

# CHAPTER - I

## INTRODUCTION

### 1.1 Concept & Issues

An applied concept of procedure that has deepened its roots in the physical setting of any particular area inhabited by politically organised human beings, which has been practiced regularly through institutional framework and also functions within defined mechanism including the processes accepted by the wider mass is regarded an institution. In this respect, regular happenings within the guidance and control of an institutional entity created solely for the same purpose could be referred to as an institutionalized process and the continuation of such practices is called institutionalisation. In other words, institutionalisation relates with the process of gaining acceptance, continuity, permanence and deepening roots of any institutional framework through its regular functioning that has been practiced by a society with a motive to create opportunities for the progress, prosperity and wellbeing of human inhabitants living within their defined geographical perimeter.

Similarly, the meaning of institutionalisation of a political system connotes with the legitimacy of the functioning of a governing mechanism, which we call government. Such a system of government functions through creating necessary framework with guiding principle and all required operating mechanisms are created within itself to achieve its set goals. The operational process continues for perpetuity of the set goal to be achieved with broader acceptance by the people who in a customary manner use to abide by the norms and values set by it. Likewise, in pursuance of maintaining its spirit, the ruler and ruled demonstrate a natural habit of behaving accordingly with a belief that their interests are well secured and protected under such a practice within the political system the state is pursuing. It can also be said that institutionalisation of a political system makes way to form a government with broadening legitimacy among its people that naturally helps to create obedience/ loyalty as to develop a feeling to abide by its spirit, norms and values. In most of the cases such a display of habits will be sure to happen in an institutionalised political system in which the people in command of the state mechanism and political apparatus will be able to assure the common people that their interests are safe in the process of governance of the country.

The world of politics in the past as well as at present has demonstrated an experience of the introduction of any political system in an easy manner, but has never been

found easy to institutionalise it. Nepal's prelude to multi-party parliamentary democracy could be seen in the same light. The modern political context of Nepal also very much falls under such presumption that due to various reasons the parliamentary democracy that it succeeded to reinstall in the later part of its democratic history has undergone a rough course of process in institutionalising it to withstand for long. In the year 1990, Nepal restored multi-party parliamentary polity but ever since its restoration the concern for its institutional growth is always raised. For that reason Nepal had not a smooth experience in its bid to exercise democracy in the past – 1950s and 1960s - but that could last only for brief periods. The post-1990 parliamentary practices in various occasions had been seen with lack of compliance to its actual spirit. The final stage of problem of institutionalisation of parliamentary system in Nepal to its actual form was marked by the conducts or actions of principal political actors themselves - the King who dismissed elected government on 4 October, 2002 that in fact led to ceasing the growth of parliamentary governance once again.

In a bid to conceptualise the understanding of parliament, Copeland & Patterson said that it is "...a group of individuals operating on behalf of other in a binding and legitimate manner and taking decisions collectively but with formal equality"<sup>1</sup>. In other words, such a form of governmental system decides and acts on behalf of the overall electorates, the constituents – the people with lawful rights to elect their representatives for formulating laws on their behalf - as their legitimate representatives for their own purposes. However, Nepal since the reintroduction of democracy to the period of royal take-over of October 2002, the making and unmaking of subsequent governments were all done more or less through parliamentary norms taken within the constitutional parameter. But, in essence, the case of Nepal in the aftermath of democratic restoration of 1990 represents a derailed process on occasions in pursuing the values and spirit of parliamentary democracy.

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<sup>1</sup> Gary W. Copeland and Samuel C. Patterson, "Parliament and Legislatures", in George Thomas Kurain, ed., **World Encyclopedia of Parliament and Legislatures**, Chicago: Fitzery Dearborn Publishers, 1998, p. XXI.

The success of 1990 movement led the politics of the country proceed towards new developments in pursuing institutionalization of democratic polity. The dismantling of non-party monolithic Panchayat System and the all level political institutions created for its functioning, dissolution by the King controlled government, lifting ban on political parties as well as the formation of interim government and the constitution drafting committee on the choice of popular forces could be seen as the beginning of the institutionalisation of democracy in Nepal. In the succeeding year, in 1991, a new constitution with democratic values was promulgated, which clearly spelt out to advance ahead with the multiparty nature of political system with the parliamentary form and the constitutional monarchy including the format of constitutional supremacy as a mixed prototype of British and Indian models. In the successive political developments, it was also experienced that the necessary components, regulations, processes and infrastructures for the establishment of multi-party parliamentary democracy had been evolved to begin with parliamentary practices of governance in the country.

By the time of the formal evolving of state machineries, apparatuses and governance system of democratic nature, the efforts looked sailing smooth. However, in the later part when their actual implementation and operation began, indifference towards following them in the yardstick of pursuing universal norms and values had been noticed occasionally that adversely affected the process of institutionalization of the system. Similarly, the leaders known as freedom-fighters found on occasions pursuing their conduct keeping the universal norms and values at bay. Such a behaviour demonstrated by the political leaders though occasionally could be taken as the stumbling block in the process of institutionalisation of the democratic polity that Nepalese people were aspiring since half a century of the country's democratic awakening. For that reason it is imperative to understand the reasons of matters that did not work during the period. This necessitates putting the concept of institutionalisation into perspective to understand the process of political institutionalisation of multi-party parliamentary democracy in Nepal. The concept of institutionalisation as envisaged by the sociologists like Hurton & Hunt seemed pertinent to mention here. According to them, "Institutionalisation involves the replacement of spontaneous or experimental behaviour with behaviour which is

expected, patterned, regular, and predictable". Such an idea has rarely been pursued for the sustainability of newly introduced parliamentary democracy in Nepal. The democratic system became the victim of the unpredictable actions taken in spontaneity and whimsical manner by the leading political forces.<sup>2</sup> As a result, the parliamentary democracy could not deepen its root in the politics of the country. By and large it could not win the confidence of the common people of being instrumental to influence the society in a positive manner.

The period since King Gyanendra dismissed the elected parliamentary government as to take over the reign of country through the royal proclamation of self-assumed state power has pushed the country from anomalies to confusion. Such a situation led the country's hard earned democratic gains to a brink of collapse as has been called at the "crossroad of systemic change."<sup>3</sup> The royal step that could be constitutionally questioned was taken in the pretext of then pressing political scenario basically the unleashing of Maoist violence that looked almost turning the country into chaotic situation. This has been more evident through the king's own interpretation for assuming state power mainly on the issue of appointing succeeding cabinet. Whereas the constitution has not mentioned any such a provision that bestowed any power or authority on him to appoint cabinet/ government on his own<sup>4</sup>. Such an act of then King Gyanendra reflects his personalised ambition to remain at the helms of state affairs. With such a scenario, the political developments that took place in Nepal to a large extent portrayed the personalised actions rather than implementing decisions emanated for the need of institutionalised politics. As a consequence, the majority of things related with the politics of the nation after the takeover have been largely dealt in a personalised manner based on personal whims and wishes whereas the Constitution- the main law of the land – could not guide the governance of the country as a living document. Upon such circumstances, the theory of rule of law seemed to be lost wherein the essence of parliamentary spirit, norms and values

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<sup>2</sup> The royal takeovers initiated by the successive kings (King Mahendra in 1960 and king Gyanendra in 2002 including subsequent takeover of 2005) had provided enough ground to defeat peoples' long cherished aspiration of establishing liberal form of parliamentary democracy in the country.

<sup>3</sup> Imtiaz Alam, "South Asia: Towards Political Turmoil?", *The Himalayan Times*, May 7, 2004.

<sup>4</sup> Including other remaining constitutional provisions the Article 127 does not mention any such power to the King. Also See, **The Constitution of the Kingdom of Nepal: 1990**, Kathmandu: Law Books Management Board (HMG), 1992.

largely became a rhetorical issue utilised time and again by the incumbent political forces basically by the king and his ruling clique for their own convenience.

It is important to keep in mind that the struggle for parliamentary democracy began along with the anti-Rana revolution of 1950. The launching of revolution against Rana-oligarchy marked the beginning of the democratic movement for establishing parliamentary democracy in Nepal. This mainly meant to attain representative participatory governance to grant essential rights and freedom to the people to make them able to live a life of citizen. In order to live a life in accordance with participant culture<sup>5</sup> such a movement had began against the backdrop of the autocratic rule and to get rid of the limits of *subject culture* that allowed the people to remain only as ruled. The revolution of 1950 brought a qualitative change in the political thinking of the people and their awareness level that attracted the educated youths towards the British model of Parliamentary Democracy. As thus, the aspiration to be governed through the liberal kind of multi-party Parliamentary Democracy against the autocratic family rule, if not considered long, passed over half a century of country's recent political history that is seemingly cherished by the people of Nepal. Here the term people of Nepal corresponds with the section of common people who have more or less acquaintance with the concept of multi-party democracy and the British model of parliamentary form of government.

