also in London, New York, Washington and Sydney.

There was no doubt that many persons in authority panicked when the bombs went off, the first such incident to take place in Kathmandu. Two close associates of ex-Premier Surya Bahadur Thapa, including a brother, were held for hours by the police while their homes were searched. Hundreds of more people were rounded up by the police for rough treatment and lengthy detention, and a palpable state of terror prevailed amongst Nepalis of all classes. Although in due course large numbers of Nepali Congress people were released, their leaders were kept in custody till the autumn of that year. On 25 August, the Home Minister, Jog Mehar Shrestha, told the national assembly that 1,750 people had been taken in for interrogation concerning the explosions and of these 101 were still being held.

Home Minister Shrestha said the authorities had good evidence about who had carried out the bombings, but he named only one person, Ramraja Prasad Singh. Shrestha added that a special tribunal would be established within a month to hear charges against those accused of involvement in the bombings. A special anti-subversion act called the Destructive Crimes (Special Control and Punishment) Act had meanwhile been pushed through the legislature on 26 August and it received the King's assent. The tribunal in due course heard cases under this new law providing for a maximum penalty of death for anyone who commits or instigates subversive activities that result in death and allowing cases to be brought under this Act even if the subversion had taken place before its coming into force. In May 1987, death sentence was pronounced on four people including Ramraja Prasad Singh in absentia whose alleged crimes took place in June 1985.

In an interview with a Reuters correspondent, who also represented the Australian Broadcasting Corporation, the King took a somewhat detached view of the June events. He said his government took the bomb attacks in its stride. "If everytime a bomb explodes somewhere, a government is going to get nervous, you are going to have more problems", he was quoted as saying "One does not want to be blackmailed by this type of activity. It is a world-wide phenomenon". (His interview was not published in Nepal). King Birendra soon forgot all about the explosion of bomb and began to proceed in a routine manner as if nothing had happened.

In late 1985 it was decided to celebrate the Silver Jubilee of the partyless panchayat system. On 16 December 1985 King Birendra pledged to provide for the basic needs of his people by A.D. 2000.

“Let us pledge that in the remaining years of this century, we will shake off poverty imposed on us by our least developed economy and achieve a standard of living which is adequate to lead a life with human dignity from Asian standards.”

A committee was formed for the celebration of the 25th anniversary of the partyless panchayat system by highlighting its achievements through a “dispassionate” assessment during the following year. The committee had as its chairman Dr. Tulsi Giri, a senior panchayat politician and a former prime minister, who, however, chose to remain away from the country on the pretext of indifferent health and finally resigned his position. King Birendra’s pledge to raise the economic level of Nepalis to the “Asian level”, without explaining what it meant, merely served to create confusion among the people about the government’s future economic policy and plans.

Although the Nepali Congress and most of the communist factions had boycotted the 1986 elections to the national panchayat legislature, two of the communist factions had permitted their members to run for these elections. As a result, there had emerged in the newly elected national panchayat legislature a group of six leftist and communist legislators who openly advocated multiparty democracy in the face of threats of disciplinary action against them.

The Silver Jubilee celebration of the partyless panchayat system like the King’s pledge to raise the living standards of the Nepali people substantially in another 15 years proved to be a damp squib from the political viewpoint. However the failure and hesitation of the royal government to take firm action against the advocates of the multiparty system in accordance with the rules of procedure of the panchayat legislature proved to be ominous in the long run.

The year 1987 was, politically speaking, as pedestrian as the previous year. The politics of petition to the King followed by the outlawed Nepali Congress (NC) ever since the return in 1976 of the late B.P. Koirala on the pretext of ‘national reconciliation’ had failed to elicit any response from the palace. Further the Nepali Congress leadership, having initially expressed their intention to boycott local elections to be held in 1987, changed their policy apparently under pressure from local workers and allowed them to take part in them. K.P. Bhattarai, the Acting President of the Congress, had boasted before elections that his party would capture at least 23 of the 33 town panchayats or municipalities. But the performance of the Nepali Congress (NC) in those local elections was not at all encouraging except for the fact that its candidates were elected mayor

and deputy mayor of the Kathmandu town panchayat or municipality. As stated by Professor Lok Raj Baral in his annual review article on Nepal in *Asian Survey* of 2 February 1988, "The NC's claim that it was the only alternative to the partyless panchayat system patronized by an active royal leadership for over two decades was forfeited by its poor showing in the 1987 local panchayat elections."

The leftist factions also, despite their success in local panchayat elections in certain areas, had failed to achieve any unity among themselves for effective political action in the country and the panchayat establishment was found incapable of any meaningful action to improve or consolidate its position among the people notwithstanding the frequent reports of meetings in the royal palace of former prime ministers, former presiding officers of the national panchayat legislature and the Back-to-the-Village National Campaign Committee and members of the Panchayat Policy and Evaluation Committee (PPEC).

But the year 1987 witnessed crime and scandals involving high ranking police and military officers as well as panchayat politicians and legislators with links to the royal family.

Padam Thakurati, editor of a local weekly, which was consistently exposing the activities of a section of the panchayat establishment engaged in nefarious and anti-social activities, was shot on the head while asleep in bed in the small hours of the morning. He was in a critical condition for several days and lost one of his eyes but his life was luckily saved. Among those found guilty by the court of involvement in this attempt to murder Thakurati were Bikas Gurung, Colonel Bhart Gurung, aide-de-camp to the King's youngest brother, Bhim Prasad Gauchan, a member of Nepal's national panchayat legislature, and Jagat Gauchan, an internationally known expert in martial arts and a prominent member of the National Sports Council among others. Col. Bharat Gurung and D.B. Lama, a former retired Inspector General of Police, were also convicted on charges related to drug-traffic, smuggling and receiving kick-backs from shady deals of different kinds.

Again in 1987 the consumers boycotted milk supplied by the Dairy Development Corporation (D.D.C.) for months on the plea that contaminated milk powder imported from Poland following the Chernobyl nuclear disaster in the Soviet Union was used. The boycott movement shook the panchayat government to the hilt because even the cancellation by the Ministry of Agriculture of all import licences for milk powder did not seem to allay popular anxiety about contaminated milk. But the

political opposition had failed to capitalize on the issue effectively with the result that the government remained unharmed.

In 1987 the Amnesty International published its special report on human rights violations in Nepal with a focus on the arrest of journalists like Harihar Birahi and Keshab Raj Pindali and legislators like Rup Chand Bista and Gobinda Upreti in 1986. The two above-mentioned journalists were arrested and detained under the Public Security Act for publishing an interview with Yogi Narahari Nath, a religious activist, criticizing the King for coming too much under the influence of his wife to the detriment of the interests of the state. But nothing happened to the Yogi himself. Rup Chand Bista was arrested for owning responsibility for the publication of his old poem in the newspaper notwithstanding the fact that the poem had already been published elsewhere with impunity. Gobinda Upreti a former member of Nepal's national panchayat legislature, was arrested for naming the King's brothers among those who were actively involved in rigging elections in his Kavre constituency in 1985 with a view to enabling Shailendra Kumar Upadhyay to win against him. Gobinda Upreti was subsequently fined and was imprisoned for more than three years for his refusal to leave out the names of the King's brothers in his evidence before the court.

In the year 1988 Marich Man Singh Shrestha changed his cabinet three times with every reshuffle making things worse for the people and making the administration increasingly indifferent to their deteriorating conditions. Further, Nepal was also struck by a devastating earthquake (6.7 on the Richter scale) on 21 August 1988 causing heavy loss of life and property. This major disaster followed by a succession of earth tremors altogether took a toll of 721 lives and injured 1,551 people. The economy suffered a serious damage as more than 66,000 houses were razed to the ground and 1202 school buildings and 14 college campus facilities were demolished. The entire eastern region of the country was affected by the earthquake and in the Kathmandu valley the town of Bhaktapur suffered the worst devastation. There was no dearth of international aid in both cash and kind for the earthquake-stricken people at the beginning. But the donors subsequently did not want to trust the panchayat administration of the day with cash and insisted on making aid available to the earthquake affected areas in kind. The government's attempt to disburse relief aid of different kinds among the people through their own authorized agencies alone created conflict in certain areas. This kind of conflict was highlighted by the Bhaktapur incident in which Karna Prasad Hyoju, a former member of Nepal's panchayat legislature,

was lynched by the people in broad daylight on 26 August. The incident with all its political implications will be referred to later in the book.

There was another man-made disaster earlier the same year in which after a sudden rain storm several people lost their lives and were injured in a stampede while trying to force their way out of the Dashrath Sports Stadium because the gates were found closed. Keshar Bahadur Bista, Minister for Culture and Education, proved to be the only casualty following this grave incident which had aroused a lot of hostile feeling against the Marich Man Singh government. Marich Man Singh succeeded in protecting the top administrators of the Sports Council who were directly responsible for the disaster that had occurred.

Political opposition including the Nepali Congress which had remained a visible force for 28 years ever since the royal takeover on 15 December 1960 had, however, failed to turn to its advantage the growing popular discontent with the Marich Man Singh government. In a formal interview published in a local weekly, *Bimarsha* of 10 October 1988, Ganesh Man Singh, the most highly respected leader of the Nepali Congress had given expression to his feeling of despair in the following terms: "I was under the impression that the people were on our side. We thought the people would accept whatever we told them." He had perhaps in his mind the poor performance of his party in the local body elections when he stated that "(it) was difficult to find competent candidates. It was clear that we were deluding ourselves. We were entertaining the illusion of being a strong party because we had not had to face anyone...our committees in several districts were confined to paper."

By the year 1988 Marich Man Singh Shrestha's government had lost its credibility and confidence among the members of the panchayati legislature as well as the people in general. He was heard to say openly in conversation that he did not care for what others said as long as he enjoyed the confidence of the King. Sporadic and hesitant attempts of members of the legislature to bring a censure or no-confidence motion against Prime Minister Marich Man Singh were more than once thwarted by overt and covert manipulations and machinations of the presiding officer of the panchayati legislature as the ex-officio President of the Panchayat Policy and Evaluation Committee. In the 1989 session of the legislature once it so happened that not one member stood up for Prime Minister Singh even when one of his opponents publicly vowed to resign his membership at once if even one single member showed support for the prime minister by standing up on the floor of the assembly. The joke was that only on the following day one of the lady members of Singh's

cabinet stood up declaring her support for the Prime Minister retroactively. The irony was that members of the legislature and the public were helpless against Singh even after it had become clear that he had lost his face completely. It was also a very sad commentary on the manner and morals of Nepali society which had then reached an all-time low.

The Singh government, however, did not fail to exploit the cupidity and venality of the political and administrative officialdom till the end. It enticed them with the offer of a bribe in the form of the privilege of importing foreign cars from overseas countries for personal use at a nominal import duty and with the government also providing the privileged persons with the facility for the exchange of convertible foreign currency at the official rate. Only a handful of officials qualified for the privilege had the moral rectitude to decline the offer, and most conspicuous among them were a handful of members of Nepal's national legislature most of whom were well-known leftists and communists. An overwhelming majority of the upper echelon political and administrative officials supposed to be entitled to this privilege took advantage of this generous offer of bribe by the government and pocketed at least half a million rupees apiece at the cost of the public exchequer. This also provided an eloquent testimony to the prevailing sense of social morality and responsibility on the part of those sitting in the place of the high and the mighty. Quite a few persons were content merely with pocketing the margin of net profit by having third persons buy cars for them and use them on the terms of bonded mortgage for five years to get around the restriction on the sale of imported cars for personal use before the specified period of time.

Prime Minister Marich Man Singh wanted to win over some of the legislators to his side by offering them lucrative positions as chairmen of a high level commission for strengthening the protection of the forest area. These chairmen would actually handle in their respective jurisdictions allotments of land to the poor and the indigent and also to all those entitled to compensation for acquisition or requisition of their land by the Forest Department. While doing so the chairmen along with other members of the commission usually received kick-backs for themselves. The tenure of chairmen of those commissions was renewed or terminated by the Prime Minister depending on their attitude towards him inside or outside the legislature.

The economic policy of the Marich Man Singh Shrestha's government was guided by a nominated member of the legislature, Bharat Bahadur Pradhan, who was a son-in-law of the late chief officer of the

Royal Palace, Bada Kazi Pushpa Raj Rajbhandari, and as such had links to the Royal Palace and also to the Kathmandu businessmen with whom he had dealings in the past as a top level officer in the Nepal Industrial Development Corporation and the Finance Ministry itself. Both the Prime Minister and the Finance Minister had the interests of the commission agents of Japan-and-South Korea-based manufacturing and construction multinational companies uppermost in their minds. It was under their active encouragement and instigation that Prime Minister Marich Man Singh Shrestha and his Finance Minister, Bharat Bahadur Pradhan, embarked on a policy of pursuing trade with India on the terms of the Most-Favoured-Nation-Treatment as with other countries. This involved considerable depletion of Nepal's scarce convertible currency reserves and also put obstacles in the way of Nepal's exports to India. Such a policy resulted in high prices and shortages of essential commodities in Nepal causing immense hardship and suffering to the common people. Marich Man Singh's government had tried in vain to divert popular attention from its own failures and shortcomings by whipping up anti-Indian feeling on the pretext that shortages of essential commodities and hardships for the common people were a result of India's abrupt and unilateral termination of the existing trade and transit treaties with Nepal. The people of Nepal did not prove to be gullible because they had first hand awareness and experience of the track record of the Singh government and the partyless monarchic rule for three decades. The common people, to the contrary, held their own government solely responsible for their plight and turned against it.

Marich Man Singh's government's attempt to turn world public opinion against India by exploiting the David-Goliath syndrome did not meet with success because a section of the Nepali intelligentsia had begun to advocate publicly that their government should not be given any additional aid and assistance unless it showed a greater sense of accountability. Marich Man Singh and his henchmen did not realise till the end that the people were fed up with them and there was going to be a mass uprising against the government. As in the past, Marich Man Singh continued to blame opponents of the regime as India agents acting under foreign influence.

Even if India might have for sometime tried to realise its foreign policy objectives by solely cultivating the king, it had realised the inadequacy of such a policy by 1989. It did not, however, mean that the Indian government was willing to support political opposition in Nepal openly. The government of India was careful from the beginning not to lay itself vulnerable to the charge of interfering in the affairs of Nepal and succeeded in making the government of Nepal admit publicly several

times till the beginning of 1989 that the relations between the two governments were very friendly and cordial notwithstanding the attitude of certain political leaders and a section of the media in India. It was only after the lapse of the trade and transit treaties in March 1989 that Marich Man Singh's government started attacking Rajiv Gandhi's government directly.

Meanwhile preparations for initiating a broadbased movement for the restoration of democracy and human rights had already been under way. The banned political parties were discussing the possibilities of launching a movement for the restoration of multiparty democracy notwithstanding the fact that even the banned Nepali Congress, which unlike the banned Marxist-Leninist communist party of Nepal, had boycotted the 1986 elections to the national assembly, had subsequently participated in the municipality and district panchayat elections without conspicuous success except in Kathmandu. However, the elected Nepali Congress officials as chairmen and deputy chairmen of the district and the town panchayats and leftist communist members of the national legislature were harassed at every conceivable pretext, but they continued their defiance of the partyless panchayat system at least in theory both inside and outside the legislature and other elected local bodies. Their opposition to the government proved ineffective because of the failure of the banned parties to get the people out in the streets in their support.

Formation of the Human Rights Organization of Nepal in December 1988

The problem in Nepal unlike in other South Asian countries had been to secure broadbased participation of the educated professional classes such as the lawyers, college teachers, medical doctors, engineers and others in the movement for human rights and democracy. Some of us felt that time had come to make another attempt in Nepal to tackle this problem in view of the fact that the human rights movement had begun to acquire a renewed significance and vigour everywhere in the world. A few of us who had some experience of running human rights organisations under different names and also the Nepal Chapter of Amnesty International during the past decades, once again decided to launch a new Human Rights Organisation in the hope that it might secure a broader participation and prove to be more effective this time. We received unusual encouragement and cooperation from the leaders of most of the banned political parties and other political activists. Towards the end of

August 1988 we had held the first meeting preparatory to the launching of the Human Rights Organization of Nepal. Some of our friends and colleagues like Narayan Man Bijuchhe (also known as) Comrade Rohit and Gobinda Duwal and others from Bhaktapur were picked up by the Marich Man Singh government on the trumped-up charge of murder just on the eve of this preparatory meeting. However we persisted in our endeavour to set up this organization and held one or two other preparatory meetings before we finally set 10 December 1988 as the date for formally launching the Human Rights Organization of Nepal.

I was invited along with some of my Nepali friends to attend a regional seminar on "Law and Development in the SAARC Region" sponsored by the Human Rights Commission of Pakistan in Lahore from 24 through 27 November 1988. The seminar focused on making law an effective instrument for strengthening regional cooperation in the sphere of maximizing human rights standards--minimising human rights violations. With this broad objective in view, the seminar had discussed strategies to advance the cause of (a) stability and independence of political institutions in the SAARC countries, (b) empowerment of the disadvantaged, and (c) regional cooperation for the promotion of peace. The seminar provided some of us from Nepal with a unique opportunity to exchange views on various aspects of the human rights movement with distinguished pioneers and leaders in the field from South Asian countries such as V.M. Tarkunde, Danial Latifi, Swami Agnivesh, Rani Jethmalani and Indira Jaisingh of India, Dorab Patel, Ashma Jahangir, Hina Jilani of Pakistan and Salma Sobhan and others of Bangladesh and we also did our best to acquaint fellow participants with the real state of affairs in Nepal and sounded them on our plan to found the Human Rights Organization of Nepal. We also examined the prospect of coordinating the movement for human rights on a regional basis by maximizing contact between the existing human rights organizations in the SAARC countries with a view to harmonizing their activities as far as possible in future.

As soon as we returned to Kathmandu towards the end of November with renewed vigour and zeal for starting the Human Rights Organization, we proceeded ahead with our preparations and finally launched the Human Rights Organization of Nepal (HURON) on 10 December 1988 with the following objectives:

The Organization shall remain unaffiliated with any political party and operate on a non-profit basis. Its aims and objects in general terms shall be as follows :

- (a) to work for the acquisition, protection and extension of human rights in Nepal while endorsing the case for the universal prevalence of human rights and participating in the international movement to promote human rights everywhere in the world,
- (b) to oppose cruel, inhuman and degrading treatment of prisoners while making efforts for the unconditional release of all political prisoners and prisoners of conscience and for the abolition of all forms of torture and the death penalty,
- (c) to demand the enactment of laws in conformity with the internationally recognized minimum standard for the treatment of prisoners, and reforms in the judicial process with a view to ensuring quick, cheap and impartial justice to the people,
- (d) to strive for attainment and protection of the rule of law in furtherance of the cause of democracy,
- (e) to work towards the attainment of the basic right of every person to live in dignity and enjoy equal opportunity with fellow human beings and all other rights ancillary to it,
- (f) to secure for the people of Nepal in practice the fundamental right to freedom of expression, peaceful assembly and association and of forming free trade unions, political parties, class and professional organizations,
- (g) to work for the removal of the practice of having to belong to a particular government-controlled organization against one's own will in order to run for any elective political office,
- (h) to secure compensation to illegally-detained persons and their dependents in accordance with the internationally accepted practice,
- (i) to seek to provide emotional and material relief to political sufferers,
- (j) to press His Majesty's Government of Nepal to accede to conventions, covenants and protocols of the United Nations on human rights,
- (k) to cooperate with and to aid national and international groups and organizations and individuals devoted to the promotion of human rights by developing fraternal relations with them,
- (l) to promote studies in the field of human rights and mobilize public opinion in favour of human rights through the publication of printed matter (including bulletins and periodicals), films, cassettes, public lectures, seminars, conferences, meetings, radio and television broadcasts, and

- (m) to carry out any activity whatever to fulfil the stated objectives in furtherance of the cause of human rights.

The Charter members of the organization represented a broad spectrum of political opinion in the country and were drawn largely from the educated professional classes consisting of educators, journalists, lawyers, engineers, doctors and other active social and political workers. The Human Rights Organization of Nepal and its members individually and collectively, were destined to play an effective role in the broadbased pro-democracy movement in 1990 by acting as a catalyst in mobilising the educated professional classes. Their participation in the movement on an unprecedented scale enthused the masses eventually to follow their example and thus contributed in no small measure to success of the movement for the restoration of democracy and human rights in Nepal.

The Human Rights Organization (HURON) of Nepal experienced its first baptism of fire when the signboard with its name, hung on the front of its office, was forcibly removed from there after about two weeks by a number of policemen. They entered the house without any warrant or written authorization from anyone. The pictures of the policemen running away with the signboard were published in a section of local press. The HURON had no alternative other than to go to court seeking the redress of its grievance. Our plea was that the signboard was illegally removed and also that it was not necessary for the HURON to register itself under the Organization and Association Registration Act because this Act was ultra vires of the Constitution. The HURON's plea was upheld by the Supreme Court only after more than a year and a half but by that time the partyless panchayat system had already yielded place to the multiparty democracy. But it must be said to the credit of the charter members of the HURON that not a single member left the organization even under the most trying circumstances.

The harassment of the President of the HURON continued unabated. He was placed under police watch around the clock and his visitors were questioned and harassed in every possible way. Initially even the Indian media were not interested in exposing the human rights violations in Nepal. The press conference held by the HURON leadership exposing them went unnoticed in the Indian press even at the beginning of the year 1989. It was only after the lapse of the trade and transit treaties between Nepal and India that the Indian media became apparently interested in the cause of human rights in Nepal.

I was invited to Delhi along with some other colleagues from the HURON to address a meeting of mostly the Nepalis working in Delhi held under the auspices of the Forum of Nepalese People for International Solidarity at 35, Feroze Shah Road on 3 May 1989. The subject for discussion was the overall impact of the lapse of trade and transit treaties between Nepal and India on the relations between two countries and peoples. My friends, Birendra Keshari Pokhrel, Padma Ratna Tuladhar and I along with Baburam Bhattarai, who had actually organized the meeting and invited us, spoke about immense hardships and suffering caused to the people in Nepal by the lapse of the treaties. We called upon the governments of the two countries to resolve the crisis in their relations as soon as possible while appealing to the people of both countries not to allow their traditional friendship and understanding to be adversely affected by the prevailing attitudes and policies of the two governments. Three professors of the Jawaharlal Nehru University, Aniruddha Gupta, M.L. Sondhi, and S.D. Munni and also Bhabani Sengupta and Devanathan spoke on the occasion. So far so good.

‘ But I got into trouble with my government because I had subsequently held a press conference during this visit in Delhi on 9 May 1989 on human rights violations in Nepal, which received wide coverage in Indian press and other media. Two newspapers, had, however tendentiously reported that I had wanted India to take over Nepal’s defence. What I had actually said was that Nepal and India were responsible for each other’s defence according to the existing treaties. I had made my point of view clear subsequently on several occasions during the same visit in India.

On 17 May 1989 I returned to Kathmandu by air notwithstanding warnings and messages from my friends and well-wishers in Nepal that the government had let loose a veritable barrage of propaganda for 5 or 6 days projecting me as a traitor who wanted to sell Nepal to India and had also had plans to have its storm troopers or Mandales parade me down the streets in disgrace with my face smeared in black. When I arrived in Kathmandu nothing of the kind happened. But two days after my arrival there, I was picked up by the police at 7 a.m. on Friday, 19 May 1990 and taken to the office of the District Superintendent of Police in Kathmandu. Perhaps for the first time in the history of Nepal, the police did not ask for any additional time to frame its case against the accused. The case against me was finalised in a matter of hours on the basis of the accusation by the presidents of the district panchayats of Kathmandu, Lalitpur and Bhaktapur, which was duly recorded the same morning. The charge against me was that I had wanted Nepal’s defence to be taken over

by India and was based on the statements attributed to me in a section of the Indian press. I was arraigned before the Bagmati Zonal Court on the charge of subverting, in collusion with a foreign state, the established order in Nepal and the government prosecutor asked for death penalty for me. However after hearing me and pleas made by my lawyers on my behalf, the chief judge of the zonal court decided to release me on bail of 3,000 rupees pending final disposal of the case. I received undue publicity on the world media as someone who had risked his life for exposing human rights violations. My friends and well-wishers came out very strongly in my support. Leading Indian jurists like L.M. Singhvi and the president of the Supreme Court bar association of India and political leaders like George Fernandes, journalists like Kuldip Nayar and others came to my rescue. They told King Birendra through his embassy in Delhi and also through the press that they would even go to the extent of organising an international team of outstanding lawyers to defend me in the court. But the case was postponed indefinitely and up to the time of writing I do not know whether this case against me has been withdrawn or is still pending.

Foreign Relations (1986-1989)

King Birendra and his advisors seem to have thought that frequent exchanges of state visits with other heads of state and government, hosting offices and secretariats of international organizations and playing host to regional and international seminars and conferences would raise the prestige of His Majesty's Government among the people of Nepal and also in the eyes of the world. What they failed to realise, however, was that the pomp and ceremony might mislead the people at home and abroad temporarily, but their attention could not be possibly diverted from the reality of the political and economic situation in the country for long. Some of the events highlighting apparent scores in foreign relations, during the period under consideration, may be briefly enumerated here.

Queen Elizabeth II and Prince Philip of the United Kingdom paid a 5-day state visit to Nepal from 17 through 22 February 1986. They had also been to Nepal on a state visit twenty-five years ago in February 1961 immediately after King Birendra's father, the late King Mahendra, had taken over all powers himself after dismissing the first-ever elected government and parliament in Nepal on 15 December 1960. On the occasion of their first visit to Nepal, originally prepared texts of the

Queen's speech, which were distributed among the press correspondents in advance, had contained a sentence, which seemed to be somewhat laudatory of the late King's action against the elected government and parliament. The sentence was struck off at the last minute by Lord Home, then British Foreign Secretary, who was accompanying the Queen and was not actually read out by her to a record audience of at least 100,000 people assembled on the historic Parade Ground at the heart of Kathmandu to welcome and hear her. But the publication of that particular sentence in a wide section of the English language press in India had produced quite a furore. After 25 years again in 1986, Queen Elizabeth's congratulation to King Birendra in the banquet speech "on the recent 25th anniversary of the system" provoked controversy leading Krishna Prasad Bhattarai, the acting president of the Nepali Congress, to state publicly in the *Bimarsha Weekly* of 28 February 1986 that "it was not necessary at all for the constitutional head of Britain . . . to offer congratulations in public on the Silver Jubilee of the partyless system." The British Queen's state visit was followed by that of H.M. Ershad, President of Bangladesh and Giani Zail Singh, President of India providing for an exchange of views between Nepal and its SAARC (South Asian Association of Regional Cooperation) neighbours.

The Gorkhaland agitation launched by the Gorkha National Liberation Front (GNLF) in the Darjeeling district of West Bengal, India, posed a problem to both governments of Nepal and India. The main demand of the GNLF was the establishment of a separate state called Gorkhaland within the Indian Union, and the Central Government of India could not possibly fulfil it without departing from its declared policy of discouraging at all costs the further fragmentation of the existing constituent states of the Indian Union. The GNLF's other two important demands were the inclusion of the Nepali language in the Eighth Schedule of the Indian constitution and the abrogation of Article 7 of the Nepal-India Treaty of Peace and Friendship of 1950 which promised "national treatment" to each other's citizens in either country without necessarily conferring on them full citizenship. The communist government of the state of West Bengal, while even justifying their demand for the recognition of Nepali as one of the major constitutionally recognized Indian languages, went so far as to brand the agitation as anti-national. The Rajiv Gandhi government at the centre, however, refrained from calling the movement anti-national. But all the same, it also did not approve of the Front's demand for a separate Gorkhaland nor that for the abrogation of the particular article in the 1950 Treaty which, according to Rajiv Gandhi's

government, had to be retained intact because of its "security implications."

The direct appeal of the leader of the movement, Subhas Ghisingh, to King Birendra for help remained unheeded till the very end with the result that Ghisingh became extremely critical of both the King and the country of Nepal. It was certainly the duty of the government and the people of Nepal to extend at least moral support and sympathy to the Nepali expatriates elsewhere in their struggle for the protection of their cultural and linguistic identity and other interests. King Birendra and his government were afraid of even expressing formal concern in the plight of Nepali expatriates in India for fear that this might provoke the government of India into taking up the cause of the people of Indian origin in the Nepal tarai. Further, Rajiv Gandhi's statement that six million Nepalis living in India came from Nepal served to contradict the GNLFF's claim that all Nepalis were not migrants and therefore the question of the 1950 Treaty stipulation automatically applying to them did not arise at all. This statement was also intended to make the Nepali government realise the magnitude of the problem of repatriation and rehabilitation it had to face if the 1950 Treaty were tampered with. The people of Nepal who were themselves denied the right to freedom of association and peaceable assembly inside their country itself could not do anything more than to hold indoor meetings to express their moral sympathy and support for the cause of the Nepali expatriates in India and to denounce the excesses perpetrated against them in their struggle for the protection of their identity and interests.

King Birendra participated in both eight summit conference of non-aligned nations held at Harare, Zimbabwe in the first week of September 1986 and the second summit of the South Asian heads of state and government held at Bangalore, India from 16 through 17 November. King Birendra and Queen Aishwarya paid informal visits to the Seychelles, Tanzania, Zambia, Kenya, and Oman on their way to and back from Harare with all the expenditure borne by the public treasury. Kathmandu was chosen to be the site for the secretariat of SAARC whose leaders also decided to hold their next summit in Kathmandu.

On 27 November 1986 Prince Gyanendra opened the 15th World Buddhist Conference of the World Fellowship of Buddhists in Kathmandu. The conference was attended by the Panchen Lama who was also the Vice-chairman of the Standing Committee of National People's Congress of China. The Dalai Lama, the most popular and respected Buddhist leader, could not, however attend it for political reasons.

In 1987 also there was no dearth of state visits by heads of state and government to Nepal. Nicolas Ceausescu of Rumania, who paid a state visit to Nepal in March, chose the occasion to extend his country's formal support to King Birendra's zone of peace proposal. Further a Letter of Understanding was signed between the two countries with a view to promoting and diversifying bilateral trade. In July Nepal was visited by Chancellor Helmut Kohl of the Federal Republic of Germany and his wife and the Chancellor expressed satisfaction at the wide-ranging discussion he had with King Birendra on bilateral relations.

King Birendra and Queen Aishwarya visited China for the sixth time on 14 September 1987. The visit lasted for four days and was highlighted by a 45-minute meeting between King Birendra and Deng Xiaoping. During this visit, an agreement was signed between Nepal and China for a grant of NR.297 million, which was to be used to build an international convention centre in Kathmandu and to meet additional expenditure on the Chinese water conservation project of Pokhara.

While Nepal disapproved of India's unilateral decision to air-drop relief supplies to the Tamils who were besieged in the Jaffna Peninsula, His Majesty's Government of Nepal welcomed the Indo-Sri Lanka accord of 29 July 1987, which amounted to acceptance of India's security interests in Sri Lanka.

The Nepal government initially kept quiet about the newspaper reports of displacement of thousands of Nepalis from Meghalaya in the north-eastern region of India. Some of them had actually made their way to Nepal. However, political leaders characterized the expulsion of Nepalis from Meghalaya as a violation of the 1950 Treaty of Peace and Friendship. Nepal's Ministry of Home Affairs belatedly issued a statement saying that the government of Nepal had already taken up the matter "through the proper channel". There were also reports in the press about the harassment of Indian vendors and hawkers in Kathmandu followed by the explanation of the Nepali government about introduction of the work permit on a limited scale.

The SAARC summit was held in Kathmandu from 2 through 4 November 1988 in pomp and splendour involving heavy public expenditure which was hard to justify.

In 1989 King Birendra, as the SAARC Chairman, visited six capitals of the member countries one by one -Thimpu, Dhaka, New Delhi, Islamabad, Colombo and Male. The only head of state to visit Nepal in 1989 was President Ershad who arrived in Kathmandu on 2 October. However several high level delegations visited Nepal to hold an exchange of views on issues of international interest and hold discussions

on matters relating to trade and commerce and economic development. Several Nepali delegations also went abroad on similar missions.

There was a steady increase in the number of countries supporting Nepal's peace zone proposal. Nepali troops were sent to take part in the UN military assistance group monitoring the withdrawal of the Soviet troops from Afghanistan and the return of Afghan refugees. And in 1988 an international Hindu conference was held in Kathmandu with the royal blessings at considerable public expenditure and to the annoyance of the other non-Hindu ethnic groups who feel neglected by the government for good reasons.

The year 1989 witnessed the sudden lapse of the trade and transit treaties between Nepal and India causing shortages of essential goods and immense hardship to the people in general for no fault of theirs. King Birendra, however, continued his foreign travels as usual. His visit to Belgrade to attend the Non-aligned Movement (NAM) summit was followed by 5-day visits to Czechoslovakia and Finland where his appeal for help to relieve Nepal of hardships and sufferings caused by the sudden lapse of the trade and transit treaties with India went unheeded mainly because of his government's poor human rights record. His complaint to President Mitterand at a personal meeting in Paris against New Delhi's action against Nepal also bore no fruit. King Birendra's meeting with Prime Minister Rajiv Gandhi in Belgrade also failed to bring any relief to the people of Nepal. The King's characterization in public of Prime Minister Rajiv Gandhi's attitude at the Belgrade meeting as "double talk" dashed to the ground all hopes for understanding and reconciliation with India.

The visits of Foreign Minister Sahibzada Yakub Khan of Pakistan to Nepal in June 1989, of Prime Minister Kazi Zafar of Bangladesh in September 1989, and finally of Premier Li Peng of China from 19 through 21 November 1989 brought no real relief to Nepal. Finance Minister B.B. Pradhan's attempt to gain sympathy and support for Nepal at the 44th annual meeting of the International Monetary Fund and World Bank in Washington in September/October by internationalising its problem with India proved to be failure. A large delegation of members of Nepal's national panchayat legislature to Brussels under the leadership of its President, Navaraj Subedi, failed to gain the European Parliament's sympathy and support for Nepal against India because Nepali intellectuals and opinion leaders were themselves critical of the Nepal government's performance in the field of human rights and had asked foreign aid giving agencies and governments not to give Nepal aid unless its government showed a greater sense of accountability.

The Human Rights Situation in Nepal before April 1990

Nepal's achievement in the sphere of human rights as in other fields had been far from satisfactory. Nepal had not even got the bare minimum in the way of the rule of law because the rule by edict or fiat of an individual, however exalted his position might be, was not consistent with the rule of law.

The 1962 Constitution of Nepal vested all powers in the King, making the crown the sole source of power of all branches of the government, which were reduced to mere organs for carrying out the royal will. The kind of government in Nepal was aptly characterized as rule by peremptory command. The king's command, authenticated by one of the authorised secretaries of the palace, could override any laws and even the constitution of the land.

Independence of the Judiciary Non-existent

The 1962 Constitution also provided that the Chief Justice or any judge of the Supreme Court might be relieved of his office by the King if a commission appointed by him reported that the Chief Justice or a Supreme Court judge in particular had not performed his duties due to incapacity, misbehaviour or malafide acts. Judges in Nepal were afraid of asserting their authority because of the power of the King over them. At the highest level, Supreme Court justices seemed to rely on promptings from the palace. At the local level, administrative officials exercised unrestrained investigatory, prosecutorial and adjudicative authority on

the apparent consideration of enforcing political conformity and stifling dissent. The conditions of service of the judges were not satisfactory. Most of them did not even have a permanent tenure as the King would "reappoint a person for such a period as may be specified by him." The independence of the judiciary was effectively limited in practice by royal supremacy.

Furthermore, the King could refer back to the Supreme Court for reconsideration any law suit that might have been previously decided. Thus the King was the final court of appeal notwithstanding the existence of the Supreme Court.

Rubber Stamp Parliament

Nepal's legislature, though elected on the basis of adult suffrage, had merely served as a rubber stamp for carrying out the royal wishes, because elections to it were not fought on the basis of programmes or parties. Everyone had to fight the election to this legislature with the undertaking to implement the legislative or national programme as presented by the Panchayat Policy and Evaluation Committee under the chairmanship of the Presiding Officer of Nepal's legislature in the name of the King. The members of the legislature were left with no choice in the matter as they had to submit themselves to disciplinary action by this committee.

Arbitrary Laws

Article 17 of the 1962 Constitution authorised the enactment of the laws to regulate or control the exercise of fundamental rights for the sake of "public good". Arbitrary laws such as the Public Security Act 1989, Offence against the State (Punishment) Act 1989, and the Destructive Crimes (Special Control and Punishment) Act 1985, made under this article, were consistently used to hamper opposition politics.

In Nepal people lived in a Kafkaesque world of uncertainty. Out of the three possibilities mentioned in Kafka's novel, Definite Acquittal, Ostensible Acquittal and Indefinite Postponement, there existed only two possibilities for the people of Nepal then : Ostensible Acquittal and Indefinite Postponement. There could be no Definite Acquittal for any Nepalis because the aforementioned arbitrary laws hung over their heads like the sword of Damocles.

Freedom of Peaceful Assembly and Association Denied

An injunction issued by the government in March 1989 banned the peaceful assembly of the people for the following 11 months on the pretext that the expiry of the trade and transit treaties with India had created an emergency situation in Nepal.

Further the constitutional ban on political parties and free trade unions and their activities for nearly thirty years negated the fundamental rights to freedom of expression and association. Article 20(1) of the Universal Declaration of Human Rights lays down that "Everyone has the right to freedom of political association" and its article 20(2) states that "no one may be compelled to belong to an association." However, in Nepal people were deprived not only of the right to freedom of political associations but were also compelled to join one of the so-called class organizations, founded, controlled and financed by the government, before they could run for any elective political office.

Article 22 of the International Covenant on Civil and Political Rights grants everyone, "the right to freedom of association with others including the right to form and join trade unions for the protection of its interests." But in Nepal workers were deprived of the right to form free trade unions because of the compulsion imposed on them to belong to one of the six class organizations specified in the constitution, which included a labourers' organization.

Retroactive Punishment

Though some of the provisions in Nepali law to protect prisoners conformed to international human rights standards, they were regularly infringed in practice. Safeguards for prisoners in the constitution included protection against retroactive punishment, double punishment and self-incrimination. But the Destructive Crimes (Special Control and Punishment) Act, enacted hastily in August 1985, imposed the death penalty on anyone convicted of "causing death by using explosives or weapons in a public place with the motive of harming or disturbing the security, tranquillity and order of the country." In May 1987 this law was invoked to impose the death penalty on four people in absentia whose alleged crimes took place in June 1985. This was a glaring example of how a law had been used retroactively.

Death Penalty Retained Intact

Despite the Nepali Government's propaganda that it had abolished the death penalty, the provision for it remained in Article 13(a) Chapter 10 of the Legal Code (Mulki Ain), also in Article 2 of the new version of the Treason (Crime and Punishment) Act, 1961, enacted as Offences against the State (Punishment) Act, 1989 and Article 3 of the Royal Succession Act, 1987. The only modification that had been made with regard to the death penalty related to Article 3(4) of the Offences against the State (Punishment) Act, 1989 which for acts of treason in collusion with a foreign state or organized power (force) replaced the maximum punishment of death penalty with lifelong or ten years' imprisonment.

Imprisonment Without Trial

The Public Security Act, 1989, intended to replace the 1961 Act of the same name, retained its basic character. In the same manner as in the past persons could be still detained under the Security Act by the Chief District Officer (CDO) or the Zonal Commissioner and the Home Ministry. The new Act also authorized the CDO to detain a person without trial and without letting him know the ground for the detention for three months, the Zonal Commissioner for additional three months and the Home Ministry for a further period of three months, altogether for nine months. Further detention under this Act could be extended up to an additional period of nine months on the recommendation of the Advisory Board, set up by the government in consultation with the Chief Justice, under the chairmanship of one incumbent judge of the Supreme Court and two other sitting or retired judges as its members. Thus there had been a sinister attempt to involve even the judiciary in the enforcement of this lawless law.

Special Courts or Tribunals Supplant the Ordinary Courts of Law

Special courts or tribunals reminiscent of the Star Chamber and Courts of Commission in Tudor England had become the order of the day. A special court called the Bagmati Zonal Court was set up in the fall of 1988 to hear the case of political activists from the town of Bhaktapur (about 8 kilometres from Kathmandu) whom the government had implicated in the Hyoju murder case and held without trial for more than nineteen months. Details of this case are as follows.

On 25 August 1988, Karna Prasad Hyoju, a former member of Nepal's national assembly, was lynched by an angry mob in the very heart of town in broad daylight with the local administration and police idly standing by. Hyoju was fatally beaten in the course of being paraded down the streets in disgrace by an agitated mob for several hours; he died in hospital in Kathmandu at 11 o'clock that night.

Thereafter the administration promptly started rounding up people till the small hours of the morning and by daybreak 150 persons including, Narayan Man Bijucche, a noted leftist leader of the Workers' and Peasants' Party, Gobinda Duwal, a sitting member of the assembly, Asha Kazi Basukala and Chaitya Raj, Mayor and Deputy Mayor of Bhaktapur, had been taken into custody. All of them had agreed to take part in a meeting on the following day for founding the Human Rights Organization of Nepal.

Trial by Television

On the day of their arrest, the government-controlled media including television and radio blamed "leftist elements" in general for what had happened at Bhaktapur. On that day itself the Prime Minister of Nepal and the presiding officer of Nepal's national legislature, Marich Man Singh Shrestha and Nawaraj Subedi, along with other top-ranking government leaders and ministers, took part in Hyoju's funeral procession. Some processionists carried placards demanding the death penalty for Bijucche and shouted slogans such as "Hang Comrade Rohit" (Bijucche's pseudonym in political circles). The procession was telecast live on the government controlled TV, thus setting a precedent for trial by television in Nepal.

Drumhead Justice

The police took more than 22 days even to conduct an on-the-spot investigation into the case. When the routine formality of such an enquiry was finally fulfilled on 17 September 1988, it appeared as though the town of Bhaktapur was under military siege. The accused were brought from Kathmandu to Bhaktapur handcuffed and under armed guard, and even their lawyers and the witnesses coming forward to give evidence in favour of those under arrest were not permitted to be present when the evidence of eye-witnesses was recorded.

It was only on 22 September 1988 that the police filed a case, and then it was filed with the Bagmati Zonal Court that had been specially created

for the trial of those allegedly involved in the Hyoju murder case; it did not go to one of the regular local courts handling criminal cases. When the case finally came up for hearing before the Special Court, all the detainees denied involvement in the murder. All of them told the court that they had been subjected to torture by the police while extorting confessions from them. They categorically stated in the court that they had nothing to do with the lynching of Hyoju and further asserted that they were not even present on the spot. Several Nepali advocates and I had appeared for the accused on a pro bono basis and pleaded for their release on bail pending trial, but they were denied bail and held without trial until the government withdrew the case against them and released them on 17 April 1990 following the triumph of the people power.

Denial of Freedom of Religion

Articles 14 of the Constitution stated the right to freedom of religion thus “. . . every person may profess his own religion as handed down from ancient times and may practise it having regard to the traditions, provided that no person shall be entitled to convert one person from one religion to another.” This was how the article was translated in the English version of the constitution of Nepal published by the Ministry of Law and Justice. However, the English version of the Constitution was not binding and did not have the same sanctity in Nepali courts as the original Nepali text. The literal rendering of the Nepali text in English, should have run as follows :

Every person with due respect for tradition may profess his or her own religion as handed down from ancient times provided that no one shall cause or compel another individual to change his religion.

The above article clearly implied that one could change one's religion at his free will. The fact of the matter was that there were laws which prohibited religious conversions and are therefore inconsistent with the letter and spirit of the article of the Constitution as translated above. But the courts in Nepal had for understandable reasons hesitated to declare the existing municipal laws as ultra vires of the Constitution. People responsible for religious conversions and also the converts themselves had been prosecuted in Nepal from time to time. This practice was inconsistent with Article 18 of the Universal Declaration of Human Rights, which specifically upholds “the right to freedom of . . . religion; this right

includes freedom to change . . . religion." Mostly Christians accused of converting Hindus to Christianity or Hindus alleged to have been converted to Christianity had been prosecuted. At times however Christians practising their faith had also been arrested and harassed.

Persecution of Christians

It will not be out of place here to mention two recent examples of both kinds of persecution of Christians.

A division bench of the Supreme Court of Nepal convicted 3 persons on the 27 August 1989 under the legal provision for punishment for those obstructing the practice and growth of Hinduism and sentenced them to six years' imprisonment each. Those convicted were Charles Mendes, Prakash Subba and Adon Rongong. The last named happened to be an Indian citizen and was to be deported after he had served his term of imprisonment. In addition to them, two others, named Sahdev Mahat and Abraham (Kazi) Maharajan, had been sentenced for one year each for changing their religion. It was apparent that the authorities had wanted to punish the first three mentioned above for seeking converts among Hindus and the two others for being converts to Christianity.

The case against Charles Mendes, Prakash Subba and Adon Rongong had gone on for six years before it was finally decided against them by the Supreme Court. The district, zonal and regional courts had rejected the government's charges against them and refused to penalise them. The sentence imposed on them in August 1989 by the Supreme Court was not carried out until 16 November 1989, when Mendes was suddenly arrested and dispatched to one of the Kathmandu prisons. The other two were not in Nepal. Immediately after the verdict of the division bench of the Supreme Court, the accused had petitioned to the judicial committee for an injunction to the Supreme Court to reconsider its decision.

In the following case Christians were prevented from practising their religion in the town of Bhaktapur. On Sunday, 12 November 1989, a number of Christians had assembled in a house in the centre of Bhaktapur which they had used as a place of worship for a long time. But then two vans of policemen raided the place and arrested as many as 52 persons including their pastor, Thir Bahadur Dewan, and took them to the police office. Pastor Dewan, who was 60 years old, was subjected to beatings. The seven women and the pastor himself were detained. The rest were released after being made to bow down at the feet of several

idols of Hindu gods and goddesses in the police office. The seven women were taken to court by the police, and four of them were released on bail of Rs. 1500/- each and three on that of Rs. 1000/- each. But the pastor himself was remanded to judicial custody pending further action.

Denial of the Right of Political Asylum

The government of Nepal had at times denied even the right of asylum to political refugees in the past. Not very long ago, it was reported even in local newspapers that the Nepal government had handed over refugees from Tibet to the Chinese government. In 1988, 26 Tibetan monks seeking religious asylum in India were apprehended by the Nepali authorities in Kathmandu; after being detained for two months they were turned over to the Chinese authorities. According to an usually reliable source, Zhang Hai Ling from Hupei and Yu, who was the president of the Wuhan University Students' Union, were arrested in Kathmandu on 15 November 1989 at 10.30 p.m. just before the arrival of the Chinese prime minister on the state visit. Both of them were subsequently handed over to the Chinese government.

The Nepal government has also handed over a political refugee to Bhutan where he was apparently wanted on political grounds. It was reported in the newspapers that on 15 November 1989, Tek Nath Rijal was arrested along with his two friends and visitors, Sushil Pokhrel and Jogen Gajmer, at his Birta Mod residence at midnight and taken by the armed policemen to the office of the District Superintendent of Police at Chandragadi in the small hours of the morning. Chandragadi, the administrative headquarters of the Jhapa district in eastern Nepal tarai is only a few miles away from Birta Mod. Rijal's friends and relatives were told by the DSP's office informally that Rijal might have been taken to Biratnagar and he was not there. Rijal had at one time agitated for better treatment of the Nepalis in Bhutan by organizing People's Forum for Human Rights of Bhutan and had also resigned his position as Daso (State Councillor) there before he came to Nepal and started living at Jhapa. The Biratnagar and Kathmandu Police offices had also pretended not to know anything about his whereabouts. It was reliably learnt later on that Rijal was under detention in Bhutan pending trial. The Nepal government had along maintained silence on the newspaper reports about Rijal's disappearance under mysterious circumstances.

Prisoners Still Fettered and Handcuffed

The Nepal government's propaganda machinery had begun to claim that the amendment of Section 7 of the Prisons Act, 1962 had done away with the practice of prisoners being put in fetters and being handcuffed. But the amendment had merely changed the subheading of the amended section into "not to be put in fetters and handcuffed" and retained all the conditions on which prisoners could be put in fetters and handcuffed by making the amended Section 7 read as follows:

No prisoners except those attempting to escape from prison or acting in a manner prohibited by Subsection 2 of Section 22 of the Act will be put in fetters and handcuffed.

But Subsection 2 of Section 22, however, mentioned twelve different conditions or pretexts on which prisoners may be fettered and handcuffed. This was a typical example of how the then government of Nepal sought to mislead public opinion by introducing purely cosmetic changes in the name of reforms.

One of the major contributions of the twentieth century has been the deep-seated and widespread concern about democracy and human rights. Even those actively engaged in suppressing their citizens' freedom in different countries find it necessary to make their own pleas for democracy and swear by its name.

The prevailing atmosphere of despair only a decade ago had led an eminent French intellectual to argue seriously that democracy "may after all turn out to have been a historical accident, a brief parenthesis that is closing before our eyes." The hopeful trend today is one of converging debates in different parts of the world that may prove conducive to the growth in due course of a common global ideology based on democracy and human rights.

The Universal Declaration of Human Rights adopted by the United Nations General Assembly 42 years ago embodies the ideals of the American Revolution of 1776, the French Revolution of 1789 and the Russian Revolution of 1917 for all human kind. The concepts of political democracy, individual freedom and human dignity as propounded by the American and French Revolutions, and the goals of economic and social equality and justice as advocated by the Russian Revolution, have provided the common standard for humanity to strive for.

The message of universality of democracy and human rights could have been effectively used to counteract the pernicious influence of the

totalitarian impulse and cultural relativism, emphasizing a multiplicity of cultures with equal claims to validity and denying the very existence of such a thing as universal culture. Yet this has often been employed as a mere political tactic divesting it altogether of its cultural dimensions. One can, however, feel encouraged by the converging debates in recent years everywhere in the East and the West and the North and the South about where one can find "values" beyond technology. Universality seems to be marching ahead once again. Who knows? The growing quest for democracy and human rights may be our new cultural Grail.

Notwithstanding the universal appeal of democracy and human rights and the wind that is blowing across the globe in their favour, there is still no dearth of myopic and shortsighted rulers who persist in their old belief that human rights and democracy do not suit their traditional culture and native environment and are western in origin and conceptualisation. Their folly of denying political rights and freedoms to the people on the plea that this would facilitate economic development of their countries has been exposed time and again. Some of these third world countries, like Nepal, have been able to achieve neither economic nor political development in actual practice. The fact of the matter, however, is that human rights are neither eastern nor western, they are universal and eternal because freedom burns alive in every human breast. And it is only in an atmosphere of freedom that human mind and energy can be effectively directed towards constructive ends in the sphere of economic enterprise as in other fields of creative human endeavour.

Towards the Movement for the Restoration of Democracy and Human Rights

On the occasion of the inaugural function of the “Political Awakening Week” held by the banned Nepali Congress from 9 through 15 September 1989, I had raised three issues at a meeting of the Congress workers and volunteers held at Baneshwar and presided over by their supreme leader, Ganesh Man Singh.

First, just because Nepal has a King and a constitution, the country cannot be said to be a constitutional monarchy. If the Nepali Congress stands for constitutional monarchy, it must be made clear to the people that in constitutional monarchy the King is not above the constitution but is bound by it in the same way as the people. There is no use hiding the fact that sovereignty resides in the people if Nepal is to be a democratic country.

Second, the question is whether the King is an integral part of the partyless panchayat system. If he is a part of it, we are deluding ourselves and misleading the people by professing and pretending that the panchayat system and the monarchy are separate entities.

Third, what is at issue is the responsibility for Nepal’s present economic plight. The people must ask themselves whether the dismal state of Nepal’s economy is just a result of the situation created by the lapse of trade and transit treaties with India in March 1989 or whether it has resulted from an utter neglect of the welfare of people over the past several decades.

On the last day of the “Political Awakening” week, i.e. 15 September 1989, the Kathmandu district committee of the banned Nepali Congress

had planned to present the Bagmati Zonal Commissioner with a memorandum complaining of the shortage of essential goods and commodities and of the unprecedented rise in prices and had also invited some of us to join them in doing so. Before we could do so, about two hundred of us were arrested in front of the main gate of the Zonal Commissioner's office and taken in batches to the Police Club in police vehicles. After being kept there till the evening most of those arrested were released. But 21 of us were taken to the DSP's office at the Hanuman Dhoka and detained there in the cells meant for ordinary criminals. Among the detainees were a former vice-chancellor of the Tribhuvan University, Professor Surya Bahadur Shakya; two members of the national panchayat legislature, Padma Ratna Tuladhar and Drona Acharya; the suspended Mayor and Deputy Mayor of Kathmandu, Haribol Bhattarai and Tirtha Ram Dangol; Nepali Congress leaders, Marshal Julum and Prakash Man Singh and the President and Secretary of the Nepali Vidyarthi Sangha, Balkrishna Khan and Navin Joshi and the present author. All of us were arraigned before the Kathmandu District Court on 18 September 1989. The court released us on bail of Rs. 150/- each.

After we were released, we marched to the Congress office at Jamal in a procession and there we were welcomed by the top Congress leaders like Ganesh Man Singh and Krishna Prasad Bhattarai. Padma Ratna Tuladhar, Drona Prasad Acharya and I along with the Congress leaders, Ganesh Man Singh and Krishna Prasad Bhattarai spoke to a group of Congress workers and volunteers assembled there. All of us deplored the fragmentation of the popular democratic movement and parties and made a passionate plea for national democratic unity on the basis of which alone an effective mass movement could be launched for the restoration of democracy and human rights. I also emphasized the need for a national debate on the methods, programme and goals of the proposed mass movement and the acting president of the Nepali Congress, Krishna Prasad Bhattarai, fully endorsed my suggestion.

Following this meeting I wrote an article in the Nepali weekly, *Rastrapukar*, outlining the character, programme and goals of the proposed mass movement for the restoration of democracy and human rights. I had made the following points: The movement must be peaceful and non-violent. It should aim at securing participation of the professional educated classes as well as the masses in it. Its immediate objectives should be (a) the establishment of an interim national caretaker government representative of a broad spectrum of political opinion and reflecting the moods and aspirations of the people involved in the mass popular move-

ment and (b) the holding of party-based, programme-based elections to a national legislature in an atmosphere of freedom and impartiality. It would be up to the national assembly elected on the basis of universal adult suffrage, to make adequate constitutional changes and conclude treaties with India and other countries, and choose a government to run the administration for a stipulated period of time. However, the interim government itself should request the Indian government to take the necessary steps to restore the status quo ante that prevailed before the lapse of the trade and transit treaties in March 1989 in order to relieve the people of Nepal of their suffering and hardships.

Quite a few political activists and publicists took part in the proposed national debate on the political agenda for action and helped to highlight the points at issue by writing articles in different periodicals. A consensus seemed to emerge on the establishment of an interim national caretaker government for the purpose of holding party-based, programme-based, free and impartial elections within a year and also on the question that in a democracy sovereignty must reside in the people.

It took conscious efforts and planning on the part of all those involved before the movement for the restoration of democracy and human rights was actually launched by the Nepali Congress on 18 February 1990 in alliance with the United Left Front. The participation and arrest of some of the leftists along with the Kathmandu valley leaders of the Nepali Congress at the end of the "Political Awakening" week programme launched by the Nepali Congress in September 1989 promised the first glimmer of hope for the Congress-leftist unity in any political movement in future. Ganesh Man Singh, the supreme leader of the Nepali Congress had asked me to hold talks with the leaders of various leftist factions and explore the possibility of their joining hands with the Congress in any movement it may decide to launch for the restoration of democracy and human rights in Nepal. The response of almost all factions of the communist movement with the exception of those, who subsequently formed their own united national people's movement, was highly favourable and I was happy to be able to report to Ganesh Man Singh that they would cooperate with the Nepali Congress in every possible way to make the movement a success. Even those, who did not join the United Left Front, had agreed to support the movement in their own way. At that point, Ganesh Man Singh himself took over the negotiations with the leftist factions as I left for the U.S. to take part in a week-long programme from 5 December through 11 December organised by the New York-based

Human Rights Organisation to honour 12 human rights monitors from different parts of the world. I was one of the two human rights monitors who had the privilege of being invited from Asia to take part in programme, the other invitee being Li Lou, a Chinese student who had an important part to play in organising the peaceful demonstration in the Tiananmen Square in Beijing in June 1989.

It was true that there had been voluntary participation of most of the communist factions, even in the movement launched by the Nepali Congress in the spring of 1985 for the restoration of democracy and human rights. K.P. Bhattarai, Acting President of Nepali Congress had thankfully acknowledged their contribution to the earlier Nepali Congress movement. The past experience of working with each other for a common cause might have enabled the Nepali Congress and the various communist factions to form a more coordinated alliance this time. Mikhail Gorbachov's policy of glasnost (openness) and perestroika (restructuring the economy along the free market oriented lines) in the Soviet Union seems to have resulted in a better understanding between the communists and social democrats in most countries of the world. The global implications of Gorbachov's policy might have also facilitated the forging of an effective alliance between the Nepali Congress and the United Left Front by enabling them to overcome their age-old suspicion of each other. Further, the strong wind that has been blowing across the world in favour of democracy and human rights did not leave even relatively 'closed' and remote countries like Mongolia and Albania untouched? How could Nepal possibly remain unaffected by the wind of change?

However, King Birendra and his coterie of advisors seemed to be piously unaware of the trends of change in the world and were burying their heads in the sand proverbially like an ostrich. The partyless monarchical rule for 30 years in the guise of the so-called panchayat system had no doubt been a dismal failure in every respect. It had led to a rapid and steady deterioration in moral and material conditions of life among the vast majority of the people in the country. All sections of the Nepali people were dissatisfied with the government. Discontent was long smouldering beneath the surface. But mere discontent does not produce a mass uprising against the government. Organised political opposition to the partyless monarchic rule was hopelessly fragmented to begin with. It took the opposition a long time to realize that unity in action was the only way out under the circumstances.

But the King's government felt that it could still retain its monopoly of power by driving a wedge between certain communist sections and the Nepali Congress and some other communist factions seeking alliance with it. Erstwhile Naxalites who had been convicted of murder and other offences during their reign of terror in the Jhapa district of eastern Nepal in the 1970s had been pardoned by the King and released after 15 or 16 years in prison. At the beginning of January 1990, 11 leaders of the Marxist-Leninist Group, Mohan Chandra Adhikari, Amar Karki, Ghanendra Basnet, Durga Adhikari, Naresh Kharel, Pan Bir Bishwakarma, Bhisma Dhimal, Bhogendra Rajbamshi, Man Kumar Gautam, Man Kumar Tamang, and Mangal Murdi Satan were released by the government. They reportedly had submitted petitions in which they promised to "pursue their belief and life in a peaceful manner" and Adhikari told a weekly paper that "We should avoid a situation that necessitates struggle; all issues can be resolved through talks." But he was ready to join a peaceful movement to bring about change in Nepal. These eleven leaders were, however, released by the Marich Man Singh government in the hope that they might help it frustrate the plan for the movement for the restoration of democracy and human rights, which was steadily gaining popular support.

Seven communist factions, almost all the important leftist groups in Nepal—but not including Mohan Bikram Gharti Chhetri's group (Mashal) and one of its other two factions (Masal)—held a series of meetings separately, amongst several factions and with Ganesh Man Singh of the Congress during last December and early January, and on 15 January 1990 they gave a joint press conference at which it was announced that (1) they had formed a United Left Front, the first such alliance amongst communist splinters since the party had broken up after the split between the Soviets and the Chinese decades ago; (2) they had an 18-point set of demands (that were largely similar to the Nepali Congress's familiar demands for change) including the legalization of political parties, the end of the partyless panchayat system and full respect for human rights, as well as an end to spiraling prices, corruption, smuggling, and the commission agent system; and (3) they are jointly giving their "moral support" to the Nepali Congress's mass movement for a multi-party system.

Relevant to the last point, it had already been announced by Congress leader Ganesh Man Singh at a meeting of leftists and intellectuals at the home of Kathmandu's national panchayat member Padma Ratna Tuladhar that a liaison committee was being formed to promote mutual cooperation and coordination between Congress and leftist groups to

make the Congress-organized movement more effective. The Nepali Congress refused to form any formal United Front with the leftists who are ambiguous about their views on monarchy and tend towards violence, but it clearly welcomed this unprecedented cooperation from the left.

On 18 January, three days after the United Left Front announced itself, the Nepali Congress held its 3-day national conference at the home in Chhetrapati of its elder statesman, Ganesh Man Singh. There had been much speculation as to whether the authorities would prevent its taking place, but in the event there was no such move, and no uniformed police were to be seen anywhere near Ganesh Man's house. The flag of the party flew, and no one any longer spoke of the party as being banned or outlawed, as the authorities had required in any references to political parties in Nepal. Some 3,000 people were at the opening session, party delegates and activists, leftists and human rights activists, members of the press and the general public, and invited guests from various Indian political parties (Janata Dal, Congress (I), the Communist Party of India, the Communist Party of India (Marxist) and American and West German embassies. The Indian delegation of political leaders was led by Chandrashekhar of Janata Dal and consisted of M.J. Akbar and Harish Rawat of the Congress (I), M. Farouqi of the C.P.I. and Harkisan Singh Surjit of the C.P.I.(M). Messages of good wishes were read out from socialist parties in Japan, Finland, Spain and West Germany, the British Labour Party, Willy Brandt and the president of Congress (I) and a couple of Indian ministers.

In an interview with the weekly paper *Deshantar* a few days beforehand, the General Secretary of the Nepali Congress party, Girija Prasad Koirala had explained that the conference was called to "identify the kind of step or mass movement to be launched in the context of the immense hardships such as dearness, shortages, corruption that the people are facing . . . His Majesty was expected to take steps on the basis of a consensus towards resolving the national crisis precipitated by the tension in Nepal-India relations. But nothing has been done. In the present circumstances, it is for His Majesty to adopt the policy of national reconciliation (a policy of the Congress declared by Girija Prasad's late brother and former prime minister, B.P. Koirala when he and Ganesh Man Singh returned from self-imposed exile in India in 1976) by calling all groups and eliciting their opinions. In that case it would have been possible to resolve the problems easily. But that was not done, and there has been no response from His Majesty to our request for a dialogue. That is why we have been forced to take the path of a movement under the

policy of national reconciliation. But there is still time for resuming the dialogue if His Majesty grants an audience to Ganesh Man Singh. So far we are concerned, it is too late for us to take any initiatives.”

The decision was taken to launch the peaceful struggle for democracy one month later, on 18 February, which was to be Nepal's Democracy Day, marking the anniversary of the day in 1951 when King Tribhuvan upon his return from Delhi announced the establishment of an interim government for running the administration of the country until such time as elections are held to a constituent assembly on the basis of universal adult suffrage and expressed his resolve to abide by the constitution to be drawn up by it for the governance of the country in future. The Congress Party's acting president, Krishan Prasad Bhattarai, was of the opinion that “it was good to commence the restoration of the democratic value on the very day when it was introduced into the country 39 years ago.” Their movement for democracy and human rights, the Party hoped, would be joined by the general public across the nation, in contrast to the last movement launched by the Nepali Congress in 1985, when only party activists took part, a Satyagraha that was suspended when events took a violent trend with the explosion of bombs in Kathmandu and elsewhere. Tactics to be employed this time were to include processions, mass meetings, picketing of government offices, general strikes including the closure of shops and stoppage of public transport, courting mass arrests and defiance of government orders. All groups—communists, human rights forums, and other dissident bodies—were urged to help organize mass participation.

The leaders from Indian political parties who attended the Congress conference quite openly gave their support to the national movement planned by the Nepali Congress and its goal of overthrowing the panchayat system. Chandrasekhar, a Janata Dal stalwart and member of parliament, told the delegates that fear was their greatest problem, that no man should consider himself a god, and that they should take courage from the overthrow of tyrants like Ceausescu, Marcos and the Shah of Iran.

Kathmandu papers did not dare to publish the Indian politicians' statements and issues of most Delhi papers for 19, 20 and 21 January, presumably carrying reports of the Nepali Congress conference and the Indian leaders' remarks were banned by the authorities from distribution in Kathmandu. But reports of their words—naturally reached the authorities, and as a conference of presidents and vice-presidents of all the country's district panchayats was being held at Lalitpur at this time, on

the day after the Indian leaders spoke, the presidents of the Kathmandu, Lalitpur and Bhaktapur district panchayats went to the Everest Hotel in a procession of panchas, class organization members and youths to give Chandrasekhar a letter of protest against his "highly objectionable utterances against the focal point of Nepali loyalty and confidence, national values and ideals at a public (sic) meeting."

The letter went on to state that "Your activities during the last two days inside our country speak only of your insensitivity to Nepali feelings, your disdain for Nepali nationalism and self-respect, your inclination to insult Nepali national institutions, and your dangerous arrogance that it reflected in your willingness to blatantly interfere in the internal affairs of the Nepali people."

The pancha conference's declaration denouncing foreign meddling and unacceptable attacks on the nation's sacred institution, the monarchy, as well as attacking the handful of Nepalis who would engage in unconstitutional activities, was repeated day after day, week after week by every district and local panchayat, by class organizations, former office-bearers and assorted other groups and individuals all over Nepal.

In addition to whipping up an endless stream of resolutions and statements, Marich Man Singh's panchayati government began organizing rallies to support the panchayat system and the monarchy, and to denounce anti-panchayat elements, in towns and rural districts throughout the land. An especially big rally was organized jointly by the Kathmandu, Lalitpur, Bhaktapur district panchayats and held in Kathmandu on 28 January 1990. People were trucked into town from all over the Kathmandu valley and from neighbouring districts, and the rally committee told Nepal's official news agency, RSS, that 3,500 volunteers had been mobilised to provide facilities and help to the general public during their participation. Government offices that afternoon were not closed, but visits to several ministries showed that no one except the odd peon or gardener were around; presumably all were under orders to go to the rally.

At the same time, the monarchy went about its own affairs. Crown Prince Dipendra officially came of age on 3 January, 17-1/2 years after his birth in June 1971. At a formal ceremony at the royal palace in the morning, King Birendra conferred on him the title of Colonel-in-Chief of the Royal Nepal Army. He also became grandmaster of all orders of the kingdom, a post Queen Aishwarya had held until then. He was also made a member of the Rajya Sabha, the Council of State.

On 10 January the King and Queen drove to Pokhara, headquarters of the western development region, for a so-called unofficial tour of about

2 months of the Gandaki, Lumbini and Dhaulagiri zones, which made up the region. From Pokhara they helicoptered as usual to various district headquarters, graced public meetings, viewed exhibitions of local products and, in the case of the Queen, inaugurated or inspected various buildings such as hospitals, Red Cross Offices, children's homes and women's skill development centres, or in the case of the King, drinking water projects and the Lumbini sugar mill, which was a gift from the government of China. The King seemed to have a much lighter schedule than the Queen. As usual on these tours, they always returned to Pokhara for the night.

One break in the Queen's routine rounds of children's homes and hospitals was a ceremony in her honour at the regional health laboratory at Pokhara at which she accepted an honorary fellowship of the Royal College of Surgeons of Edinburgh. The fellowship was awarded to her as chairman of the Social Services National Coordination Council for having provided leadership in the coordination and operation of the activities of approximately 80 health-oriented and non-governmental organizations in Nepal. RSS, the Nepali news agency said that Queen Aishwarya was the first non-medical foreigner to receive the college's honorary fellowship, and that the ceremony at Pokhara was the first time the college had held its award ceremony outside the U.K. Amongst those present for the occasion were the president and the vice-president of the college, Prof. G.D. Chisholm and Prof. James Lister, whose institution has been associated with surgical training in Nepal for years.

Even more distinguished foreign visitors were the foreign minister of Pakistan, Sahibzada Yakub Khan, and the Chinese state counsellor for agricultural affairs, Chen Junshen. The Pakistani foreign minister visited Nepal in the course of his tour of the SAARC countries, as special envoy of his prime minister, Benazir Bhutto, the current chairperson of the SAARC. He had talks with the foreign minister of Nepal, the prime minister and travelled to Pokhara to see the King. Chen Zunshen came for the function at which the King inaugurated the Lumbini Sugar Mill. His was an 11-member team including an assistant minister for foreign economic relations and trade, Liu Yan. During their 5 days' stay in Nepal, they visited old Chinese aid projects and met with the foreign minister, the finance minister, the agriculture minister, the prime minister and the King.

Foreign Minister Shailendra Kumar Upadhyay visited Delhi from 3 through 5 January to meet with his new Indian counterpart, Inder Kumar Gujral and came back to Nepal with the assurance that 'Nepal's problems and concerns would be considered by India not only with under-

standing but also with genuine sympathy and friendship." It was announced in Kathmandu on 3 February that the official talks would be held on 13-14 February which were subsequently deferred till 21 February.

I had left Kathmandu on 7 February as I was asked by the Nepali Congress leadership of the pro-democracy movement to organise external publicity and support for the movement from India and act as its chief spokesman from there for the duration of the movement. I held a press conference in New Delhi on 17 February 1990 at which I dwelt at length on the repressive and oppressive measures the king's government had already adopted to thwart the peaceful efforts of the people to achieve their legitimate democratic goals and aspirations. I also sought to examine in this context briefly the implications of the King's policies and actions for the future.

The following excerpts from my press statement will give the readers an idea of what was going on in our mind when the movement was launched:

"The Nepali Congress is going to launch a countrywide peaceful nonviolent movement in cooperation with the United Left Front and all other democratic and leftist forces from 18 February 1990 for the establishment of a national caretaker government and the restoration of multi-party democracy in the country. The movement aims at demanding the rightful participation of the people in the government. Hence the demand for a truly caretaker national government embracing a broad spectrum of political opinion in the country. Its responsibility will be to hold as soon as possible party-based elections to the national legislature in an atmosphere of freedom and impartiality. It will be up to the national legislature thus elected to make suitable changes in the constitution and also to conclude permanent new treaties with India and other countries as is found necessary. Meanwhile the national caretaker government shall request the government of India to restore the status quo ante in Nepal's relationship with India before the lapse of the trade and transit treaties on 23 March 1990.

"The so-called partyless panchayat system under the direct leadership of the king has failed to fulfil the promise of a better life to the people. The people have been denied their basic rights to freedom and the rule of law and meaningful participation in the government and their economic plight has worsened rather than improved over the last three decades. (As all the factual evidence and data adduced by me in support of these statements are already given in the earlier sections of the book, they are not reproduced here).

“The panchayat government of Nepal has exposed the King as a main target for popular criticism by letting loose a virtual reign of terror through indiscriminate arrest of eight thousand people in different parts of the country. Most of the top and middle-level Nepali Congress leaders have already been arrested in addition to some prominent leftist leaders.

“The way in which the peaceful procession of students taken out at Pokhara to rejoice at the release of the veteran South African leader, Nelson Mandela, was handled by the police during the presence of the King and the Queen there indicates the way in which the government seems to be suffering from its own psychosis of fear and is becoming more and more desperate. Otherwise it would not have allowed the police to manhandle girl students and brutally treat other processionists after arresting more than two hundreds of them on the spot at Pokhara on 12 February 1990, only a week before the pro-democracy movement is to be launched. The kind of indignity to which a girl student, Lakshmi Karki, was subjected by the police at that time has been condemned by the whole world.

“The pro-democracy movement in Nepal can never be too grateful to all Indian political parties and leaders who have supported it. Chandra Shekharjee’s involvement in our movement deserves a special mention because he has not only helped to organise support for it on such a wide scale in India but has also inspired the people of Nepal themselves to take part in the peaceful struggle for the restoration of their freedom and rights through his historic speech at the Nepali Congress conference in Kathmandu on 18 January 1990.

“It is really heartening to find that the support of the whole of democratic India is solidly entrenched behind the movement for democracy in Nepal. We can only hope that the government of India will also adopt a positive and constructive attitude towards the efforts the people of Nepal are making to usher in a democratic era in their country. The development of parallel democratic processes and traditions and the sharing of democratic values and institutions can ensure a deeper and enduring understanding between the two states and peoples by revitalizing the age-old relationship between them. This close relationship based on ties of race, language and culture has been reinforced by geostrategic reality as transformed by revolutionary strides in modern science and technology. India has a vested interest in democracy in Nepal. A democratic Nepal will be a greater asset to India and the world than an autocratic Nepal.

“The people of Nepal seem to be in an angry and sullen mood. There prevails in Nepal the atmosphere of an ominous lull before the storm.

“The question that naturally arises in the end is: who is responsible for this dismal state of affairs in Nepal? Could the so-called partyless panchayat system under the king’s direct leadership escape the responsibility for the utter disregard of the general welfare of the people for the last thirty years?

“Those who may be responsible for advising the King to seek confrontation with the people should have realised that no King engaged in long-term conflict with the people has come out victorious in the long run. Kings might have won a few preliminary rounds of battle in their war against the people but never in history have they won the war in the end.

“It is only in countries where kings reign but do not rule that it has been possible for them to escape criticism for the failure of their government’s actions and policies. But in countries in which kings are directly involved in administration, it will not be possible for them to avoid public censure. The political future of Nepal will depend on whether the King will choose to accept the role of a constitutional monarch. Will he put the political process on track and not involve himself in it in any way in future? Let us hope that this peaceful movement will create a situation which will still make the transition smooth from the traditional unlimited monarchy to constitutional monarchy in the real sense. Our past experience gives us little or no ground for such hope. Time alone will show whether we are once again hoping against hope.”

The Congress-Communist attempt to force the adoption of political pluralism in Nepal began as planned on 18 February. The anti-panchayat leaders had decided the month before that the time had come when they must act or end opposition: if more years went by inactivity, much of the top Nepali Congress and Communist leadership would be very old and their parties irrelevant, while communists, who had watched events unfold in Eastern Europe, had suddenly become much more pragmatic and less ideological than ever before. Now for the first time it was possible for Congress and Communists to join forces. They agreed to postpone the actual details of an interim government and the new constitution that must follow the fall of the panchayat system, before they set in motion their pro-democracy movement.

The King’s Democracy Day message on 18 February proved to be a great disappointment inasmuch as there was no reference in it to a need to consider minority views, as there had been in a statement made not long after the referendum, no mention of the possibility of dialogue with dissidents, no acknowledgement that change could take place in the

future. King Tribhuvan memorial and National Day, 18 February, is normally celebrated officially in Kathmandu by a large procession led by the prime minister and other bigwigs who march around town and then hold a mass meeting on the Tundikhel or the Parade Ground to invoke the memory of King Tribhuvan and his triumphant return from New Delhi with democracy for Nepal. This February's Democracy Day was no exception, only this time they found themselves sharing the streets with other groups who had been organized by the Nepali Congress and the new United Left Front in an effort to force an end to the panchayat system.

Thus on this February Day 10,000 students and their sympathizers suddenly emerged from the streets off New Road, carrying banners and party flags and shouting "We want freedom: Down with the fascist panchayat system" and approaching the official procession. The demonstrators began throwing stones or pieces of brick at the official parade, at one point causing the prime minister and others in the lead to run for cover. For the next hours police and anti-panchayat protestors clashed around New Road, from Indrachowk to Asantol to Kantipath, in Putali Sadak as far as the gates of Singha Durbar (where someone stuck a Nepali Congress flag in the upraised hand of Prithvinarayan's statue) and probably elsewhere. The police, using lathis and tear gas, would break up one bunch of shouting and sometimes stone throwing demonstrators only to find another cluster had regrouped not far off and would have to chase after their next lot. Those dispersed ran into alley ways and even homes of strangers, where housewives offered them water to drink and cloths to wipe teargassed eyes.

Students from Trichandra College attacked the statue of King Mahendra, the panchayat system's founder, nearby in Darbar Marg. The marble around the statue was damaged in a number of places, but the effigy itself remained intact as riot police moved in with more tear gas and lathis. This was as close as any protesters got to the royal palace. In any case the palace was unoccupied by the King; His Majesty apparently did not feel any need to remain in the capital to take control of the situation. Despite the fact that the King and Queen had been to Kathmandu on 18 February, to inaugurate formally the year-old 8 million International Air Terminal Building, they did not venture into town and went back to Pokhara after the function was over.

There were clashes between rival processions elsewhere in Nepal on 18 February. The Home Ministry said "some extremists at Hetaura broke the head of a police constable who died while undergoing treatment at the

hospital. A police inspector was hit on his head with a thorny baton, and another constable has also been injured. The extremists also attacked the police with stones at Rampur of Palpa district and Bharatpur injuring quite a few constables. The police were compelled to open fire when the extremists started destructive activities. The extremists burnt one pick-up van at Bharatpur.' But in fact there had been a massive anti-panchayat demonstration at Bharatpur and Narayanghat. The administration had lost control of the situation despite the police firing which resulted in at least a dozen deaths. Several vehicles and petrol pumps were set on fire by enraged mobs. Several dead bodies were seen lying uncared for on the edge of the forests through which the road to Hetaura passes. On 18 February, at Hetaura itself several encounters took place between the police and enraged crowds of protesters and motor vehicles were set ablaze.