The democratic movement that began since 1950 has already passed over a period of more than five decades in Nepal. Over the period several rounds of political movements<sup>6</sup> had been carried out in various forms. At this very juncture of twenty-first century an irony still persists when the struggle for parliamentary democracy in Nepal could not come to an end. Though the post-1950 period had witnessed some form of party governments with the appointment of cabinets composed of handpicked leaders as the party representatives. Whereas some efforts had been applied then to give it a parliamentary nature of governance through creating three Advisory Assemblies in different phases (1<sup>st</sup>: 1952, 2<sup>nd</sup>: 1954 & 3<sup>rd</sup>: 1958) within the decade of 1950. The Advisory Assemblies were created by the successive kings [Tribhuvan (2) and Mahendra (1)] under the provision of the then Interim Government of Nepal Act, 1951 (Constitution). Though all the Advisory Assemblies were nominated bodies but were seen as

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<sup>5</sup> Gabriel Almond and Sidney Verba, **The Civic Culture**, Princeton: Princeton University Press, 1963, p. 38.

<sup>6</sup> The anti-Rana movement of 1950 was later followed by the movement for having the election of constituent assembly for drafting a democratic constitution anti-royal takeover and rule by king Mahendra in the later part of 1960s, armed movements both by the leftist and congress men separately and active non-cooperation of 1970s, Satyagraha as peaceful protests in 1980s and *Jan Andolan* of 1990 launched by the NC and ULF marked the significant democratic movements.

the representative public forums filled mostly of general public and party representatives but all were made upon their pro-monarchist credentials. Despite that fact this governmental organ was basically meant to support government in enacting laws and budgetary allocation for expediting the executive functions as well as for incurring governmental expenditure thereby to make the cabinet responsible towards them.

While we look at the democratic movement of Nepal, we need to consider the ups and downs it had undergone in its political history – the revolution like popular movement of 1950 against the Rana autocracy launched in favour of introducing multi-party democracy with the constitutional monarchy. Nevertheless, by a declaration, King Tribhuvan himself violated the commitment he had made for assuming the role of constitutional monarch rather claimed the possession of state power and sovereignty of the nation. Similarly, in 1959 the intense pressure of political parties led to introduction of multi-party parliamentary democracy with constitutional monarchy but in 1960 it was all subverted by King Mahendra. In the process he took drastic steps against the spirit of constitutional monarchy and accumulated all power with himself and introduced his arbitrary style of governing system with a non-party polity dominated by the royal palace.

Likewise, the popular movement of 1990 helped restore multi-party parliamentary democracy, but King Gyanendra's move in 2002 and subsequently again in (Feb.) 2005 once again spoilt the whole constitutional processes of democratisation and finally the popular uprising of 2006 restored sovereignty of the people by establishing their final authority to determine their destination by themselves. The 2006 peoples' uprising led the popular forces to draft a new constitution that practically allowed them to introduce democracy with inclusive and representative nature. The final blow of popular upsurge for democracy in 2006 has brought sea changes in the politics of Nepal that pursued to push back the autocratic monarchy for its ambition of monolithic rule. This brought an ultimate change in Nepalese monarchy with no role to play in the politics and governance of the country either at present, or in future. Such a step proved a vital step towards moving the country to republic, which was later declared through the decision taken by the Constituent Assembly of May 28, 2008 (Jestha 15, 2065 BS).

Though the period since 1950's peoples' rise for democracy had also provided them an opportunity of testing various party governments but it was experienced later that it lacked both stability and continuity. It could be said that with such historical accounts the Nepalese people have tested the parliamentary form of governmental system twice in real terms. First, for a brief period of eighteen months during 1959/60 and latter for over a period of 12 years (this is referred to till October. 4, 2002). In the first case, the then King Mahendra with his ambition to remain at the helms of governmental affairs/ leadership along with the power that led him to take over the reign of the country. And, on the other, his second son Gyanendra when he was king repeated almost the same act in the year 2002. Except formally banning of political parties but informally curbed their activities to conduct rallies, mass meetings, protests and demonstrations. In this connection, the king dismissed elected parliamentary government merely a little over one year of his accession to the throne in succession to his eldest brother King Birendra who was assassinated in a so called family row along with his immediate family members including Crown Prince Dipendra - in succession line to the throne.

If we put aside the Maoist problem and look into the concurrent political scenario of the country, we will find that the country is facing continued political instability. For that reason, one would clearly notice that has been emerging out of the politics and government in Nepal which is facing a hurdle of streamlined progress on its way in institutionalising the parliamentary system. However, it is also found that the psyche of educated Nepali people since the post-World War II period had been striving for the installation of multi-party parliamentary democracy in the country. The efforts after the 1950 revolution were also foiled by the royal unwillingness to bestow power on the people as well as democratising the political system. Such an act of indifference prolonged later in the form of royal dislike, manipulation and tactics since the period of King Tribhuvan to his son Mahendra and also to his two grandsons Birendra and Gynendra during their respective tenures of reigns<sup>7</sup>.

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<sup>7</sup> Despite the public commitment made after the success of 1950 revolution King Tribhuvan later altered his mind of holding elections for the *Constituent Assembly* and thus abandoned the idea of assuming the role of constitutional monarch within the democratic system by accumulating all executive, judicial and legislative power within himself. His son, King Mahendra, however, allowed for the first ever parliamentary elections but only after 18-months he overthrew the democratically elected government and dissolved the Parliament and thus halted the growth of democratic system in the country. After facing college students' stiff protest against the monarchist regime launched in favour of democracy his successor King Briendra declared to hold national referendum in 1979. On this pretext he got an opportunity to legitimize his royal regime and became able to perpetuate partyless Panchayat System for another ten years. See, Lok Raj Baral,

The period after World War II was considered as the beginning of the freedom movement against the oppression imposed by colonialism and despotic rule. The post-World War II period in Nepal could be seen as preparing the stage for leading the country against Rana's oligarchic rule. The decade of 1950 could be seen as a phase of the introduction of some of the basic tenets of parliamentary democracy by allowing political parties to function, evolution of constitutionalism for the governance of the country and also the required institutions/ mechanisms of the functioning of democratic government. The thirty years' period, 1961 to 1990, of none-party monolithic Panchayat System had been marked as a phase when the growth of culture of palace controlled governmental rule with limited individual freedom and rights to the citizens were promoted as a state motto. However, the constitutional amendment made after the referendum of 1980 that approved the continuation of none-party Panchayat polity by introducing adult franchise with the formation of government upon the majority's support to any individual leader in the legislature. But such amendment did not allow any organized opposition without any formal groupings rather retained the monarchical leadership on the control over government as in the past. This phase tried its best to abide by the system propounded on the 'soil-suited' concept of government through active monarchy. The third phase - around a period of twelve years - April 1990 to pre-October 4, 2002 takeover - that began in the aftermath of popular movement had witnessed the parliamentary system functioning one way or the other sticking to its basic theoretical approach. Whereas the sincere attention in adhering to its spirit, norms and values had rarely been paid. And, the phase since October 4, 2002 has witnessed a setback in parliamentary process of the country when efforts were made one after another to cut the basic roots of the system<sup>8</sup> so that the essence of parliamentary democracy to be lost. This was invigorated by the act of February 1, 2005 when the then king assumed power for imposing direct rule by ardently leaving the principle of constitutional monarchy in a core matter of verbal utterances only.

If we look back to the early phase of the democratic change of 1950 except some preliminary initiatives nothing concrete for its evolution was initiated from any quarter. The publicly made commitments of holding an election for the constituent assembly to draft a new constitution by the representatives of the people in order to begin the process of democratising

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ed., "Second Constitutional Experiment with Democracy", **The Regional Paradox: Essays in Nepali and South Asian Affairs**, Delhi: Ardoit Publishers, 2000, pp. 5- 15. Also see, Jyoti Koirala, "Yahi Ho Ta Prajatantra?" [Is this the democracy? (In Nepali)], *Saptahik Bimarsha*, Bhadra 8, 2058 (August 24, 2001). Also see, Aditya Man Shrestha, "Royal Strategy: Partly Right, Partly Wrong", *The Himalayan Times*, August 17, 2004.