On 19 February all the shops in the Kathmandu valley were shuttered, and few vehicles of any kind except government-owned Sajha buses and police and army vehicles were on the streets. This general strike was in sympathy with the pro-democracy movement but was in part also a result of fear of stone throwers. Again police chased, attacked and arrested students. A procession went around the town of Kirtipur, and an official van was set ablaze.

In Bhaktapur the police opened fire on a mob of anti-panchayat protesters with the result that, according to the official report, four people were killed and 25 (including eight policemen) injured. Lurid stories went the rounds how police pulled to breaking point the legs of protestors whom they overpowered. According to people who were in Bhaktapur, the army next day—or that night—took over patrolling a very tense Bhaktapur, and a sort of curfew was observed (His Majesty's Government denied that the army "had been deployed to bring the situation under control" there). For the next several days, large numbers of agitated people from Bhaktapur clustered around Bir Hospital in Kathmandu demanding that they be given the bodies of those who had died so that they could be cremated.

Demonstrations were reported from other towns in Nepal, notably those in the Chitwan valley and along the border with India. On 20 February several people were killed at Jadukuha, about 8 miles east of Janakpur, in eastern tarai, by unwarranted police firing.

And so it continued almost daily as various forms of protest were staged across the country for the rest of February and on into March. From urban areas the movement seemed to have spread to rural districts

by early March. Protests included silent work stoppages by professional people, slogan-shouting processions, street-corner meetings with fiery speeches, somber meetings to condole the deaths of those killed by police, distribution of leaflets and party flags, getting shops to close and vehicles to stay off the streets, and burning effigies of the prime minister and the panchayat system.

Official estimates gave the toll as 12 dead and 54 injured by the end of the first week. They announced from day to day the numbers of new detainees and of those recently released from police custody, and on 22 February they said 593 people had been released from amongst an unspecified total number of people arrested on and after 18 February. According to the pro-democracy movement sources, the number was much higher with at least 40 dead and thousands had been arrested with many of them brutally treated by the police: Nepali Congress sources said the total number of people arrested had reached 7,045 on 3 March. The number of government buses damaged between 18 February and 4 March by "disruptive elements" was given officially as 33 for a loss of Rs. 3.6 million.

Probably the majority of detainees were students or other youths, journalists and top party leaders. Several members of the national panchayat legislature also found themselves ensnared in the police nets. One of Kathmandu's representatives, a so-called pro-people member, Padma Ratna Tuladhar, was in and out of police custody several times for joining demonstrations. Two others were also rounded up and indeed remanded in custody for investigation into charges that they had violated the offences against the State and Punishment Act, 1989 by "acting in an aggressive and violent manner to overthrow the government." They were pro-people members Jagrit Prasad Bhetwal and Bhim Bahadur Shrestha, elected from Chitwan, who were arrested on the first day of the pro-democracy movement "while instigating a crowd at Sangamchowk, Narayanghat, and making it uncontrollable and rowdy", the official news agency, RSS, reported. "They raised violent slogans against the government, instigated the crowd with a display of force besides beating police and stoning them with the aim of taking life, setting on fire a motor vehicle of the district forest office, entering the premises of a petrol pump to loot money, set paper on fire along with the pump, and generally resorting to attack and violence to overthrow the government when they were arrested on the site." It was widely rumoured that Bhetwal was very badly beaten by police, even that he had died, but weekly official announcements that his remand had been extended for another seven days seemed to indicate that he is still alive.

Interestingly, after the agitation had started on 18 February, for the first time in Nepali history professional groups also staged protests, chiefly against alleged violations of human rights. On several different days hundreds of lawyers in at least nine towns around the nation marched out of courts, including the supreme court in Kathmandu, tied on black arm bands and sat outside in silent protest against illegal arrests. Doctors and other medical staff in hospitals also took to black arm bands and mute mass condemnation several times to express their horror at police use at Bhaktapur of what the doctors claimed were fragmentation bullets, banned by international convention, to deplore the fact that Nepal Red Cross were denied access to Bharatpur Hospital to help the injured there (and were even arrested) and to condemn degrading treatment of arrested protestors. The Nepal Medical Association claimed that 1,200 members demanded a judicial inquiry into the use of fragmentation bullets. The Nepal Engineers Association issued a public statement denouncing "repressive measures against peaceful activities." Some Kathmandu Valley university teachers staged a "pen down" strike and held a mass meeting to protest violations of human rights and academic freedom and paid homage to those killed by police firing.

Efforts to settle the differences between Nepal and India on issues relating to trade, security and the treatment of each other's citizens resumed in Delhi on 20 February. Over a period of three days the two nations' teams of government secretaries and other officials met often and long, showing, according to an Indian external affairs ministry spokesman, "seriousness of purpose and a firm desire to resolve all outstanding matters in the spirit of friendship and cooperation. Since on both sides of the table there were representatives from all key ministries, the entire gamut of relations could be covered." Topics discussed were trade including more balanced trade between the two countries, transit, supply of essential commodities, management of water resources including flood control, irrigation and power, working conditions of each other's nationals, security "perceptions" and Nepal's desire to be recognized as a zone of peace. The Nepali team led by the foreign secretary, Narendra Bikram Shah, included the secretaries, of Commerce and Defence, while his counterpart, S.K. Singh, headed the Indian side.

It was announced in Delhi on 22 February that at the next round of official talks, "work would begin on the documents that would comprise a broad framework of the close and age-old Indo-Nepal relationship on an enduring basis. These documents could then be signed during the forthcoming visit of the minister of external affairs, I.K. Gujral, of India

at the invitation of the minister of foreign affairs of Nepal.” It was optimistically forecast that both the official and ministerial meetings would take place during March, but no dates were announced then nor have they been since.

There was some reaction from foreign officials to political developments in Nepal. The U.S. gave mixed signals: immediately after the events of 18 and 19 February, the State Department expressed regret at the use of violence and advised the Nepali authorities not to use excessive force. “We encourage the government of Nepal and opposition members to resolve their dispute through talks. The government of Nepal is fully aware of our support for human rights, including the freedom of expression.” A letter was sent to the King by three American senators and three congressmen, Senators Edward Kennedy, Claiborn Pell, Daniel Patrick Moynihan and Congressmen Stephen Solarz, Jim Walsh and Jolene Unsoeld-expressing concern about the mass arrests of pro-democracy activists in Nepal. But then came a different stance: according to RSS, in written testimony submitted to a House of Representatives foreign affairs sub-committee on 6 March, the U.S. assistant secretary of state for near Eastern and Pacific Affairs, John Kelly said that “we were pleased to see that government security forces exercised restraint in handling disruptions during demonstrations of February 18-19 . . . Nepal has its own system of government which certainly has many attributes of democracy.”

RSS reported that a member of the House of Commons defence select committee, Neil Thorne, wrote the Daily Telegraph at the end of February, “I think it is very unfair of us to brand the Nepali constitution undemocratic by implication . . . if some believe that the electorate now wish for a change, they should be asking for another referendum and not organizing riots.”

Ganesh Man Singh, while under house arrest, reportedly issued a statement which, among other things, asked foreign aid donors to stop giving help to Nepal while the panchayat regime remained in power. According to the 9 March issue of a Nepali language paper, *Samalochana*, he recently said: “I appeal to the international community not to provide any material assistance to the panchayat system until the happy outcome of the decisive movement. This is the right time for the international community to do a favour to the Nepalis, who are now engaged in a decisive struggle.”

There was no essential change in Nepal’s domestic political turbulence or relationship with India during March, but in the closing days of

the month it appeared that there could be more important developments in both areas. At the end of the month, the protests of the pro-democracy movement became considerably more intense, and these were met with increased force by the police and other government measures, which reportedly led to the resignation of the foreign minister, Shailendra Kumar Upadhyay, in disagreement over the tough official policy. In the Kathmandu valley's major towns it was a daily sight to see police in riot gear loaded into all kinds of trucks—even garbage trucks—on routine patrol or rushing off to do battle with protestors. Concerning Nepal's relations with India, on 31 March, a year and a week after the trade and transit treaties had lapsed and India had made public its concerns regarding its national security and the treatment of its nationals in Nepal, an Indian delegation flew to Kathmandu to resume negotiations.

The Statesman reported that the Indian negotiators led by their foreign secretary, S.K. Singh would be taking with them to Kathmandu draft agreements on trade, transit and the prevention of smuggling, and if there were agreement on these documents, they could be signed by the two nations' foreign ministers later in April. An official in Delhi was quoted as saying that the documents which the two sides would adopt would "comprise a broad framework for the Indo-Nepalese relationship", suggesting other subjects would also be taken up, and this seemed confirmed by the reported inclusion in the Indian delegation of defence, home affairs and water resources officials as well as those concerned with commerce and finance.

India's prime minister, V.P. Singh, continued to speak of an improved atmosphere in Indo-Nepal relations. He told the upper house of Indian parliament on 26 March 1990. "Suspensions have been removed . . . There is now greater appreciation on both sides, and the intransigence that was there earlier, I think that is not there. I think that there is on both sides a will to find solution."

The Indian premier was asked on 26 March by a Rajya Sabha member for his reaction to the movement for democracy, but he ignored the question. The Indian government had, in fact, consistently refrained from any official comments on political developments in Nepal, saying only that they are an internal matter on which it would not be proper for India to express any view.

No other foreign government expressed an official opinion either, but some legislators in Washington spoke out in favour of political pluralism in Nepal, perhaps attempting to counteract the effects in Kathmandu of remarks on 9 March by a U.S. assistant secretary of state, John Kelly

about the restraints of Nepalese police and the panchayat system's attributes of democracy which I had described as "a disaster from our point of view". On 16 March a group of concerned Nepalis demonstrated on Capital Hill in Washington supporting multiparty democracy and denouncing police repression and then walked to the White House to present a memorandum to President Bush and then to the Royal Nepalese Embassy (Chancery) at 2131 Le Roy Place to hand over a letter to King Birendra through it. A mass meeting was held on 17 March 1990. Statements in support of their cause were issued by two democrats, Senator Edward Kennedy and Representative Stephen Solarz, Chairman of the House sub-committee before which Kelly had testified. This was what Solarz had said: "I strongly support efforts of the citizens of Nepal to promote respect for internationally recognized human rights and political pluralism in their country." Kennedy declared, "As the crisis in Nepal continues, let us hope that the government soon realised that although it can arrest and imprison individuals, and can dismantle a demonstration, it cannot extinguish the desire for democracy and human rights in the hearts of the Nepalese people."

The police did continue "dismantling" demonstrations throughout March in a number of towns, but as it did so, the toll of deaths and injuries mounted, and the month ended with an extremely tense stand-off between residents and police in the streets of Patan on the days following the deaths of at least two protestors shot there by police. (More of this will follow later). The situation seemed to be building to some kind of climax.

The multiparty movement's agitation had carried on in almost routine fashion for most of March, and the panchayat government made no overt move towards accommodation with the dissidents. It had been hoped that King Birendra's speech on 16 March, towards the end of his western Nepal tour, might help ease the situation, but he did not specifically address the situation. He observed: "Any political system by itself is not an end but a means by which people's rights, interests and potentials are realized. As is known to all, our political tradition relies on the popular will, and the mandate given by the national referendum is the basis for retaining the panchayat polity. Basing itself on the popular will enriched by the experience of the past, the dynamism of the panchayat system lies in its ability to effectively fulfil the aspirations of the people in the coming days. In the past three decades, we have instituted reforms as called for by the changing needs of time, and taking into account the Nepalese aspirations this process will continue. Let us always remember that all those who believe in democracy should consider it their duty to

abide by provisions and processes of the constitution while seeking solutions to problems.”

“Any unconstitutional activity that disturbs peace, tranquillity and security will hinder the exercise of democratic rights and development in the country. Indeed this cannot be to anyone’s interest. There can be no solution to a problem where there is irresponsible behaviour and undignified acts disregarding the interest of the country and the people.”

Two days after the King spoke, the chairman of the national panchayat legislature and of the panchayat policy and evaluation committee, Navaraj Subedi, who had been with the King on much of his western tour, gave an unprecedented elucidation of the royal speech in an interview to the official news agency. Subedi said: “As the panchayat system is dynamic and our national leadership is committed to all-round welfare of the Nepalese people, appropriate reforms have been made in accordance with the people’s aspirations and the national requirements. The second and third amendments have already been made in the constitution. In the coming days also relevant reforms will be made in the system. The fourth amendment in the constitution could also occur at an appropriate time in response to the aspirations of the people and national needs. But reforms should be made only through the constitutional process. No changes can occur through unconstitutional and disgraceful activities”.

“... (The pro-democracy movement) is not a people’s movement. . . it is clear that the movement proponents have been rejected and denied popular support. The popular support is with us. The participation by thousands of people in the ‘counter’ pancha rallies (countering the pro-democracy demonstrations) organized in various zones and districts amply testify that people are on our side. . . . We can all come together on this forum (the panchayat system) and discuss issues. I appeal to them to join the national stream.”

It appeared that the King’s speech was sufficiently encouraging as to the possibility of change to keep restive pro-panchayat legislators like Yadav Prasad Pant and Pashupati Shamsheer Rana from resigning. Said Pashupati in a television interview quoted in *Saptahik Manch*, “I think the recent royal address has taken steps to lessen the present tension. I have taken the statement that ‘any political system by itself is not an end but a means by which people’s rights, interests and potentials are realized’ and that the process of reform will continue” as a turning point taken by the Nepali thinking toward the direction of changes by giving up the status quo. The royal address has not explained the nature of reforms. . . . Those who say they would launch a movement must give up

the path of violence; HMG on its part must give up its policy of repression. The two sides must sit together and explain the nature of the reforms. . . .”

But the royal speech did not appease the pro-democracy protestors. . . . Their campaign continued in novel as well as the usual ways. Large numbers of balloons, some red and some black, were released into the sky over Kathmandu on several days including on Ghorejatra, when the royal family were at Tundikhel (Red is the dominant colour of Congress and Communist Parties' flags, and black is the traditional colour of protest). At other times dogs with cardboard crowns tied to the heads were released: a bitch with a large name tag, Aishwarya, was sent into the street first, then several males with Birendra name tags were sent after her. A call was made for everyone to switch off all lights in homes, shops or vehicles for 15 minutes at 7.00 o'clock one evening.

At the same time, the conventional methods of protest continued, and so did conventional forceful police tactics as well as a continuous succession of pro-panchayat and anti “extremists” rallies, resolutions, statements, speeches, and “counter-committees” throughout Nepal. Listed below are some events during the last half of March, following the King's remarks:

17 March: About 200 Kathmandu writers and artists with black bands tied across their mouths tried to hold a very silent demonstration at the grounds of the Royal Nepal Academy; police barred their entry, they moved to the nearby Tri-Chandra College Campus, most were taken away by police but few were detained for very long.

20 March: Perhaps 900 teachers, lawyers, chartered accountants, engineers, doctors, nurses and others, many of them noted people, gathered in a hall at Tribhuvan University's Kirtipur campus to discuss the role of intellectuals in relation to the situation in the country. As they were peaceably assembled—though no doubt listening to some fiery speeches bitterly opposed to the administration's actions—police entered the auditorium and ordered everyone to leave immediately.

The assemblage stood for a minute's silent tribute to those who had recently been killed or injured, then they were rounded up by the police, who were armed with lathis and guns, and packed into trucks to be hauled off to the traffic police station outside Singha Durbar's gates, where they were crammed into one large room (no space to sit down), kept for hours without food or water, interrogated, finger-printed and video-photographed one by one as most were slowly released during the long night. Amongst the few who were not released, but detained for three months

under the Security Act, was Dr. Devendra Raj Panday, former finance secretary and currently acting president of the Human Rights Organization of Nepal, which was not officially recognized.

The official version of this affair was given by RSS: "The local administration said illegal extremist communist workers were to meet at the agronomy hall of Tribhuvan University to fix programmes in relation to the so-called movement. The police were compelled to detain 150 people for unconstitutional activities involving even people unrelated to the university in disregard of the dignity of such a sacred institution as Tribhuvan University. They were rounded up during their meeting in contravention of the sanctity of the constitution. Investigations are underway."

23 March: "National People's Unity Day" witnessed demonstrations in the Valley and in a number of towns and districts around the country: Birgunj, Bharatpur, Butwal, Palpa, Syangja, Nepalgunj, Dharan, Janakpur and Jadukuha. Teachers struck, mill workers shouted anti-panchayat slogans, students paraded and burned effigies of the panchayat system, doctors closed their clinics. In Kathmandu, massive numbers of police in riot gear seemed to be everywhere to foil protest activities, and in some places in the country they staged lathi charges and detained scores of people.

25 March: Royal physician Dr. Sachche Kumar Pahari, president of the Nepal Medical Association (NMA), signed a press release declaring that "repression, arrest and torture of peaceful demonstrators demanding basic human rights have created a feeling of insecurity and tension in the country . . . NMA will not be silent spectator to the suppressive action taken by the authorities concerned towards individuals exercising basic human rights." His association demanded the release of all doctors and nurses held by the police and threatened a national strike in hospitals if they were not. Those held in Kathmandu were, but when others outside the Valley were not released, the NMA called for the national strike at all hospitals, except for their emergency services, in early April. (It was rumoured that Dr. Pahari had been dismissed from service for "being involved in political activities".

27 March : Pro-multiparty students boycotting college classes in Chandragadi clashed with other youths, also officially described as students. Five students were injured, and one of them died in hospital. The college was closed until further notice "in view of the prevailing atmosphere which is not conducive to studies."

29 March : Violence flared at several colleges and even some schools in Kathmandu. *The Motherland* reported that school children fought

“pitched battles” with police at Lainchaur, Maharajgunj, Balaju and Tripureshwar. People trying to get to the Narayani Hotel area of Pulchowk found the main road closed as engineering college students put up road blocks and did battle with police. RSS reported that 10 policemen and six students were injured at Amrit Science campus close to Hotel Malla when “a mob of students raised various illegal slogans and tried to stop public transport by throwing bricks and stones;” the police fired eight tear gas shells at students who turned on them with stones, bricks and acid-filled bottles. At the law campus, near the Mahendra Police Club, police fired three tear gas shells while they were trying to “remove obstacles from the road” put there by the students; three students were injured in this clash and one of them was admitted to the Teaching Hospital. Medical students at this hospital also erected “obstacles” on the road and threw stones at police; four people received minor injuries in this incident. (The unofficial version of the Teaching Hospital incident was that nursing students were coming from their hostel to the campus when police entered the grounds and lathi-charged, injuring 42 people; a mob hurled stones at the police, who responded with tear gas, and four students were arrested.)

The result of all these events at the colleges was that, according to RSS, altogether 200 students were taken into custody, 85 of them released soon afterwards, and campus authorities immediately closed indefinitely Amrit Science College and the institutes of engineering and medicine “because the academic atmosphere is not congenial,” and decreed that their hostels had to be vacated within two days.

The next day Padma Kanya Multiple campus in Bagh Bazar and its hostels were also closed, and on the 31st the law campus too was closed. (But in Bharatpur, the Birendra Multipurpose Campus was reopened on the 29th after having been shut on 18 February.) On 31st all the schools in the Kathmandu Valley were also closed until further notice, for children had continued to be involved in political demonstrations. “Guardians were seen looking for their children at several police posts in the evening (of the 30th) but were not given proper information,” according to *The Motherland*.

30 March: Two deaths were reported by RSS when police opened fire in Patan at “extremist communists involved in a procession raising illegal slogans at Mangal Bazar and causing damage to public property and life and property of private citizens by spreading terror and violence.” Five people were wounded by the police firing, and two of these died later in hospitals, while 30 policemen were injured. “The extrem-

ist elements indulged in vandalism and arson at the ward police office, the district irrigation office, the land revenue office, and the town panchayat building, as well as entering the Lalitpur town panchayat and district court office, bringing out bicycles, furniture and other objects from there and vandalizing them. The extremists also stoned the post office, the John Snow project office near Patan gate, the Oasis Hotel and private houses. They set fire to a police mobile van and an ambulance at Mangal Bazar and damaged a public bus near Patan Hospital by hitting it with stones." Tear gas and lathis failed to bring this widespread action under control; police fired into the the air "to disperse the extremists after they violently attacked the police," and then fired at the mob and killed two. Forty-five people were taken into custody.

In Biratnagar, police lathi-charged and fired tear gas to disperse 200 "volatile" students who tried to march out of their campus shouting slogans; some students were arrested. In Bhaktapur, RSS reported, "a group of extremist illegal communists armed with brickbats, stones and spades forced people to switch off their lights in (several localities) and hurled stones at the security forces manning the way to Nyatapole," the multi-tiered temple; the police used lathis and tear gas but did not manage to get the situation under control until 11.00 p.m. In Kathmandu, said RSS, "some miscreants" between Dilli Bazar and Maiti Devi to the east threatened householders if they did not turn out their lights and damaged a car, a tempo, two minibuses and a hotel bus, injuring the driver and passengers in a minibus. Tourists in Thamel were disconcerted by the burning in their midst of an effigy, of what they did not know.

31 March : The situation in Patan continued to be extremely tense, according to eyewitnesses, and the King reportedly drove himself without security escort around the edges of the town to see what he could see. He undoubtedly was unable to observe the confrontation mentioned above between large numbers of women and children and the police, or the day's later violent events. The BBC reported four people were shot dead in Patan, but this was denied by HMG's spokesman. An official report by RSS said that the police fired two rounds when "extremist Communists" attacked them and tried to grab their guns while they were attempting to remove logs, pipes, piles of tires, stones and other objects that had been placed across roads to block entry into the inner town. One of these bullets ricocheted and hit a woman in the shoulder as she was sitting at her window; she was recovering in hospital. Tear gas was also used to disperse a "violent crowd carrying lethal weapons (reportedly khukris, spears and axes) and shouting illegal slogans." Eyewitnesses

reported a veritable siege of the inner city, with at least one person from every house manning the barricades late into the night and burning tires and rubbish to discourage forced entry while large numbers of police in riot gear were stationed around the perimeter.

And what of the following days? "Pen down" strikes by office workers, which had reportedly taken place at the Provident Fund Corporation and Nepal Food Corporation offices in late March, were planned for early April at RNAC, NIDC, the National Insurance Corporation and some commercial banks. On 30 March the *Nepal Gazette* published an order issued by HMG under the Essential Services Operation Act 2014 whereby employees of essential services are not permitted to strike. It listed as essential services the postal and telegraph services, transport services carrying passengers and goods on land, water and air routes, airport offices, aircraft security, operation and maintenance services, railway stations and godown services, electricity and drinking water operation and distribution services, banking, fire brigades, petroleum and food sales and distribution, hospitals, health centres and medicine production and distribution services.

This move seemed to be just one of many indications that no compromise was contemplated by the authorities. Shailendra Kumar Upadhyaya, the foreign minister, was widely reported to have handed in his resignation at the end of March because of his disagreement with the government's policy of repression. If Upadhyaya did resign for this reason, this surely indicated that he saw no early change of policy. Whether true or not, he was in fact dropped from Marich Man Singh Shrestha's cabinet when a reshuffle was announced on 1 April.

The prime minister brought no one into his new cabinet who was known to advocate a softening of his unbending line, and he had reiterated his own stern stance as recently as 25 March, when he told the Salyan district assembly that "the movement which gives support to hooliganism, arson and brick-battling cannot be considered a people's movement by any stretch of the imagination. . . . The Panchayat system, which has crossed many hurdles, will not be affected by minor incidents." Not the kind of talk that suggests—or invites—accommodation with people of differing points of view.

There was, however, a hint of possible change in an announcement on 31 March that the panchayat policy and evaluation committee would hold a central pancha convention on 18 April. In its deliberations, the convention is to "take stock of the present political situation and discuss timely political reforms," according to an official communique. It will

be a large meeting; those eligible to attend include present and former national panchayat members, class organizations' central committees, district panchayat presidents, vice presidents and ex-presidents, chairmen of town panchayats, "intellectuals and political workers to be invited by the committee."

But people like the embattled citizens of Patan would not wait for or care anything about the deliberations of such a group of panchayat stalwarts. Events overtook the prime minister and his unbending stance. Although he was reconfirmed in his position on 1 April when he was kept on and authorized to organize a somewhat revised cabinet, he was going to be sacrificed by the palace to deflect anger otherwise directed at themselves. The King was being compelled to respond to pressure for dialogue and real change.

The royal couple had returned on 23 March to a Kathmandu buzzing with rumours and criticism of them. On the outer walls of the Tribhuvan University Teaching Hospital posters were put up every day and every day removed by police or others: these read, "Nepal can survive without the King and Queen: it cannot survive without the people." People in Kirtipur reportedly hanged a live-size photo of the King. Amongst the tales going the rounds relating to their alleged greediness were that they had sold their Nagarjun property to HMG but HMG gave it back as a present on the occasion of the Crown Prince's sacred thread ceremony in January; that the King and Queen receive while they are on tour a per diem fee of Rs. 100,000 each, in addition to their free housing, food, servants and helicopter travel; and that they have almost bankrupted the government, with HMG having to borrow from the Rastra Bank to pay salaries within three months.

The mass demonstrations, sit-ins, evening time lights out and other forms of protest orchestrated by the pro-democracy movement continued in early April unabated. In the Kathmandu Valley, the siege of Patan that had begun in the last days of March was maintained, and men of Patan sent to men of Kathmandu a quantity of women's bangles and of tassels for the ends of women's braided hair with the insulting implication that Kathmandu men had lost their manhood. More and more schools and colleges closed their doors, not just in the Valley but also in Janakpur, Biratnagar and elsewhere.

On 1 April the palace announced that King Birendra had made changes in the Council of Ministers under Marich Man Singh Shrestha's continued premiership. Four ministers, one from the previous Council. Hari Bahadur Basnet, the minister for water resources, was given the

added portfolio of foreign affairs, which Shailendra Kumar Upadhyaya relinquished. Ramesh Nath Pandey re-entered the scene as minister of communications replacing minister of state and former sportsman Kamal Thapa, who was moved to forests and soil conservation (rumour had it that Pandey had assured the King that he, an erstwhile weekly newspaper editor, could “handle” the foreign press, who were giving all too much sympathetic coverage to the pro-democracy movement). The finance minister, Bharat Bahadur Pradhan, tourism minister, Mohammad Mohsin, and minister of state for home affairs, Niranjana Thapa, remained at their posts. The Queen’s favourite, Shushila Thapa, stayed on as a minister but was transferred from health to labour and social welfare.

The palace communique announcing the cabinet changes carried the routine statement that “the King has expressed the hope that the Council of Ministers will, as always, receive necessary cooperation from all in the task of promoting the well-being and prosperity of Nepal and the Nepalese people.” But a large proportion of the Nepali people did not seem to be listening. According to *The Rising Nepal*, one man was shot dead by police and ten more, all with Newari names, were hospitalized—and two policeman and three policewomen also injured—when police used various forms of force and finally opened fire in Kirtipur in the evening of 2 April on a “group of 600 illegal extremist communists armed with lethal weapons who attacked the Kirtipur police post.” The same evening “illegal extremist communists obstructed traffic, damaged vehicles, public property and shops” in areas of Kathmandu as widely separated as Balaju, Chabahil (near Baudhnath), Teku (between Tripureshwar and Kalimati) and New Road. The official news agency, RSS, reported that on the 2nd “an unruly mob misguided by illegal communists took out a procession shouting threatening slogans at Kupondole and Kirtipur, obstructed roads and indulged in acts threatening the lives of citizens and damaging public property. When they violently attacked life and property, the police were compelled to open fire and five people who sustained injuries died in the hospital while undergoing treatment. ... Forty policemen and women were also injured at different places in Kathmandu and Kirtipur. . . . The communists also damaged some houses where lights were not switched off [as a public mark of support for the pro-democracy movement] and took out a procession in the town area of Kathmandu and disrupted normal life by resorting to destructive activities. “There were bonfires in Asantole, in the street that links Bagh Bazar and Dili Bazar, and doubtless elsewhere; the Kathmandu town panchayat building was attacked; a ward committee building in Naxal was damaged

and documents seized or destroyed. In Bhaktapur “the extremists took out a procession and stoned the land reform office, drinking water facilities and several banks.”

Photocopies began circulating a couple of days later in Kathmandu of typed statement purporting to come from bank employees saying the HMG was withdrawing massive amounts of cash and people with deposits had better take their own funds out quickly before there was no money left; one rumour that went around said HMG had taken more than Rs. 1 billion from the Nepal Bank Limited, the Rastriya Banijya (National Commercial) Bank and the Agricultural Development Bank in the first days of April, and these banks were therefore on the verge of bankruptcy. This prompted a run on various branches of the three banks on 5 April. The following day the banks through the Nepal Bankers Association issued a communique describing the reports as “totally false and baseless . . . [and] calculated to create confusion and sense of insecurity in the minds of the public. . . . HMG does not have any account with the banks nor does it ever take any kind of loans from these banks.” The NBA gave assurances that the people’s deposits were quite safe.

Government employees in Kathmandu began conducting their own protests with the staffs of a number of government owned corporations, the Civil Aviation Department and the Auditor General’s office staging token strikes of several hours in support of the pro-democracy movement. RNAC operated no flights on 4 April. The army began daytime patrols in trucks in Kathmandu early in the month, and they took over guarding such buildings as Singha Durbar and the Central Telegraph Office and presumably beefing up their guard on the royal palace.

On the morning of 6 April the King issued a proclamation to the nation. He cited the 1980 referendum as proof that “respect for the ideals and values of democracy has always guided us in the conduct of the affairs of state. . . . It is the government’s duty to maintain law and order. Regrettably since the present Council of Ministers has not been able to do so, resulting in the loss of life and property, we have in consonance with the popular will in accordance with the constitution of Nepal dissolved the present Council of Ministers. In view of the special circumstances arising in the country we have through this proclamation in accordance with clause 1 of article 81 of the constitution of Nepal [entitled ‘Extraordinary Circumstances and Emergency Powers’ which empowers the King ‘when the national panchayat is not in session to make necessary arrangements as required for carrying out the business of the Council of Ministers in any manner he may deem appropriate’],

entrusted the Hon. Mr. Lokendra Bahadur Chand to form a Council of Ministers. This Council of Ministers will also consult people holding different political views. The national panchayat will also be summoned into session.

“No polity can be an end in itself. Rather, it should serve as the institutional framework to promote the rights, interests and welfare of the people. As it is the popular will which has always guided the nature of our polity, we will accordingly constitute a constitutional reforms commission to make recommendations for political reforms which the Nepali people desire.”

“A commission will also be set up to investigate the unfortunate incidents that have taken place in different parts of the country involving loss of life and property. Finally, at a time when the country has yet to recover from the economic hardships inflicted over the course of the past year, the Nepalese more than ever have to act in unison and self-discipline to help maintain peace and tranquillity in the country.”

The Council of Ministers, recommended by Chand and appointed by the King, consisted of precisely four men including the prime minister; they shared out the total of 22 portfolios. The new cabinet was composed as follows:

1. Lokendra Bahadur Chand, 50, member of the national panchayat elected from Baitadi district in the far west; had been prime minister from July 1983, when he was dubbed “Mr. Clean”, till his tenure ended in March 1986 without this sobriquet and having been plagued by the Queen’s billion-dollar scandal. He took over the portfolios of defence, housing and general administration.
2. Nain Bahadur Swar, in the 1950s a Gorkha Parishad member; chairman of the national panchayat in the mid-1970s; government minister under Surya Bahadur Thapa from 1980 till Chand was made prime minister in mid-1983; not now a member of the national panchayat. Swar was assigned seven ministries: home, panchayat & local development, law & justice, industry, commerce, supplies and forests.
3. Pashupati Shumsher Rana, grandson of the last Rana prime minister; minister of state and then full minister in numerous cabinets from 1977 onwards including Chand’s; national panchayat member elected from Sindhupal Chowk district on Bagmati zone. He now took charge of the foreign ministry, which he reportedly had been keen to have for years, together with finance, water resources and communications, four important portfolios.

4. Achyut Raj Regmi, one time Nepali Congress leader, minister of state in the closing few months of Chand's previous premiership, when he took over the communications portfolio from Pashupati; not a present member of the national panchayat. He now got everything else; works & transport, education, health, labour & social welfare, agriculture, land reform and tourism.

Very soon after his appointment Chand told RSS that "consultations with people holding different political views will start without prejudices and preconditions. The new Council of Ministers will work in accordance with the spirit of the royal proclamation . . . [and] will shortly be engaging in a dialogue with people with different shades of opinion with a view to creating a situation wherein all the Nepalese can live together. . . . HMG is ready to begin talks immediately." Later the same day RSS reported that HMG had decided to release "all persons detained other than those against whom criminal proceedings can be instituted at court in connection with different incidents that took place in different parts of the country since 18 February."

But it is unlikely that many Kathmandu Valley residents, or those in a number of other Nepali towns including Janakpur, Butwal, Pokhara and Biratnagar, were aware of or cared anything about Chand's remarks or the announcement concerning the release of detainees. It was the United National People's Movement, a political group outside the main fold of opposition consisting of Nepal Congress and United Left Front, that had actually given the call for action on Friday, 6 April 1990 and it turned out to be the climactic day of the protest movement. By next morning, nine people had lost their lives in the Kathmandu Valley, Janakpur and Butwal, according to the official count, more than 70 dead according to responsible reporters, at least 50 of them in the Valley, seven more in Janakpur, twelve in Butwal and three in Pokhara. Various communities across the country staged various forms of protest, but events in the Kathmandu Valley were surely the crucial ones.

In Kathmandu on the 6th no traffic motorized or bicycle moved (except for some government-owned buses), most shops did not open their shutters and in general normal life had come to a standstill by mid-day. The men of Patan and its satellite villages, and of Kirtipur, came in tens of thousands marching down the hills, across the Bagmati bridges and into Kathmandu; some reports said that Bhaktapur men had gone to Patan the day before, when there was still transport, and marched to Kathmandu now with those from Patan. The Kathmandu valley people

were on the move, the inhabitants of Kirtipur amongst the most militant, seeking to avenge the amputation of noses 225 years ago by the King's forefather.

Thousands of Kathmandu men joined them as they converged on central Kathmandu and the open air theatre on the Tundhikhel, shouting slogans: "Hang the King! Birendra is a crook! Birendra should leave the country and send back all the money!. The Queen is cheaper than a whore!" And, often in English, "We want democracy!" (pronounced dem-o-cra-cy). They also vehemently denounced BAD, standing for Birendra, Aishwarya and Dipendra.

On the Tundhikhel some estimates said as many as 200,000 or even 300,000 people gathered to listen to leaders demand the end of the panchayat system and to insist on the immediate establishment of multi-party democracy. From there, they poured forth to march through the city. Several hundred of them headed towards the royal palace, where army units were drawn up with armoured personnel carriers and mounted heavy machine guns. Some reports said they were actually headed in this direction by lines of police who then got the full force of their own tear gas and panicked.

A sea of humanity, wall-to-wall, people from the Tundhikhel, marched endlessly, peacefully and unarmed, towards Dilli Bazar in their thousands out of Bagh Bazar and into Ram Shah Path (Putali Sadak) heading towards Singha Durbar. They were clapping their hands above their heads as they chanted their slogans, and from a distance they looked like participants in a sort of ballet as they waved their arms in the rhythm of their chanted demands. People in Bagh Bazar houses were sprinkling water on them from first-or second-floor windows: it was a very warm afternoon, and this was the women's way of cooling the marchers.

Violence erupted in some areas. Buildings of the city panchayat, Gorkhapatra Corporation, the ministries of industry and commerce were attacked with stones or bricks, and attempts were made to set some on fire. A large shopping and office building in Putali Sadak belonging to a brother-in-law of the King, Kumar Mohan Bahadur Sahi, had most of its windows smashed after protesters believed police were operating out of it. The home of Sharad Chandra Shah was attacked by arsonists; according to *Saptahik Nepali Awaj*, which described Shah as the second-in-command of the underground gang and mandales (pro-panchayat thugs) the mob managed to burn a motorcycle, two cars, eight telephones, two television sets, 300 ties, 36 pairs of shoes, a bundle of U.S. dollars and a large amount of Nepali rupee notes in his house.

All over the city, people piled tires, large stones, bricks, rubbish bins, and anything else that came to hand to prevent police and army vehicles from moving about; they even stopped and looked inside ambulances or other vehicles displaying Red Cross flags after it was rumoured that the police were transporting men that way. In the evening the tires and rubbish were set alight; bonfires dotted Bagh Bazar and Dilli Bazar. Demonstrators put out street lights by smashing the lights or, even more effective, fusing power lines; it was supposed to be another evening of "lightout" anyway.

The police used lathis, tear gas, shotguns and finally, joined by soldiers, serious weaponry was brought into play and the slaughter began in some places. Durbar Marg was a centre of death as the hundreds or thousands moved towards the palace. They did not reach it, but they broke a lot of windows as the police broke heads (literally) and shot some, including an Englishman. The mob also attacked the statue of King Mahendra with more effect than on Democracy Day in February; this time he lost his sword and scepter, his name was pried off the base, and the small animals around the base were smashed.

Next morning the people of Kathmandu, Patan and all other localities within the Ring Road had a new experience: a curfew was imposed. It was in force Saturday from 7:00 a.m. all day and throughout the night till 7:00 a.m. Sunday. No one was to leave his home—or wherever he had taken refuge the night before—and anyone who did so could be shot on sight. No airline flights operated, no surface vehicles moved except for those belonging to the security forces. Tourists in Thamel lodges without restaurants were hungry.

The official news agency quoted the administration as saying that "no untoward incidents" had occurred in Kathmandu or Patan on Saturday, 7 April. Nonetheless the curfew was extended from 7:00 a.m. on Sunday for another 24-hours period in the two towns, and Bhaktapur was also put under this restriction because of "destruction caused by terrorist elements to public and private property and terrorist activities being carried out by erecting road barricades and causing obstruction to traffic." In Kathmandu there was a break in the curfew for only an hour or two in various localities at differing times on Sunday, except with respect to employees of HMG, who were ordered to report for work and were therefore allowed to be on the streets from 8:00 to 10:00 a.m. Sunday to go to their offices and from 5:00 to 7:00 p.m. to get home again. No public transport was functioning, so almost all government employees had to walk to work, and it was an impressive sight to see the vast size of the

bureaucracy as hundreds of men and women streamed down the streets in the morning and back up in the evening. What they managed to accomplish when they reached their places of work is an open question: no mail got sorted, no airplanes took off or landed.