<sup>8</sup> Firstly, contrary to the constitutional provision of appointing elected governments the King is found to be interested in appointing governments upon his own wishes through nomination. And, secondly the provision of royal palace expenditure is made from then onward (Post-2002 Royal takeover) to be determined by the royal palace itself.



the political system as per the wishes of the people were neither pursued by King Tribhuvan himself nor his son King Mahendra. After applying lots of pulls and pressure on the part of political parties King Mahendra later agreed to hold parliamentary elections by promulgating a constitution prepared by his nominated draftsmen. He allowed first ever-general elections in 1959 but for the unknown reason<sup>9</sup>, the assumption of parliamentary government delayed for three months of the declaration of election results. The Nepali Congress (NC) parliamentary party leader B. P. Koirala took oath of office of Prime Minister and formed the government which was allowed to last for eighteen months only. In a sudden move, King Mahendra dissolved the parliament and dismissed the NC government that secured 2/3 majority in the parliamentary elections and imposed ban on the functioning of any political party in the country. Thereafter, the modern political forces represented by the political parties working for the restoration of multi-party parliamentary democracy had to launch democratic movements (being underground), but political parties were declared banned for thirty years. Thus, through the royal move the democratic system that was newly introduced then could not institutionalise in the political governance of the country.

The five-decade-old democratic movement that ushered in Nepal had been initiated basically by the NC. As the prime initiator the NC is continuing the campaign for multi-party parliamentary democracy with constitutional monarchy in various ways. Movements were in the forms of countrywide protests, mass rallies, non-cooperation/peaceful demonstrations, including the armed campaign while in exile (India), policy of reconciliation, participation in the local Panchayat (bodies) elections to capture the out-posts and weaken the system from within, peaceful protests in the form of *Satyagraha* and finally in the form of mass (popular) movement. Nevertheless, the democratic forces led by the political parties have once again had to resume their struggle for the restoration of democracy (2003) in protest against October 4, 2002 and finally of February 1, 2005 take-over of King Gyanendra.

The parliamentary system has been endangered by the successive unauthorised acts of assuming the executive power by the then king including his action of dismissing the elected parliamentary government of Prime Minister Deuba and utilized the constitutional provision through the misinterpretation of the Article 127 meant to

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<sup>9</sup> It was then made delay in handing over premiership to B. P. Koirala the leader of the Nepali Congress the majority Party in the House of Representative for making legal arrangements of accumulating all powers relating to military of the country.

remove constitutional barrier for proceeding towards addressing complex constitutional issues. The royal intervention took place when the Lower House of parliament had already been dissolved on the recommendation of the then Prime Minister Deuba and the tenure of local bodies was also not extended, i.e., by the time the country was left with no democratically elected institutions.

Since the royal take-over the five mainstream political parties representing in the dissolved Lower House of the Parliament had agitated against the process of "regression of Oct. 4, 2002" thereby initiating to work for the "restoration of the achievements of the popular movement of 1990". In connection with their agitation, they tried to push hard against the King and his arbitrary political maneuverings because to them the king's action was detrimental to the growth of parliamentary democracy in the country. Meanwhile they had started to realise and utter their past mistakes and publicly pledged not to repeat them in future. In the backdrop of the Maoist movement they even agreed that the country could not be governed following the old fashioned way they had pursued in the past. So, in order to restore the 1990 achievements and also to attain social transformation they commonly agreed to adopt a full-fledged programme of eighteen point common agenda\* (Appendix I) as the future course of action. In order to guarantee the sustainability of multi-party parliamentary democracy in Nepal, the five agitating political parties declared their eighteen-point agreement as their basic roadmap for determining the political sphere of the country in the days to come and thereby to make the Nepalese monarchy entirely constitutional and keep it away from having any discretionary power concerning to the politics and governance of the country.

To the mainstream political parties like the NC and the Communist Party of Nepal- Unified Marxist Leninist (CPN-UML) including other small parties, the Royal move was the revival of the takeover of 1960 by King Mahendra and thus regarded it as entirely an unconstitutional step. In response to it, the mainstream political parties started to protest and jointly took a firm stand of non-cooperation to the king-nominated successive cabinets. The King's action confirmed his preference of installing handpicked government contrary to the provision of appointing party

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\* See, **Eighteen Point Understanding** (May 2004) held among five agitating Political Parties.

government as envisaged by the constitution of 1991. The agitating parties spelt out the royal take-over of October 4, 2002 as a step instrumental in derailing democratic and constitutional process of the country. In their opinion, the royal step created a political vacuum at this juncture of political history when elected House of Parliament was non-existent and thus weakened the whole system of parliamentary democracy in the country.

## **1.2 Significance of the Study**

It is palatable to refer here that with a joint effort by the principal political parties (then banned), the Nepalese people through the popular movement had forced the palace led monolithic authoritarian Panchayat system by the first quarter of the year 1990 to collapse. The movement was launched by the major democratic force, NC, and joined by the United Left Front (constituted of five left parties and the main faction of it later became popularly called the CPN-UML). Both the parties had championed for the multi-party democracy in the country for decades. In view of their untiring struggle the reinstatement of multi-party parliamentary democracy has been achieved with numerous sacrifices of their (parties') followers and leaders. But within few years - soon after the reinstatement of democratic system - the principle actors of democratic struggle started to have disharmonious relationships among themselves. Such relationships began to develop basically due to the self-centred power game, politics of egoism, opportunism for power and purse as well as the factional politics in controlling the party apparatus among the leaders within and without. The growing misunderstanding among the leaders put them in difficulty to work together for creating ground to stabilise democracy to which they had commonly suffered for the best and youthful part of their lives.

The anomalies had surfaced in such a way that it vitiated the atmosphere of understanding and maintaining of minimum level of working relationships, necessary for the growth of parliamentary democracy about which they were considered champions in the country. This had affected the relationships of the leaders not only among the inter-party but also among the intra-party leaderships. Such behaviours had contributed in fading peoples' faith on the party leaderships that endangered the fate of democracy itself. The anomalies have time and again been reflected in the parliamentary proceedings and its dynamics as well. As a consequence the parliamentary processes and procedures in one stage have been frequently utilised for making and unmaking of governments. In this connection the MPs of ruling party themselves were found instrumental for the collapse of their party-government, failure in passing the

bills, proposals, etc.<sup>10</sup>, - the incidents of violation of whip and floor crossing had also been noticed occasionally.

The CPN-UML as the main opposition during the first parliament after the reinstallation of multi party parliamentary democracy had been found in a mood to pursue a strategy of attaining its objectives with the street demonstrations - which some time turned violent, rather than pursuing deliberative solution from the parliament. Moreover, it had been evidently noticed that the lack of responsive attitude and behaviours of the leaders and political parties towards the wishes of common masses made the institution of parliament weak, ineffective that in a way confused the common people about the usefulness of the parliament. As a result of being indifferent in a sense towards the expectation of the majority of weaker section of the society the democratic system had been non-functional to the common masses. Such a situation had been understood abetted to a large extent to the beginning of the launching of a violent revolt by the ultra-leftist Maoist group, which propagated working on behalf of the backward and weaker classes of the country. Since 1995, the Maoist guerrillas were launching their insurgency campaign by killing civilians and attacking government agencies including the development installations. The Maoist insurgency movement then weakened the functioning of state machinery and pushed the country to the brink of civil war.<sup>11</sup>

On the one hand, an illusion among the people who adhered to newly established democratic system has been surfaced by such anomalies pervaded. On the other, by considering the influence of the royal palace in the sphere of governance the party leaders occasionally had shown a tendency of wooing the monarch and tried to seek his favour for support.<sup>12</sup> Such acts, in a way, reinforced the king's thinking and encouraged him to impose a middle ages political philosophy of ruling the country as a *de-facto* power centre against the country's aspiration of pursuing for liberal democratic values and idea. Thereby putting the idea of following the norms and spirit of constitutional monarchy into lurch by undermining the most veered democratic institution of parliament. In order to protect its traditional interests the royal palace took advantages of such adverse circumstances and in that process it began to override

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<sup>10</sup> See, Krishna Hachhethu, "Bartaman Sankat Ra Teshko Vyawasthan" [Current Crisis and its Management (in Nepali)], *Saptahik Bimarsha*, Ashoja, 26, 2058 B. S.(October 12, 2001).