Then that night, Sunday 8 April, Radio Nepal and Nepal Television stayed on the air somewhat later than normal, asking listeners to stand by for an important announcement. At about 11:20 p.m. a communique from the office of the King's principal press secretary, Chiran Thapa, was read out: "It is known to all that His Majesty the King has been initiating from time to time political reforms by regarding democratic norms and the political tradition based on the popular will as the main basis of the system. The constitution reforms commission [announced on 6 April] will present its report to His Majesty the King reflecting the different political views existing in Nepalese society with the partyless provision deleted from the constitution of Nepal as desired by the people of Nepal in the international environment which obtains today and the uppermost need for the unity of all Nepalese. His Majesty has lifted the existing ban on political parties."

Nepal TV also broadcast interviews with four leaders of the pro-democracy movement shortly after they emerged from an evening audience with the king. Krishna Prasad Bhattarai, acting president of the Nepali Congress, its general secretary, Girija Prasad Koirala, Mrs. Sahana Pradhan, chairman of the United Left Front (ULF), and Radha Krishna Mainali of the Front, all declared that the movement had been called off following the deletion of partylessness from the constitution and the end of the ban on parties, and that they had told the King that since the national panchayat was now an anachronism, the house should be dissolved.

Bhattarai said that this had been his first audience ever with the King, and he had found that "His Majesty is a very gentle person. His liberal disposition and his love for his people is truly deep. That is why he accepted our request for a multiparty system in Nepal. His Majesty wants developments for the happiness of the people." These remarks, coming so soon after the deaths of a number of pro-democracy movement participants, were widely criticized. Mainali, perhaps himself a less gentle soul than Bhattarai, had a more political comment: "The one and a half months long movement has left a profound mark on the Nepalese psyche, and if this enthusiasm is properly and peacefully channelized, all of us will be able to reap the benefits and enjoy political rights."

The news that the King had given in and lifted the ban on political parties was greeted at first with incredulity and then with euphoria. In

different areas of the town young men began to venture out of their houses and test the safety of being on the street once again; when they realized that security force were no longer to be seen down at the road crossing or anywhere else, they emerged in an explosion of joy, shouting victory slogans, emitting piercing whistles, tossing red powder and generally whooping it up to music blaring from radios or tapes. Householders turned on all their lights and some placed lighted candles in their windows. The spontaneous celebrations took on the character of a block party which combined Dewali and Holi and lasted well into the early hours of the following morning of Monday, the 9th.

Similar scenes took place elsewhere in the valley towns and doubtless in other Nepali towns. But not all of them ended happily, for instructions to the security forces in Kathmandu to withdraw and forget about a curfew did not get passed along quickly enough to all units, and it is believed that five or six people were fatally shot while celebrating the pro-democracy movement's historic victory that night.

Monday itself was one long non-violent carnival day in central Kathmandu: Ganesh Man Singh said a few days later: "We had been mere subjects in an independent country, but now we can hold our heads high as free citizens of a free country." Now thousands of men, women and school children, many with red powder smeared over their faces, rode jubilantly around town in trucks, minibuses and all manner of other vehicles or marched through the streets, clapping their hands, whistling, shouting slogans, waving banners and carrying hundreds of flags. Not the national flag of Nepal, but the red and white flag with four red stars of the Nepali Congress and the red flag with white or yellow crossed hammer and sickle of the ULF. Party flags, still technically a jail-term offence to possess let alone display, adorned houses and were strung overhead across streets; one white Volkswagen Beetle had red powder so arranged on the front of it as to appear draped with a Congress flag; the statues of Kings Prithvi Narayan, Tribhuwan and Mahendra were festooned with party flags.

As they marched, the crowds were greeted in some parts of town with flowers or garlands and with water to quench their thirst on the hot day. The throngs shouted "Down with panchayat system! Hang Marich Man! This is the people's victory! We will save the country! We have won democracy! Long live multiparty democracy!" And in their tens of thousands they converged on the open air theatre with no interference from police or army. There they listened to speech after speech from Congress and ULF leader who had suddenly emerged from hiding or arrest and

extolled the glory or the victory of democratic forces. Such politicians as the Nepali Congress's 74-year-old elder statesmen. Ganesh Man Singh, placed under house arrest on 17 February and more recently under guard in Bir Hospital while undergoing treatment for a chronic ailment, Communist leader Man Mohan Adhikari, underground since mid-February, leftist national panchayat member Padma Ratna Tuladhar, pro-Congress suspended chairman of the Kathmandu town panchayat Hari-bol Bhattarai, and a host of others spoke on this "day of liberation" of the vital need to press on towards a multiparty government and true democracy under the continued unity between Congress and ULF.

Next day, the 10th, the open air theatre was taken over by the United National People's Movement, more radical Communist factions that had refused to join the United Left Front. Leaders of these groups who were not still in hiding now denounced the decision by the pro-democracy movement to suspend its agitation. One of the speakers declared this suspension was a "conspiracy against the people" and another said the lifting of the ban on parties was sheer deception. The struggle must go on they insisted.

Processions and mass meetings to celebrate "liberation" and condolence meetings to mourn the dead "martyrs" took place over the following days and even weeks in an astonishing number of towns and villages across the country. Within just the first seven days such events were reported from all the towns of the Kathmandu Valley, Pokhara, Janakpur, Birtamod (Jhapa district), Dharan, Hetaura, Bidur, Butwal, Parbat district headquarters, Baglung, Tulsipur, several village panchayats of Tanahu district, Sundarpur village (Morang district), several villages of Jumla district, Tribhuwannagar, Tehrathum, Dhankuta, Syangja district headquarters, Sankhuwasabha district's Pokhari Maidna, Bhojpur, Beni, Rajbiraj, Dhangadhi, Tansen, Gaur, Sidharthanagar, Ilam, Prithvinagar (Jhapa), Jaleswar, Dhulikhel, Panchkhal and Banepa. In the following weeks hundreds of more localities all over Nepal staged similar celebrations.

Meanwhile the Lokendra Bahadur Chand cabinet that had been formed on the morning of Friday, 6 April, began to take a few steps towards easing tensions. On the 11th HMG announced it had ended restrictions on local newspapers, was withdrawing legal actions against them, and "the control on various foreign publications has also been removed," thus ending the system of censoring imported publications. Even Nepal's government-owned media now freely quoted at length critical statements from all manner of political commentators.

Two days later HMG said it would be providing Rs.15,000 to every family of "those killed during the recent movement," Rs.5,000 to each person who had been seriously injured and Rs.2,000 to those slightly injured "as relief for the time being." (At the end of the month, the next government raised the death benefit to Rs. 25,000.) On the 15th it was announced that the new commission of three judges charged with investigating the loss of life and property during the movement, had begun its work. There was no official estimate as to how many people might be found to have died. Responsible foreign journalists spoke of at least 200 dead and many more injured; a couple of weeks later, Krishna Prasad Bhattarai as Prime Minister mentioned a figure of 500 dead.

The four-man Chand government now had the task of holding talks with people of various political persuasions. The likeliest explanation for the extremely small size of his cabinet is that the King and his advisors hoped it would soon be expanded by the addition of multiparty representatives and perhaps non-political independents as a result of these consultations. Chand claimed his was the interim government that the pro-democracy movement had demanded in succession to that of Marich Man Singh. Pashupati Rana told the foreign press that "it is far from clear whether everyone wants the panchayat system to go" and speculated that a panchayat party might be created. Said Chand in an interview with the government-owned media, "The panchayat system has its own role and it will continue to play it," but what he thought that role might be was not reported.

However the pro-democracy leaders were not interested in joining Chand's cabinet ("We do not endorse this government; it was appointed under the panchayat system and is illegal; it does not represent the people," said Mrs. Sahana Pradhan, ULF leader) nor in the continued existence of the panchayat system in any guise. On the 10 April, Nepali Congress's acting president, Krishna Prasad Bhattarai, demanded the dissolution of the national panchayat. On 12 April several other Congress spokesmen said the party had given the King an ultimatum: form the interim government, which will be in power until a parliament comes into being, under the chairmanship either of the King himself or a leader of the pro-democracy movement within 48 hours, or the political agitation of the previous weeks may resume. Pashupati commented wryly: "It is surprising that the multiparty side should invite the active leadership of the crown at a time when the panchas were reconciled though dispirited that they would no longer have the crown's active leadership following the removal of partylessness from the constitution."

Nonetheless this appears to have been the proposal-but perhaps not ultimatum-that Ganesh Man put to the King in an hour-long audience on the evening of 13 April.

Next day, the 14th, was the Nepali New Year's day, and as so often in the past, many people awaited with keen interest the King's traditional address to his people on the occasion, and once again he failed to say anything stirring or imaginative. "Politics in Nepal has now taken a new turn," said he, rather understating the case. "We have upheld the tradition of respecting the popular will and fulfilling the aspirations of the people. . . . We are confident that proper understanding and respect for the norms of democracy by all Nepalis will safeguard the values and ideals of democracy in Nepal for all time to come. . . . May the new year inspire us all to work in unison for the continued wellbeing of all countrymen." How this work was to be done, what it all really meant-there was no hint in his brief vague message. Its very vagueness intensified suspicions that no basic changes would really be forthcoming.

Talks between the government and representative of the pro-democracy movement did get underway the next day, 15 April, at the Royal Nepal Academy's building. Prime minister Chand was there, and other negotiators were, for the government, two ministers, Pashupati Rana and Achyut Raj Regmi, plus ex-ministers Keshar Bahadur Bista and Padma Sunder Lawati, and for the pro-democracy movement, Nepali congressmen Yog Prasad Upadhyaya and Daman Dhungana and the ULF's Nilamber Acharya and Krishna Raj Verma. Perhaps 15,000 angry people, convinced that the panchayat side was stalling and that the panchayat system would never be abolished, gathered around the academy's perimeter and virtually laid siege to the negotiators, demanding more and more loudly and energetically that the Prime minister should resign and all the movement demands concerning an interim government, a new constitution and multiparty elections should be immediately granted. When the prime minister tried to leave, saying, according to *The Motherland*, that he needed to go to the palace for consultations, some in the mob threw stones at his car and he was forced to retreat. The siege lasted until late that night with more damage to government cars. Meanwhile members of the medical staff of Bir Hospital that morning began a relay hunger strike (Strikers took turns for 12 hours each, to demand the removal of the home minister, Nain Bahadur Swar, because, as RSS reported, they were "disenchanted with the indecent way" he had allegedly behaved towards them on the bloodiest day in the history

of Nepal, Friday, 6 April (Their protest lasted until the evening of the 17th).

In the face of the resumption of popular agitation, the King on the morning of 16 April produced a new proclamation which had some very concrete points: Lokendra Bahadur Chand had offered his resignation, and "in view of the special circumstances prevailing in the country," the King had dissolved the national panchayat, the Panchayat and Policy Evaluation Committee and all six class organizations associated with the panchayat system, and he had suspended various clauses in the constitution concerning the formation of Council of Ministers and other matters relating to government ministers. Chand and his three cabinet colleagues would remain in office temporarily.

Later that day the King got down to brass tacks about an interim government as envisaged by pro-democracy movement and called in Ganesh Man Singh for talks that lasted an hour and three quarters, according to a Nepali Congress press statement reported by RSS. "His Majesty the King declined the idea of heading the new government and asked Singh to shoulder the responsibility. Singh expressed his inability to accept the offer as he was going abroad for medical treatment [he is still very actively engaged in Nepalese politics as of this writing] and therefore suggested the name of acting president of Nepali Congress, Krishna Prasad Bhattarai, to head the new government, which United Left Front has also accepted. His Majesty accepted the suggestion and asked Singh to convey His Majesty's happiness to Bhattarai on his nomination to head the government."

The Congress statement said that Ganesh Man had "repeatedly emphasized the great benefit the country could derive if His Majesty very gracefully accepted the role of real constitutional monarch of a parliamentary democracy. . . . The new government should enjoy His Majesty's complete cooperation and sympathy. His Majesty fully endorsed the idea and expressed his keen desire to meet Singh and Bhattarai, preferably tomorrow, with the list of probable members of the new government."

Immediately following this announcement at Ganesh Man Singh's home in Chhetrapati Bhattarai told reporters there that "heading a government after a revolution is a very, very challenging task. . . . I was not mentally prepared for heading the government after the present revolution. . . . I shall do my best to make the dreams [of those who lost their lives] come true." He pledged to address the economic difficulties from

which the people are suffering and to hold general elections within a year.

Krishna Prasad Bhattarai, known widely as "K.P." and called "Kis-sunji" by closer friends, has been a politician for half a century. He was born in December 1924 when his parents were living in exile in India, received a bachelor's degree from Banaras Hindu University, commanded Nepalese revolutionary forces in the eastern hills in 1950 and became speaker of the first advisory assembly after the revolution in 1951. He was speaker of the lower house of parliament in 1959-60, was imprisoned when King Mahendra seized direct power in December 1960, and spent 14 years in jail. He has been acting president of his party since 1977. He is a bachelor, a man of simple habits who, when not in jail, lived in a small sparsely-furnished room in his nephew's modest house in the Pulchowk area of Patan, never owned a car-nor 36 pairs of shoes or 300 ties. (When he reluctantly moved into the large official residence of Nepal's prime ministers in Baluwatar 11 days after having taken office, the possessions he took with him were reportedly his roll of bedding, his umbrella, an earthen jug, a tin trunk and some books).

First thing in the morning 19 April, the palace announced that the King had accepted Chand's resignation, had appointed Bhattarai prime minister in his place and had allocated portfolios to a cabinet as recommended by Bhattarai. The communique also stated that the new government "will have the responsibility of conducting general elections in the near future." At 11.30 a.m. the King administered the oath of office to his new prime minister, but in a break with precedent, Bhattarai himself administered the oath to his ten ministerial colleagues later on at Singha Durbar. (Most of them began their oath with the traditional words "I swear by God," but two of them, Nilamber Acharaya and Dr. Mathura Prasad Shrestha, swore "by truth and conscience.'). Both oath-taking ceremonies were attended by Ganesh Man Singh, who arrived and departed in a battered jeep flying a large Nepali Congress flag, and other Congress figures at the palace and other ULF leader at Singha Durbar, also most unusual on such occasions, Ganesh Man actually addressed the Singha Durbar ceremony, exhorting the new cabinet to put into practice the spirit of change of the pro-democracy movement.

This first cabinet to include active party politicians since B.P. Koirala's had been abruptly dismissed by King Mahendra in December 1960 was composed of four ministers from the Nepali Congress, three from the United Left Front and two independent intellectuals named by Bhattarai, plus two nominees of the King who had party associations before 1960, one with the Communists and the other with Congress. All were full ministers.

They and their portfolios were:

- (1) Krishna Prasad Bhattarai. Who assigned himself three key portfolios: foreign affairs, defence and palace affairs.
- (2) Mahendra Narayan Nidhi, 68, an old Congress stalwart who was deputy speaker of the 1959-60 parliament, never left the Congress party and is a member of its working committee at the present time. He was given the ministries of water resources and of local development (until now, this was the ministry of panchayat and local development).
- (3) Yog Prasad Upadhaya 63, the first Fulbright scholar to become a minister in Nepal (he studied public administration at American University in Washington), was a government secretary in B.P. Koirala's administration and went into exile for 16 years after King Mahendra's coup; active in Congress councils and now assistant general secretary of Congress. He was entrusted with two of the most important ministries not retained by Bhattarai: home and communications.
- (4) Marsal Julum Shakya, a much younger man than the other Congress ministers and a party youth leader, got two ministries, supplies and works and transport.
- (5) Mrs. Sahana Pradhan, chairman of the ULF, a leader of a major communist faction and widow of Puspa Lal, a prominent founder of the Nepal Communist Party, was given the two ministries of industry and commerce.
- (6) Niiamber Acharya, from the pro-Moscow Communist Party of Nepal, was given three portfolios : tourism, labour and social welfare, and law and justice.
- (7) Jhalanath Khanal, 40, one-time general secretary of the Marxist-Leninist faction of the Communist Party who was underground until the day he became a minister, was given three land-based ministries: agriculture, land reform and management, and forests and soil conservation.
- (8) Dr. Devendra Raj Panday, 50, also educated in the U.S.; secretary of finance in the late 1970s till he resigned in disagreement over massive government expenditure to ensure a pro-panchayat vote in the 1980 referendum; headed an independent research organization; was acting president of the Human Rights Organization of Nepal while its president was in India during the pro-democracy movement. He was given finance.
- (9) Dr. Mathura Prasad Shrestha, like Panday one of the Cabinet's independent intellectuals, a professor of medicine at the Teach-

ing Hospital who played a major role in the doctor's activities during the pro-democracy movement. He took over the health portfolio.

- (10) Dr. Keshar Jung Rayamajhi, 63, was general secretary of the Nepal Communist Party from 1957 to 1960 and had good friends in Moscow; collaborated with the panchayat system from the early 1960s and is a King's nominee in this Cabinet. He got two ministries, general administration and education and culture.
- (11) Achyut Raj Regni, who was given just one portfolio, housing and physical planning, was government minister twice briefly under the panchayat system, for three months in the cabinet formed to supervise the general elections of 1986 and for less than two weeks in the just-dissolved Chand cabinet. He was a Nepali Congressman in the 1950s and is the King's other nominee.

On the eve of his becoming prime minister, Bhattarai spoke to *Rastra Pukar*, the weekly closest to Congress, about his aims. "My first priority will be to provide as much relief as possible to the people. For this, Nepal-India trade relations will have to be improved somehow. My government will give the second priority to holding the general elections. This is essential to have a stable government for improving the condition of the country. To improve the condition of the country means to improve the agricultural sector, for it is not possible to improve the nation's economic condition immediately by establishing industries. We have no raw materials to establish large industries. We are not capable of and do not have the know-how required for operating large industries by importing raw materials from abroad. We have, therefore, to give higher priority to agriculture. . . . My third priority is to increase agricultural production."

He went on to talk about the government machinery. "We know how to run the administration. Those who do not cooperate with us will be taken care of. We hope all those in administration will cooperate with us honestly. . . . Zonal commissioners were appointed for the purpose of working in accordance with the then wishes of the King. They were, therefore, leading a privileged life. But now I know that the King wishes to become a constitutional monarch. His Majesty is gradually taking steps toward that direction. Zonal commissioners will have no place in such situation. We wish to abolish the post of zonal commissioner from the administrative point of view."

He spoke confidently about relations with India. "We have to improve this relationship. This does not mean that Nepal should work in

accordance with India's wishes. Nepal's sovereignty does not face any danger from India. The bogey of dangers to our sovereignty from India has been unnecessarily raised. There is no such danger. . . . Relations between democratic India and democratic Nepal will be good. We are acquainted with most of the members of the Janta Dal''.

His government faced some immediate problems:

- workers at all the Kathmandu Valley factories went on strike on 20 April for higher wages and other improvements. Two leftist government ministers, Nilamber Acharya and Jhalanath Khanal, held discussions with the leftist leaders, and it was agreed a few days later that the problems would be handled through negotiations rather than confrontation and loss of production. The leaders claimed they had tried to meet the labour and social welfare minister of Marich Man's government but this hard-line pancha had refused to see them.
- The concern of businessmen about leftists participating in government had to be addressed. On 22 April, Bhattarai and Ganesh Man Singh said at a reception in honour of the new cabinet hosted by the Federation of Nepalese Chambers of Commerce that the interim government composed of ULF members of high moral character and their own Nepali Congressmen, would give the business community a fair deal.
- Threats to law and order appeared from both impatient ultraleftists and from those still opposed to any multiparty system. The Far Left warned, in an editorial in the left-wing paper *Samalochana* on the 19th, "The people had been pardoning the Congress and the Communists for their weaknesses on the ground that they were engaged in a struggle. But it would be wrong to think that any such shortcomings will now be pardoned. Only the people are responsible for the success of the movement. The leaders had announced the end of the movement when a small demand was fulfilled on April 8 [when parties were legalized]. But the people compelled them to say that the movement was continuing. . . . The new government will also have to face the conspiracies and destructive activities of anti-democratic panchas. If it does not soon announce the dissolution of the panchayat system and declare itself a government of public consensus, the people are sure to come into the streets again."

Disturbing events began taking place in and around Kathmandu. Even before the new government was sworn in, on 17 April about 40 people suddenly arrived at a squatters' settlement on the Patan side of the Bagmati River and set fire to 300 thatched huts. The attackers were total strangers, a woman who lived there told Nepal Television, but residents of a nearby settlement told the Kathmandu correspondent for Reuters that most of the houses which had been destroyed had been built by relatively well-to-do people on public land without proper authorization but with the connivance of influential persons "like Sharad Chandra Shah."

Over the next few days an eerie campaign of telephone calls began. A caller would ring a cluster of homes or shops or both within a very small area of Kathmandu and say that their property was going to be attacked late that night. Some places and people actually were attacked by muggers and arsonist-looters. With few if any police now seen at night, and the public mistrustful of police who had been brutal during the agitation and wondering who but police could know the telephone numbers in any one particular small area, residents began to organize their own protection. Householders rigged up bright lights outside their premises, and groups of young men, armed with wooden poles or lengths of pipe, kept vigil throughout the night, patrolling the streets in parties of two or four and even searching for intruders inside compounds. Vigilance groups kept watch in Dilli Bazar, Asontole, Naya Bazar (on the way to Balaji), Lainchaur, Jyatha, Thamel and many other parts of town night after night. They would stop and inspect strangers who came into their areas and would signal to each other by piercing whistles.

"This action [by thugs] is aimed not only at looting, but also at undermining the new government's efforts to maintain law and order," commented the daily *Samaj* on 23 April. "The government must therefore take a tough attitude toward such actions. As Ganesh Man Singh has said, attempts were made at the time of the 1950 change also to similarly terrorize the people in the name of a Khukuri Dal; he has rightly said that remnant of the Khukuri Dal are still opposed to democracy. . . . Such elements even attacked the then home minister, B.P. Koirala, in 1950. . . all citizens must come forward to ensure the security of their respective localities."

During the night of the 22 April some vigilante groups rounded up and held captive people whom they considered to be acting suspiciously, and next morning "excited mobs" attacked these "*people's prisoners*." According to RSS, five persons were beaten to death in these attacks, and a crowd "took a round of the city" with two dead bodies and six injured

persons placed on a push cart. When they reached the main gates of Singha Durbar, the police intervened and took the dead bodies and the injured into their custody." In addition to this grisly scene, RSS later reported that the bodies of six policemen were found at Teku; the widely accepted explanation of this was that the "policemen" were thought by mob actually to be thugs disguised as police and were beaten to death by the mob. (When the home minister, Yog Prasad Upadhyaya, and the chief of police went to Teku to find out what had been going on, they were gheraoed or surrounded by agitated people and later in the day home minister was taken to the open air theatre by multiparty activists and forced to promise to sack the police chief—which he has not yet done.)

There were more acts of violence on 23 April. The *Statesman's* correspondent reported an incident in Indra Chowk in which three policemen were lynched. RSS said one person was killed in front of Singha Durbar and one at the police office at Hanuman Dhoka "in police actions." The Hanuman Dhoka police station was damaged by fire, and the zonal commissioner's office building at Durbar Marg/Ratna Park was set ablaze and thoroughly gutted. Vehicles were attacked with stones, some set on fire. Sharad Chandra Shah's house had another and more damaging fire. (It was announced on this day that Shah had resigned from his vice-chairmanship of the National Population Commission on the 16th and HMG had accepted his resignation the following day.) Shops and office throughout the city closed down again, police in riot gear were back in some numbers and the army was called out to help them. There were rumours that the Queen had shot—even killed—the King when he refused to sign a cheque she had placed before him, or that his aide had shot and wounded hers or vice versa. A rumour spread by phone calls late that night saying the water supply for Kathmandu and Patan had been poisoned.

What was going on? Was the zonal commissioner's office burned by pro-panchayat thugs or *mandales* in order to destroy record that would incriminate officials? Were the *mandales* trying to start a counter-revolution, creating so much chaos that the army would feel obliged to step in and take control from the multiparty government? The prime minister's explanation that night: "Forces who enjoyed power over the past 30 years were attempting to raise their heads. . . . It is a matter of happiness that the people themselves were aware of such elements and have moved to form vigilante groups at different localities to help the government." The general secretary of the Communist Party of Nepal, Man Mohan Adhikari, issued a much stronger statement with a warning

to the King that he should not even think of trying to revoke parliamentary democracy. If he did so, he would land Nepal in great turmoil with unknown consequences.

Whoever was doing what, the vigilantes were getting tired from their nightly vigils, they were beginning to quarrel amongst themselves, and many other citizens were frightened and they too were not sleeping soundly in their beds at night. Violence had erupted again. "The government has been forced to impose a curfew in Kathmandu from eight o'clock tonight to six o'clock tomorrow morning as the general public was feeling insecure during night-time as a result of the anti-social activities such as arson, looting and gherao by regressive elements," Bhattarai said.

These night curfews were enforced not by the mistrusted police but by the army. They were maintained in Kathmandu to the 9th of May, extended to Patan and Kirtipur on the 25th April and not lifted in Patan till 14 May. Their effect was not merely that residents were forbidden to go out on to the streets. During their longest daily periods, they also meant no night flights could operate in and out of Kathmandu, no night buses or supply trucks could enter Kathmandu early in the morning. The hours of curfew varied during this fortnight. The longest period it was in effect was for 11 hours, from 7.00 p.m. on 24 April till 6.00 a.m. the next day, and the shortest was from 10.00 p.m. to 4.00 a.m. from 7 May onwards.

The situation in Kathmandu looked critical after the violence on 23 April; tension and apprehension were widespread. The American State Department advised U.S. citizens to defer travel to Nepal at the present time due to unsettled security conditions. . . . The situation remains volatile." Home Minister Upadhyaya was quoted by *The Rising Nepal* as saying on the 25th that the law and order situation in the city was "as grave as it could be after a peaceful revolution when the entire government machinery is suspect in the eyes of the public." But he felt that "we have turned the corner" and he said that contributing to this was the press release from the palace that morning which urged all Nepalis to give full support to the government and the success of multiparty democracy.

That evening the prime minister met with the King, and when afterwards he arrived from the palace rather late for an important Nepali Congress Conference, he told his party colleagues that the King had instructed the chief of army staff in his, Bhattarai's, presence that the army should obey the government. The next morning came the statement from the office of the King's principal press secretary, which said in full: "His Majesty the King has been pained by the loss of life and violence

perpetrated in parts of Kathmandu on Monday, 23 April 1990. His Majesty joins all the countrymen in wishing eternal peace to the departed souls.”

“In the political environment obtaining in the country, it should be everybody’s concern to see multiparty democracy succeed. The interests of the country and the people lie in multiparty democracy developing further and strengthening. The government headed by Prime Minister Krishna Prasad Bhattarai should be fully supported in preparing for early general elections. These responsibilities should be conducted in a peaceful law and order situation which is more necessary than ever. His Majesty is confident that all Nepalis will rise to the occasion and extend full cooperation to Prime Minister Krishna Prasad Bhattarai and the council of ministers in the discharge of their duties in the interests of Nepal and the well-being of the Nepalese people.”

On the following day, 26 April, a number of policemen and officers besieged Bir Hospital to protest the alleged refusal of the hospital’s staff to treat injured police personnel on the 23rd and perhaps later. Dr. Mathura Prasad Shrestha, went to the hospital to find out what was going on and then informed the prime minister of a serious situation; the prime minister then asked the army to intervene; and the army came immediately on receiving his request and managed to talk the protesting police into leaving.

On 30 April the chief of police gave an address to police officers in which he said, according to RSS, that “the responsibility of the Nepal Police Force is to maintain law and order in the country, combat crime, serve the public and safeguard life and property in accordance with the constitution of Nepal, HMG policies and directives and existing laws. Whatever the political system is in the country, these responsibilities remain the same.”

Statements by men who had been leaders during the panchayat years may also have helped put an end to violence in the Kathmandu Valley. How much their remarks were in some cases designed to minimize retribution against themselves and how much they were genuinely concerned about the fresh disturbances and ready to cooperate with a multiparty system can be debated. Nevertheless over the following few days the last national panchayat chairman, Navaraj Subedi, and former prime ministers Marich Man Singh Shrestha, Lokendra Bahadur Chand, Surya Bahadur Thapa and Kirtinidhi Bista all spoke up. Subedi said he heartily welcomed the new system “to support without any reservations all correct steps taken by those in power, to maintain law and order and develop

a democratic atmosphere". Marich Man gave a couple of telephoned interviews from wherever he was hiding in which he accepted "the multiparty system announced by His Majesty" and said he believed that "we must cooperate with the present government." The other three ex-premiers issued a joint statement advocating "political cooperation from all sides" and declared "there is no reason why the organized strength of activists of the previous political system cannot be targeted towards peace, security and democracy. . . . The foremost need of the hour is the immediate restoration of peace and security." Thapa, in another statement of his own, spoke of "the people's yearning for change" and said "democratic norms and values should be put into practice. We must accept this change in a natural and positive manner. . . . I heartily welcome the recent political change." Even the hard-line minister of state for home affairs throughout the days and weeks of the pro-democracy movement, Niranjana Thapa, declared "it is everyone's duty to cooperate in the task of nation-building by strengthening multiparty democracy brought in according to the people's wishes."

But there was one more outburst of violence in Nepal before the month was over. In Pokhara fire broke out on the night of 29 April at the Kaski district administrative office. According to RSS the fire brigade took half an hour to arrive and movable property and documents could not be salvaged. Early next morning people began gathering to view the gutted building and demand the immediate arrest of the culprits. A mob formed outside the house of the chief district officer, and RSS reported that local people said the mob began pelting stones at the house after CDO's bodyguard fired his pistol without warning. The police responded to the stone throwing, according to the police, by firing blanks and then, when that had no "calming" effect, they fired with live ammunition on "in self defense." The result of this was that two people died that day and a third was critically wounded.

Whose handiwork was this case of arson? A reporter in Pokhara for a leftist paper, *Nepal Bhumi*, wrote that the president of the dissolved Kaski district panchayat and "other *mandales*" drove to the district building at 9.45 p.m. on the 29th with 15 gallons of petrol. Local citizens captured some of these men and turned them over to the army that night. Next morning when people surrounded the burnt-out building, the CDO ordered the police to fire on them, and he too, plus his bodyguard, were taken captive and handed over to the army. The police in due course arrested two night guards at the district building. No further incidents occurred, and life slowly returned to normal in Pokhara in a few days.

The task of actually dismantling the panchayat system had begun on 27 April, when all panchayats and their related assemblies across the country were declared by HMG to have been dissolved. The announcement from the cabinet secretariat said that the local development ministry would make arrangements about how the work which had been performed by the thousands of village, town and district panchayats would be carried on.

The past character and future existence of other organizations were widely discussed, and they began issuing statements to gain more public support. The Queen's Social Services National Coordination Council issued one on 19 April stating that "money received in grants and donations is used in welfare, service and development-oriented activities, and there has been no misuse of such money. . . . As the council and the coordinating committees (under it) are not implementing agencies in themselves but only play a coordinating role, they channel money received for the programmes to the organizations concerned."

The Pashupati Development Area Trust, which the Queen also headed, put out a similar statement the following day in which it denied any misuse of donations. It also said "there is no provision for providing meeting allowance or other allowances for office bearers and members of the governing council and executive committee," an apparent reference to rumours about how much the Queen and her cohorts received when they called Trust meetings. Another release on the 21 April said the Trust had lifted the restriction imposed on the sale of land and houses within the Pashupati area, and it was no longer required also to get permission for repair and maintenance of houses in the area. On 25 April RSS reported that "HMG has decided to release the land taken over for a bus park in the Pashupati development area as HMG has no need for it", and next day a Trust press release said that "while work is in progress in accordance with the (Trusts) preliminary conceptual master plan, and its presentation to HMG for approval will be done only after detailed consultations with representatives of the local residents. This has been decided in view of the demands put forward by the local residents."

The National Sports Council was the focus of much fierce criticism. There had been numerous reports during the pro-democracy movement that the council had organized sportsmen to join the police in fighting demonstrators. On 26 April a group calling itself the National Sports Council Employees Unity Ad Hoc Committee demanded the dissolution of sports organization. The committee's chairman, Baikuntha Manandhar, Nepal's best marathon man who won a gold medal at the 1985 South

Asia Federation games in Dhaka, told a writer for *The Rising Nepal*, "We have had enough of those who are born with silver spoons in their mouths. All they could give us in return for our efforts was officiladom, red-tapism and a distorted version of bureaucracy". No more nepotism and no more favourism, the committee demanded. The associations under the council that oversee football, boxing, taekwondo and amateur athletics have been especially singled out as in need of drastic change to clear them of anti-multiparty activists.

The sports council issued a statement on 21 April denying that it had been involved in "any acts of vandalism, beating up people and other such activities. . . . The involvement of some players in such destructive and objectionable activities, which has come to light, is very regrettable. . . . The council will take severe action against any players engaged in such activities and action has already been initiated against some players". On 4 May the taekwondo association said it had suspended four of its players, thus disqualifying them from taking part in competition and training programmes for five years, because of their involvement in fighting at Maitidevi (near Dilli Bazar) on 19 April.

April's momentous events manifestly took place in the context of developments in Eastern Europe, Mongolia and a few South American nations towards change to multiparty systems. Some other factors important to the pro-democracy movement's successful overthrow of the panchayat system should also be noted:

- The considerable disaffection amongst professional and business men and women, who now unexpectedly sided with the anti-panchayat politicians and students.
- The fact that anyone with a shortwave radio that could receive FM broadcasts could monitor (and record) police communications between Kathmandu headquarters and units deployed around town, could learn and pass along to pro-democracy activists what orders were going out, where police were being sent, which police units were reporting their inability to cope and demanding-and being refused-reinforcements, when these units were told to open fire or to beat all participants of a demonstration.
- The lack of control over outgoing news to foreign media, with the BBC and VOA effectively informing Nepalis in Nepali, Hindi and English of developments that were not reported by Nepal's government-owned media or the badly crippled independent press.

- China's failure to come to the panchayat government's aid. According to highly placed panchayat establishment officials, "China didn't give us the support we expected. There was no statement this time like the one Marshal Chen Yi made in 1962," when he declared that if the people of Nepal were attacked (by inference, from India), China would come to Nepal's assistance.
- Perhaps even the King's weariness with absolute monarchy. Bhattarai told a Law Society symposium on 3 May that King Birendra had said to him that he, the King, "was fed up with too much power." Too many decisions to have to make? Too many quarrels with his family, too much maneuvering to try to balance political forces? Tired of being badgered by his secretaries and others of the "underground gang". Alarmed at the open criticism, not to say vituperative and sometime obscene comments, now being made about him and his family?
- Impending overt pressure from foreign governments and aid organization. The Swiss had let it be known quietly that their aid would be withdrawn if human rights were not restored. The West German and U.S. governments, had let the Nepalese authorities know their views on the suppression of democratic values. The British "waffled," leaving the matter to the Aid Nepal meeting due in May, when all the Western donors were expected to raise the subject.

Thus did the history of Nepal take a markedly different course during April. Ahead lay the grave difficulties of maintaining that course wisely and well.

Following the recent turn of events in Nepal I also had the good fortune of being sent for by King Birendra once again after seventeen years. I took the opportunity to remind him humbly and respectfully of what I had told him before in private audience and subsequently through the press in public. My submission to His Majesty at this meeting as always was that he should put the political process on track by cooperating with his government to fulfil his grandfather's solemn commitment to the people of Nepal that they shall be free to choose the kind of government and constitution they wish to live under.

Performance of the Interim Coalition Government (19 April 1990 - 26 May 1991)

The interim coalition government led by Mr. Krishna Prasad Bhattarai of the Nepali Congress had set before it three tasks in the following order of priority - 1) the restoration of the *status quo ante* to 1 April 1987 with regard to trade and transit facilities through negotiations with India. 2) the promulgation of a constitution guaranteeing fundamental rights of freedom and the rule of law, parliamentary form of government, constitutional monarchy and independence of the judiciary and 3) the holding of elections by the end of mid-May 1991 at the latest. In spite of difficulties and obstacles inherent in the process of effecting transition to a new constitutional order, the Bhattarai government successfully accomplished the tasks it had set before it. Its critics, however, blamed it for its failure to take advantage of the momentum in the wake of the success of the pro-democracy movement to restructure the entire administrative machinery and change its ethos by taking effective action against those who were responsible for gross dereliction of duties and responsibilities, rampant corruption and other excesses during the 30 year old king-dominated panchayati regime. What appeared to be Bhattarai government's weakness in acquiring a firm grip on the administration during the interim period might have obliquely helped him fulfil the broad objectives of his government without provoking effective resistance from the quarters having vested interests in the previous regime. We shall discuss the performance of the interim coalition government led

by Mr. Bhattarai under the following headings:

- (a) New Directions in Nepal-India Relations
- (b) The 1990 Constitution of Nepal and
- (c) Parliamentary Elections of 12 May 1991

(a) New Directions in Nepal-India Relations

The Joint Communiqué of 10 June 1990

The dawn of a new era of multi-party democracy in Nepal in 1990 understandably raised high hopes among Nepalis and Indians for improved relations between their two countries on both a short-term and a long-term basis. It is up to the newly elected governments of the two countries in consultation with their respective parliaments to lay the foundation for a comprehensive economic relationship between them on a mutually advantageous basis. What could be immediately done to set the relationship between them on track was of course accomplished within two months of the installation in Nepal of the interim coalition government composed of the representatives of both the Nepali Congress and the United Left Front and headed by Mr. Krishan Prasad Bhattarai, the acting president of the Nepali Congress. Mr. Bhattarai visited India as the Prime Minister of Nepal at the invitation of Mr. V.P. Singh, the then Prime Minister of India, from 8 June through 10 June 1990. The joint communiqué issued at the end of this visit was more than a routine formality for several reasons.

First, the communiqué successfully resolved the 15-month-old diplomatic stalemate which had mainly resulted from the lack of even minimal understanding between the government of India and the panchayat government of Nepal, which had utterly failed to appreciate the mood and aspirations of its people. It was not for nothing that at the very beginning of the joint communiqué the then Prime Minister of India has applauded "the success of the movement for democracy in Nepal and the commencement of the process of the establishment of a multi-party system with a constitutional monarchy and with the people of Nepal as the repository of power."

In the context of what had happened in the immediate past, the two leaders referred to the relations between their two peoples rather than to the relations between their two governments and countries and characterised them as "unique, friendly and brotherly." At the same

time they expressed their intention not only to normalise the relations between the two countries but also to “impart to them new dimensions and dynamism and elevate them to ever-increasing levels of credibility.”

Second, the then Prime Ministers of Nepal and India, as was customary on such occasions, reiterated their governments’ adherence to and full respect for the time-honoured principles of international law and behaviour such as those of sovereign equality, territorial integrity, national independence, non-use of force, non-interference in each other’s internal affairs and peaceful settlement of disputes. In addition, Nepal and India agreed to respect fully each other’s security concerns and not to allow activities on their territories prejudicial to the security of the other. There was also an agreement between the two governments to hold prior consultations on such defence-related matters as in the judgement of either posed a threat to its security.

As a matter of fact the existing agreements had already provided for all this, and the joint communique contained nothing new as such. Only what had been traditionally recognised in theory and practice was again reaffirmed to restore mutual trust and remove suspicions that had arisen due to misconceptions.

Third, with regard to trade and transit facilities, the joint communique recorded agreement between the two prime ministers to adopt concrete measures to restore the *status quo ante* to 1 April 1987. This brought a sense of relief not only to those involved in commerce but also to the common people in Nepal, who had been unnecessarily subjected to immense suffering as a result of the shortage of essential goods and the excessive rise in prices.

Nepal was now also able to get more favourable terms from India than before in at least two matters. Nepal was now in a position to export to India free of customs duties and quantitative restrictions all its manufactures containing not less than 65 percent of Nepali or Nepali-Indian raw materials whereas in the past this facility was restricted to manufactures containing 85 percent of such materials. Besides this, the standby credit facility for Nepal was enhanced to Indian Rupees 35 crores from 25 crores.

The two prime ministers’ solemn intention to usher in a new era of cooperation between their countries, particularly in the sphere of industrial and human resources development, for the harnessing of the waters of the trans-border rivers for the benefit of their two peoples, and for the protection and management of the environment, deserved

special notice because of the fact that very little had been done in the past decades to develop the potentialities in all these areas.

The Chandra Shekhar Visit

During the visit of Mr. Chandra Shekhar to Nepal while he was Prime Minister of India, on 13-15 February 1991, it was decided by the two governments to set up a task force at the highest administrative level under the chairmanship of the chief secretary of Nepal and the cabinet secretary of India to explore ways of enhancing all-round cooperation between the two countries with a view to laying the foundation for a comprehensive economic relationship on a mutually advantageous basis. The task force had already had three meetings, the first in Kathmandu on 4 August 1991 and the second in New Delhi on 25 September and the last in Kathmandu in October. It submitted its report to the Indo-Nepal Joint Commission within the time limit of four months originally set for its work.

The Post-Election Political Reality

Now that Nepal has a duly elected Nepali Congress government with a clear majority and the main parliamentary opposition represented by the United Marxist-Leninist Communist Party of Nepal, which was also very much part of the interim coalition government, there should be no insurmountable difficulty in developing the economic relationship between the two countries along the lines advocated in the joint communique of 10 June 1990. The Nepali constitution requires the approval of major treaties by a two-thirds majority in parliament, and the government and the main opposition can easily muster the required majority if they act in concert. A bipartisan approach to major foreign policy issues is pursued by many countries in the world, and it is also desirable for Nepal to evolve as far as possible a tradition of bipartisanship or national consensus in the conduct of foreign policy.

Plea for Reorientation of Bilateral Economic Relationship

The economic relationship between Nepal and India in the past was mostly the result of negotiation with the sole purpose of minimizing losses and maximizing gains for each on an ad hoc basis without due regard for ensuring the long-term benefits for both sides. The resultant

deficiencies of those scattered measures of economic policy over a period of time have reinforced the need for a more comprehensive basis for economic relationship which would optimize the benefits for both sides. The pursuit of a common policy of strengthening ties towards expanded economic cooperation and partnership must, however, take into consideration the disparity between the two countries in their size and general level of economic development.

Paragraph 3 of the letters exchanged at the time of the signing of the 1950 treaty categorically states that "in regard to Article 6 of the Treaty of Peace and Friendship which provided for national treatment, the Government of India recognises that it may be necessary for some-time to come to afford the Nepali nationals in Nepal protection from unrestricted competition. The nature and the extent to the protection will be determined as and when required by mutual agreement between the two governments." However, nothing has been done so far to protect the interests of Nepalis as nationals of a relatively less developed country.

India as a more developed country must not insist on strict reciprocity in every respect while setting comprehensive economic relationship with Nepal on a long-term basis notwithstanding the fact that reciprocity is of the very essence of international trade and diplomacy. From this viewpoint, the following measures suggested by the Indian Foreign Secretary, Mr. Muchkund Dubey, in the course of his intervention in the Indo-Nepal colloquium held in New Delhi on 1-2 July 1990, deserve special notice: 1) Protection for the industry of the economically weaker country for 10-20 years with this being phased out as negotiated and agreed upon. This was generally acceptable internationally. 2) If the agreement went beyond preferential duties to cover fiscal and monetary policies with a bearing on trade, the weaker country should be given certain privileges on fiscal, monetary and exchange rate policies for a certain period of time whereas the more developed country would have to abolish them immediately. 3) One way free trade with restrictions on the more developed country. 4) A comprehensive relationship would include industry, technology transfer, development of service industries etc. The more developed country took an obligation to help the less developed country in industry and in generating the surpluses needed to make preferences meaningful. If industrialisation in Nepal was so low despite the special relationship, part of the blame was with India, which had not taken the necessary responsibility. The Foreign Secretary

cited the examples of special funds created for industrialisation of LDCs like the LAFTA, CARIFTA etc., meant also to generate exportable surpluses. 5) If integrated industries were to be set up, additional units should be in the less developed country, even if factor endowments were not equal.”

Perception on Security and Economic Development

The 1950 Treaty of Peace and Friendship and the letters accompanying it embody the quintessential spirit of understanding between Nepal and India on security and economic development and envisage a close and continuous cooperation between the two governments in co-ordinating their actions and policies in these matters on a mutually advantageous basis. In today's world security is not only a defence related matter but is vitally concerned with economic amelioration and ecological protection. The models furnished by the European Community and the U.S.-Canada relationship may be adopted and adapted with necessary modifications to work out a cooperative framework for comprehensive long-term relationship between Nepal and India. But such an arrangement will undoubtedly call for magnanimity on the part of India as the larger neighbour with a higher level of economic development. India could help Nepal transform their bilateral relationship from dependence to interdependence through half a dozen multi-purpose projects for power, industries, irrigation and water transport. It is high time that mutual suspicion and fruit-less debates give place to positive cooperation in the economic sphere. Given mutual trust, goodwill and understanding there is no reason why a *modus-vivendi* cannot be evolved to enable Nepal and India to undertake such mutually beneficial projects which may have far-reaching implications.

Further, in the context of the changing international relations India might also take the initiative in evolving a bold, well-informed and imaginative policy aimed at turning the whole of South Asia into a region of peace, friendship and cooperation. If the region's vast human and natural resources could only be pooled together and purposefully directed, it would not be difficult to realise the desired end with untold benefit for all concerned. Voluntary cooperation between states in matters of security and development does not necessarily imply subservience on the part of either. Nor does it detract from their respective independence and sovereignty. But latent doubts about an agreement or lurking suspicion concerning anyone of its stipulations, may render

the agreement ineffective at the hour of trial. Therefore the basic understanding between the two countries on matters of security and development must not be taken for granted but must be revitalised from time to time in the light of changes in the regional and global environment. The aim of course should always be one of reinforcing the historic bonds between Nepal and India with an eye to the pressing challenges of the present and the future.

The continued need for close cooperation between the two countries can never be overemphasized. Their interdependence may not be equal in both directions. It may not consist of equal degrees of dependence. But an essential interdependence does exist.

I think the links binding Nepal and India in security matters are and will remain inevitable, logical and legitimate. Even if they loosen themselves under the impact of fast-moving world events, and if one day the entire region of south and central Asia on both sides of the Himalaya transforms itself into a fully demilitarized peace zone with no reason for any soldier to remain anywhere, that will change nothing in the spiritual, cultural, political and economic closeness between Nepal and India and their civilizations. Further, our recent experience has also shown that the development of parallel democratic institutions and the sharing of common values will ensure a better understanding between the two people and governments.

(b) The 1990 Constitution of Nepal

Prelude to the Promulgation of the Constitution

The King, on the recommendation of Prime Minister Krishna Prasad Bhattarai, reconstituted a 9 member Constitution Recommendations Commission under the Chairmanship of Justice Bishwanath Upadhyaya of the Supreme Court on 31 May 1990 following the controversy about the previously announced commission. The members of the Commission were Pradyumna Lal Rajbhandari, Ramananda Prasad Singh, Lakshman Aryal, Mukunda Regmi, Daman Dhungana, Nirmal Lama, Bharat Mohan Adhikari and Madhav Kumar Nepal.

The draft of the constitution duly signed by all members of the Constitution Recommendations Commission was presented to King Birendra on 10 September 1990 by Justice Upadhyaya. On 23 September, the Secretariat of the Council of Ministers issued a statement to the effect that "The Council feels that there is a need for a number

of technical reforms in the draft. The Council will hold serious discussions in this regard and will request His Majesty within a few days to announce the earliest possible date for promulgating the Constitution". On 11 October 1990, Prime Minister K.P. Bhattarai submitted to King Birendra the draft of the new Constitution as finalized by the Council of Ministers. The King's Principal Press Secretariat announced on 15 October that the promulgation of the new Constitution was put off until after the Dipavali (the festival of lights) holidays on the advice of the Prime Minister.

Both the Nepali Congress and United Left Front leaders apprehended the delay in the promulgation of the Constitution by the King as a conspiracy to deprive the people of the gains of the pro-democracy movement. Public meetings were held and press statements were issued to alert the people against the live threat to democracy.

On 21 October 1990, the Royal Palace released a new draft of the Constitution which was said to have been prepared in consultation with the Prime Minister. The draft was fundamentally different in several respects from the draft as finalised by the Council of Ministers. The three leftist members of the Constitution Recommendations Commission met the Prime Minister in the morning the same day and according to the official Nepali language daily newspaper, the *Gorkhapatra*, of 22 October, the Prime Minister told them: "On 20 October I sent for His Majesty's Principal Secretary, Revati Raman Khanal, and told him that I was unable to have the new text endorsed by the Council of Ministers of the Nepali Congress, and that the question of the Nepali people accepting it did not arise. I too cannot accept it because of my political stand and morality".

The Royal Principal Press Secretariat issued a press note expressing surprise at the report that the Prime Minister had offered to resign. The press note, which was carried by the *Gorkhapatra* of 23 October read as follows: "The Royal Palace had no information in this regard. His Majesty had held extensive discussion on the draft Constitution with the Prime Minister who knows all about it. It is very regrettable that certain political circles are trying to create tension between the King and the people. Such an attempt to confuse the people is certainly not in the interest of the nation. Our efforts at this hour must be directed toward finalizing and promulgating the new constitution and holding general elections in time."

In an interview reported in the *Gorkhapatra* of 22 October, Prime Minister Bhattarai had denied that the fresh draft put out by the Palace

was prepared in consultation with him without going into the question of his resignation. He, however, admitted that the Council of Ministers had received the new draft from the Royal Palace and also that the sub-committee consisting of cabinet ministers Dr. Keshar Jang Rayamajhi, Yog Prasad Upadhyaya and Nilambar Acharya had studied it and would present its report to the Council of Ministers on 22 October. The Prime Minister, Krishna Prasad Bhattarai, sought to play down the crisis in his usual light-hearted and subtle manner by telling a Nepal Television correspondent the same day that 'the Royal Palace too has the right to express its view on the new constitution'. Speaking at a function in Dharan in eastern tarai the same day, Prime Minister Bhattarai expressed his firm determination to see to it that the constitution guaranteed multi-party democracy, constitutional monarchy and human and fundamental rights'.

After discussions were held between the King and the Prime Minister, the Royal Principal Press Secretariat published the following press note on 23 October 1990:

"Discussions are being held today also at the Royal Palace on the new constitution between the King and the Prime Minister. Cooperation and restraint are needed from all sides at this moment when efforts are being made to give a final shape to the constitution. Some communication media have falsely reported that the Palace has put forward a separate draft. The fact is that the draft that has been publicized is a proposed draft. It has been circulated after continuous discussions and consultations with the Prime Minister, and the discussions are still continuing. Secrecy in such an important matter as the constitution is not proper. Open circulation and discussion will be in the interest of Nepal and the Nepali people. Full efforts are being made to give a final shape to the constitution and promulgate it soon after the ongoing discussion with the Prime Minister."

The proposed new draft from the Royal Palace provoked hostile reaction from the press and public in general. Open air protest meetings and processions by political parties and professional solidarity groups became the order of the day once again in Kathmandu Valley as earlier in the first week of April 1990. Students' organisations and professional associations were once again active issuing press statements, holding protest meetings and taking out processions. A few scattered discordant notes of warning against the consequences of belittling the traditional prestige and power of the King were completely drowned in the general alarm set off by the almost spontaneous upsurge of activities referred

to above.

Amidst the mounting pressure of popular anxiety and tension, the cabinet prepared the final draft of the new constitution incorporating some of the features, of the 'proposed draft' circulated by the Royal Palace. Prime Minister Bhattarai presented this newly revised text to King Birendra as the final draft of the constitution on 5 November 1990. This almost settled the constitutional crisis which had provided for two weeks a live drama packed with spectacular events and action except for one last minute earnest plea by the top military brass with their Defence Minister and Prime Minister that in their opinion sovereignty should reside in the King. Prime Minister Bhattarai disposed of their plea by telling the military officers that he had already settled the matter with the King and sent them away after offering them cups of tea.

9 November 1990 was set as the date for the promulgation of the constitution and was declared a public holiday throughout the country. King Birendra's proclamation on that day ran as follows:

"In accordance with our tradition of running the administration of the country on the basis of public consent, democracy was established in 1951 through the cooperation of the King and the people. All the political changes that have occurred since then in the course of the development of democracy reflect the people's aspirations and cooperation.

"The individual has an important place in democracy. Democratic feelings and culture develop through the collective interest and aspirations of individuals. In order to enable every individual to take part in the task of national reconstruction in the long march toward national development, the constitution has made explicit provisions for individual freedom and human rights. I believe that the necessary democratic culture will be acquired through the wise exercise of the rights granted by the constitution. I also believe that every Nepali will be able to develop his or her personality within the parameters of an open society, liberal politics and flexible economic system.

"We had formed a Constitution Recommendations Commission to draft a constitution with a view to restoring the multi-party system in Nepal in accordance with the wishes of the people and thereby strengthening democracy in the firm belief that this constitution of the Kingdom of Nepal will serve as the foundation for the development of constitutional monarchy and multi-party democracy in accordance with the aspirations of the entire Nepali people by binding them in

a bond of unity. We hereby promulgate and enact with immediate effect on the recommendation of the Council of Ministers the draft prepared by the Commission as the Constitution of the Kingdom of Nepal, 1990, *in exercise of the constitutional and royal powers and prerogatives inherent in us.* (emphasis added) We also abrogate the 1962 Constitution of Nepal.”

A Good Constitution that Could be Better

The eight-week-long Nepali movement for the restoration of human rights and democracy which culminated in mid-April 1990 fundamentally changed the nature of the Nepali political order. Earlier, the king was regarded as the repository of all executive, legislative and judicial powers. In theory and practice, he was the only source and centre of state authority. This is now history, as the new Constitution of the Kingdom of Nepal, promulgated by the king on 9 November, explicitly states in its preamble that sovereignty resides in the people. It guarantees their fundamental rights to freedom of expression, assembly and association and the right to the rule of law. Article 116 (1) lays down that fundamental rights, multi-party democracy, and constitutional monarchy are to be henceforth regarded as inalienable.

As to the question of popular legitimacy of the Constitution, the fact remains that it was not drawn up by elected representatives of the people, nor by a constituent assembly. The 1990 Constitution is also, technically speaking, a gift of the king to the people. But its redeeming feature is that it can always be amended by the elected representatives of the people.

Two serious questions have been raised: Does the king still retain the right to revoke the present Constitution? Can he declare a state of national emergency and suspend fundamental rights, even if temporarily?

Power To Revoke

To take the first question, the king's explicit reference in his proclamation to the exercise of “the constitutional and royal powers and prerogatives inherent in us” in promulgating the 1990 Constitution with immediate effect does not seem to be inconsistent, as claimed by certain political party leaders, with what is stated in the last paragraph of the preamble of the Constitution itself which runs as follows:

“Now, therefore, keeping in view the desire of the people that the state authority and sovereign powers shall, after the commencement of this Constitution, be exercised in accordance with its provisions, we, King Birendra Bir Bikram Shah Deva, *by virtue of the state authority as having been traditionally exercised by us*, do hereby enact and promulgate the Constitution of the Kingdom of Nepal by and with the advice and consent of the Council of Ministers.” (emphasis added)

Whether the king has permanently given up, at least in theory, his right to revoke the Constitution is thus an open question which can only be answered by the Supreme Court. We can only hope and pray that the king might never feel tempted to do so in future out of his regard for public opinion and morality and thus avoid the occasion for mass political upheaval, which of course does not respect any constitutional niceties.

Emergency Powers

Now to turn to the question whether the king can declare a state of emergency on his own under Article 115. It has been pleaded that he cannot do so except by and with the consent of the Council of Ministers because Article 35 (2) of the Constitution provides that:

“The power of His Majesty under the Constitution *except those which are to be exercised exclusively by him or at his discretion* or on the recommendation of any institution or official, shall be exercised by and with the advice and consent of the Council of Ministers. Such advice and consent should be submitted through the Prime Minister.” (emphasis added)

But the plea is rendered somewhat suspect because the original draft of Article 115 as prepared by the Constitutional Recommendations Commission had explicitly mentioned that the king could declare an emergency only on the recommendation from the Council of Ministers.

Further, Article 43 (2) of the Constitution becomes untenable if we are to put the same construction on it as on Article 115. (Article 43(2) says the king can give advice and or encouragement to, or alert, the Council of Ministers to issues of national importance.)

Article 115 and 43 (2) are both worded similarly without any clear mention of whether the powers are to be exercised exclusively by the king or at his discretion. Using the construction that has been suggested for Article 115, how could the king possibly, in article 43(2), be expected

to act by and with the advice and consent of the Council of Ministers while giving it advice or encouragement?

My contention is that an article dealing with such an important matter as the declaration of emergency should not have left any room for doubt or ambiguity. Moreover, Article 115 leaves the key word "emergency" undefined. The circumstances under which emergency power could be exercised are described vaguely as a "grave emergency". It would have been consistent with international legal standards if an expression such as "grave threat to the life of the nation" had been used to indicate more clearly the severity of circumstances necessitating the use of emergency power.

Discrimination against Sex

Although Article 11 of the Constitution states that the State shall not discriminate against any citizen on the grounds of sex, the Constitution itself discriminates on those very grounds in its definition of citizenship in Article 9. The children of Nepali male citizens are deemed to be citizens of Nepal by descent, whereas children of Nepali female citizens are considered foreigners, and have to reside in Nepal for 15 years before they can become citizens.

Rights To Equality, Supreme Court Jurisdiction

Under Article 11 (2) and (3), the Constitution restricts many of the most fundamental human rights to "citizens". Thus, constitutional protection against discrimination on the grounds of religion, race, gender is enjoyed only by citizens; this restriction is inconsistent with Article 11 (1) which states that no "person" shall be denied equal protection of the laws. Likewise, the right to challenge the constitutionality of laws before the Supreme Court is limited by Article 88 (1) to any "citizen" of Nepal. The term "person" should have been used in place of "citizen" to ensure that all those residing in Nepal enjoy equal protection and equal legal remedies.

Right to Freedom and Press and Publication Rights

The 1990 Constitution limits these rights through a number of provisions that could be used to curtail fundamental freedoms severely. For instance, most of the rights in Articles 12 (Right to Freedom) and 13 (Press and Publication Rights) can be restricted if they "undermine

the sovereignty and integrity of the kingdom” or disturb the “harmonious relations among ethnic groups.” These restrictions should have been narrowly drawn up so as to make the government bear a heavy burden of demonstrating the need for the restriction. The freedoms of expression, assembly, association and the press would have then been better protected. Under the International Covenant on Civil and Political Rights, the right to freedom of expression can only be restricted as necessary for the respect of the rights and reputation of others and for the protection of national security, public order, or public health or morals.

Right against Preventive Detention

The practice of preventive detention has caused the most common abuses of human rights everywhere. The new Constitution has done well by expressly providing protection against it in Article 15. But the protective language leaves much to be desired, as in the case of Article 11 and 12, Article 15 should have defined the grounds for preventive detention narrowly without leaving, as it does, a wide scope for justification of preventive detention as implied in the wording of the article, which requires only “sufficient ground of existence of threat to the sovereignty, tranquility and indivisibility, or public peace and order of Nepal.” More stringent requirements should have been laid down in order to make it difficult for the government to deviate from the regular legal procedures.

Right to Religion

The officially distributed (but “unofficial”) English translation of the Constitution has Article 19 on the right to religion which reads thus:

“Every person shall have the freedom to profess and practice his own religion as coming down to him from the perennial past (sic) having due regard to traditional practices. Provided that no person shall be entitled to convert another person from one religion to another.”

However, the English version of the Constitution is not binding and does not have the same sanctity in Nepali courts as the original Nepali text. The literal rendering of the exceptional clause in the Nepali text in English should have run as follows: “Provided that no person shall cause or compel another individual to change one’s religion.”

Article 19 clearly implied that one can change one's religion at one's free will. The fact of the matter is that there are laws which prohibit religious conversion and which are therefore inconsistent with the spirit of the Constitution as translated above. The very same constitutional stipulation had also existed in the recently revoked Nepali Constitution of 1962 but the courts, including the Supreme Court, were in the past hesitant to declare the existing laws as *ultra vires* of the Constitution. As a result, people responsible for religious conversion and also the converts themselves have been persecuted in Nepal from time to time.

The practice of penalizing conversion is inconsistent with Article 18 of the Universal Declaration of Human Rights which specifically upholds "the rights to freedom . . . of religion; this right includes freedom to change . . . religion.

It remains to be seen whether the courts will declare the existing laws barring conversion *ultra vires* of the Constitution or not. Strangely enough, Article 19 of the Constitution seems to deny, if interpreted in accordance with the terms of the "unofficial" translation, the right to practise the religion of one's own choosing, while leaving one free to follow the religion of one's ancestors.

A Hindu State

An awkwardly phrased Article 4 (1) in Part I of the Constitution has unnecessarily provoked the religious, ethnic and linguistic minorities against Nepal's Hindu majority and Hindu King. The article is self-consciously worded in an attempt to mollify the feeling of the minorities. Actually, it has had the opposite effect, and runs as follows: "Nepal is a multiethnic, multilingual, democratic, independent, sovereign, Hindu monarchical Kingdom." The Nepali version is as awkward as its "unofficial" English version: "Nepal is a . . . Hindu, constitutional monarchical Kingdom." The comma after "Hindu" is significant. As the position of the Hindu King is safeguarded in Article 27 (1) of Part V, which deals with the kingship, there was no reason for calling Nepal a Hindu state in the Part 1, Not only does Article 4 (1) have the effect of rubbing religious minorities the wrong way, it militates against the principle and practice of separation of Religion and the State.

The Constitution of 1990, on the whole, represents a milestone in the evolution of a constitutional order in Nepal. The actual experience of the Nepali people with the Constitution will largely depend on how

it is worked in practice. It is yet to be seen whether the King and the political parties who have so far assumed the entire responsibility for promulgating the Constitution will co-operate with one another in implementing it with care and integrity. The King will still have an important role to play in effecting a smooth transition from unlimited monarchy to limited or constitutional monarchy suited to the needs of intrinsically democratic modernisation.

(c) Parliamentary Elections of 12 May 1991

On 11 February 1991 the Election Commission announced that elections to the 205-member House of Representatives would be held under the new constitution all over the country on Sunday, 12 May 1991. The announcement further stated that the votes would be counted from the next day and the results would be announced within a week. Three bills relating to the elections, namely, the Election Commission (Functions, Duties and Powers) Bill, the House of Representatives (Election of Members) Bill, and the Elections (Offences and Penalties) Bill had received royal assent by mid-February 1991. Elections were held as scheduled on 12 May 1991.

The following chart lists political parties and candidates for Nepal's 1991 parliamentary elections:

Chart A

Political Party or Independent	Nomination Filed	Nomination Invalidated	Withdr- awals	Final Numbers		
				Male	Female	Total
1 The Nepali Congress	205	1	-	193	11	204
2 Communist Party of Nepal (United Marxist-Leninist)	193	1	15	168	9	177
3 The National Democratic Party (Thapa)	170	-	7	154	9	163
4 The National Democratic Party (Chand)	162	1	7	146	8	154
5 United People's Front. Nepal	90	-	21	65	4	69
6 Communist Party of Nepal (Democratic)	84	-	9	66	9	75
7 Nepal Sadbhavana Party	76	-	1	70	5	75
8 Nepal Rastriya Jana Mukti Morcha	53	1	2	47	3	50
9 Nepal Workers & Peasants Party	38	1	7	28	2	30
10 Communist Party of Nepal (Buma)	37	-	2	31	4	35

11 Rastriya Janata Party (H)	33	-	5	27	1	15
12 Janata Dal Socialist Democrat	20	1	4	14	1	15
13 Nepali Communist Party (Amatya)	17	-	2	11	4	15
14 Janawadi Morcha Nepal	16	-	2	13	1	14
15 Rastriya Janata Party (Nepal)	10	-	1	8	1	9
16 Nepal Conservative Party	6	-	-	6	-	6
17 Nepal Rastriya Jana Party	4	-	-	4	-	4
18 Dalit Mazdoor Kissan Party	2	-	1	1	-	1
19 Akhil Nepal Sarva Pakishiya Rajnaitik Ekta Party (Ekta Party)	1	-	1	-	-	1
20 Bahu Jana Janata Dal Anter Anterrastriyatabadi Democratic Party	1	-	-	1	-	1
Sadbhawant Samajbadi Dal	1	-	1	0	0	0
Independents	397	6	172	211	8	219
Total Candidates	1617	13	259	1265	80	1345

The following chart gives election results by political parties:

Chart B

House of Representatives Member Election - 1991 Overall Status

Party & Independent	Total Candidate	Elected Candidate	Total Vote	P.C.of Vote Cast
The Nepali Congress	204	110	2752452	37.75
Communist Party of Nepal (IML)	177	69	2040102	27.98
United Peoples' Front Nepal	70	9	351904	4.83
Nepal Sadbhavana Party	75	6	298610	4.10
The National Democratic Party (Chand)	154	3	478604	6.56
Nepal Workers and Peasants Party	30	2	91335	1.25
Communist Party of Nepal (Democratic)	75	2	177323	2.43
The National Democratic Party (Thapa)	163	1	392499	5.38
Dalit Mazdoor Kissan Party	1	0	92	0.00
Rastriya Janata Party (H)	27	0	4406	0.06
Nepal Communist Party (Amatya)	14	0	4846	0.07
Janawadi Morcha Nepal	14	0	1518	0.02
Communist Party of Nepal (Burma)	36	0	16698	0.23
Bahu Jana Janata Dal	1	0	2012	0.03
Rastriya Janata Party (Nepal)	9	0	4280	0.06
Ekata Party	1	0	94	0.00
Janata Dal (Socialist Democrat)	15	0	5760	0.08
Nepal Conservative Party	6	0	2562	0.04
Nepal Rastriya Janamukti Morcha	50	0	34509	0.47
Independent Candidates	219	3	303723	4.17
Total	1345	205	6969061	95.58
Invalid Votes	-	-	322023	4.42
Total Votes Cast	-	-	7291084	100.00

Source: Final Results published by Nepali Election Commission.

The major differences between the 1981 and the 1986 elections which were also based on direct popular elections to the legislature and the 1991 parliamentary elections are as follows :

First, in 1981 and 1986 also the electoral system used the district administrative units as constituencies allocating each of Nepal's 75 districts either one or two seats depending on population. All of the districts of Nepal's tarai region, have over 100,000 residents while many hill and mountain districts have a very low population. The above seat allocation system in favour of the less populous hill and mountain districts at the cost of the more populous tarai districts thus caused an anomaly in the fair application of the one man one vote principle on an overall basis. The new electoral system followed in 1991, while reducing some of the disparities in the old one, still contained a slight built-in over representation of smaller districts (all of them in the mountain or hill region). Manang with a population of 7,021, Mustang with that of 12,930, Humla with that of 20,303 Dolpo with that of 22,043 and Mugu with that of 30,241 enjoyed an advantage over other constituencies where the average population of parliamentary constituency would vary between 46,000 and 86,149 (Sunsari) and 88,798 (Dang Deukhari).

Second, as compared with the 1981 and the 1986 elections, the 1991 elections were based on organized political platforms, programmes and campaigns because there was no ban on political parties and none of them boycotted the elections (with the exception of a small communist faction of the most extreme leftist elements, who are known as Masal (literally the torch) and have not accepted the 1990 Constitution and have demanded the abolition of monarchy and a new constitution to be drafted by a duly elected constituent assembly). However, there is still a major problem created by a general lack of understanding of what constitutes a political party. In most cases, parties revolve around individuals rather than specific party platforms or programmes. If democracy is to be strengthened in Nepal, greater attention must be paid to party building and organisation.

Third, the 1991 election also differed in one respect from the first general elections held in 1959 with the full participation of political parties. This time elections were held on the same day over the whole country whereas 32 years ago the elections had to be staggered over a period of six weeks because of practical difficulties at the time.

Deficiencies in the conduct of the 1991 Parliamentary Elections

Some of the deficiencies in the conduct of the 1991 parliamentary elections may be briefly noted as follows :

- (1) Voters' lists were not properly prepared. They were not exhibited in the respective parliamentary constituencies or the village panchayat wards as was the case in the past.
- (2) Sufficient time was not provided for the corrections and additions of the names in the voters' list.
- (3) There was delay in the promulgation of the code of conduct to be voluntarily observed by the political parties.
- (4) The Human Rights Organisation of Nepal (HURON), while drawing the attention of the election commission and the government to the above three deficiencies, had also warned the government and the people of Nepal against the politicization of the administrative machinery and the criminalization of politics. Not much heed was paid to its timely warnings about these matters and about the need for the government to form a definite policy regulating the flow of foreign aid and assistance for various activities related to elections.
- (5) The HURON was not opposed to international observation in principle and felt that everyone should be allowed to watch elections freely and form his or her own assessment of the fairness and impartiality of elections but it questioned the motive of international observation committees or commissions and that of the countries of whose elections were under observation only if their intention was to be one of granting and obtaining a certificate of legitimacy or validity. The HURON on its part, without accepting any foreign funds or aid for its election-related work, held public meetings during the election eve in as many as 40 districts of elections officers, administrative and security officers along with the party representatives and candidates and voters emphasizing their collective responsibility for the holding of free and fair elections. Besides, it had also launched an extensive programme for voters' education on a strictly non-partisan basis at the grassroots level through its branches in the different parts of the country.

The HURON'S main plea was that vigilance as normally expected of the people at the election time should be exercised and that would be enough. All said and done, the HURON'S abiding faith in the innate good sense and collective wisdom of the people of Nepal prevailed in the end. The designs of parties with vested interests in the

traditional system to disrupt or disturb the electoral process were frustrated and elections could be held without let or hindrance.

As expected by many, the Nepali Congress managed to obtain a clear majority in the parliamentary elections. But those who thought that the balance of seats would be shared by the various communist parties and the two National Democratic parties containing elements of the old panchayati political leadership were proved wrong by the people. The National Democratic Parties led by the two old time panchayati prime ministers ended up winning only four seats in all. The Chand party won 3 seats and the Thapa party only one. The communist parties' performance in the Kathmandu Valley and elsewhere belied all expectations. Not only Prime Minister Bhattarai had suffered a defeat in Kathmandu constituency 1 but the supreme leader of the Nepali Congress, Ganesh Man Singh's wife and son had also gone down to defeat in Kathmandu constituencies 3 and 4. The communist parties won all the three seats in the Lalitpur district and shared with the Congress one each in the Bhaktapur district. They did better than expected not only in the Kathmandu valley but won a total of 82 seats in the new parliament.

The communist parties fared much better than the Congress in the eastern hill and tarai district constituencies said to be politically more conscious than in the mid-western and far western region of the country. The voters in general proved to be more progressive in their outlook than most political experts as the right represented by the old time panchayat politicians was almost completely wiped out. The message or signal to political parties and their leaders based on the collective wisdom of the people as expressed through the election results was simple and clear. The people have given a clear majority to the Nepali Congress Party thereby enabling it to form its own like-minded homogenous government and have at the same time enabled the communist parties to play the role of an effective opposition by giving them 82 seats in all with the Communist party of Nepal (United Marxist Leninist) cornering 69 seats for itself alone. Thus was the prognosis of many about the probability of a post election coalition government proved wrong by the people as a whole. The bottomline of the message of the voters as a whole is that the political and social forces represented by the Nepali Congress and the communists should cooperate in the future as they had cooperated in the past to strengthen the democratic and electoral process.

However, the election campaign conducted by both the mainstream

parties, the Nepali Congress and the Communists, was mostly on broad and vague ideological terms without any reference to specific programmes suited to the needs of the Nepali people. This was also true of the way in which the foreign policy issues were projected by both sides during the elections. On the whole, the communists succeeded in projecting their image as the parties of the poor and the deprived. In the east they did better than the Congress because they seemed to have a well-oiled machinery and the ordinary voters proved to be more sophisticated than they were generally supposed to be. The old time Kathmandu elites were shown distrust by the people everywhere. The Congress wanted to cash in on their past record whereas the leftists talked more about the present and the future. The generational gap between the top leadership of the two parties was conspicuous. With the exception of its president Mr. Man Mohan Adhikari, the Communist Party of Nepal (United Marxist-Leninist) leadership consisted of persons between 30 and 45 whereas the average age of the top leadership of the Congress was much higher. Elections were not fought on concrete issues as much as on vague notions attributed to the two mainstream parties by their adversaries. The communists were projected by the Congress as the party of atheists and godless persons drawing their inspiration from foreign countries.

The Congress was portrayed by the Communists as the party favoured by the Indians and the Americans and likely to surrender the country's independence and sovereignty to them. The Communists' plea was that the congress wanted a two-thirds majority just for this reason. The Congress, in its turn, focussed on the global failure of communism and sought to project it as the gospel that had failed the people everywhere. Apart from the character and effectiveness of the conduct of the election campaign by both the Congress and the communists, what proved crucial was the fact that the communists had expanded their underground activities by taking advantage of the panchayat regime's favourable attitude towards them as the panchayat governments in succession had regarded the Congress as their enemy number one for a long time.

All said and done, what has emerged from the parliamentary elections is a loosely knit two-party system rather than a multi-party system. From the point of view of the growth and stability of the democratic system, the trend towards the evolution of the two party system must be regarded as healthy and satisfactory. Whether this trend continues through the elections to local self-government bodies scheduled for May 1992 and the next general election is hard to predict.

Formation of the Post-election Government

As it is too early to assess objectively the performance of the post-election government and parliament, just skeletal information about them and their activities, as furnished by Mr. Mahesh Chandra Regmi's *Weekly Nepal Digest*, has been reproduced here.

After all the election results were available, Prime Minister Krishna Prasad Bhattarai accompanied Mr Girija Prasad Koirala to the Royal Palace on 26 May 1991 and presented him as the new leader of the Congress parliamentary party. King Birendra then appointed Mr Koirala prime minister and asked him to submit the list of ministers for inclusion in his council of ministers. It was not until 29 May that Mr Koirala was administered the oath of office and secrecy at a special ceremony at the Royal Palace in Kathmandu. The same day Prime Minister Girija Prasad Koirala administered oath of office and secrecy to fourteen members of his council of ministers.

The new council of ministers comprised 15 members, including the Prime Minister, G.P. Koirala, who held the portfolios of Royal Palace Affairs, Defence, Foreign Affairs, Finance and Health. Other ministers and their portfolios within brackets are as follows : Basudev Risal (Water Resources and Communications), Bal Bahadur Rai (Housing and Physical Planning), Jagannath Acharya (Land Reform and Guthi Management), Sheikh Idris (Labour and Social Welfare), Ram Hari Joshi (Education and Culture and Tourism), Ms. Shailaja Acharya (Agriculture, Forest and Soil Conservation), Sher Bahadur Deupa (Home), Ram Chandra Poudyal (Local Development), Dhundi Raj Shastri (Industry),

Maheshwer Prasad Singh (General Administration), Chirannjibi Wagle (Supplies), Tara Nath Bhat (Justics and Law, and Parliamcentary Affairs), Khum Bahadur Khadka (Works and Transport) and Gopal Man Shrestha (Commerce).

King Birendra summoned the first session of the Parliament at 1 p.m. on 20 June 1991. On 23 June Mr. Daman Dhungana was unanimously elected speaker of the House of Representatives.

National Assembly Elections

On 26 June 60 members of the upper house called the National Assembly were elected or nominated as follows:

(i) Thirty-Five members, including three women, were elected by the House of Representatives according to the system of proportional representation by means of single transferable votes. The three women candidates, namely, Chet Kumari Dahal (Jhapa) and Sushila Sharma (Pyuthan) of the Nepali Congress, and Ashta Laxmi Shakya of the UML, were elected unopposed. (*Gorkhapatra*, June 26). Among the 32 seats for which elections were held on June 26, eighteen were captured by the Nepali Congress. The winners were as follows: Basu Risal, Beni Bahadur Karki, Prem Raj Angdambe, Aishwarya Lal Pradhananga, Lal Kaji Gurung, Nara Hari Acharya, Mahendra Kumar Mishra, Indra Hang Limbu, Bhikhari Mansoor, Dhruva Ram Bhandari, Nilambar Panthi, Dal Singh Kami, Bishwanath Prasad Agrawal, Mahesh Acharya, Shree Ram Shrestha, Khagendra Raj Dhakail, Bir Mani Dhakal, and Bidur Prasad Poudel. One Nepali Congress candidate, namely, Jagadish Shumshere J.B. Rana, was defeated. (*Gorkhapatra*, June 27).

The UML, on the other, hand was able to win only 11 seats. The winners were as follows: Madhav Kumar Nepal, Balram Upadhyaya, Pradip Nepal, Bhikshu Ashwaghosh, Chandra Raj Dhungel, Golchhe Sarki, Dr. Bharat Kumar Pradhan, Prem Bahadur Singh, Jagat Bahadur Bogati, Prem Singh Dhami, and Hari Prasad Pandey. (*Gorkhapatra*, June 27).

Among the remaining three seats, two went to the United People's Front (Ghanashyam Sharma Poudel and Sindhu Nath Pyakurel) and one (Rameswar Ray Yadav) to the Nepal Sadhavan Party. (*Gorkhapatra*, June 27).