<sup>11</sup> See, "Kaha Chukyo Prajatantra? Kina Bhaye Janta Nirash" [Where has Democracy Mistken and Why People became Passimistic ? (in Nepali)], *Nepal Saptahik* (National Weekly), 1-15 Falgun, 2057(February 12-26, 2001), pp. 18-20.

<sup>12</sup> See, Subhash C. Kashyap, "Institution of Governance: The Parliament, The Government and The Judiciary," in V. A. Pai Panandiker, ed., **Problem of Governance in South Asia**, New Delhi: Konark, 2000, p. 110.

the authority of Parliament and government.<sup>13</sup> These anomalies were considered responsible to the extent that it paved the way for the repetition of 1960 type of Royal takeover on October 4, 2002, just a year after ascending to the throne by King Gyanendra. If the situation remained same, it cannot be ruled out that Nepal may be called a 'failed state' for liberal type of democracy to which multi-party parliamentary democracy is synonym to most of its supporters.<sup>14</sup> Such a situation may give an impression about the Nepalese populous as not yet been matured enough to run parliamentary democracy.

In this backdrop it is pertinent to enquire: why Nepal's democratic system is not being able to take ground? Why the political leaders/ parties are not having minimum level of working understanding to institutionalize such a hard earned democracy? Why the Nepalese monarchy dared to interfere in an unauthorized manner in the political matters of the country including its non-compliance with its role of constitutional monarchy? So, in the broader interest of the political understanding about the Nepalese democracy and the process required to pursue or follow this research prove helpful. In view of the usefulness of the findings and the remedies that will be investigated and suggested in this dissertation required to pursue lasting as well as smooth functioning of parliamentary governance in the country.

With a belief that this may help the concerned actors and forces to take timely caution and act accordingly in deepening roots of democracy in the country. In order to achieve this, there is a need to win the confidence of common people by meeting their genuine aspirations through effective ways and methods, which will be useful for the sustainability of the institutions of parliament and also make the democratic system adequately fit to bear the shocks and address the challenges it faces in future.

In conducting such types of research/ studies, there is a constraint in having directly useful literature. As the introduction of parliamentary democracy has been a recent phenomenon in Nepal it becomes an area of study with limited discourses and studies to the Nepalese academia. Limited relevant works have so far been done in this field. Similarly, the reading materials available in the country, in whatsoever forms are not sufficient and do not address

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<sup>13</sup> In the pretext of non-conformity with constitutional provision/s some of the Bills (in 1959/ 60) meant to check feudal practices and in the name of legal consultation (1994) King Mahendra and King Birendra respectively, during their respective reign/s tried to halt and delay the PM's recommendations of dissolution of the House of Representatives (HOR). Similarly, the king had nominated 10 members of the National Assembly without seeking any recommendation of the incumbent PM. On the same pretext of legal consultation the Citizenship Bill passed by the HOR had not been granted final assent (*Lalmohar*, the royal seal) to be enacted as law.

<sup>14</sup> See, "Nepal Asfal Rashtra Banne Lakshan Dekhaudaichha" [(Nepal is Showing the Symptoms of a Failed State, (in Neplai)], *Deshantar Saptahik*, Falgun 7, 2057(February 18, 2001).

the queries the present study intends to have. Whatever literature is available, therefore, are inadequate to address much of the issues raised here. So, the proposed research may to some extent fill up the gap about the issues raised

### **1.3 Objectives of the Study**

As the country has faced the problem of persisting political instability as a part of the overall lacking of any honest beginning for initiating the process of stabilising multi-party parliamentary democracy, its institutionlisation becomes a very difficult goal to realize in practice. Though Nepal has experienced the parliamentary system on British model over a period of more than a decade, there has rarely been noticed any sign that guarantees its lasting existence (sustainability). This has been felt pressing as well after the February 1, 2005 Royal intervention followed by consequent movement for the democratic transformation – making people politically more empowered as the real sovereign.\*

As such, the overall objectives of present study are to find out the issues relating to the problems of institutionalization of parliamentary institutions, its functional process and procedures to be followed in a bid to achieve the institutional growth of democracy and its endurance. It is, however, valid to raise a question, if the parliamentary democracy can function with a rare hitch over a period of more than half a century in a vast nation like India with enormous diversity, why not it could be institutionalised in the neighbouring Nepal, which is far less heterogeneous and incomparably smaller in its size, population and challenges.

Nepal's challenge to attain institutionalized democracy is found in disarray from within – the conduct of principle political actors; mainly the role played by the institution of monarchy discarding the concept of civil sovereignty for representative governmental system, has rarely demonstrated its willingness to comply with the popular will since 1950. Its tendency of weakening the democratic process not only affected the political stability but also contributed to begin the process of uprooting monarchy seen in the post April 2006 *Jan Andolan II*

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\* The democratization process of 2006 intended to prevent any political intervention like in the past (1960, 2002 & 2005) from any quarter for that reason people has been authorized to decide their fait and determine their political destiny by participating in the Constituent Assembly elections to draft a new constitution for the country.

scenario (people's upsurge). The royal acts have put its existence at stake which was evident in the post-April 2006 phase.\*\*

It is, therefore, felt necessary to make a comprehensive study influencing the political order adversely. By and large, the objectives of the present study are:

- To enumerate some of the major points of struggle for parliamentary democracy in the country that is useful for the study;
- To identify the issues of institutional growth of parliamentary democracy and analyse their reasons;
- To point out, how democratic norms and values as suggested by the present parliamentary system are being ignored and its impact on the governance of the country; and
- To ascertain the measures and the steps that could be adopted for the institutionalized growth of multi-party parliamentary exercises in Nepal.

## 1.4 Literature Review

It is believed that the voice for democracy in the initial stage mainly resembled with the public demands for claiming to have rights for participation in raising voice in the process of government, but that in the later stage took a broader dimension and aimed for their overall welfare through availing equal opportunities to them. The notion of participation in the process of government became popular basically for the rights to the people as a means of achieving human freedom and dignity. With some similar notion the Nepalese people also have been struggling for the multi-party parliamentary democracy since 1950. If we put aside the achievements of the post-April 2006\* the multi-party parliamentary democracy was achieved twice in the political history of the country; first, in the year of 1959 for a brief period of eighteen months and lastly, in 1990 that did last for twelve years (till October 4, 2002). But due to the lack of full faith or complete adherence to it the system is suffering from destabilising factors. Due to lack of institutional growth the political system thereafter existed only in somewhat form with no adequate democratic essence and multi-party parliamentary spirit is lost somewhere in this regard. As of this the repeated incidents of jeopardizing the democratic system from various political quarters it is pertinent to find out

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\*\* As a consequence of popular upsurge of April 2006 the reinstated parliament decided to determine the fate of monarchy to continue through the first meeting of Constituent Assembly, elected by the people, meant to form for drafting new constitution.

\* However, the achievements of the post-April 2006 popular upsurge have decided to go for full-fledged democratic system of government (*Loktantra*) with competitive multi-party politics and prescribed to pursue the parliamentary form of government but unlike to the orthodox British model as introduced in the post-1990 changes.

the reasons of its problem of being institutionalised and also to analyse the means and methods to achieve the sustainability of parliamentary polity in the country.

The context of the study of multi-party parliamentary democracy and the process of its institutionalisation in Nepal will not be considered complete until and unless the summarised review is made about the evolution of British parliamentary system (from where inspiration is drawn) and the reason behind its growth. This needs, however, to be followed also with the brief illustration of parliamentary system of government and its evolution since its adoption in India. Whereas, due to the influence of the struggle of Indian freedom movement against the British colonial rule the political activists and leadership in Nepal had led a mass revolt against the Rana oligarchy that continued in the country over a century.

Initially, the movement for democracy became a blessing in disguise in those parts of the world where people were leading a wretched life due to the despotic rule and lack of rights required for living a life of human being. But, in the later part of democratic movements it has drawn a connotation of guaranteeing equal opportunities to all rather maintaining equality by itself. This was further elaborated as a means of participation in the process of government through representative system of the people, who bear legitimate right to choose their rulers. In such a process they kept intact possessing the right of having different views including the right to dissent as an important means of basic individual freedom. In this context, the idea relating to democracy and the values it bore as mentioned by Michael Stewart in his book *Modern Forms of Government: A Comparative Study* could be taken into account. In his opinion democracy today is supposed to mean that the people in general have the power to discuss and decide the governmental policies through the representatives that they are entitled to elect of their choice. He also stressed the point that they could control the representatives that they have elected with the means of criticism and utilising the periodic elections through this they even could peacefully change the government.<sup>15</sup>

The basic values of democracy helped to shape the need of concept of deliberative nature of decision-making governmental system in England popularly known as the parliamentary democracy. Such a system of government basically operates through the decisions taken in an apex law making political body on the basis of discussions held among the elected representatives of the people.