(2) The National Assembly also comprised fifteen other members to be elected three per each of the five development regions by an electoral college of the chairman and members of village, town, and district

bodies. Until elections to those local bodies were held, the electoral college comprised members of the House of Representatives representing the concerned development region according to the 1990 Constitution. (Nepal) Rajapatra, November 9, 1990).

Candidates from the Eastern Region, the Mid-Western Region and the Far-Western Region were elected unopposed. They were Subhash Chandra Nemwang (Ilam) and Satya Narayan Mandal (Saptari) of the UML, and Dilli Prasad Sitaula (Jhapa) of the Nepali Congress from the Eastern Region, Khadga Bikram Shah (Bardiya) and Dilli Keshar Khanal (Surkhet) of the Nepali Congress, and Mahesh Chaudhari (Dang) of the UML, from the Mid-Western region, and Durg Dutta Joshi (Baitadi), Janak Bahdur Karmacharya (Kailali), and Suresh Malla (Bajhang) of the Nepali Congress from the Far-Western Region. (*Gorkhapatra*, June 25).

Dilip Kumar Shahi (Chitwan) and Baburam Nakarmi (Sindhupalchowk) were elected from the Central Region as nominees of the Nepali Congress, and Gopal Shakya (Kathmandu) of the UML. Laxmi Das Manandhar (Kathmandu), an independent candidate, was defeated. (*Gorkhapatra*, June 27). From the Western Region, the winners were Diwakar Man Sherchan (Mustang), Captain Nar Bahadur Gurung (Tanahu), and Khem Narayan Foujdar (Nawalparasi) of the Nepali Congress. The UML candidate, Siddhi Nath Gnyawali (Gulmi) was defeated. (*Gorkhapatra*, June 27).

According to Hridayesh Tripathi, MP, the Nepal Sadbhavana Party had boycotted the elections to the National Assembly from development regions because it considered the division of the Kingdom into five development regions and fourteen zones, made during the Panchayat period, as unscientific and unpractical. (*Hindu*, June 27).

(3) His Majesty nominated the following ten members to the National Assembly on June 27 on the advice of the Prime Minister in accordance with the 1990 Constitution : Krishna Prasad Ghimire (Kathmandu), Uddhav Dev Bhatta (Baitadi), Dr. Laxmi Narayan Prasad (Rautahat), Dr. Yugeshwar Verma (Mahottari), Hari Prasad Poudyal (Lalitpur), Purna Kumar Sharma (Panchthar), Hem Bahadur Karki (Syangja), Amod Prasad Upadhaya (Morang), Baburam Rana (Rupandehi), and Rukma Shumshere J.B.R. (Parsa). (*Gorkhapatra*, June 28).

Speech from the Throne

On July 1, His Majesty addressed a joint session of the House of Representatives and the National Assembly. The main points contained in

the royal address are given below:

“In accordance with the will and aspirations of the people, we had proclaimed the Constitution of the Kingdom of Nepal, incorporating such basic features as multi-party democracy, constitutional monarchy, sovereignty of the people, and guarantee of fundamental rights. It is a pleasure to have the opportunity to address for the first time the members of both houses of the newly-constituted Parliament following general elections on the basis of adult franchise under this Constitution. On this momentous occasion, we express our sincere wishes for the success of the parliamentary system. It is now our common responsibility to preserve and develop the democracy brought about by the will and aspiration of the people. But only when the fruits of economic development reach the poor and the destitute will democracy thrive and be lasting. The rural people, who should have been the real beneficiaries of economic development, have remained backward and deprived of social justice. If multi-party democracy is to be made just and meaningful, it is imperative that a national consensus is evolved in this regard. People fortunate enough to enjoy facilities and services, however meagre, should not clamour for an increase in and extension of their own amenities. They should rather goad the government toward investing the national wealth and resources for the benefit of the less fortunate and scarcity-affected people.

“My government’s programme will be governed by this egalitarian attitude and commitment to social justice. Its policy and programmes will be aimed not only at the optimum growth of national production, but also at equitable distribution. The policy of increased national investment in the rural sector will be pursued. Priority will be accorded to the policy and programme of increasing productive employment opportunities with a view to eliminating poverty and providing drinking water, education, health, and transport services to the rural population. My government will take concrete steps towards price stabilization with a view to providing relief to the common people. To that end, along with reforms in the fiscal and monetary policies, the private sector will be encouraged to ensure regular supply of consumer goods as well as development and construction materials. My government will lay emphasis on greater revenue mobilization by making the revenue administration simple, clean and efficient. It will set a tradition of accepting external assistance only in projects which provide direct benefit to the people in terms of employment, investments, and results, in accordance with our national priorities. Ongoing development projects will be

reviewed in the light of these criteria. The past 32 years have witnessed a growing administrative machinery which is beyond the capacity of the economy to sustain. The existing administrative structure will, therefore, be reviewed, and redundant agencies closed down. My government will constitute a Pay Commission to submit suggestions based on an analysis of the country's existing economy and current pay-scales.

“My government will initiate action aimed at abolishing dual ownership of the land. Programmes to ensure the tiller's rights over *Guthi* lands will be formulated without prejudice to the *Guthi* functions. With regard to large hydro-electric projects, dialogue with friendly countries and international agencies will continue.

“My government will extend cooperation to the private sector and promote an atmosphere conducive to investment. Necessary policy measures will be initiated with a view to privatizing sick industrial and commercial public - sector establishments or inviting private - sector participation in their management. Airline services will be made competitive, and necessary incentives will be provided to the private sector with a view to extending air services and facilities to additional areas in the country.

“The objective of Nepal's foreign policy will be preservation of the nation's independence and sovereignty and promotion of national self-respect and interests, keeping in mind my government's commitment to democracy and human rights. My government will pursue the policy of peace and friendship with all countries of the world, support for the United Nations, and adherence to the ideals inherent in its Charter. It will consolidate the strong bonds of friendship and mutual trust with our neighbours, India and China. Nepal will continue the policy of expanding regional cooperation and understanding among the countries of South Asia. It will play an effective role at the United Nations on such questions as controlling the conventional arms race, saving mankind from the scourge of nuclear weapons, seeking peaceful settlement of international disputes, and preserving fundamental human rights. My government expresses its gratitude to all friendly countries and international organizations for their cooperation in Nepal's economic development. It hopes that in the open multi-party democratic set-up, more liberal cooperation will be forthcoming.” (*Gorkhapatra* and *Rising Nepal*, July 2).

Motion of Thanks

Mahendra Narayan Nidhi (NC) tabled a motion of thanks for the royal

address on July 3. Man Mohan Adhikari (UML), leader of the opposition, tabled an amendment to the motion. He regretted that the address was silent on the multi-religious, multi-lingual and multi-cultural character of the nation, and demanded that Nepal be declared a secular state. He also demanded that local development committees be allowed to function as autonomous bodies, and comprise representatives of all political parties on a proportional basis until elections were held. Other demands made by Man Mohan Adhikari were as follows: "Separate commissions with the representation of all political parties should be formed for land reform, and industry and commerce. There should be a Foreign Affairs Committee in the House. Political and economic offenders should be punished. The House should be allowed to discuss the Mallik Commission report, politicization of the administration, problem of civil servants, price control, and other problems." (*Gorkhapatra*, July 4).

The debate on the royal address began in the House on July 4, and in the National Assembly, the next day. (*Gorkhapatra*, July 5-6).

Editorial Comments

Editorial comment on the royal address was generally negative. In the words of the *Samai* (July 3), "The people find nothing in the address that may make them feel that there is anything new in it compared with the panchayat system. Their hopes that there will be a marked transition from the partyless system to the multi-party system have been belied." The *Samalochane* (July 3) maintained that the royal address was merely a rehash of the policies, processes and modes of the Panchayat system, and thus nothing but old wine in new bottles.

The *Nepali Patra* (July 5) felt that the royal address contained no satisfactory solutions to the urgent problems of the people. In the opinion of the *Saptahik Nepali Awaj* (July 5), it contained nothing but meaningless programmes and had not been able to rid itself of the traditional Panchayat style. *Dristi* (July 3): "The royal address naturally contains the same policies as the election manifesto of the Nepali Congress, but for the people the proof of the pudding lies in eating. Many things mentioned in the address are new and correspond to the nation's needs, but one wonders how they will be actually implemented, since the administration is still of the Panchayat pattern."

Hindu (July 3) "Although the royal address expresses concern for the poor people of the villages, and refrains from making tall promises, it does not give the impression that the Panchayat system has come to an

end. It covers everything, and people fear that it will end up with achieving nothing.”

The *Rastra Pukar* (July 4), on the other hand, commended the royal address for having presented a realistic picture of the nation's economy and assigning priorities on the basis of the election manifesto of the Nepali Congress. The paper stressed the need for reforming the administration and improving law and order situation in order to implement the programmes mentioned in the royal address. According to the *Saptahik Bimarsha* (July 5), there was much that could be commended in the royal address, even though it was silent on the role of the people's movement in the establishment of democracy and the contributions made by the interim government in framing the new Constitution and holding general elections.

The National Assembly

On June 30, Beni Bahadur Karki, a Nepali Congress candidate, was elected unopposed as Chairman of the National Assembly. (*Gorkhapatra*, July 1). Aishwarya Lal Pradhananga (NC) was similarly elected unopposed as Vice-Chairman on July 4. (*Gorkhapatra*, July 5).

The House of Representatives

On June 30, Mahantha Thakur (Nepali Congress) was elected as Deputy Speaker of the House of Representatives. His name was proposed by Govind Raj Joshi and seconded by the Minister of Education and Culture, and Tourism, Ram Hari Joshi. A total of 187 votes were cast, among which Mahantha Thakur polled 111 votes, and his UML rival, Saleem Miya Ansari, 65 votes. Eleven members abstained. (*Gorkhapatra*, July 1).

Earlier, a resolution nominating Salim Miya Ansari (UML) for the post was presented by the Leader of the Opposition, Man Mohan Adhikari, and seconded by Jhala Nath Khanal. Both of them referred to the convention followed in South Asian countries, as well as in western countries, of having the ruling party nominate the Speaker, and the Opposition the Deputy Speaker. Man Mohan Adhikari complained that the ruling party had cold-shouldered opposition's proposal for such a consensus. (*Gorkhapatra*, July 1). Govind. Raj Joshi (Nepali Congress), while proposing the name of Mahantha Thakur for the post, however, maintained that the people had given clear mandates for the ruling side

and the opposition. He denied that there had been any understanding with the opposition regarding the post of Deputy Speaker or that any talks had been initiated in this regard. (*Gorkhapatra*, July 1). The resolution was put to the votes, and defeated. A total of 66 votes were cast in its favour, whereas 111 members voted against it. Fifteen members were absent, and eleven members abstained. (*Gorkhapatra*, July 1). Lilamani Pokharel, leader of the UPF Group, abstained from voting on both resolutions. Members representing the Nepal Sadbhavana Party and the National Democratic Party (Chand) remained absent. Representatives of the Nepal Communist Party (Democratic) supported the UML candidate, while the National Democratic Party (Thapa) member supported the Nepali Congress candidate. (*Gorkhapatra*, July 1).

Dilli Bahaudur Mahat of the Nepal Workers' and Peasants' Party was yet another candidate for the post of Deputy Speaker. His name had been proposed by Amik Sherchen and Kamal Prasad Chaulagain, both of the United People's Front. (*Gorkhapatra*, June 30). The nomination was later withdrawn. (*Samalochana*, July 1).

The Language Problem

On June 30, Rameshwar Ray Yadav (Nepal Sadbhavana Party) began to speak in Hindi at the National Assembly. However, Basudev Risal, Minister of Water Resource and Communications, objected. The Chairman, Beni Bahadur Karki, ruled that the proceedings of the National Assembly should be conducted in the Nepali language according to the rules. (*Gorkhapatra*, July 1).

On July 4 Dr. Ram Baran Yadav, Govind Raj Joshi and Gopalji Jung Shah, all members of the NC, raised a point of order in the House when Hridayesh Tripathi of the Nepal Sadhbavana Party started speaking in Hindi. Dr. Ram Baran Yadav, in particular, maintained that Hindi was not spoken in the villages of Nepal. He said, "It would have been better had Hridayesh Tripathi spoken in his own mother tongue, Maithili." (*Gorkhapatra* July 5). The issue came up again in the House on July 5 when Shyam Prasad Gupta (Sadbhavana) started speaking in Hindi. Bhim Bahadur Shrestha (NCP-Democratic) objected, and the Deputy Speaker, Mahantha Thakur, ruled that Shyam Prasad Gupta should try to speak in Nepali. He did so, but relapsed into Hindi. Shyam Prasad Gupta then promised to try to be able to speak in Nepali within three or four years. (*Gorkhapatra*, July 6).

Expansion of Council of Ministers

On the recommendation of the Prime Minister, His Majesty appointed Ram Baran Yadav, MP (Dhanusha), and Mahesh Acharaya (NC nominee in the National Assembly) as Ministers of State for Health and Finance respectively. (*Gorkhapatra*, July 6).

The New Budget

The Minister of State for Finance, Mahesh Acharya, presented the budget estimates for the fiscal year 1991-92 before a joint session of the Parliament on July 11. (*Gorkhapatra*, July 12). The highlights were as follows:

	1989-90 (Actual)	1990-91 (Revised Estimate)	In Million Rs. 1991-92 (Estimate)
Expenditure			
General	6,671.8	7,927.9	9,745.9
Development	12,997.5	16,550.9	16,895.0
Total	19,669.3	24,478.8	26,640.9
Receipts			
Revenue	9,287.5	10,698.2	12,557.1
Foreign Aid (Grants)	1,975.3	2,394.7	3,511.4
Total	11,262.8	13,092.9	16,068.5
Deficit	8,406.5	11,385.9	10,572.4

The deficit of Rs. 10,572.4 million during 1991-92 was proposed to be met through external loans (Rs. 8,317.0 Million) and internal loans (Rs. 2,082.2 million).

Basic Principles and Objectives

“The basic principle of this budget is to strive to take the fruits of economic development to the poor and destitute rural population with a development strategy based on people’s participation. The government’s development efforts will focus on programmes that steadily reduce the abject poverty. To achieve this objective, the government will give

priority to primary education, primary health care, potable water supply, rural transportation, and environmental conservation, as well as income and employment-generating activities in the agriculture and small cottage industry sectors. Accordingly the budget seeks to involve the masses in the mainstream of national development and deliver the gains of development to the poor, mitigate the economic hardships of the common people, make the economy further dynamic and liberal through restraints in the growth of unproductive expenditures, maintain a rational balance between development investment and administrative expenses, and enhance the mobilization of domestic resources through simple, efficient and improved revenue administration.”

The budget aimed at increasing the gross national product (GNP) by 4.6 percent including 3.5 percent in the agricultural sector, 20 percent in the industrial sector, and 4.3 percent in other sectors.

The General Budget

The allocation for His Majesty and the royal family was increased by 14.9 percent from Rs. 42.2 million to Rs. 48.5 million, and for constitutional organs (including His Majesty and the royal family) by 7.4 percent from Rs. 193.2 million to Rs.207.6 million. The allocation for the general administration (including the police) was increased by 33.3 percent from Rs. 1161.0 million to Rs. 1549.7 million. The police budget went up by 32.5 percent from Rs.875 million to Rs. 1159.8 million.

The defence budget was increased by 25.8 percent from Rs. 1136.1 million to Rs. 1429.7 million.

The Development Budget

The development budget of Rs. 16,895 million included the following: Agriculture : Rs, 1,649.5 million; Irrigation : Rs. 1,707.6 million; and Social services : Rs.5,275.9 million. “So far, 32 percent of the development budget has been spent on salaries and allowances; only 40 percent is used for capital formation”.

Impact of Devaluation

With the objective of mitigating the adverse impact of the recent devaluations of the Nepali rupee, import duties on spices cooking oil, soap, biscuits, construction materials and toys, were reduced or abol-

ished. The custom surcharge on consumer goods imported from the Tibet Region of China was reduced by 50 percent. The basic duty on industrial raw materials was reduced by 25 percent. However, excise duties on cigarettes and alcohol were raised. The minimum rate of income tax on income above the prescribed limit (Rs. 20,000 for an individual, Rs. 30,000 for a couple or family, and none for partnership firms, private limited companies, cooperatives, and non-resident tax-payers) was reduced to 10 percent on the first Rs.10,000; 20 percent, 30 percent, and 40 percent for each additional Rs. 20,000, and 50 percent on higher amounts.

Democratic Socialism and the Private Sector

“Democratic socialism has a mixed economy as its economic framework. But, even in this economic system, the private sector has to play the lead role in market-oriented and competitive economic activities, while the government provides basic services and takes economic initiatives aimed at improving the economic condition of the poor and the deprived people. We are equally sensitive to the potential weaknesses of the market system, and, in particular, to its tendency to bypass the backward and resource-poor population. Hence, the government machinery will be geared mainly for the benefit of the poor and underprivileged, and for their assimilation into the mainstream of development after making them productive. The role and activities of the government will thus be redefined, and we will reject the narrow concept of the government being the prime mover of development. Worldwide experience has shown that the private sector plays a key role in economic development and even those who believed in a centrally-planned economy are now becoming increasingly market-oriented.

The Policy of Privatization

“HMG has invested Rs. 4,000 million as equity capital and Rs.8,000 million as loans for 64 public enterprises. In 1990-91, these enterprises paid Rs. 12.4 million as dividend, or 0.31 percent of the equity investment. By 1989-90, as many as 27 among those 64 enterprises had suffered losses totalling Rs.796.9 million. It is accordingly felt that the government’s role in industrial and other enterprises should be decreased gradually. Three public enterprises and five state agricultural farms will be transferred to the private sector during 1991-92.”

Other Highlights

- (1) 70 percent of the development budget of Rs. 16,895 million was allocated for the rural sector.
- (2) A one-third subsidy on the interest on loans not exceeding Rs. 10,000, supplied during 1991-92 under the Small Farmers Development Programme, the Intensive Banking Program, and the Rural Women' Development Programme.
- (3) An 80 percent subsidy on the interest on loans not exceeding Rs.2,500 supplied during 1991-92 for income-oriented occupations in the rural sector, such as woollen spinning, handicrafts and embroidery.
- (4) A subsidy of Rs.7,000 against the capital investment in bio-gas plants of not more than 20 cc. capacity in the rural sector.
- (5) School education was made free up to Class V.

Criticism of the Budget in a Nutshell

The budget for 1991-92 as presented by the elected government and passed by the lower house of the Nepali parliament after the walkout of the communist opposition from the floor shows a remarkable increase in expenditure on the army and the police as compared with the 1990-91 budget of the interim government led by Mr. Krishna Prasad Bhattarai. Furthermore the new budget does not substantiate the loudly professed claim of the Nepali Congress government that it has set apart seventy per cent of the budget for expenditure on programmes and projects intended for amelioration of the conditions of poverty in rural areas. The only plea that may be put forward on behalf the elected government is that it had hardly had two months for preparing the budget. But the fact remains that something could have been done to give a new look to the budget even during the time at the disposal of the new government.

Visit of the Prime Minister of Nepal to India and after

Mr. Girija Prasad Koirala paid a state visit to India from 5-10 December 1991 as the second elected Nepali Congress prime minister of Nepal. It may be recalled here that 32 years ago his better known elder brother B.P. Koirala, had also been on a similar visit to India as the first popularly elected Nepali Congress prime minister of Nepal. The signing of the memorandum of understanding between the governments of Nepal and India for setting up the Bishweshwar Prasad Koirala India-Nepal Foundation is a fitting recognition of the valuable services rendered by him to the cause of democracy in both the countries and will also serve for ever as a reminder of Prime Minister G.P. Koirala's visit to India.

The visit had to be slightly delayed because of the understandable delay by the Indian side to agree formally to acceptance of the new prime minister's nominee, Mr. Chakra Bastola, as Nepal's Ambassador to India. The withdrawal of the criminal charges of involvement in the plane hijacking incident of June 1973 against Mr. Bastola pending in the cases before the court in Bihar naturally took some time. This delay caused by the rather crude and unsophisticated handling of Mr. Bastola's agreement primarily by Nepal gave rise to all kinds of press speculations. And the manner in which the agreement was cleared just on the eve of Prime Minister Girija Prasad Koirala's state visit to India also lent strength to the validity of some of the press and public concerns regarding the agreement of Mr. Bastola.

Some of the gains of Prime Minister Girija Prasad Koirala's state

visit to India may be summed up as follows. Two separate trade and transit treaties were signed for 5 years and 7 years respectively, as was accomplished to the satisfaction of Nepal for the first time in 1978 when the Janata Party government was in office with Mr. Morarji Desai as the Prime Minister. There has also been a new agreement for co-operation in controlling unauthorised trade with a validity of five years.

In respect of trade and transit, the procedures for some of the transactions have been simplified and liberalised. For example, in the past the formality required for the completion of the Pro Forma Invoice (PFI) transaction was cumbersome and involved a delay of at least seven or eight months normally and in exceptional circumstances of almost two years. The PFI process had to start with the Industry Ministry of the government of Nepal (GON) which provided information about all the material contents and their percentage for exports to India to the Commerce Ministry of the GON which in its turn forwarded these PFI's to the Royal Nepali Embassy in India. The Royal Nepali Embassy forwarded the PFI to the Commerce Ministry of the government of India (GOI) which in its turn would forward it to all concerned departments until the revenue department of GOI put out a notification giving entitlements to the products under consideration. Now under the new procedure GON can deal with the Indian Embassy in Kathmandu directly and the completion of the process of PFI's and the obtaining of notification giving entitlements can be effected within 60 days. The validity of Pro Forma Invoice is to be for two years initially but the holders of PFI's can before their expiry reapply for the extension of their validity for another two years. In the matter of transit, the Nepali party is now enabled to take both copies of the Transit Declaration Certificate (TDC) along to the port authorities in Calcutta without having to send one of the copies through the Ministry of the GOI in Delhi which involved unnecessary delay.

Further Prime Minister Girija Prasad Koirala has created a favourable atmosphere for private Indian investment and joint Indo-Nepal ventures in Nepal by assuring a dinner meeting organised in his honour by the apex Indian commerce and industries bodies such as the Federation of Indian Chambers of Commerce and Industries, Associated Chamber of Commerce and Industries and the PHD Chamber of Commerce and Industries that he would personally attend to their problems if they had any with regard to their investment in Nepal.

Above all, Prime Minister G.P. Koirala unlike his predecessors in office has gained the goodwill and confidence of the Government of India by refusing to buy time on deciding on the preparation and implementation of a number of major multipurpose water-resource development projects on the basis of bilateral cooperation.

On the minus side, Prime Minister G.P. Koirala's adversaries at home have found his statement that there would be no arms purchase from China in future uncalled for. Further especially in view of Nepal's recent vote in favour of the U.N. resolution asking for a nuclear arms free zone in South Asia, Mr. G.P. Koirala's changed stand on the question has been interpreted as a sell-out to India by his critics at home and a great achievement for India by some of the highly regarded India columnists and publicists, Prime Minister G.P. Koirala's courageous and imaginative stand on evolving a long term mutually advantageous economic relationship between Nepal and India will largely succeed or fail by the quality of political judgment and leadership that he will demonstrate in handling a number of other many challenging problems that confront the fledgling democracy in Nepal. As it is too early to assess the outcome of his new policy towards India, the full text of the joint press statement, the memorandum of understanding on cooperation in the field of agriculture and the memorandum of understanding for setting up of the Bishweshwar Prasad Koirala India-Nepal Foundation is given below with a view to enabling the readers to form their own judgement on the subject in due course as the new policy will be implemented in practice.

VISIT OF PRIME MINISTER OF NEPAL TO INDIA JOINT PRESS STATEMENT : DECEMBER 6, 1991

His Excellency Mr Girija Prasad Koirala, Prime Minister of Nepal, is paying a State visit to India from December 5-10, 1991 at the invitation of Shri P.V. Narasimha Rao, Prime Minister of India. The Prime Minister of Nepal is accompanied by His Excellency Mr. Maheshwar Prasad Singh, Minister for General Administration, His Excellency Mr. Gopal Man Shreshta, Minister for Commerce, His Excellency Dr. Mahesh Prasad Acharya, Minister in-waiting and Minister of State for Finance, His Excellency Dr. Ram Sharan Mahat, Vice-Chairman, National Planning Commission and by senior officials of His Majesty's Government of Nepal. He was also accompanied by his daughter, Ms. Sujata Koirala.

The visit of His Excellency the Prime Minister of Nepal was preceded

by the second meeting of the Indo-Nepal Joint Commission on December 4, 1991. The Joint Commission meeting was chaired on the Indian side by Shri Madhavsingh Solanki, Minister of External Affairs of India and on the Nepalese side by H.E. Mr. Maheshwar Prasad Singh, representing His Excellency Prime Minister G.P. Koirala, who is also the Foreign Minister of Nepal. The Joint Commission meeting had been preceded by three meetings of the Indo-Nepal High Level Task Force, with the mandate of preparing a comprehensive programme of bilateral cooperation between Nepal and India for mutual benefit. The recommendations of the High Task Force were submitted to and considered by the Joint Commission, which in turn reported to the two Prime Ministers.

During his visit, H.E. Prime Minister G.P. Koirala called on the President of India, Shri R Venkataraman, and on the Vice-President of India, Shri S.D. Sharma. He visited Rajghat and Shantivan and paid homage to the memory of Mahatma Gandhi and Pandit Jawaharlal Nehru. He had two meetings with the Prime Minister of India. The Indian and Nepalese delegations, led by the two Prime Ministers, also met for detailed discussions on issues of common interest.

All these discussions were held in an atmosphere of the utmost warmth, friendship and sincerity, which have been the hallmarks of the uniquely close traditional relationship between the two countries and peoples. In the course of these meetings, as also the earlier discussions at the Joint Commission level, a number of key decisions were taken with a view to deepening and expanding mutually beneficial cooperation between Nepal and India. These decisions were taken in a spirit of deep friendship, marked by mutual trust and confidence, and were imbued by the shared desire to usher in a new era in bilateral cooperation in a wide variety of fields which would bring direct and substantial benefits to the peoples of both countries.

Trade, Transit and Cooperation in Controlling Unauthorised Trade:

A new Indo-Nepal Treaty of Trade has been concluded, valid for five years and renewable for the same period. It will enter into force from today, December 6, 1991. Besides the elements included in the earlier Trade Treaty and the additional tariff concessions provided in June, 1990, several new facilities and concessions for Nepalese exports to India have been incorporated in the Treaty. These include:

- Reduction of Nepalese/Nepalese-Indian content requirement for duty and quota-free entry of Nepalese manufacturing goods to India from 65% to 55%.
- Time-bound pro forma clearance for such Nepalese exports to India, through the Indian Embassy in Kathmandu, as sought by HMGN, with a four month time-limit.
- Validity period for such pro forma clearance increased from 2 years as at present to 5 years, thus easing procedures substantially for Nepalese exporters.
- Agreement in principle to include Nepalese labour content in the 55% requirement for duty/quota free entry, subject to a negative list of products being worked out by the two Governments.

A new Indo-Nepal Treaty of Transit has been concluded, with a validity of 7 years. Besides the provisions of the earlier Transit Treaty, this also includes various simplifications in customs and other procedures to help Nepalese importers and exporters.

An new agreement for cooperation in controlling, unauthorised trade has been concluded with a validity of 5 years. Both sides are committed to cooperating fully to control this growing scourge which seriously affects the Indian economy.

Water Resources Development

In this key area, which has the maximum potential for revolutionising bilateral cooperation, a number of decisions concerning the Karnali, Pancheswar and Saptakoshi hydel/multi-purpose projects, medium size projects like the Burhi Gandaki flood forecasting and flood protection schemes, power exchange, etc. have been reached. These should help usher in a new era in beneficial mutual cooperation in this sector.

The Government of India will also undertake investigations of the road connecting the Tanakpur barrage to the East-West highway at Mahendranagar. In response to a request from the Nepalese side, as a goodwill gesture, India will provide 10 million units of free power initially every year. India will also undertake supply of water from the Tanakpur barrage in accordance with the agreement reached during the discussions. India will also undertake the immediate construction of the left afflux bund of the Tanakpur barrage, to prevent any inundation of Nepalese territory when the barrage is commissioned.

A Memorandum of Understanding for Cooperation in Agriculture between Nepal and India has been concluded. It covers cooperation

in agricultural science and technology, research, processing of cash crops, agro-based industries, etc. A Joint Working Group will be set up within the framework of this Memorandum which will prepare concrete programmes for such cooperation. These programmes will be aimed at promoting rural development and rural employment in Nepal.

In homage to the memory of the great Nepalese patriot, freedom fighter and statesman, the late Bishweshwar Prasad Koirala, both countries have decided to establish the Bishweshwar Prasad Koirala India Nepal Foundation. A Memorandum of Understanding for this purpose has also been concluded. The Foundation will work, with the active support of both Governments, to promote not merely educational and cultural exchanges but also cooperation in science and technology, agriculture and other development oriented fields. The Government of India will contribute a sum of Rs.2 crores to the Trust Fund for the Foundation and His Majesty's Government of Nepal will make a matching contribution.

To promote cooperation in industrial development, special encouragement will be given for the setting up of the Indo-Nepal joint ventures. For this purpose, access to the Indian market, free of basic customs duties and quantitative restrictions will be provided automatically for all products of such joint ventures which are cleared by the two Governments. The Government of India will also allow movement of capital for such approved joint ventures as per the terms agreed upon. Emphasis will be given in this regard to setting up sugar, paper and cement industries.

As requested by HMGN, a number of new Indian aid projects in Nepal will also be taken up by India. These include a BP Memorial Medical College in Biratnagar, a telephone exchange at Rangeli, construction of the Biratnagar-Jhapa road and the Chatara-Birpur road and the renovation of the Jayanagar-Janakpur-Bizalpur railway line. The Indian side referred to its proposal for broad-gauging the existing railway line up to Raxaul. It agreed to consider investigating extending a broad-gauge line to a suitable point in Nepal ex-Raxaul. The Government of India will also send an experts team from the Ali India Institute of Medical Sciences in New Delhi, to look into the details of a BP Koirala Ophthalmic Institute in Kathmandu and prepare a project report for this.

The two Governments also undertook to promote cooperation in civil aviation and tourism and have identified several concrete steps

to this end.

December 6, 1991

**MEMORANDUM OF UNDERSTANDING ON COOPERATION
IN THE FIELD OF AGRICULTURE BETWEEN HIS MAJESTY'S
GOVERNMENT OF NEPAL AND THE GOVERNMENT OF
THE REPUBLIC OF INDIA**

His Majesty's Government of Nepal, represented herein by the Ministry of Agriculture, Ministry of Industry and Ministry of Commerce and the Government of the Republic of India, represented herein by the Ministry of Agriculture, the Ministry of Food and the Ministry of Food Processing Industries thereafter referred to as the "Contracting Parties"

In pursuance of the decision taken at the second meeting of the Indo-Nepal Joint Commission held in New Delhi on 4-5th December, 1991

Desiring to enhance the existing friendly relations between the two countries through development of cooperation in the fields of agricultural science and technology, agricultural production and agro-processing; and

Recognising the advantages to be derived by their respective peoples from the promotion of such cooperation;

Have agreed as follows:-

ARTICLE-I

The Contracting Parties shall promote development of cooperation in agricultural science and technology, agricultural production and agro-processing between the two countries through joint activities and exchanges.

ARTICLE-II

These joint activities will be determined by the Contracting Parties and implemented through mutually agreed procedures.

Such joint activities may include the areas of production and processing of food and cash crops; multiple cropping systems; soil conservation and water management; fruit and vegetable development; horticulture; agro-forestry; apiculture; sericulture; fodder development; livestock improvement; dairy development; development of animal health services;

aquaculture; sugarcane cultivation and sugar technology; agricultural cooperatives; promotion of joint ventures in agri-business and such other fields as may be mutually agreed upon by both parties.

ARTICLE-III

The Contracting Parties shall promote cooperation through short and medium-term programmes within the framework of the joint activities mentioned in Article-II. Biennial Work Plans will be drawn up by mutual agreement between the two parties to give effect to the objectives of this MOU.

ARTICLE-IV

A Joint Agriculture Working Group shall be formed to provide guidance, review the progress of activities and to facilitate cooperation under this Memorandum. The Joint Working Group shall meet once every year alternately in Nepal and India.

Each Contracting Party shall designate an Executive Secretary who shall be responsible for coordinating and monitoring all activities carried out under the auspices of this Memorandum. The Executive Secretaries shall be permanent members of the Joint Working Group.

During the interim periods between the meetings of the Joint Working Group, the Executive Secretaries will either meet in person or correspond with each other to develop a work programme and coordinate administrative details.

The Joint Working Group shall report to the Indo-Nepal Sub-Commission on Economic and Industrial Cooperation.

ARTICLE-V

To generate broad interest, this Memorandum authorises the involvement of other interested government agencies, the scientific and business communities as well as the private sectors of both countries in such cooperation.

The Contracting Parties shall encourage and facilities direct contacts between these groups to work towards long-term cooperation in agricultural research, extension and training and the identification of potential joint ventures in agri-business.

ARTICLE-VI

Cooperation will also be effected between the Nepal Agricultural Research Council and the Indian Council of Agricultural Research through the exchange of materials and information, the exchange of scientists and trainees, the joint publication and exchange of studies and papers, and such other means as may be mutually agreed upon.

ARTICLE-VII

The sending Party will bear the costs of air transport and the receiving Party will provide local hospitality for persons deputed under co-operation programmes pursuant to this Memorandum. Activities pursuant to this Memorandum are subject to the availability of resources and to the respective laws and regulations of the Contracting Parties.

ARTICLE-VIII

Under this memorandum, the designated coordinating authorities will be the Ministry of Agriculture for His Majesty's Government of Nepal and the Ministry of Agriculture for the Government of the Republic of India.

ARTICLE-IX

This Memorandum shall not in any way affect the commitments of the Contracting Parties under existing bilateral agreements between the two countries.

ARTICLE-X

This Memorandum shall enter into force upon signature and shall remain in force for a period of ten (10) years, unless terminated earlier by either Contracting Party upon six (6) months prior written notice to the other Contracting Party.

Amendments and extensions of this Memorandum may be made at any time by mutual consent and through written arrangements between the Contracting Parties.

Notwithstanding the termination of this Memorandum the activities already in progress shall continue until completed.

IN WITNESS WHERE OF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum.

Done at New Delhi on the 6th day of December 1991, in two originals.

(BINDESHWARI PRASAD SINHA)
SECRETARY
MINISTRY OF AGRICULTURE

For His Majesty's Government
of Nepal

(R.C. KAPILA)
SECRETARY TO GOVT. OF INDIA
DEPARTMENT OF AGRICULTURE
AND COOPERATION

For the Government of the Republic
of India

Memorandum of Understanding between His Majesty's Government of Nepal and the Government of the Republic of India for setting up of the Bishweshwar Prasad Koirala India-Nepal Foundation

His Majesty's Government of Nepal and the Government of India:

Desiring to promote further mutual understanding and cooperation between the peoples of India and Nepal by a wider sharing of knowledge and professional talents through academic and technical exchanges and contacts,

Have agreed to conclude this Memorandum of Understanding for the setting up of the Bishweshwar Prasad Koirala India-Nepal Foundation (hereinafter called the Memorandum).

ARTICLE I

There shall be established a Foundation, to be known as the Bishweshwar Prasad Koirala India-Nepal Foundation, with the objective of fostering educational, cultural, scientific and technical cooperation between Nepal and India. This Foundation shall function under the terms of the present Memorandum and shall implement a programme aimed at achieving the above mentioned goals.

ARTICLE II

The Foundation shall be financed through revenues from a Trust Fund. This Trust Fund shall be set up principally through grants made available by HMG and the GOI. It may however also accept contributions from other agencies, both public and private.

ARTICLE III

The revenues from the Trust Fund, within the conditions and limitations hereinafter set forth, shall be used by the Foundation for the purpose of :

- (1) financing higher studies, researches and other educational activities and in service training for citizens of Nepal at institutions of learning located in India, and vice versa.
- (2) financing visits and exchanges between India and Nepal of scholars, poets, writers, journalists, artists, and of teachers, instructors, professors and other professionals both in the general field of education and in the fields of agriculture, public health, science and technology and such other fields as may be mutually agreed upon by the two Governments.
- (3) financing other related programmes and activities such as seminars, symposia, colloquia, workshops, etc. on subjects of common interest.
- (4) extending financial support to non-Governmental organisations, both in Nepal in India, whose work helps achieve the objectives of the Foundation.
- (5) contributing towards the publication of standard works in the field of Nepalese history and culture.
- (6) encouraging the translation of standard works of Nepalese literature into Indian languages and vice-versa and arranging for their publication.
- (7) adopting any other measures which may be considered necessary for the fulfillment of the objectives of the Foundation.

ARTICLE IV

The following shall be the thrust areas for the activities to be carried out by the Foundation:

- Education and Culture
- Agriculture Research
- Health
- Technical training
- Developmental Studies
- Women's Studies
- Area Studies

ARTICLE V

In furtherance of the aforementioned purposes, the Foundation may, subject to the provisions of the present Memorandum, exercise all the powers necessary for carrying out the purposes of the present Memorandum including the following:

- (1) Receive funds
- (2) Open and operate bank accounts in the name of the Foundation.

- (3) Disburse funds and make grants and advance of funds, including payment for transportation, tuition, maintenance and other expenses incidental thereto.
- (4) Plan, adapt, carry out programmes in accordance with the purposes of the present Memorandum.
- (5) Recommend/nominate to the Universities/Colleges in India, and to institutions run by the Government of India, trainees, professors, research scholars, teachers and professionals resident in Nepal for various programmes/courses in India, and vice versa.
- (6) Provide for periodic audit of the accounts of the Foundation by auditors selected by HMG and the GOI.

ARTICLE VI

All commitments, obligations and expenditures by the Foundation shall be made pursuant to an annual budget to be approved by HMG and the GOI.

ARTICLE VII

The Management and direction of the affairs of the Foundation shall be vested in a Board of Directors consisting of 10 Directors (hereinafter designated as "the Board"). The Ambassador of India to Nepal and the Royal Nepalese Ambassador to India shall be the Co-Chairpersons of the Board. HMG and the GOI shall each nominate four other members of the Board. Respective Embassy officials designated by the concerned Ambassadors shall act jointly as Secretaries of the Foundation.

ARTICLE VIII

The Board shall adopt such by-laws and appoint such committees as it shall deem necessary for the conduct of the affairs of the Foundation.

ARTICLE IX

A report on the activities of the Foundation shall be prepared annually by the Board and presented to the Government of India and His Majesty's Government of Nepal.

ARTICLE X

The Co-Chairpersons of the Board shall be responsible for the

direction and supervision of the Board's programmes and activities in accordance with the Board's resolutions and directives and the provisions of this Memorandum.

ARTICLE XI

Meetings of the Board shall be held twice a year alternately in Kathmandu and New Delhi.

ARTICLE XII

Wherever, in the present memorandum, the terms HMG and the GOI are used, it shall be understood to mean the Foreign Secretaries of the two Governments.

ARTICLE XIII

The present Memorandum may be amended by the exchange of diplomatic notes between the Governments of India and His Majesty's Government of Nepal.

ARTICLE XIV

The Government of India and His Majesty's Government of Nepal shall make every effort to facilitate the exchange of persons and programmes provided for in this Memorandum and to resolve problems which may arise in the operation thereof through bilateral discussions.

ARTICLE XV

The present Memorandum shall come into force upon the date of signature.

IN WITNESS WHERE OF the undersigned, being duly authorised thereto by their respective Governments, have signed the present Memorandum of Understanding.

Done at New Delhi, in duplicate, on the Sixth day of December, 1991.

(J.N. DIXIT)
FOREIGN SECRETARY
On behalf of the
Government of the
Republic of India

(N.B. SHAH)
FOREIGN SECRETARY
On behalf of
His Majesty's
Government of Nepal

The 1991 SAARC Summit

The SAARC narrowly escaped being burnt up in a bilateral friction and managed to hold its one-day summit meeting in Colombo on 21 December 1991. Although it proved to be a modest affair as compared with the previous SAARC summits, Prime Minister G.P. Koirala of Nepal took part in it along with all other heads of government or states. Mr Koirala, while affirming Nepal's commitment to the principles and purposes of the SAARC, pointed out in his general statement that the future of Democracy everywhere in the region was contingent upon the amelioration of economic conditions and the alleviation of poverty. He also pleaded that the relatively more developed member countries should sympathetically consider the problems of the less developed ones and make due allowance for them in the new scheme of things if regional economic cooperation were to be set on a sound and stable basis.

The consensus among the SAARC states on the question of human rights was that they should not be viewed in narrow and exclusively political terms. The leaders felt that civil and political rights on the one hand, and economic and social rights on the other, were inter-dependent and of equal importance. They also agreed to work together closely to eradicate terrorism and were of the opinion that cooperation among all countries was vital if terrorism was to be prevented and eliminated from the region. It was left to the discretion of the leaders and their foreign ministers to find such a solution to the question of representation at the summit as might avoid in future the kind of situation that had led to the collapse of the summit meeting in November 1991, when the Bhutanese King declared his inability to attend it.

The more tangible features of the Colombo Declaration may be listed as follows : 1) an independent South Asian Commission on Poverty Alleviation composed of eminent personalities from member states to be set up ; 2) an inter-governmental group to be formed to formulate and seek agreement on an institutional framework under which specific measures for trade liberalization could be taken up for consideration along with the proposal put forward by Sri Lanka to establish a SAARC Preferential Trade Agreement by 1997 ; 3) a committee to be set up to examine the recommendations of the regional study on the causes and consequences of natural disaster and protection and preservation of the environment, to identify measures for immediate action and decide on modalities for their implementation ; and 4) the

SAARC Secretary-general to set up a panel of experts to examine the proposal of the king of Bhutan, Jigme Singye Wangchuk, to establish a South Asian Development Fund. All these features reflect a common tendency to hold off effective action on specific measures because of the lack of common political will and the lack of mutual understanding among the SAARC leaders.

Major Cabinet Reshuffle in Nepal

The end of the year 1991 witnessed a rather sudden and dramatic cabinet reshuffle by Prime Minister Girija Prasad Koirala allegedly even without consultation with his senior party colleagues, Mr. Ganesh Man Singh, the supreme leader of the Nepali Congress and Mr. Krishna Prasad Bhattarai, the party's acting president. Six full-fledged cabinet ministers, Messrs Basudev Risal, Shekh Idris, Tara Nath Bhat, Dhundi Raj Shastri, Chiranjibi Wagle, and Gopal Man Shrestha, were dropped without prior notice. Some of them actually learnt from their bodyguards and chauffeurs in the evening of 30 December 1991 that, according to the latest news on Radio Nepal, they had ceased to hold office.

According to a press communique issued by His Majesty's Principal Press Secretariat on 30 December 1991, King Birendra, on the advice of the Prime Minister, had reconstituted the council of ministers, which had been formed on 29 May 1991 under the prime-ministership of Mr. Girija Prasad Koirala, and allotted portfolios as follows :

Cabinet Ministers

Portfolios

- | | |
|-------------------------------|---|
| 1. Mr. Girija Prasad Koirala | Prime Minister, Defence,
Palace and Foreign Affairs. |
| 2. Mr. Bal Bahadur Rai | Housing and Physical Planning |
| 3. Mr. Jagannath Acharya | Land Reform and Management |
| 4. Mr. Ram Hari Joshi | Tourism |
| 5. Miss. Shailaja Acharya | Agriculture |
| 6. Mr. Sher Bahadur Deupa | Home |
| 7. Mr. Ram Chandra Paudyal | Local Development |
| 8. Mr. Maheshwar Prasad Singh | General Administration, Justice,
Law and Parliamentary Affairs |
| 9. Mr. Khum Bahadur Khadka | Works and Transport |
| 10. Mr. Govinda Raj Joshi | Education, Culture and Social
Welfare. |

Ministers of State

- | | |
|-----------------------------------|------------------------|
| 1. Mr. Rambaran Yadav | Health |
| 2. Mr. Mahesh Acharya | Finance |
| 3. Mr. Aishwarya Lal Pradhananger | Commerce and Supplies |
| 4. Mr. Ramkrishna Tamrakar | Industry and Labour |
| 5. Mr. Birmani Dhakal | Forest and Environment |
| 6. Mr. Bijaya Kumar Gacchedar | Communication |
| 7. Mr. Lakshman Ghimire | Water Resources |

Assistant Ministers

- | | |
|----------------------------------|---|
| 1. Mr. Siddhi Raj Ojha | Land Reform and Management |
| 2. Mr. Dina Bandhu Aryal | General Administration, Law,
Justice and Parliamentary
Affairs. |
| 3. Mr. Shiva Raj Joshi | Works and Transport |
| 4. Mr. Surendra Prasad Chaudhuri | Commerce, Supplies. |
| 5. Mr. Hasta Bahadur Malla | Education, Culture and
Social Welfare |
| 6. Mr. Dilendra Prasad Wadu | Housing and Physical Planning |
| 7. Mr. Diwakar Man Sherchand | Industry and Labour |

The newly formed 24 - member council of ministers consists of three tiers and is said to be almost entirely composed of Prime Minister Girija Prasad Koirala's followers in the Nepali Congress Party. Though Mr. Koirala himself had never foreclosed the possibility of the expansion of the council of ministers and a change in the personnel and portfolios, people had expected him to leave the boat unrocked until after the annual session of the Nepali Congress, which would be held at Jhapa on 13-15 February 1992 for the election of a permanent president after a lapse of 30 years.

Open differences between Mr. Ganesh Man Singh and Prime Minister Koirala concerning the appointment of ambassadors and other high ranking officials had only last summer made the Nepali Congress supremo publicly demand the Prime Minister's resignation on the charge of favouritism and nepotism. Mr Singh had actually undertaken to resign from the party and retire from politics for good if Koirala did not resign. At a hurriedly convened working committee meeting of the Nepali Congress in mid-September, Mr. Bhattarai played the role of

a peacemaker between his two colleagues and apparently succeeded in persuading Mr. Singh to withdraw his threat of leaving the party by making influential members of the working committee sentimentally plead with him. Mr. Bhattarai publicly declared at the end of the meeting that Mr. Singh's services were indispensable to the party as he was the party's Field Marshal, and it would not let him doff his Field Marshal's uniform as long as he was alive.

The Prime Minister himself was said to have kept quiet throughout the meeting nor did he make any public statement after the meeting. However it is alleged that at a private meeting of the triumvirate, *i.e.*, the three top leaders of the Nepali Congress, Mr. Koirala had undertaken to do nothing to hurt the feelings of the party's supremo in future.

Mr. Bhattarai's efforts had not been adequate to calm Mr Singh's perturbed feelings fully, for Mr. Singh continued to air his grievances against the Prime Minister. The recent expansion of the council of ministers and the ham-handed removal of even some working committee members of the party from the cabinet without prior notice to them and even without consultation with the other two senior leaders of the party, understandably added to the intensity of Mr. Singh's attacks on the Prime Minister for his high handedness and arbitrary style of functioning, in addition to his nepotism in favour of close relatives and other Brahmins. Mr. Bhattarai, while conceding that it is the prime minister's prerogative to choose his cabinet, has, however, tended to blame Prime Minister Koirala for acting without due regard for the sentiments and sensitiveness of his erstwhile cabinet colleagues in reshuffling the cabinet and thus laying himself vulnerable to attack from the party. The Prime Minister belatedly tried to protect his flanks by telling the press and writing to his summarily dismissed cabinet colleagues that he was grateful to them for their valuable cooperation as members of his government and had dropped them from the cabinet in the hope and belief that their services were badly needed in the party.

At the time of writing it is not clear whether the Prime Minister's cabinet changes are a determined challenge to his adversaries in the party for a trial of strength in the forthcoming convention of the Congress in mid-February. If the Prime Minister feels confident of the support of the parliamentary wing of the party as a whole (excluding his aggrieved cabinet colleagues whom he has summarily dismissed), he might also make a bid for the presidentship of the party as his elder brother B.P. Koirala had done before and after the 1959 general elections

and renege on his earlier profession of the 'one man, one post' principle. However, if he will have reasons to doubt that he may not have the full and unstinted support of the parliamentary wing of the party, Prime Minister Koirala himself might choose to nominate Mr. Bhattarai as a candidate for the presidentship of the party, and get him elected at all costs, as is being already mooted in a section of the Nepali press. As all the three leaders of the party and its members in parliament will have to lose whatever share each of them has had in the spoils, they might in the end prove to be less than willing to break up the party. But in that case the administration will go on in the same inefficient and sluggish manner as over the past seven months and may in due course be overwhelmed by rising prices, rampant educated unemployment and growing unrest among youths and students, who, as in the past, are likely to spearhead an anti-government popular movement, which would be joined by all the political opposition.

As of now, forces seem to have been drawn in array for a decisive fight between the supporters of the Prime Minister on the one hand and those of Mr. Ganesh Man Singh and Mr. Krishna Prasad Bhattarai on the other, as the annual session of a Nepali Congress approaches with Mr Bhattaria slowly relenting in his criticism of the Prime Minister. As the party's organization is not well structured and efficient, whichever side has a greater hold on the parliamentary wing of the party will come out victorious in the end. It is to be seen whether the forthcoming annual session of the congress is going to turn itself into an arena for an open battle between the two adversarial forces or whether Mr. Bhattarai at the last minute will outdo even his epical namesake Krishna as a peacemaker by preventing the rival forces inside the Nepali Congress from plunging into Armageddon at Jhapa. Infighting and petty squabbling within the party will continue to hamper the smooth and effective functioning of the government unless one and the same person takes charge of both the party and the government under the existing political conditions in Nepal.

Epilogue

The future of democracy in Nepal will largely depend on the success of its people and leaders to bridge the gap between the country as constituted by law and the country as a reality. Nepal has apparently wrenched off the roof of tradition, but the fact remains that tradition always dies hard. It has to be seen whether we the Nepali people will learn to survive in the open air. "There is enormous disparity" as Carlos Fuentes points out in his novel, *The Campaign*, "between the revolutionary texts, the ideas and the reality, the acts, what has actually happened" in Nepal as in Latin America.

The problem is that this euphoric spell of freedom brought about by breaking the chains of tyranny and tradition may only prove to be ephemeral, and age-old historical conditions and deeply ingrained habits of thought and mind may prompt these societies to one day move in reverse.

All these new democracies are extremely fragile. They are faced with inflation and unemployment, a fall in buying power and an increase in poverty. Democracy cannot take firm root in Nepal unless it can succeed in tackling these problems in a satisfactory manner.

Appendices

APPENDIX I
TREATY OF TRANSIT
BETWEEN
HIS MAJESTY'S GOVERNMENT OF NEPAL
AND
THE GOVERNMENT OF INDIA

His Majesty's Government of Nepal and the Government of India (hereinafter also referred to as the Contracting Parties),

Animated by the desire to maintain, develop and strengthen the existing friendly relations and co-operation between the two countries,

Recognising that Nepal as a land-locked country needs access to and from the sea to promote its international trade,

And recognising the need to facilitate the traffic in transit through their territories,

Have resolved to conclude a Treaty of Transit, and

Have for this purpose appointed as their plenipotentiaries the following persons namely,

Shri Gopal Man Shrestha
Minister of Commerce
for His Majesty's Government
of Nepal.

Shri P. Chidambaram
Minister of State for Commerce
for the Government of India

Who, having exchanged their full powers, and found them good and in due form, have agreed as follows :

ARTICLE I

The Contracting Parties shall accord to "traffic in transit" freedom of transit across their respective territories through routes mutually agreed upon. No distinction shall be made which is based on flag of vessels, the places of origin, departure, entry, exit, destination, ownership of goods or vessels.

ARTICLE II

- (a) Each Contracting Party shall have the right to take all indispensable measures to ensure that such freedom, accorded by it on its territory does not in any way infringe its legitimate interests of any kind.
- (b) Nothing in this Treaty shall prevent either Contracting Party from taking any measures which may be necessary for the protection of its essential security interests.

ARTICLE III

The term "traffic in transit" means the passage of goods including unaccompanied baggage across the territory of a Contracting Party when the passage is a portion of a complete journey which begins or terminates within the territory of the other Contracting Party. The transshipment, warehousing, breaking bulk and change in the mode of transport of such goods as well as the assembly, dis-assembly or re-assembly of machinery and bulky goods shall not render the passage of goods outside the definition of "traffic in transit" provided any such operation is undertaken solely for the convenience of transportation. Nothing in this Article shall be construed as imposing an obligation on either Contracting Party to establish or permit the establishment of permanent facilities on its territory for such assembly, dis-assembly, or re-assembly.

ARTICLE IV

Traffic in transit shall be exempt from customs duties and from all transit duties or other charges except reasonable charges for transportation and such other charges as are commensurate with the costs of services rendered in respect of such transit.

ARTICLE V

For convenience of traffic in transit the Contracting Parties agree

to provide at point or points of entry or exit, on such terms as may be mutually agreed upon and subject to their relevant laws and regulations prevailing in either country, warehouses or sheds, for the storage of traffic in transit awaiting customs clearance before onward transmission.

ARTICLE VI

Traffic in transit shall be subject to the procedure laid down in the Protocol hereto annexed and as modified by mutual agreement. Except in cases of failure to comply with the procedure prescribed, such traffic in transit shall not be subject to avoidable delays or restrictions.

ARTICLE VII

In order to enjoy the freedom of the high seas, merchant ships sailing under flag of Nepal shall be accorded, subject to Indian laws and regulations, treatment no less favourable than that accorded to ships of any other foreign country in respect of matters relating to navigation, entry into and departure from the ports, use of ports and harbour facilities, as well as loading and unloading dues, taxes and other levies, except that the provisions of this Article shall not extend to coastal trade.

ARTICLE VIII

Notwithstanding the foregoing provisions, either Contracting Party may maintain or introduce such measures or restrictions as are necessary for the purpose of :

- (i) protecting public morals;
- (ii) protecting human, animal and plant life;
- (iii) safeguarding national treasures;
- (iv) safeguarding the implementation of laws relating to the import and export of gold and silver bullion; and
- (v) safeguarding such other interests as may be mutually agreed upon.

ARTICLE IX

Nothing in this Treaty shall prevent either Contracting Party from taking any measures which may be necessary in pursuance of general international conventions, whether already in existence or concluded

hereafter, to which it is a party relating to transit, export or import of particular kinds of articles such as narcotics and psychotropic substances or in pursuance of general conventions intended to prevent infringement of industrial, literary or artistic property or relating to false marks, false indications of origin or other methods of unfair competition.

ARTICLE X

In order to facilitate effective and harmonious implementation of this Treaty the Contracting Parties shall consult each other regularly.

ARTICLE XI

This Treaty shall come into force on the 6th December 1991 and shall remain in force for a period of seven years. It may be renewed for further periods of seven years by mutual consent, subject to such modifications as may be agreed upon.

Done in duplicate in Nepali, Hindi and English languages, all the texts being equally authentic, at New Delhi on the 6th December 1991. In case of doubt, the English text will prevail.

(Gopal Man Shrestha)
Minister of Commerce
for His Majesty's
Government of Nepal

(P. Chidambaram)
Minister of State for Commerce
for the Government of India

PROTOCOL TO THE TREATY OF TRANSIT BETWEEN NEPAL AND INDIA

I. With Reference to Article V

1. The following warehouses, sheds and open space, or such other warehouses, sheds and open space as the Trustees of the Port of Calcutta may offer in lieu thereof, shall be made available for the storage of transit cargo (other than hazardous goods) meant for transit to and from Nepal through India in accordance with the procedure contained in the Memorandum to the Protocol.

(I) *Covered Accommodation*

- | | |
|--|---|
| A' Shed Kidderpore Docks - (including 'A' Annex) | - Covering approximately 3135 sq. metres. |
| Shed No. 25, Kidderpore | - Covering approximately 4425 sq. metres. |
| Calcutta Jetty Shed No. 8 | - Ground Floor. |

(II) *Open Space*

- | | |
|--|--|
| Open land at Circular Garden Reach Road | - Covering approximately 4332 sq. metres. |
| Residential cum office land space at Haldia | - Covering approximately 2000.00 sq. metres. |
| Open land space at Haldia Dock interior zone | - Covering approximately 6985.00 sq. metres. |

2. The above storage facilities shall be given on lease by the Trustees of the Port of Calcutta (hereinafter referred to as the Trustees) to an undertaking incorporated in accordance with the relevant India laws and designated by His Majesty's Government of Nepal for this purpose (hereinafter referred to as the Lessee).

3. The terms of the leases to be entered into between the Trustees and "Lessee" shall conform to "Long-term Lease-Godown" and "Commercial Lease-land-long term" of the Trustees. The leases will be for twenty-five years.
4. Kidderpore Docks berth No. 25 shall be assigned by Calcutta Port Trust as a preferential berth to the lessee on commercial terms as applicable from time to time to Shipping Lines of India, if such a lease is finalised within six months of the signing of the Treaty. If, however, this option is not exercised within this period, charter vessels carrying traffic in transit of Nepal may be assigned to 25 K.P.D. berth on a priority basis, to the extent possible.
5. The lease rent shall be determined in accordance with the Schedules of Rent Charges as determined by the Trustees-in-meeting from time to time.
6. The transit cargo shall be subject to the levy of all charges by the Trustees in accordance with their Schedule of Charges in force from time to time.
7. The lessee would be permitted to own/or operate a number of trucks and barges in the Port Area in connection with the storage of cargo in transit in the said areas, subject to compliance with the normal rules and regulations applicable to trucks and barges plying in the Port Area.
8. The Collector of Customs, Calcutta, in accordance with the relevant provisions of the laws and regulations, will provide the lessee for a Customs House agent's licence for the clearance at the Port of Calcutta of traffic in transit from and to Nepal. If a licence is also required from the Port of Calcutta for this work, Calcutta Port Trust will provide such licence in accordance with the relevant provisions of their bye - laws/regulations.
9. The owner of goods or the lessee, if authorised by owner, may under the supervision of the proper Officer of the Indian Customs:
 - (i) inspect the goods,
 - (ii) separate damaged or deteriorated goods from the rest,
 - (iii) sort the goods or change their containers for the purpose of preservation for onward transmission,
 - (iv) deal with the goods and their containers in such a manner as may be necessary to prevent loss or deterioration or damage to the goods.

10. The warehouses shall function during the normal working hours under the supervision of Officers to be provided by Calcutta Customs House. Where, however, such functioning is necessary outside the office hours, Officers for supervision would be provided by the said Customs House on payment of the prescribed fees.

II. With Reference to Article VI

1. All traffic in transit shall-

- (i) pass only through the followings routes :

- | | | |
|-----|----------|-----------------------|
| (a) | Calcutta | Galgalia |
| (b) | Calcutta | Jogbani |
| (c) | Calcutta | Bhimanagar |
| (d) | Calcutta | Jayanagar |
| (e) | Calcutta | Raxaul |
| (f) | Calcutta | Nautanwa |
| (g) | Calcutta | Barhni |
| (h) | Calcutta | Nepalgunj Road |
| (i) | Calcutta | Gauri-Phanta |
| (j) | Calcutta | Banbasa |
| (k) | Calcutta | Tikonia |
| (l) | Calcutta | Jarwa |
| (m) | Calcutta | Bhitamore (Sitamarhi) |
| (n) | Calcutta | Naxalbari (Panitanki) |
| (o) | Calcutta | Sukhia Pokhari |

provided that :

- (a) These routes may be discontinued or new ones added by mutual agreement.
- (b) Bulk traffic such as fertilisers, cement etc. moving by rail shall pass through Calcutta / Narayanpur Anant route or any other agreed route subject to prior intimation being given to Customs as and when such movements are anticipated.
- (ii) Comply with the procedure as set out in the memorandum annexed hereto.
- (iii) Comply with any other detailed regulations which may be prescribed through mutual consultation by the Contracting Parties in keeping with the nature of the commodity and the need for expeditious movement and the safety of transport.

2. Wherever en route it becomes necessary to break bulk in respect of consignments in transit, such breaking shall be done only under the supervision of the appropriate officials of the Indian Customs.
3. All goods intended for removal in transit to Nepal while in the process of removal to or from the warehouses or other storage places that may be leased out in Calcutta Port for the storage of such goods and also while in storage or under the process of packing, sorting and separation etc., in such warehouses or places, shall be subject to relevant Indian laws and regulations.
4. The procedure in the foregoing paragraphs shall apply mutatis mutandis to road transport with the following modifications :

(a) Arms, ammunition and hazardous cargo shall not be allowed to be transported by road.

Note : With reference to hazardous cargo exception could be permitted as may be mutually agreed.

- (b) The truck shall have a pilfer-proof container conforming to specifications to be mutually agreed upon which is capable of being locked and sealed. The Containers shall be locked by the locks of Indian Customs.
 - (c) The individual packages shall be sealed by Indian Customs.
 - (d) Conditions at (b) and (c) above shall not apply to non-sensitive bulk items as may be mutually agreed upon.
 - (e) Sealing of individual packages may be dispensed with when they are imported packed in recognised containers, provided the entire contents of the container are consigned to the same consignee and container is sealed and the provision of (b) above is complied with.
 - (f) If the truck breaks down, the nearest Custom Officer shall be approached with least possible delay.
 - (g) Any other mutually agreed modifications that may be considered necessary from time to time in respect of the procedure for road transport operation.
5. Respecting each other's relevant laws, it is agreed that the Contracting Parties will take all steps to prevent deflection of their mutual trade to third countries and to ensure compliance with the procedure for the transit of goods across their territories.
 6. In order to facilitate the movement of traffic-in-transit, additional means of transport and facilities, mutually agreed upon, may be added.

MEMORANDUM

In pursuance of and subject to the provisions of the Protocol to the Treaty of Transit, His Majesty's Government of Nepal and the Government of India agree that the following detailed procedure shall apply to traffic in transit :

IMPORT PROCEDURE

When goods are imported from third countries for Nepal in transit through India, the following procedure shall be observed at the Indian port of entry (hereinafter called the Customs House):

1. (a) Transit of consumer goods and specialised materials for consumer goods imported for Nepal shall be allowed against import licences issued by HMG.
- (b) In case of goods other than those referred to in (a) above, the Royal Nepalese Consul General or Consul at Calcutta shall furnish the following certificate on the Customs Transit Declaration :

"I have verified that the Goods specified in this Declaration and of the quantity and value specified herein have been permitted to be imported by His Majesty's Government of Nepal under Licence No.....dated.....".

Note : I. His Majesty's Government will arrange to supply through the Indian Embassy at Kathmandu to the Collectors of Customs concerned, the specimen signature of official/officials who sign His Majesty's Government's import licences. It will also arrange to have one copy each of import licences issued by it for such goods, sent direct to the Collector of Customs concerned.

Note : II. This requirement will not apply in case of goods for the import of which into Nepal no licence is required under the laws of HMG of Nepal.

2. At the Customs House, the Importer or his Agent (hereinafter referred to as the importer) shall present a Customs Transit Declaration containing the following particulars :
 - (a) Ship's name, Rotation No. and Line No.
 - (b) Name and address of the Importer.
 - (c) No., description, marks and serial nos. of the packages.

- (d) Country of consignment, origin, if different.
- (e) Description of goods.
- (f) Quantity of goods.
- (g) Value of goods.
- (h) HMG's import licence No. and Date
- (i) Route of transit.
- (j) A declaration at the end in the following words :-

"I/We declare that the goods entered herein are for Nepal in transit through India and shall not be diverted en route to India or retained in India."

"I/We declare that all the entries made therein above are true and correct to the best of my/our knowledge and belief".

Signature.

3. The Customs Transit Declaration shall be made in sextuplicate. All copies along with Nepal Import Licence wherever required, shall be presented to the Customs House. The copy of the Nepal Import Licence so presented shall be compared by the Customs House with the copy received directly from HMG of Nepal.
4. Consumer goods and specialised materials for consumer goods must be removed to Nepal sheds within free time, if not already put in wagons. An authorization with removal instructions of the owner for the purpose shall be necessary for removal. The Government of India will continue the arrangement with the Trustees of the Port of Calcutta for increasing the free time for Nepal's transit cargo including containerized cargo to 7 days.
5. The Customs House shall make a percentage examination of the goods to check whether the goods are in accordance with the Customs Transit Declaration and conform to the import licence wherever such licence is required. Goods for Nepal as covered by the said licence and also in accordance with the Customs Transit Declaration shall be approved for onward transmission. However, in making such examination, avoidable delays shall be curtailed to the utmost in order to expedite the traffic-in-transit.

Note : The percentage examination referred to here means that a percentage of the total packages in a consignment will be selected for examination and not that a percentage of the contents of every one of the packages comprised in the consignment will be examined.

6. The goods shall be transported from the Customs Port of entry to the border post in closed railway wagons or in pilfer-proof containers (to be provided by the importer) which can be securely locked. The containers or wagons, as the case may be, shall be locked and duly sealed after the above examination. Individual packages in such wagons or containers shall not be sealed except where consumer goods or specialised materials for consumer goods are being transported or where the goods are to go to Nepal by a route where the railway line does not reach up to the last town of the border.
7. Where goods cannot be transported in closed wagons and have to be transported in open wagons or flats, detailed identifying particulars shall be recorded in the Customs Transit Declaration.
8. "Small" consignments of traffic in transit will be accepted for booking by railway from one of the agreed warehouses leased to Nepal Transit and Warehousing Company Ltd. provided the minimum load condition as applicable in Indian Railways is satisfied.
9. The goods shall be covered by an insurance policy and/or such legally binding undertaking to the satisfaction of the Collector of Customs, Calcutta, in the manner indicated below :-
 - (a) Goods moving by rail up to the border shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the Collector of Customs, Calcutta, and the amount shall become payable to the Collector in the event of the goods not reaching Nepal.
 - (b) Goods moving by road in trucks belonging to Nepal Transit & Warehousing Company Ltd., or Nepal Transport Corporation shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the Collector of Customs, Calcutta, and the amount shall become payable to the Collector in the event of the goods not reaching Nepal. In addition, Nepal Transit and Warehousing Company Ltd. shall give an undertaking to the Collector of Customs, Calcutta, to pay the difference between the market value of goods in India and their c.i.f. value plus Indian Customs duty in the event of the goods not reaching Nepal.

- (c) Goods moving by road in trucks other than those mentioned at (b) above shall be insured for an amount equal to the difference between the market value of the goods in India and their c.i.f. value. This policy shall be assigned to the Collector of Customs, Calcutta and the amount shall become payable to the Collector in the event of the goods not reaching Nepal.

Note : 1. In respect of goods belonging and consigned to His Majesty's Government of Nepal under (a) and (b) above no insurance shall be required provided an undertaking or a further undertaking, as the case may be, is given by Nepal Transit and Warehousing Company Ltd. in lieu of such insurance.

2. No such requirements will be necessary in respect of goods carried by air without transshipment en route or in such cases as may be mutually agreed upon.

3. In the event of goods carried by rail not reaching the booked destination, Indian Railways shall, where liable as carriers under the Indian Railways Act, pay the c.i.f. price to the importer.

10. After the Customs House is satisfied as regards the checks contemplated in the preceding paragraphs, it shall endorse all the copies of the Customs Transit Declaration. The original copy shall be handed over to the importer. The duplicate and triplicate will be sent by post to the Indian border Customs Officer and the remaining copies shall be retained by the Customs House. In order to avoid delay in postal transmission, duplicate and triplicate copies of the C.T.D. along with copy of the original railway receipt shall be handed over to the importer or his authorised representative in a sealed cover, if he so desires. This facility shall however be denied to the importer who defaults in the production of these documents within a reasonable time to the Indian Border Customs Officer.
11. In case of any suspicion of pilferages, traffic-in-transit shall be subject to checks by the Indian Customs during the period that they are in transit, as may be necessary, particularly at the point of railway transshipment from broad gauge to metre-gauge.
12. On arrival of goods in transit at the border railway station, the sealed wagons or the sealed containers as the case may be, shall

be presented to the Indian Customs Officer at the station, who shall examine the seals and locks and, if satisfied, shall permit the unloading or breaking of bulk, as the case may be, under his supervision. The importer shall present the original copy of the Customs Transit Declaration duly endorsed by the Indian Customs House of entry, to the Indian Customs Border Officer, who shall compare the original copy with the duplicate and triplicate received by him and will, in cases where the seals and the locks on the wagons or containers and on the packages where required under para 6 are intact, identify the packages with the corresponding Customs Declaration and, if satisfied, will endorse all the copies of the Declaration. In cases where the seals and locks on the wagons or on the containers or on the packages are not intact, or there is suspicion otherwise, he may examine the contents. The goods shall be delivered by the railway only after clearance as above by the Indian Customs Officer at the border station. The Indian Customs Officer shall thereafter through such escorts or supervision as may be necessary ensure that the goods cross the border and reach Nepal. He, or in cases where there is an Indian Officer posted right at the border, such officer will certify on the copies of the Customs Transit Declaration that the goods have crossed into Nepal. The Indian Customs Officer shall then hand over the original copy of the Customs Transit Declaration to the importer, send the duplicate to the Indian Customs House at the port of entry, send the triplicate to the Nepalese Customs Officer at the corresponding Nepalese post and after it is received back duly endorsed by the Nepalese Customs Officer, retain it for his records.

13. If a consignment in transit is received at destination in more than one lot, the separate lots of the consignment covered by one Customs Transit Declaration may be presented in separate lots and the Indian Customs Officer at the border shall release the goods so presented after necessary examination and check of relevant documents and goods and after making the necessary endorsement. In such a case, the Indian Customs Officer at the border shall send the triplicate copy of Customs Transit Declaration to the Nepalese Customs Officer at the corresponding Nepalese post only after release of the entire consignment as covered by the Customs Transit Declaration.
14. In cases where the duplicate and triplicate copies of the Customs

Transit Declaration are not received at the Customs Office of exit, the Indian Customs Officer will, by telephonic or other quick means of communication with the Customs Office of entry seek confirmation to ensure against delay and then on the basis of aforesaid confirmation allow despatch of goods.

15. The Nepalese Customs Officer shall :
 - (i) endorse a certificate over his signature and authenticate it under customs stamp on the original copy of the Nepal import licence, if any, and the Customs Transit Declaration that the packages correspond in all respects with the particulars shown in the declaration and in all materials respects with the Nepal import licence and that the goods have been cleared from Nepalese Customs custody for entry into Nepal.
 - (ii) return the original copy of the Declaration and the original copy of the Nepal import licence, if any, to the importer or his agent.
 - (iii) return the triplicate copy duly endorsed to the authorised officials of Land Customs and Central Excise after the goods have crossed the Nepalese border customs post.
16. The importer will present to the Assistant Collector of Customs the original Customs Transit Declaration duly certified by the authorised officer of Land Customs and Excise and the Nepalese Customs Officer to the effect that the goods have crossed into Nepal. The original Declaration should reach the Assistant Collector of Customs concerned within one month of the date on which transit was allowed at the Indian port of importation, or such extended time as the Assistant Collector of Customs might allow. For every week or part thereof delay in presenting the original Customs Transit Declaration duly certified as above, the importer shall pay a sum of Re. 1/- for every Rs. 1000/- of the Indian market price of the goods.

EXPORT PROCEDURE

When goods from Nepal are cleared from Nepalese Customs custody for export to third countries in transit through India, the exporter or his agent (hereinafter referred to as the exporter) shall be required to observe the following procedure at the corresponding Indian Border Customs Post :

1. The Senior-most officer incharge of the Nepalese Customs Office at the border shall furnish the following certificate on the Customs Transit Declaration :-

“I have verified that the goods specified in this Declaration and of the quantity and value specified herein have been permitted to be exported by His Majesty’s Government of Nepal under licence No..... dated”.

2. The exporter shall prepare the Customs Transit Declaration in quadruplicate and shall present it to the Indian Customs Officer at the Customs Post through which the goods are to enter India. The Customs Transit Declaration shall contain the following particulars :-

- (a) Name and address of the Exporter
- (b) No., description, marks and serial nos. of the packages
- (c) Country to which consigned
- (d) Description of goods
- (e) Quantity of goods
- (f) Value of goods
- (g) HMG’s Export Licence No. and date
- (h) Country of origin of the goods
- (i) Indian customs office of entry from Nepal
- (j) A declaration at the end in the following words :-

“I/We declare that the goods entered herein are not of Indian origin, are for export from Nepal to countries other than India and shall not be diverted en route to India or retained in India”.

“I/We declare that all the entries made above are true and correct to the best of my/our knowledge and belief”.

Signature

3. The Indian Customs Officer at the point of entry into India shall make such examination of packages and the contents as may be necessary to check whether :
 - (i) the goods are in accordance with the Customs Transit Declaration,
 - (ii) the goods are such as have been specified by the Government of India as being liable to pilferage en route having regard to the duty and restrictions, if any, to which they are liable

on import into India.

(iii) they are of origin as declared in the Customs Declaration Form.

4. After the necessary check the Indian Customs Officer at the border shall endorse all the copies of the Customs Transit declarations. He shall hand over the original to the exporter and will send the duplicate and triplicate by post to the collector of Customs, Calcutta. In order to avoid delay in postal transmission, duplicate and triplicate copies of the CTDs shall be handed over to the exporter or his authorised representatives in a sealed cover, if he so desires. This facility shall however be denied to the exporter who defaults in the production of these documents within a reasonable period to the Indian Customs House at the port of exit. The quadruplicate shall be retained by the Indian Customs officer at the border.
5. The goods specified in sub-paragraph (ii) of paragraph 3 above shall be transported from the Indian Customs border post to Calcutta port in closed railway wagons or in pilfer-proof containers (to be provided by the exporter) which can be securely locked. The containers or wagons, as the case may be, shall be locked and duly sealed after the examination by the border Customs Officer.
6. Where the goods cannot be sent in closed wagons and have to be transported in open wagons or flats, detailed description, particulars and specifications thereof shall be recorded in the Customs Transit Declaration.
7. After the verification as contemplated in preceding paragraphs has been completed by the Indian Customs official at the border, he shall endorse all the copies of the Declaration and where sealing has been done, give necessary indication thereof on the relevant Customs Transit Declaration and allow the movement of goods to Calcutta Port. He shall hand over the original copy of the Declaration to the exporter and send the duplicate and triplicate by post to the Collector of Customs, Calcutta and retain the quadruplicate copy with him.
8. The goods specified in sub para (ii) of para 3 above shall be covered by an insurance policy and/or such legally binding undertaking to the satisfaction of the concerned Collector of Customs in the manner indicated below :

- (a) Goods moving by rail from the border shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the concerned Collector of Customs and the amount shall become payable to the Collector in the event of the goods not reaching Calcutta Customs.
- (b) Goods moving by road in trucks belonging to Nepal Transit & Warehousing Co. Ltd., or Nepal Transport Corporation shall be covered by an insurance policy for an amount equal to the Indian Customs duty on such goods. This policy shall be assigned to the concerned Collector of Customs, and the amount shall become payable to the Collector in the event of the goods not reaching Calcutta Customs. In addition, Nepal Transit and Warehousing Co. Ltd shall give an undertaking to the concerned Collector of Customs to pay the difference between the market value of goods in India and their c.i.f. value plus Indian Customs duty in the event of the goods not reaching Calcutta Customs.
- (c) Goods moving by road in trucks other than those mentioned at (b) above shall be insured for an amount equal to the difference between the market value of the goods in India and their c.i.f. value. This policy shall be assigned to the concerned Collector of Customs and the amount shall become payable to the Collector in the event of the goods not reaching Calcutta Customs.

Note :-

1. In respect of goods belonging to and consigned by His Majesty's Government of Nepal under (a) and (b) above no insurance shall be required provided an undertaking or a further undertaking, as the case may be, is given by Nepal Transit and Warehousing Co. Ltd. in lieu of such insurance.
2. No such requirement will be necessary in respect of goods carried by air without transshipment en route or in such cases as may be mutually agreed upon.
3. In the event of goods carried by rail not reaching the booked destination, Indian Railways shall, where liable as carriers under the Indian Railways Act, pay the c.i.f. price to the exporter.

9. In case of any suspicion of pilferage, the goods specified in sub-

para (ii) of para 3 above shall, while in transit through India, be subject to such checks by the Indian Customs as may be necessary particularly at the point of railway transshipment from metre-gauge to broad-gauge.

10. On arrival of goods at Calcutta Port, the exporter shall present the original copy of the Customs Transit Declaration duly endorsed by the Customs Border Office to the Customs House. This copy shall be compared by the Customs House with the duplicate and triplicate received by it from the border. In case of goods which have moved under seals and locks, the Customs House shall check the seals and locks and where there is suspicion that they have been tampered with, will examine the goods to identify them with the corresponding Customs Transit Declaration. After the verification as contemplated in this paragraph is completed by the Customs House, it shall permit the export of the goods and will in case of goods specified in sub-para (ii) of para 3 ensure that these are duly shipped. After the goods have been shipped, the Customs House shall endorse all the copies of the Customs Transit Declaration, hand over the original to the exporter and send the triplicate copy to the Indian Customs Border Office and retain the duplicate.
11. Where export cargo is shut out, it will be removed to the warehouse leased out to Nepal Transit and Warehousing Co. Ltd. on filing of such removal instructions by the exporter or his authorised agents.