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<sup>15</sup> In Michael Stewart, **Modern Forms of Government: A Comparative Study**, London: George Allen & Unwin Ltd., 1959, p. 198.



Regarding the concept of Parliament and its evolution history and also the theoretical aspects of the institutionalisation and its meaning is concerned; there is a need to ponder on some of the various types of literature. In connection with the study there may be needed to draw inferences from various types of literary works like books, journals, essays, seminar papers, articles, reports, etc., even from other disciplines as well. The following write-up aimed at dealing with the reviews of literature published in these aspects that basically deal with the British, Indian and Nepalese context of parliamentary systems including their growth and developments that took place since inception.

*The Book of Knowledge* indicates that in the year of 1215 the very initial foundation of parliamentary democracy had been laid down when the declaration of the English Great Charter, **Magna Carta Libertatum** (in Latin) - a historic document of public demands. This was the document of mutual understanding through which the king was made to accept public demand of right to freedom, property, and challenge against arbitrary punishment with free and fair trial including the summoning of the regular session of parliament, which should have the authority to pass acts, no tax could be levied without its approval and no person could be put into custody or exile without following due process of law. The book categorically pointed out that, though **Magna Carta** had put a halt to the unlimited power enjoyed by the British King but it had not any direct bearing on the idea of "setting-up of a parliament" in England.<sup>16</sup>

The book also cites the issue about the declaration of **Magna Carta** and called that it marked the recognition of the rights of the people and the beginning of the parliamentary democracy in England. It further mentioned how this document gained the status of "law of the land" that granted greater power to the people. It, in fact, paved the way for the creation of parliament in the later part of the political history of the country. Pertaining to this, the book elaborates the issue more clearly in such a manner: "it can be seen the way in which powers of parliament later developed by the members' realization that they had become strong enough to assert new rights, and to make the sovereign accept their proposals".<sup>17</sup>

Similarly, T. F. Tout in the book *A First book of British History* has gone a step ahead and basically deals with the history of British Monarchical rule including the causes leading to the evolution of British Parliamentary System. The book also reveals the historic fact of political importance that through the declaration the King John was forced by the barons to accept the

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<sup>16</sup> **The Book Of knowledge**, Vol. 6, London: The Waverly Book Company Ltd., Date ? (N. D.), p. 110.

<sup>17</sup> *Ibid.*

document of **Magna Carta** and also to relinquish his enormous power in favour of the people. The declaration had made the king to regard the rights of the church, barons and common people as well. He was not supposed to raise tax without the consent of barons and also was not authorised to put anyone in prison without any valid reason and was also liable to act according to the law only. This, in fact, had marked the dawn of English peoples' liberty. But, during his last days King John broke away from obeying the Charter. His son Henry III who succeeded him also was not in mood to accept the bindings of the Charter. In this connection he started to raise heavy taxes. As the consequence, the king had to face stiff public opposition and could not be able to maintain order in England. Such events once again resolved the barons to compel the King Henry III to rule England by making him to comply with the Charter and their advice.<sup>18</sup> In the book, Tout vividly illustrates the issue by pointing out that the king had no more unlimited power and he was expected to seek approval of the Parliament constituted as the assembly of public while levying new taxes or enacting new laws. As thus, it had created checks on the absolute power of the king.<sup>19</sup>

In connection with the overall growth of Parliamentary Democracy in England Lord Morrison of Lambeth, in his book, *British Parliamentary Democracy*, he presents a glimpse of its gradual evolution that spread over a span of several centuries, something around 700 to 800 years. It leads the readers to the fact that how political circumstances in England had been able to bring the change from monarchical autocracy to parliamentary democracy even during the 14<sup>th</sup> century. Basically it reveals the fact that its evolutionary period had not witnessed any drastic revolutionary changes but its growth took place in a gradual and steady manner. It grew time to time by developing enough confidence of the British people for bringing permanence and lasting effects of the political system that they had adopted.<sup>20</sup>

In almost the same way, Sir Courtney Elbert points out the evolution and usage of word 'Parliament' and its adoption in England in his book titled *Parliament: Its History, Constitution, and Practice*. In the book he clearly mentions that the word 'Parliament' during those days was borrowed from the French term *parler*. He also makes it clear that in its Latin form it meant a kind of talk held among the priests of the church.<sup>21</sup> He further pointed out that in French the term, during the thirteenth century, was basically related with the meaning of judicial institution that claimed to have a share in the making of laws.

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<sup>18</sup> T. F. Tout, **A First Book of British History**, London: Longmans Green and Co., 1929, p.62 & 66.

<sup>19</sup> *Ibid.*, p. 66.

<sup>20</sup> Lord Morrison, **British Parliamentary Democracy**, Bombay: Asia Publishing House, 1962, p. 1.

<sup>21</sup> Courtenay Ilbert, **Parliament: Its History, Constitution and Practice**, London: William and Norgate, 1948, p 7.

The book elaborates the concept of 'Parliament' developed in England and also mentions its evolution history that took several centuries to take present modified structure but with developed form liable enough to attract other areas. In the book the author says that initially some seven to eight hundred years back the Parliament used to work as a petitioning body only but in the later phase it gradually turned into the legislative institution. He further continues that the continuation of holding Parliament later in the enlarged form with broader participation of people became a place of conference of the representatives (*Knights*) of the *shires* (counties, towns) and *boroughs* in England that provided opportunity and forum for the deliberation on the issues concerning public good and tax collection.<sup>22</sup> His point of contention was that it is basically the "want of money" and for enacting laws created the institution of Parliament in England and thus the process of legislation by bill in parliament took place instead of petition.<sup>23</sup>

But, the book, *Origin of English Parliament*, edited by H. F. Kearney, has mentioned that to the English people it initially was understood as a form of "talk" that meant to discuss on the public issues. The book points out that in the later stage it became an assembly that replaced the feudal councils and played a role of *parley* in between the *Crown* and *Community* and became an expansion of the *King's Council*.<sup>24</sup> Over the time the process of holding of parliament that began since 12<sup>th</sup> century had helped to entrench its root deep in the British politics and government and, thus, its processes were applied regularly thereafter.

The author also elaborates that with the mechanism of holding regular parliamentary conferences and also its practices of decision making on the issue of public affairs it became an institution there. The practice of endorsement of such a Parliament became obligatory in England for legislation and raising tax since the 12<sup>th</sup> century.<sup>25</sup> In this context, it is also relevant to mention Elbert's assumption relating to the practices of parliamentary process in England; and he clearly mentions that through the act of making and unmaking of kings as enacted by the Parliamentary Act of 1327 the British Parliament gained enough political power<sup>26</sup> and thus functioned as a political institution in the later part of its history.

The book also refers that since the early thirteenth century the summoning of the political assemblies by the king gradually acquired the name of parliaments in England. And, by the

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<sup>22</sup> H. F. Kearney, ed., **Origin of the English Parliament**, London: Longmans, 1967, p. 5.

<sup>23</sup> Courtenay Ilbert, *Op. cit.*, pp. 16 & 23.

<sup>24</sup> H. F. Kearney, *Op. cit.*, pp. 4-5.

<sup>25</sup> Courtenay Ilbert, *Op. cit.*, p. 9.