APPENDIX II

**TREATY OF TRADE
BETWEEN
HIS MAJESTY'S GOVERNMENT OF NEPAL
AND
THE GOVERNMENT OF INDIA**

His Majesty's Government of Nepal and the Government of India (hereinafter referred to as the Contracting Parties),

Being conscious of the need to fortify the traditional connection between the markets of the two countries,

Being animated by the desire to strengthen economic co-operation between them,

Impelled by the urge to develop their economies for their several and mutual benefit, and

Convinced of the benefits of mutual sharing of scientific and technical knowledge and experience to promote mutual trade,

Have resolved to conclude a Treaty of Trade in order to expand trade between their respective territories and encourage collaboration in economic development, and

Have for this purpose appointed as their Plenipotentiaries the following persons, namely,

Shri Gopal Man Shrestha
Minister of Commerce
for His Majesty's Government
of Nepal.

Shri P. Chidambaram
Minister of State for Commerce
for the Government of India

Who, having exchanged their full powers and found them good and in due form, have agreed as follows :

ARTICLE I

The Contracting Parties shall explore and undertake all measures, including technical co-operation, to promote, facilitate, expand and diversify trade between their two countries.

ARTICLE II

The Contracting Parties shall endeavour to grant maximum facilities and to undertake all necessary measures for the free and unhampered flow of goods, needed by one country from the other, to and from their respective territories.

ARTICLE III

Both the Contracting Parties shall accord unconditionally to each other treatment no less favourable than that accorded to any third country with respect to (a) customs duties and charges of any kind imposed on or in connection with importation and exportation and (b) import regulations including quantitative restrictions.

ARTICLE IV

The Contracting Parties agree, on a reciprocal basis, to exempt from basic customs duty as well as from quantitative restrictions the import of such primary products as may be mutually agreed upon, from each other.

ARTICLE V

Notwithstanding the provisions of Article III and subject to such exceptions as may be made after consultation with His Majesty's Government of Nepal, the Government of India agree to promote the industrial development of Nepal through the grant on the basis of non-reciprocity of specially favourable treatment to imports into India of industrial products manufactured in Nepal in respect of customs duty and quantitative restrictions normally applicable to them.

ARTICLE VI

With a view to facilitating greater interchange of goods between the two countries, His Majesty's Government shall endeavour to exempt, wholly or partially, imports from India from customs duty and quan-

titative restrictions to the maximum extent compatible with their development needs and protection of their industries.

ARTICLE VII

Payments for transactions between the two countries will continue to be made in accordance with their respective foreign exchange laws, rules and regulations. The Contracting Parties agree to consult each other in the event of either of them experiencing difficulties in their transactions with a view to resolving such difficulties.

ARTICLE VIII

The Contracting Parties agree to co-operate effectively with each other to prevent infringement and circumvention of the laws, rules and regulations of either country in regard to matters relating to foreign exchange and foreign trade.

ARTICLE IX

Notwithstanding the foregoing provisions, either Contracting Party may maintain or introduce such restrictions as are necessary for the purpose of :

- (a) protecting public morals,
- (b) protecting human, animal and plant life,
- (c) safeguarding national treasures,
- (d) safeguarding the implementation of laws relating to the import and export of gold and silver bullion, and
- (e) safeguarding such other interests as may be mutually agreed upon.

ARTICLE X

Nothing in this treaty shall prevent either Contracting Party from taking any measures which may be necessary for the protection of its essential security interests or in pursuance of general international conventions, whether already in existence or concluded hereafter, to which it is a party relating to transit, export or import of particular kinds of articles such as narcotics and psychotropic substances or in pursuance of general conventions intended to prevent infringement of industrial, literary or artistic property or relating to false marks, false indications of origin or other methods of unfair competition.

ARTICLE XI

In order to facilitate effective and harmonious implementation of this Treaty, the Contracting Parties shall consult each other regularly.

ARTICLE XII

This Treaty shall come into force on the 6th December 1991, and shall remain in force for a period of five years. It may be renewed for further periods of five years, at a time, by mutual consent, subject to such modifications as may be agreed upon.

Done in duplicate in Nepali, Hindi and English languages, all the texts being equally authentic, at New Delhi on 6th December 1991. In case of doubt, the English text will prevail.

(Gopal Man Shrestha)
Minister of Commerce
for His Majesty's
Government of Nepal.

(P. Chidambaram)
Minister of State for Commerce
for the Government of India

PROTOCOL TO THE TREATY OF TRADE

I. With Reference to Article I

1. It is understood that the trade between the two Contracting Parties shall be conducted through the mutually agreed routes as are mentioned in the Annexure A. Such mutually agreed routes would be subject to joint review as and when required.
2. It is further understood that the exports to and imports from each other of goods which are not subject to prohibitions or duties on exportation or importation shall continue to move through the traditional routes on the common border.

II. With Reference to Article II

1. It is understood that all goods of Indian or Nepalese origin shall be allowed to move unhampered to Nepal or India respectively without being subject to any quantitative restrictions, licensing or permit system with the following exceptions :
 - (a) goods restricted for export to third countries,
 - (b) goods subject to control on price for distribution or movement within the domestic market, and
 - (c) goods prohibited for export to each other's territories to prevent deflection to third countries.
2. In order to facilitate the smooth flow of goods across the border, the list of commodities subject to restrictions/prohibitions on exports to each other's territories shall be immediately communicated through diplomatic channels as and when such restrictions/prohibitions are imposed or relaxed.
3. It is further understood that when notifications regarding restrictions on exports to each other are issued, adequate provisions will be made therein to allow the export to each other of the goods which are already covered by Letter of Credit or goods which are already in transit and/or booked through the railways or other public sector transport undertakings or goods which have already arrived at the border customs posts on the day of the

notification.

4. In respect of goods falling under prohibited or restricted categories as mentioned in para 1 above and where needed by one Contracting Party, the other shall authorise exports of such goods subject to specific annual quota allocations. Specific request list of such goods shall be furnished to each other by the end of November and specific quota allocations for the following calendar year shall be made by the end of December with due regard to the supply availability and the overall need of the other Contracting Party. The quota list may be jointly reviewed as and when necessary.
5. The Contracting Parties shall take appropriate measures and cooperate with each other to prevent unauthorised import in excess of the quota of goods the export of which is prohibited or restricted from the territory of the other Contracting party.

III. With Reference to Article III

1. The Government of India will allow to His Majesty's Government of Nepal payment of the excise and other duties collected by the Government of India on goods produced in India and exported to Nepal provided that :
 - (i) such payment shall not exceed the import duties and like charges levied by His Majesty's Government of Nepal on similar goods imported from any other country, and
 - (ii) His Majesty's Government of Nepal shall not collect from the importer of the said Indian goods so much of the import duty and like charges as is equal to the payment allowed by the Government of India.

IV. With Reference to Article IV

1. The following primary products would be eligible for preferential treatment :
 1. Agriculture, horticulture and forest produce and minerals which have not undergone any processing,
 2. Rice, pulses and flour,
 3. Timber,
 4. Jaggery (gur and shakhar),
 5. Animals, birds and fish,

6. Bees, bees-wax and honey,
 7. Raw wool, goat hair, and bones as are used in the manufacture of bone-meal,
 8. Milk, home made products of milk and eggs,
 9. Ghani-produced oil and oilcakes,
 10. Ayurvedic and herbal medicines,
 11. Articles produced by village artisans as are mainly used in villages,
 12. Akara,
 13. Yak Tail,
 14. Any other primary products which may be mutually agreed upon.
2. It is understood that in the matter of internal taxes or charges the movement of primary products of either Contracting Party to any market destinations in the territory of the other shall be accorded treatment no less favourable than that accorded to the movement of its own primary products within its territory.
 3. It is also understood that the aforesaid provisions will not preclude a Contracting Party from taking any measure which it may deem necessary on the exportation of primary products to the other.

V. With Reference to Article V

1. (i) The Government of India will provide access to the Indian market free of "basic and auxiliary" customs duty and quantitative restrictions generally, for all manufactured articles which contain not less than eighty per cent of Nepalese materials or Nepalese and Indian materials.
 - (ii) Further, the Government of India will provide access to the Indian market, on a case to case basis, free of "basic and auxiliary" customs duty and quantitative restrictions for manufactured articles which contain not less than fifty-five per cent of Nepalese materials or Nepalese and Indian materials.
2. Further, when such articles are manufactured in "small" units in Nepal, the "additional" duty on these articles will be equivalent to the rates of excise duty applicable under the Indian Customs and Central Excise Tariff to articles produced in similar units in India.
3. In regard to "additional" duty collected by the Government of

India in respect of manufactured articles other than those manufactured in "small" units: Wherever it is established that the cost of production of an article is higher in Nepal than the cost of production in a corresponding unit in India, a sum representing such difference in the cost of production, but not exceeding 25 per cent of the "additional" duty collected by the Government of India, will be paid to His Majesty's Government of Nepal provided :

- (a) Such manufactured articles contain not less than eighty per cent of Nepalese and Indian material, and
 - (b) His Majesty's Government of Nepal have given assistance to the same extent to the (manufacturer) exporter.
4. Procedures to determine the eligibility of Industrial products to these concessions and for the verification of the values of different components of Nepalese industrial products shall be as already in force under the 1978 Nepal-India Treaty of Trade. Changes, if any, in the procedures which may be considered necessary may be agreed upon mutually.
 5. List of articles produced in Nepal already exempted from "basic and auxiliary" customs duty and quantitative restrictions under provisions of para 1 above is at Annexure B.
 6. In the case of other manufactured articles in which the value of Nepalese and Indian materials including labour added in Nepal is at least 40 per cent of the ex-factory price, the Government of India will allow the articles on a case by case basis for following preferential treatment, keeping in mind the need for expeditious clearance in the Indian market :
 - (a) barring exceptional circumstances, exemption from quantitative restriction and/or
 - (b) tariff concessions to the extent of 50 per cent of the MFN rate of import duty where the value added in such articles is less than 80 per cent but more than 40 per cent of ex-factory price.
 7. His Majesty's Government will furnish the request list of the articles eligible for preferential access to the Indian market as per the para 6 above as and when required and on receipt of which the Government of India will communicate expeditiously to His Majesty's Government the scope of preferential treatment

offered to such articles.

8. It is also understood that in the case of other manufactured articles in which the value of Nepalese and Indian materials and labour added in Nepal is less than 40 per cent of the ex-factory price, the Government of India will provide normal access to the Indian market consistent with its import regime and MFN treatment accorded.
9. Where for social and economic reasons, the import of an item into India is permitted only through public sector agencies or where the import of an item is prohibited under the Indian Trade Control Regulations, the Government of India will consider any request of His Majesty's Government of Nepal for relaxation and may permit the import of such an item from Nepal in such manner as may be found to be suitable.
10. For the purpose of calculation of import duties customs valuation procedures, as prescribed under the Indian Customs Act, will be followed.
11. Exports of articles eligible for preferential treatment in accordance with above mentioned paragraph shall be covered by a certificate from His Majesty's Government of Nepal or an authority designated by it which shall certify the extent of material component or value added involved as the case may be.

VI. With Reference to Article VI

His Majesty's Government of Nepal, with a view to continuing preferences given to Indian exports, will waive additional customs duty on all Indian exports during the validity of the treaty.

ANNEXURE-A**AGREED ROUTES FOR MUTUAL TRADE**

1. Pashupatinagar/Sukhia Pokhari
2. Kakarbhatta/Naxalbari
3. Bhadrapur/Galgalia
4. Biratnagar/Jogbani
5. Setobandha/Bhimnagar
6. Rajbiraj/Kunauli
7. Siraha, Janakpur/Jayanagar
8. Jaleswar/Bhitamore (Sursand)
9. Malangawa/Sonabarsa
10. Gaur/Bairgania
11. Birgunj/Raxaul
12. Bhairahawa/Nautanwa
13. Taulihawa/Khunwa
14. Krishnanagar/Barhni
15. Koilabas/Jarwa
16. Nepalgunj/Nepalgunj Road
17. Rajapur/Katerniyaghat
18. Prithivipur/Sati (Kailali)/Tikonja
19. Dhangadhi/Gauriphanta
20. Mahendranagar/Banbasa
21. Mahakali/Jhulaghat (Pithoragarh)
22. Darchula/Dharchula.

ANNEXURE-B

**LIST OF NEPALESE INDUSTRIAL PRODUCTS
WHICH HAVE BEEN ALLOWED PREFERENTIAL
ENTRY INTO INDIA UNDER NOTIFICATION NO.
203/90-CUSTOMS (AS ON 6TH DECEMBER 1991)**

S.No.	Description of goods
1.	Biscuits
2.*	Refined ghee
3.	High boiled sweets
4.	Salseed oil, Rice bran oil, Salseed extraction and rice extraction
5.*	Straw Board
6.	Plywood
7.*	Magnesite
8.*	Marble Blocks, Slabs and Chips
9.	Wet Blue chrome Tanned Goat Skins
10.	Cast Iron goods
11.	Raw Talc
12.*	Ice blocks
13.*	Wooden articles and furniture
14.*	Katha and Kutch
15.*	Wheat bran
16.	Jute manufactures – all sorts
17.	Mustard oil
18.	Resin
19.*	Oil Cakes
20.*	Chuni, Bhusi & Akra
21.	Handicrafts and Handlooms
22.	Linseed oil
23.*	Match splints
24.	Ground talc (other than cosmetic grade)
25.*	Saw dust
26.*	Rice Bran
27.*	Sugar
28.*	Slate
29.*	Powdered Lime
30.	Cattle and Poultry feed

- 31.* Split crust (Cow and Buff)
- 32.* Wet blue hides (Cow and Buff)
- 33.* Wet blue splits (Cow and Buff)
- 34.* Vegetable Tanned Buff Sole Leather
- 35.* Chrome Upper and Lining Leather
36. Leather Board
37. Ginger oil
38. Fruit Jam, Jelly an Squash
39. Lemon Barley
40. Vinegar
41. Pineapple Crush
42. Rose syrup and Khus syrup
43. Tomato sauce and tomato ketchup
44. Golden Mist Marmalade
- 45.* Noodles and Spaghetti
- 46.* Hides and skins (processed and semi-processed)
- 47.* Redried tobacco (non-processed)
48. Footwear and closed leather uppers
49. Mama snacks (corn puff)
50. Pan Masala that is to say, any preparation containing betel nuts and any one or more of other ingredients such as lime, katha (catechu) cardamom, copra, menthol and tobacco.
51. Emery cloth
52. Emery paper
53. Sand paper
54. Rosin
55. Turpentine
56. Dressed Bristles
57. Paint Brushes
58. Wood Veneer
59. Pasteurised butter
60. Chocolate Pastry
61. Coconut Cakes
62. Dead Burnt Magnesite
63. Linchin Resinoid
64. Pineapple Pulp
65. Orange Juice
66. Orange Extracts
67. Lead pencils
68. Writing and Printing papers

69. Solid wood panel door
70. Solid wood parquet
71. Fruit Juice packed in bottles or cans, made of soft steel plate with a coating of pure tin
72. Tomato juice packed in bottles or cans made of soft steel plate with a coating of pure tin
73. Pine-apple slices packed in cans made of soft steel plate with a coating of pure tin
74. Tomato puree packed in cans made of soft steel plate with a coating of pure tin
75. Wire Nails
76. Barbed wire
77. Aluminium Utensils
78. Laundry soap
79. Cube Sugar.
80. Terry-Towel and Terry-Towel Cloth
81. Winter Green Oil
82. Abies oil
83. Artemisia oil
84. Juniper oil
85. Belladonna Extracts
86. Palmarosa oil
87. Zanthoxyluim oil
88. Bidi
89. Chewing gum
90. Bubble gum
91. Asbestos cement pipes

APPENDIX III

**AGREEMENT OF CO-OPERATION
BETWEEN
HIS MAJESTY'S GOVERNMENT OF NEPAL
AND
THE GOVERNMENT OF INDIA
TO CONTROL UNAUTHORISED TRADE**

His Majesty's Government of Nepal and the Government of India (hereinafter also referred to as the Contracting Parties),

KEEN to sustain the good neighbourliness through mutually beneficial measures at their common border which is free for movement of persons and goods,

Have agreed as follows :

ARTICLE I

The Contracting Parties, while recognising that there is a long and open border between the two countries and there is free movement of persons and goods across the border and noting that they have the right to pursue independent foreign trade policies, agree that either of them would take all such measures as are necessary to ensure that the economic interests of the other party are not adversely affected through unauthorised trade between the two countries.

ARTICLE II

The Contracting Parties agree to co-operate effectively with each other, to prevent infringement and circumvention of the laws, rules and regulations of either country in regard to matters relating to customs, narcotics and psychotropic substances, foreign exchange and foreign trade and shall for this purpose assist each other in such matters as consultation, enquiries and exchange of information with regard to matters concerning such infringement or circumvention.

ARTICLE III

Subject to such exceptions as may be mutually agreed upon, each Contracting Party shall prohibit and co-operate with the other to prevent:

- (a) re-exports from its territory to third countries of goods imported from the other Contracting Party and products which contain materials imported from the other Contracting Party exceeding 50 per cent of the ex-factory value of such products;
- (b) re-exports to the territory of the other Contracting Party of goods imported from third countries and of products which contain imports from third countries exceeding 50 per cent of the ex-factory value of such goods.

ARTICLE IV

Each Contracting Party will :

- (a) prohibit and take appropriate measures to prevent import from the territory of the other Contracting Party of goods liable to be re-exported to third countries from its territory and the export of which from the territory of the other Contracting Party to its territory is prohibited;
- (b) in order to avoid inducement towards diversion of imported goods to the other Contracting Party, take appropriate steps through necessary provisions relating to Baggage Rules, gift and foreign exchange authorisation for the import of goods from third countries.

ARTICLE V

The Contracting Parties shall compile and exchange with each other statistical and other information relating to unauthorised trade across the common border. They also agree to exchange with each other regularly the lists of goods the import and export of which is prohibited, or restricted or subject to control according to their respective laws and regulations.

ARTICLE VI

The respective heads of the Border Customs Offices of each country shall meet regularly with his counterpart of appropriate status at least once in two months alternately across the common border :

- (a) to co-operate with each other in the prevention of unauthorised trade,

- (b) to maintain the smooth and uninterrupted movement of goods across their territories;
- (c) to render assistance in resolving administrative difficulties as may arise at the fields level.

ARTICLE VII

In order to facilitate effective and harmonious implementation of this Agreement the Contracting Parties shall consult each other regularly.

ARTICLE VIII

This Agreement shall come into force on the 6th December 1991, and shall remain in force for a period of five years. It may be renewed for further period; of five years, at a time, by mutual consent, subject to such modifications as may be agreed upon.

Done in duplicate in Nepali, Hindi and English languages, all the texts being equally authentic, at New Delhi on the 6th December 1991. In case of doubt, the English text will prevail.

(Gopal Man Shrestha)
Minister of Commerce
for His Majesty's Government
of Nepal.

(P. Chidambaram)
Minister of State for Commerce
for the Government of India.

6th December 1991
New Delhi

Excellency,

In the course of discussion that led to the signing of the Treaty of Transit between our two Governments today, the Government of India agreed to provide necessary overland transit facilities through Radhikapur and such other routes as may be further agreed upon for the conduct of Nepal's trade with and through Bangladesh in order to help Nepal develop and diversify her foreign trade.

This transit procedures prescribed in Nepal's Treaty of Transit with India would apply *mutatis mutandis* in respect of such traffic-in-transit.

I shall be grateful if you could kindly confirm that the above sets out correctly the understanding reached between our two Governments.

Please accept, Excellency, the assurances of my highest consideration.

(Gopal Man Shrestha)
Minister of Commerce
for His Majesty's Government of Nepal.

Shri P. Chidambaram
Minister of State for Commerce
Government of India

6th December 1991
New Delhi

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Please accept, Excellency, the assurances of my highest consideration.

(P. Chidambaram)
Minister of State for Commerce
for the Government of India.

Shri Gopal Man Shrestha
Minister of Commerce
His Majesty's Government of Nepal.

6th December 1991
New Delhi

Excellency,

Our two delegations have today signed the Treaty of Trade, the Treaty of Transit and the Agreement on Co-operation between His Majesty's Government of Nepal and the Government of India to control unauthorised trade.

In the light of the provisions for consultation as envisaged in each of the Treaties and the agreement, officials designated by the two Governments shall meet separately at the appropriate levels as and when necessary and determine procedures as may be appropriate to discuss and resolve any problem that may arise in the effective and harmonious implementation of the issues relating to trade, transit and unauthorised trade.

It is further agreed that there shall be an Inter-Governmental Committee consisting of the senior representatives of the two Governments to promote trade, facilitate transit and control unauthorised trade between the two countries as envisaged in the Treaties and the Agreement. The Committee shall meet at least once in six months alternately in Kathmandu and New Delhi. If any questions remain unsolved in the meetings of the official groups referred to in the foregoing paragraph, they shall be referred to this Committee which will find solution thereof. The Committee may also deal with any matters on its own in order to further the purposes envisaged in the said treaties and the Agreement.

I shall be grateful if you would kindly confirm that the above sets out correctly the understanding reached between the two Governments.

Please accept, Excellency, the assurances of my highest consideration.

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(P. Chidambaram)
Minister of State for Commerce
for the Government of India

Shri Gopal Man Shrestha
Minister of Commerce
His Majesty's Government of Nepal.

6th December 1991
New Delhi

Excellency,

In the course of discussion that led to the signing today of a Treaty of Transit between our two Governments, it was agreed that for the movement of goods from one part of Nepal to another through Indian territory, the procedure prescribed for export of goods from Nepal to third countries shall apply *mutatis mutandis*. Further, as regards the movement of baggage accompanying a person travelling from one part of Nepal to another through Indian territory, the Government of India shall prescribe a simplified procedure in respect of such articles of baggage as the Government of India may specify as being likely to be retained in India having regard to the difference in prices in Nepal and India and other relevant factors. For other articles of baggage accompanying a passenger, movement shall be freely allowed.

I shall be grateful if you could kindly confirm that foregoing correctly sets out the understanding reached between us.

Please accept, Excellency, the assurances of my highest consideration.

(Gopal Man Shrestha)
Minister of Commerce
for His Majesty's Government of Nepal.

Shri P. Chidambaram
Minister of State for Commerce
Government of India

6th December 1991
New Delhi

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Please accept, Excellency, the assurances of my highest consideration.

(P. Chidambaram)
Minister of State for Commerce
for the Government of India

Shri Gopal Man Shrestha
Minister of Commerce
His Majesty's Government of Nepal.

Commerce Secretary
Government of India
New Delhi
6th December, 1991

Excellency,

In the course of the discussion that led to the signing today, inter-alia, of the Treaty of Trade between our two Governments, it has been agreed that the initial grant of the facility of preferential entry for Nepalese manufactured articles under Protocol V para 1 with reference to Article V of the Treaty of Trade shall be for a period of five years. Further extension of the validity after the expiry of five years shall be subject to re-certification of the material composition of the articles by His Majesty's Government of Nepal. Such extension of the validity shall also be for five years or till the validity of Treaty of Trade, whichever is earlier. The proforma clearance will be given within a period of four months from the date of submission of the proforma on best effort basis.

It has also been agreed in principle that the question of inclusion of the labour added in Nepal in manufactured articles for the purposes of Protocol V para 1 of the Treaty of Trade will be considered, subject to the formulation of a negative list of manufactured articles under Protocol V by mutual consultations between our two Governments. Articles which are not on the negative list will be given preferential access to the Indian market in accordance with Protocol V of Treaty of Trade.

I shall be grateful if you would kindly confirm that the foregoing correctly sets out the understanding reached between our two Governments.

Please accept, Excellency, the assurances of my highest consideration.

(A. V. Ganesan)

H. E. Mr D. P. Pandey
Commerce Secretary
His Majesty's Government of Nepal,
Camp: New Delhi.

6th December, 1991
New Delhi

Excellency,

I write to acknowledge the receipt of your letter of today's date which reads as follows :

"In the course of the discussion that led to the signing today, inter-alia, of the Treaty of Trade between our two Governments, it has been agreed that the initial grant of the facility of preferential entry for Nepalese manufactured articles under Protocol V para 1 with reference to Article V of the Treaty of Trade shall be for a period of five years. Further extension of the validity after the expiry of five years shall be subject to re-certification of the material composition of the articles by His Majesty's Government of Nepal. Such extension of the validity shall also be for five years or till the validity of Treaty of Trade, whichever is earlier. The proforma clearance will be given within a period of four months from the date of submission of the proforma on best effort basis.

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I shall be grateful if you would kindly confirm that the foregoing correctly sets out the understanding reached between our two Governments."

I confirm that the foregoing correctly sets out the understanding reached between us.

Please accept, Excellency, the assurances of my highest consideration.

(Durga Prakash Pandey)
Acting Secretary
Ministry of Commerce
His Majesty's Government of Nepal

H. E. Mr A. V. Ganesan
Commerce Secretary
Government of India
New Delhi.

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Index

- Acharya, Bishnu Mani, 31
Acharya, Drona Prasad, 179
Acharya, Nilamber, 210
Adhikari, Durga Prasad, 182
Adhikari, Bharat Mohan, 234
Adhikari, Man Mohan, 88-89, 212
Adhikari, Mohan Chandra, 182
Ansari, Ismail, 109
Anti-Indian sentiment, advantage
of, 8
Arbitrary laws, 169
Aryal, Lakshaman, 234
Aryal, Krishna Raj, 137
Atheists, 248
Azad, Mul Chand, 108
- Back-to-the-Village National Cam-
paign, 56-57, 99, 147
Bangladesh, 318
Baral, Lok Raj, 153
Basundhra, Prince, 33
Bendix Reinhard, 3
Bengal, 47
Bham, Tej Bahadur, 111
Bhatarai, Haribol, 179
Bhatarai, govt., 228
- Bhatarai, K.P., 152, 164, 178-79,
181, 210, 213, 215-16, 233, 234,
235, 247, 248, 260.
Bihar, 47
Bijucche, Narayan Man, 172
Birahi, Harihar, 154
Birendra, 235, 237, 250
Bista, Kirtinidhi, 51, 53, 56
Bista, Lokpratap, 108
Bista, Lila Raj, 137
Bista, Rupchandra, 111, 154
Bombs, explosion of, 150
Brandt, Willy, 183
Bureaucratic elite, modernizing of,
23-24
Burke, Edmund, 12
- Castes, dominant, 16-17
Caste factions, 28
Calcutta, 262, 290
Chand, Lokendra Bahadur, 142-44,
148, 212-13
Chandrasekhar, 183, 184, 188
Chaudhari, Narendra, 111
Chavan, Y.B., 117, 123
Chen Yi, 227

- Chen, Zuashen, 186
 Chhetri candidates, 108
 Chhetri, family, 2, 16
 China, 33, 47, 253, 259
 Christians, persecution of, 174-75
 Citizenship disputes, 20
 Coalition govt, 228
 Communist Party of India (M), 183
 Communist Party of India, 183
 Communist Party of Nepal, 106, 131
 Communist Party of Nepal, United Marxist Leninist, 231
 Congress (I), 183
 Constitutional crisis, 237
 Constitution Day Message, 66-68, 92, 99, 189
 Constitutional Amendment Process, 104
 Constitutional, Monarchy, 228, 229, 236, 238
 Constitutional Reform Recommendation Commission, 90-91
 Constitutional reforms, fundamental aspect of the, 78, 79
 Criminalization, 246

 Dahal, Nani Mainya, 11-12
 Devanathan, 162
 Devkota, Rajeshwar, 56
 Dhimal, Kama Bahadur, 108
 Dhirendra, Prince, 36
 Dhungana, Daman, 234
 Dipavali, 235
 Diplomacy, 232
 Dolpo, 245

 Economic injustice, removal of, 18
 Economy of Nepal, 89, 96
 Ecological protection, 233
 Educated bureaucratic elite, 23
 Education system, new, 134
 Elections, general, 19-20, 106-12, 131-32

 1959, 112
 1981, 106-13
 1986, 131-47
 Election Commission, 243
 Election manifesto, 17
 Electoral law, 86, 89
 Electoral system, 245
 Elizabeth, Queen, 32
 Embassy, 262
 Emerging elite, attitude of the, 26-27
 Employment, 15, 19, 26
 Ershad, H.M., 164

 Farouqi, M., 183
 Feudal principle, 1-2
 French Constitution, 52-53
 French Revolution, 176
 Feuntes, Carlos, 280

 Gandhi, Indira, 117, 118, 123
 Gandhi, Rajiv, 164-65
 Garga, Sita Devi, 137
 Gauchan, Bhim Prasad, 153
 Gautam, Kashi Nath, 56, 111
 Ghale, Bhadra Kumari, 111
 Giani Zail Singh, 164
 Giri, Tulsi, 34, 117-18, 152
 Gorbachov, Mikhail, 181
 Gorakh Bahadur battalion, 25
 Gorkha National Liberation Front (GNLF), 164
 Gorkha Regiments of India, 26
 Gospel, 248
 Gorkha soldiers, 25
 Grave emergency, 240
 Gujral, Inder Kumar, 186, 193
 Gupta, Aniruddha, 162
 Gyanendra, Prince, 7, 39, 165
 Government
 informal processes of, 27
 patrimonial system of, 30-31

 Hindu dharma, 12
 Hukumi shashan, 4

- Human Rights, 67-68, 71, 79, 86, 168, 242
 movements, 158
 Human Rights Organization of Nepal, 158, 181
 aims and objects, 159-61
 Humala, 245
 Hyuju, Karna Bahadur, 111, 172, 173
- India, 253
 Indian political parties, 183
 Indian Military Mission, 9
 Indo-Pak War, 124
 Industrialization, 232
 Indo-Pakistan armed conflict, 25
 Intelligentsia, recruitment of the, 45
 Interim Government of Nepal Act, 8, 77
 International covenant, 241
 International trade, 232
- Jahangir, Ashma, 159
 Jaisingh, Indira, 159
 Janaseva cinema hall, fire in the, 35
 Janata Dal, 183
 Janata government, attitude of, 123
 Janata Vimukti Perumana, 47
 Joint commission, 231
- Kanwar, Samar Raj, 34
 Kathmandu, 231, 236, 247, 262
 Kazi Zafar, 167
 Kelly, John, 194-95
 Kewats, 110
 Khan, M. Ayub, 53
 Khatri, Padma Bahadur, 34
 King, role of, 56-61
 Koirala, B.P., 8, 24, 55-56, 150, 152, 216
 Koirala, Girija Prasad, 183, 210, 249, 261, 262
 Koirala, M.P., 107, 111
 Kot Massacre, 24
 Kulatov, Tura Bai, 116
- Lama, Dalai, 165
 Lama, Nirmal, 234
 Land grant, 14
 Land, private, 4-5
 Latin America, 280
 Land revenues, 14
 Latifi, Danial, 159
 Legitimacy, 246
 Liberalisation and democratisation movement, 23
 Li Lou, 181
 Liu Yan, 186
 Lohani, Prakash Chandra, 111
- Malla, Hem Bahadur, 111, 133
 Malla, Sher Bahadur, 34, 40
 Mallah, 135
 Manandhar, Baikuntha, 225
 Manifesto, 255
 Mansingh, Ganesh, 55, 180, 194, 212, 275, 278
 Manang, 245
 Maoist revolutionaries, 47
 Marxist-Leninist group, 182
 Masal, 245
 Mathena, Mir Subba Daya Ram Bhakta, 35, 40
 Minorities, 242
 Mirow, Edward, 116
 Misconception, 230
 Modernization, 243
 Mobilization, 258
 Modernizing oligarchy, 21-23
 Modernizing political elite, 2
 Mogul administration, 11
 Monarchy, hereditary, 6
 Mugu, 245
 Muni, S.D., 162
 Multi-party system, 229, 237, 248
 Multi-religious, 254
 Multi-cultural, 254
- Nayar, Kuldip, 163
 National integration 16, 18-21

- Narasimha Rao, P.V., 263
 Naxalites, 182
 Nehru, Jawaharlal, 264
 Nepal, bureaucratic elite in, 41, informal groups in, 30, minority of, 16, political process, 33; political situation of, 64; power structure of, 20; problem of integration in, 19; Rana rulers in, 42; traditional political system of, 21
 Nepal army, 24-25
 Nepal-India relations, 118
 Nepal-India treaty, 20, 116, 164
 Nepal, Madhav Kumar, 234
 Nepal's parliament system, abolition of, 118
 Nepali Congress, 7, 8, 24, 54, 55, 112, 150-53, 183-85, 251, 255
 Nepali, educated, 60
 Nepali, men and women, younger generation, 65
 Nepali Red Cross, 33, 102
 Newar family, 108
 Non-aligned movement, 114, 167
 Palace, Royal, 236
 Panchayat system, 10, 54, 67
 directive principles and object of the, 103
 foreign policy of, 103
 fundamentals of the, 42
 partyless, 61, 68, 100, 182, reformed, 98
 Pande-Basnyat marriage, 44
 Pande, Rishi Kumar, 36
 Pandey, Ramesh Nath, 204
 Pant, Yadav Prasad, 197
 Parliamentary system, 9
 Party system,
 restoration of, 54-55, 68
 traditional system, 78, 85
 Partyless system, 78, 81
 Patel, Dorab, 159
 Patrimonial principle, 1-2
 Patrimonial system of Nepal
 economic aspect of, 4-5
 King at the apex of the, 5-6
 Police brutality, 200-05
 Political change, 21-22; parties, 80-82; power, 14; tension, 20
 Pradhan, Bharat Bahadur, 156-57, 167
 Pre-Rana period, 11
 Property, private, 5
 Punishment, retroactive, 170
 Rahman, Sheikh Mujibur, 53
 Rahman, Zia-ur, 53
 Rajbanshis, 110
 Rana(s), army of the, 9, 25
 Rana(s) family, monopoly of, 70
 Rana(s) family rule, 6-7, 22, 76
 Rana, Arjun Narsingh, 149
 Rana, Drona Shamsher, J.B., 137, 139
 Rana, Dazzle Jang, 34
 Rana, Jang Bahadur, 4
 Rana, Kamal, 111
 Rana, Mohan Shamsher Jang Bahadur, 7
 Rana, Padma Shamsher Jang Bahadur, 75
 Rana, Pashupati Shamsher, 49, 197
 Rana, Subarana Shamsher, 8, 9
 Rana, Yog Bikram 40
 Rao, Narasimha, 126
 Rastravadi Swatantra Vidyarthi Mandal, 49
 Rastriya Panchayat, 41, 95-96
 Ratna, Queen Mother, 36
 Rawat, Harish, 183
 Rayamajhi, Dana Gambhir, 36
 Rayamajhi, Keshar Jang, 56
 Reddy, Sanjiva, 126
 Referendum
 announcement of the, 53-54
 conduct of the, 88
 eve of the, 54-55

- royal proclamation of the, 48-50, 54
 statistics, 68-70
 three alternatives, 62-64
 Referendum verdict, relevance of, 79-80
 Regmi, Achyut, 111
 Religious freedom, 173
 Rijal, Nagendra Prasad, 137, 139-40
 Rijal, Tek Nath, 175
 Rongong, Adon, 174
 Royal justice, 12
 Royal Nepal Army, 8,25
- Salam*, practice of, 11
 Sardar Gunjaman Singh, 134
 Sardar Hansa Man Singh, 34-35
 Satyagraha movement, 7
 Sengupta, Bhabani, 162
 Shah, Chanda, 135
 Science and technology, 267
 Shah Deva, King Birendra, 12-13, 20, 32, 51, 68, 77-79, 83-86, 102, 152, 166
 Shah Deva, King Mahendra, 4-5, 7-9, 25, 34, 39, 59, 77-79, 98-99
 panchayat system of, 10, 101
 Shah Deva, Tribhuvan Bir Bikram, 7-8, 32, 86
 Shah, Helen, 37
 Shah, Himalaya, B.B., 32-33
 Shah, Mohan Bikram, 40
 Shah, monarch, power of the, 27
 Shah prince, 32
 Shah Rajendra Bikram, 24
 Shah, Queen Aishwarya Rajyalakshmi, 24, 36, 165-66
 Shah-Rana marriage, 44
 Shahi, Tilak Raj, 94
 Sheikh Siraju, 109
 Shrestha, Bhim Narayan, 48
 Shrestha, Ishwari Man, 36
 Shrestha, Jog Mehar, 151
 Shrestha, Mathura Prasad, 216-17, 223
 Shrestha, Marich Man Singh, 134, 139, 142, 154-55, 157, 213
 economic policy of the government of, 156
 Shrestha, Narayan Prasad, 36
 Shukla, Biswashankar, 34
 Singh, Dinesh, 125
 Singh, K.I., 111
 Singh, Kazi Hansha Man, 36
 Singh, Lakshmi, 135
 Singh, Ramananda Prasad, 234
 Singh, Ramraja Prasad, 150
 Singh, S.K., 195
 Singh, V.P., 195
 Singhvi, L.M., 163
 Sino-Indian relations, 119
 Social injustice, removal of, 18
 Sobhan, Salma, 159
 Sovereignty, 238
 Subedi Navaraj, 167, 172
 Sri Lanka, 46, 52
 Students' agitation, 55
 Students' leaders, 50
 Supreme Ruler, political unity of, 2-3
 Surjit, Harkishan Singh, 183
- Tarkunde, V.M., 159
 Thakurati, Padam, 153
 Thapa, Bishwa Bandhu, 34
 Thapa, Kamal, 111
 Thapa, Sobhag Jung, 34
 Thapa, Surya Bahadur, 34, 36, 54, 107, 138, 151
 Thapa, Tara Bahadur, 36
 Thapa, Y.B., 48
 Tharu, Bhajan Lal Rana, 137
 Tharu, Labru Rana, 108
 Tharus, 110
 Transit Treaty, 265, 283, 322
 Tuladhar, Padma Ratna, 162, 179, 182

- Two-party system, 248
- Udumyan, K.B., 116
- United Democratic Front, 7
- United Nations, 253
- United Left Front, 187
- United Liberation Fighter, 149
- United Peoples' Front, 250
- Upadhyay Shailendra Kumar, 154,
186, 195, 202, 204
- Upadhyay, Yog Prasad, 214, 217,
221
- Upreti, Govinda Nath, 111, 154
- Vajpayee, A.B., 123
- Votes, 71-72, 88-89
breakdown of the, 69
religious groups, 70
right to, 68
- Voters, 69
- Yadavs, 110
- Yadav, Bhagwat, 111
- Yakub Khan, Sahibzada, 167
- Yogi Narahari Nath, 154
- Zhang Hai Ling, 175