<sup>26</sup> *Ibid.*, p. 24.

middle of the fourteenth century, the convening of such assemblies occasionally with its characteristics proved useful to ventilate public grievances against the misconduct of king's henchman and for that reason it attained the status of widely recognised institution in the British society.<sup>27</sup> It further elaborates the system that existed during those days was a feudal one within which the political decisions taken during those days were basically the military decisions.<sup>28</sup> But the book also refers that after the emergence of the practice of summoning of the assemblies on the regular basis the system became demilitarised. From then onward a norm was established that led to follow the idea of taking decisions even relating to war and the money that required to be spent on it should not be taken by the warriors but by the taxpayers themselves, i.e., through their representatives. Such an idea of operating the "royal counseling body" became popular and deepened its root in the society. Thus, it led the contemporary political system to operate into the parliamentary form of government.<sup>29</sup>

About the structure of the English Parliament the author also mentions that since the fourteenth century it started to function into two chambers. The gentry and burgesses sat together in one house, which later called the Lower House (House of Commons), and the aristocracies and upper clergymen in the other, the Upper House (House of Lords).<sup>30</sup> In this connection, it is relevant to illustrate the version mentioned in the book about the political power of parliament and the changes it brought in the contemporary society. The book says that the older councils transformed into parliaments all over the Western Europe during the thirteenth and fourteenth centuries. This had led to alter in the "balance of society, and a revolution in the doctrine of authority."<sup>31</sup>

Similarly, Morrison also writes about parliament, its evolution and the legitimacy it acquired through its regular practices. He makes clear about the need of "doctrine of legislation" and also the "supply of money" that gained legitimate ground and became the central business of parliament and fell exclusively in its functional sphere than of the crown even during its initial period. As he writes in his book titled *British Parliamentary Democracy*, the parliament became the sole responsible institution for taxation and financial requirements of government was fulfilled by it but the government was made bound to hear the grievances of the taxpayers

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<sup>27</sup> See, *Ibid.*, p. 17 and also see, H. F. Kearney, *Op. cit.*, p. 1.

<sup>28</sup> H. F. Kearney, *Ibid.*, p. 4.

<sup>29</sup> *Ibid.*

<sup>30</sup> Courtenay Ilbert, *Op. cit.*, p. 15.

<sup>31</sup> H. F. Kearney, *Op. cit.*, p. 17.

- people. Such provision made the king to take into account of the parliament and its legislative prerogative.<sup>32</sup>

As per the relevance with present study it is also pertinent to make a brief review of the literature relating to the origin of Indian parliamentary system and its growth that took place in course of time. It will be appropriate to make a cursory review of the growth of the Indian Parliament and the idea behind its inception and adoption with which the democratic movement of Nepal was also inspired and influenced. It is also relevant to do so because the political activists and the leaders of Nepal and India had worked together for the freedom movements of one-another (basically to get rid of the ongoing Rana autocracy and British colonial rule respectively in both the countries) that took place in almost the same occasion in both the neighbouring countries.

In the book *Practice and Procedure of Indian Parliament*, its author, S. S. More, mentions that India, as being a British colony had inherited the parliamentary form of system from the British system.<sup>33</sup> The author introduces the beginning of the Indian Parliament its initial status and the nature of its functioning under the British colonial rule. In the process, the author also points out reason that the parliament of India in its primary form was called the Imperial Legislative Council as well as holding of its initial sessions in Calcutta (1854). Thus, More, mentions that India had began exercising the parliamentary practices almost a century ahead of its independence. The book also notably includes the fact that some of the early meetings of the Indian Legislative Council were also held in Simla during the summer season and this continued till the Congress Party came to power.<sup>34</sup> As such, the meetings of the Indian legislative council have shifted from place to place during the end of 19<sup>th</sup> and beginning of 20<sup>th</sup> centuries according to the wishes of British colonial authorities. The book also refers that the year 1927 marked the completion of the construction of the Parliament House in the new Indian capital city of Delhi, since then the regular sessions parliament started to hold there.<sup>35</sup>

In the book the author, More, tries to depict the legislations passed by the British Parliament that led to the beginning of Parliamentary exercises in India. The book portrays the significance of the Indian Council Act, 1861 which restored the powers of legislation to the governments of Madras and Bombay. But, the practicability of this Act had to be reinforced

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<sup>32</sup> Lord Morrison, *Op. cit.*, p.3.

<sup>33</sup> See, S. S. More,, **Practice and Procedure of Indian Parliament**, Bombay: Thacker & Co. Ltd., 1960, pp. 7- 8 and also see, W. H. Morris-Jones, , **Parliament in India**, London: Longmans, Green & Co. Ltd., 1957, p. 200.

<sup>34</sup> S. S. More, *Ibid.*, p. 187.

<sup>35</sup> *Ibid.*, p. 186.

through the introduction of the Indian Council Act of 1892 basically to cater the demand of positive representation in the council headed by the Governor General of the educated Indian youths linked with the Indian National Congress. This Act opened up a provision of electing some of the seats for the Indian Legislative Council instead of the provision of nominating only by the Governor General who was supposed to preside it. The Act also contributed in enlarging the extent of discussion on Annual Statement of revenue and expenditure in the council where the members were allowed to seek answer from the executive. The author pointed out that in the process of establishing parliamentary system in India the Morley – Minto scheme embodied as the Indian Council Act, 1909, a turning point in initializing the parliamentary system to continue with a greater impact among the Indian people. Similarly, the author also indicates that in pursuance to the Government of India Act, 1919 the Indian parliament was made consisting of Governor General and two Chambers – the Council of States and the Legislative Assembly and each of the chambers were to be constituted with majority of elected members. This was continued till the Indian independence was achieved and its present form of parliamentary governance took shape after the promulgation of the federal Constitution as well as declaring itself a Republic.

Over the time, the parliamentary system in India been institutionalised to a large extent. However, to the Indian people it was a borrowed concept from a country which colonized India for centuries, the question about its legitimacy rarely raised. This could be seen as rightly claimed in the book *The Indian Parliament* by its author, A. B. Lal. On the issue of upholding the parliamentary practices as the political system he also indicates that the Indian people have accepted to adopt the parliamentary form of political system. He pointed out that the democratic system, which has been followed by the Indian people, was pursued by their leaders whose upbringing was made under the practices of the British parliamentary democracy.<sup>36</sup>

About the concept and structure of the parliament the book elaborates precisely and mentions that the general pattern of the Indian parliament is similar to the British parliament. It further admits that the Indian parliament lacks the hereditary element of monarchy and its power is not as unlimited as the British one. To the author it is also notable that the power and authority of the Indian parliament are defined by the written constitution.<sup>37</sup> In other word, it tends to state the reasons of the unlimited power of British Parliament as it has no written constitution and because of that there is no seen limits and checks in it as in India.

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<sup>36</sup> A.B. Lal, ed., **The Indian Parliament**, Allahbad: Chaitanya Publishing House, 1956, p. XI.

<sup>37</sup> *Ibid.*

In connection with the parliamentary studies of the areas supposed to be covered in the present study the following write-up includes Nepalese case. In the initial political developments for democratic movement in Nepal, Parmanand, a noted Indian analyst, in his book *Nepali Congress Since its Inception*, has rightly indicated some of the factors that inspired the democratic movement of Nepal in pre-1950 phase against the Rana autocracy. In the book is noted that some of the political sufferers of Rana autocratic rule in Nepal who took refuge in India and some of the youths who were undergoing education there joined their hands with their Indian friends who were launching freedom movement against the British colonial rule. Reasonably because of this some politically conscious Nepalese youths thought unless the British, the known masters of the Rana oligarchic rule in Nepal, quit from India, their political movement in Nepal against the Rana autocracy would not succeed. So, their involvement in the Indian freedom movement in adhering to its success became eminent to achieve their objective to get rid of Rana rule in Nepal. As a result of the company with the Indian freedom fighters the Nepalese youths also aspired for the multi-party parliamentary democracy as the fellow Indians were planning to adopt for the independent India.<sup>38</sup> The author also indicates that the objective of advocating for such a democratic political system was clearly expressed by the Nepalese people while launching movements against the autocratic Rana rule.

Similarly, it is also useful to take into account the book titled *Politics in Nepal* written by another Indian writer, Anirudha Gupta, a known analyst of Nepalese politics. In the book he cites the fact that the then King Tribhuvan in the historic moments right after the success of anti-Rana movement made a public commitment of adopting democratic means as the future political course of Nepal and the form of its government. The author, Gupta, also mentions that on the occasion of marking the success of 1950 revolution the king declared that the country would adopt a democratic constitution framed by the elected representatives of the common people.<sup>39</sup> He further mentions that the king in his proclamation laid stress on the pattern of governance of the country by announcing that until such constitution would be framed an interim council of ministers "containing popular representatives" will work to "assist and advice" him.<sup>40</sup>

Subsequently, as according to the proclamation of the king the Interim Government of Nepal Act was promulgated in the same year. The book refers that the royal commitment had clearly hinted to govern the country on the wishes of the people through their elected representatives.

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<sup>38</sup> See, Parmanand, **Nepali Congress Since its Inception: A Critical Assesment**, Delhi: B.R. Publishing Co., 1982, pp. VIII - XI.

<sup>39</sup> Anirudha Gupta, **Politics in Nepal: 1950 -60** , Delhi: Kalinga Publication, 1993, p. 51.

<sup>40</sup> *Ibid.*

The book clearly points out that the interim constitution adopted immediately after the dethronement of the autocratic system of the Ranas, which drastically curtailed the powers of the Prime Minister as enjoyed by the Rana Prime Ministers. The book implies that such an act was considered contrary to the parliamentary spirit as made in the royal proclamation of 1950 that hinted to go for constitutional monarchy. However, such a provision for power curtailment was the result of joint endeavour made politically both by the King and the Rana's arch-rival Nepali Congress leaders. The book clearly mentions that the interim constitution, as a consequence, recognised the principle of supremacy of King in running the state affairs<sup>41</sup> against all the commitments made for the establishment of government by representation. Whereas, the author does not lag behind to point out that in such an adverse situation to democracy the leaders made a vain endeavour to check newly acquired unlimited power. In a bid to balance the unlimited authority of the king, the Interim Constitution included some provision that would be helpful to put certain control through the governmental mechanism.<sup>42</sup>

Gupta further emphasises on the point that despite such constitutional checks the overall power vested in the king was a contradiction to the spirit of the political system pledged to adopt. But, in the euphoria of the collapse of Rana rule, it was not perceived as a threat to democracy at that time by the revolutionary force like the Nepali Congress which was determined to introduce constitutional monarchy through adopting the British model of parliamentary government system in the country. Gupta continues to mention that the undeclared collaboration between the king and Congress against the Rana led government did create uneasy situation to the Nepali Congress leadership. Wherein, the Nepali Congress could not preempt on putting its weight in the king's favour might lead to endanger democracy in future that would later create rift for power sharing with the king.<sup>43</sup>

The M. P. Koirala authored autobiographic book, *M. P. Koirala: A Role in a Revolution*, is his personal recollection in the politics of Nepal. In the book he tries to illustrate his memoirs concerning his mindset that unfolds the causes, timeframe and state of mind seen among his near-dear during those days when he was in action. The reason of developments then impelled him to play a role in the democratic movement meant to build a liberal political sphere in Nepal when the level of public awareness among the masses was yet to be achieved.

In the narrative form he put forth the incidents including the unfolding situation, fellow lads about his entry in the politics at the teenage to his rise to the party leadership and also to the

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<sup>41</sup> *Ibid*, p. 57.

<sup>42</sup> *Ibid*, p. 59.

<sup>43</sup> *Ibid*, p. 60.



premiership of the country. The book also brings to light how he got opportunity to be a first Nepali commoner who rose to the occasion of being the government head of the country in the Year 1951 (November). The problems and challenges he faced after the assumption of Premiership within and outside the party and the country seemed revealing to the readers of the political history of Nepal. By facing unrestrained pulls and pressure including the imposition of conditions to remain in subservient status as put forward in the form of proposal by the government of India, this, he, more overtly presented while explaining about the neighbouring India's role (especially of its Prime Minister, Jawaharlal Nehru) which has been not only described in the main text but also evidently placed in the appendix part as the correspondence.

Though by virtue of India's role in making M. P. Koirala the Prime Minister of Nepal in the place of his brother B. P. Koirala he was regarded as the Indian protégé but he narrates in the book that the reason behind he was made "never to return" to power by the Indian leaders for discarding India's attempt to foul play to downsize Nepal to remain as subservient partner in their relationships. The book also mentions about his rise to governmental power which ultimately led him to rift with his brother B. P. Koirala for party leadership. This continued till he constituted a separate party of his own. But, while talking about the movement for the establishment of democratic dispensation in the country he frankly admitted that he is the ardent admirer of his younger brother B. P. Koirala. The author claimed himself as the follower of nonviolent, peaceful principle of Mahatma Gandhi and acted accordingly throughout his political campaign against the suppressive regime of the Ranas.

*Bisheswar Prasad Koiralako Atamabritant* (An Autobiography of Bisheswar Prasad Koirala), an autobiographic book, written in Nepali language is based on the verbal narration of the life history of the autobiographer as described by himself. Though the book remained incomplete in presenting the life story of Koirala, who demonstrated the charisma of unassailable democratic leadership in Nepal, it makes the reader to understand his thoughts, feelings of annoyance and bitterness experienced out of the difficulty he faced struggle, success, failure and achievements in the process of championing democracy during his life time. The book is the result of transcribing of the audio-tape recorded description and the editing part of the transcribed version what was all done by his close friend cum relative Ganesh Raj Sharma, who encouraged the legendry ailing Koirala in his last days to make known about his ideas.

In addition to his problems caused due to the poverty, he faced during his youthful age with his family members in India, the book also deals with the party organisation, assisting hands and intra-party leadership in length, whereas relation with inter-party leadership including the

foreign leaders especially the Indian Prime Minister Jawaharlal Nehru are also frequently mentioned. His relation with Nehru comprised of the duality of love and hate. Love for his role in facilitating the success of popular movement launched against family Rana rule in the country and hate for the unwarranted role he played through obstructing him in playing direct role imposing his ideas in the cover of rendering advice in the internal affairs as well as in the formation of cabinet and ascertaining government leadership.

The book also admittedly deals with the blunder he committed as the Home Minister when he was in clash with Prime Minister Mohan Shumsher by taking side to King Tribhuvan for being responsible in creating a situation to shift army's loyalty to the crown and for that reason strengthening monarchy's power resulting into the weakening democratic process in the country. He took full interest in narrating his cordial relationship with the Royal couple Mahendra and Ratna prior to the dismissal of his government and the dissolution of the popularly elected parliament. Such instances were followed by the incidents of later part of history when B. P. Koirala was compelled to take asylum in India due to the political situation created tacitly to drive him out for his perception he held to continue democracy in the country. But, unfortunately, he was not found enthusiastic to tell about his 7-years asylum in India as he had done while dealing with other issues. The fact of his sufferings caused by the royal chase did not bear significance to him but for his political presumption he had showed his keen interest of building rapport with the royal regime and the members of the royal family holding helms of the state affairs. In this connection his proposition of the policy of national reconciliation was to him evidently made for the protection of endangered national entity. By making all references and illustration of causes of the incidents and ideas made the book informative about the political developments of contemporary Nepal.

*Raja, Rastriyata Ra Rajniti* (King, Nationality and Politics), another book authored in Nepali language, also goes to B. P. Koirala's credit. One could find it evident about B. P.'s in-depth knowledge, his clear-cut perspectives, his critical approach which he possessed from his experience and political discourses on the matters relating to the title of book. The book published long after his demise is a collection of his expressions he made during his last days. It could be taken as the final guidance of B. P. Koirala as the democratic leader for the betterment of the country.

B. P. Koirala, who, believed throughout his life that democracy and nationalism are inseparable was later of the opinion that the incident of Royal coup in 1960 as the part of fulfilling Royal motive to play active role in the politics of country not only weakened the base of democracy but also it was an incident that shook the foundation of monarchy in Nepal.

To substantiate such ideas he pleads in the book that the country began facing crisis in its political history since the coup incident and King Mahendra dissolved the parliament including the dismissal of his government elected on the popular basis. He asserts the points that because of the betrayal he faced from his own party rank and file and also from the outside led the democratic process disarrayed resulting to weaken the capability of country that ultimately diluted to a large extent the concept of nation and nationalism in Nepal. In his assertion he had pointed out to the foreign factor as an element responsible for weakening Nepali nationalism and for that reason he mentions it as the issue of prime concern.

As per the national context of power politics Koirala wants the kingship in Nepal to continue to play role as the head of state and thus hinted to avert any party related controversy for that role-function (position). To him, monarchy needs to remain as the focal point of the Nepalese nationality. It should remain significant factor that will be instrumental in protecting it provided that it plays legitimate role compatible to the spirit of constitutional monarchy, the line he pursued throughout his life time. For that reason he remained staunch supporter of monarchy in Nepal no matter how much he suffered from it. As a plea of his conviction that a head of the state needs to protect the constitution of country without taking side of any and that will not be possible with the elected head of the state in the form of monarch but the head of the state in the form of monarch will serve the purpose. Similarly, to him, campaigning for the establishment of democracy will not be useful to sustain it for its sustenance; there is a need of working for rapid economic development and help common people in improving their quality of life. At one point B. P. asserted that Nepal's security should of the prime importance for the security of India so no one should be thinking of its suppression and dominating it rather needs to encourage it. The point to ponder is that his overall perception about democracy and nationality could be seen as an undeniably thoughtful issue without which, to him, we as a nation will be dwarfed.

The year of 1950 is regarded in Nepal as the year of awakening when the process of introducing the liberal values for popular participation in the field of politics and government began in the country. As this is taken as the cutoff year of the successive oligarchic Rana rule in favour of the introduction of the modern political culture of participatory politics and government, Bhuvan Lal Joshi and Leo E. Rose, a combination of two renowned intellectuals – a Nepali national and a foreigner (US), contributed a set of writing, *Democratic Innovation in Nepal: A Case Study of Political Acculturation*, to the interested national and international academics and the intelligentsia as an outcome of their broader study on the political history of the country. The book basically deals with the overall factors and reasons that affected the

aspiration of the introduction of modern values of pluralistic democratic political and governmental destiny in the Nepalese society.

As the book first published in 1966 receives overwhelming interest in the intellectual circle, it was reprinted in the year 2004. On the one hand, it illustrates the cursory introductory version of the country's land, people, culture and nationalities, whereas on the other it deals with the post-1950 political history the most. This includes the dealing of the transitional phase (1950s to early-1960s) pertaining to oligarchic family rule to popular participatory democratic era followed by the introduction of palace controlled, guided form of regime. Apart from that the authors deal with the political actors – representing the Ranas, the kings and the party leaders – their personalities, strength and behaviour led by mindset they bore. This also includes the depiction of aberrations seen in the form of feud within the ruling group, intra-party and enter-parties.

The book gives a full account of political developments that took place in the very transitional phase of the country which gives a blend of empirical analysis as perceived by the authors. In this context the issues of political controversies happened during those days are also narrated in an objective manner. The book largely focuses on dealing to put forth the process of political transition resultant to social change and development. The authors have been proved successful in pointing out the issues related with prevailing tradition, mindset and the culture of rule created enough hurdles on the way to Nepal's march towards democracy. By virtue of the issues covered in the book, it could be called as the exploratory, investigative study facing the situation and incidents happened during those days. As the book tends to give a broader understanding about the then political developments that intends to shape politics and government and also determine the future direction by considering their significance and context the book remained significant as it was during those days when it was first published.

The 2006 republished second edition of the book, *Oppositional Politics in Nepal*, written by Lok Raj Baral was initially published in 1977 as its first edition. This second edition adds up a new chapter "Opposition Politics Revisited" as per the demand of change of time and the political system than that of initial stage and of the later phase. As a given fact that the book is the byproduct of the author's Ph. D. dissertation which basically based on the documents and their in-depth analysis of the incidents that took place as well as the policies taken by the concerned parties of the issues under study and covered them accordingly as per the timeframe of the study period.

Basically, the book as per its title focuses on the opposition politics and its existence in Nepal even during the period when any kind of opposition in the politics of the country was officially not allowed. The author's conceptualization of the types of oppositions –systemic and extra-systemic within the non-party palace led polity was on the one hand posed by the liberal Panchas ready to concede liberalization of the system and on the other the Nepali Congress Party including the various Communist Parties even proved useful and think over by the reader interested in the political history of Nepal. The added conceptualisation part dealing with the restoration of parliamentary democracy in the 1990s even proved relevant, which the author inserted in the revised version of the publication. In this reprint version Baral portrayed the developments occurred during the post -1990 multi-party phase, when the squabbling and non-cooperation within the party leaderships have been noticed quite frequently resulting to the erosion of party strength side by side weakened by the protests and demonstrations of CPN (UML) as the opposition and the violent insurrection of UCPN\* (Maoist) as the underground radical ideological force respectively were felt as regular phenomena.

However, by considering the party rifts and ambitious kings' extra-constitutional moves the institutionalization of democracy through pursuing the concept of constitutional monarchy remained as an unresolved issue. In this backdrop, the author makes it a point to be called it as the system with 'semi-constitutional monarchy'. To the author, such an unresolved issue led the much aspired institutionalization of democracy in Nepal found to be obstructed.

The book, *Spring Awakening: An Account of the 1990 Revolution in Nepal*, basically aims at focusing on the dealing with the February 1990 Popular Movement for democracy in Nepal. It presents a lucid description of the events that took place during the historic political change brought in favour of establishing multi-party parliamentary democracy against the monolithic non-party palace led rule which did last for thirty years. The book elaborates a vivid picture of the then incidents in the form of movement for and against regime respectively.

The book is written by two Westerners, William Raeper and Martin Hoftun. Their acquaintance with the political developments in Nepal is a proof of their rich knowledge about the democratic struggle in this part of the world which was made wretched from the non-public participating regime existed in the form of authoritarian unaccountable manner till the Ranarchy did last. The authors had taken opportunity of writing the book to illustrate the contemporary politics and government, role of political forces mainly the king whose ambition was to reign the country. They also indicated that by virtue of the system of government the

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\* Previously known as the CPN (Maoist).

then regime designed to establish preeminent role of monarchy as the central mechanism that discarded any organized political dissent against the regime in order to facilitate to make it a tool whereby the king could exercise an unrestrained supreme power. While doing so the authors narrated and explained thorough political accounts that took place during the post-1950 phase in brief including the political changes with the description of subsequent incidents as the backgrounds of 1990 movement.

The book hints that the history of Nepalese politics is a victim of instability aroused out of the problem of power sharing, earlier among the power elites and later with the people and king. At the end, the authors pointed out that the reasons which led them to come a conclusion of inevitability of the more serious nature of upheavals in the days to come as a byproduct of the openness, liberalism and freedom brought by the popular movement. The book concludes with the reference of post-1990 change basically the events considered instrumental to institutionalize multi-party parliamentary democracy like the installation of Interim Government, dissolution of all the remnants of just dismantled Panchayat System, promulgation of democratic Constitution, election of parliament and the installation democratically elected party government.

But, Lok Raj Baral, a noted analyst of Nepalese politics, in his book, *The Regional Paradox* comments on the curtailment of the power of Prime Minister marked the beginning of ignoring the cause of democracy from then onward. Baral's essay titled "Second Constitutional Experiment with Democracy" in the same book hints that as a result of disinterest on the part of palace the installation process of multi-party parliamentary democracy remained prolonged in Nepal.

Thirty years after only the multi-party parliamentary democracy has once again been introduced in Nepal, with the demand expressed through popular movement of 1990. After the systemic change, the political situation of the country took another turn but the life of common masses remained unchanged except of few power holders. Since the days after the political change the attention towards the people in need was rarely paid rather the political play-makers have been found busy in accumulating power and perk for their individual benefits. For that reason, they even did not lag behind to quarrel with fellow leaders to the dismay of the people and vitiated the atmosphere for the growth of newly introduced democratic system.

In this context, it is also pertinent to discuss the issues raised by Dixit and Ramachandran edited book *State of Nepal* in which Sanjay Upadhyay authored essay "A Dozen Years of Democracy: The Games That Parties Play", implicitly indicates the political forces favouring

democratic governance. The incident of royal takeover of October 4, 2002 was a reflection of the palace's disenchantment with the parliamentary democracy and its reluctance to rise above the diehard traditional social system as a means of perpetuating feudal conduct in Nepal. For centuries, the Nepali State had been developed in such a feudal character that the lower section of the society has always been ignored as a non-entity by the privileged section favourite to ruling regime. As the consequence, over the years of democracy the deprived and neglected section of the society has been one way or the other have been felt neglected once again. But their hopes for liberation from the sufferings that they are facing as the fall out of the feudal character of the society, all proved failed even within this new liberal kind of political structure. Rather this section of the society found themselves "powerless to influence political elites who have been by and large found interested to go ahead with "retained restrictive characteristics of old-style politics".<sup>44</sup> This issue is also evidently pointed out by the UN sponsored study report, *Human Development* to approach their leaders that looked very much fit into the Nepalese context of governance. One of the findings of the report indicates that the reason behind affecting the governance in the South Asian countries is the continuity of "distance between the rulers and the people remains vast".<sup>45</sup>

The UN report (1999) also implicitly suggests the means that could be instrumental to institutionalise democratic norms and values in the recently democratised countries in South Asia. To the report, for making the representative democracy functional, there is not only a need of mechanism of creating adequate opportunities for having dignified civic life but also needs of reducing the distance (approaching or to be in touch with) of contacts between the elected and electorates in the state system.<sup>46</sup> The points raised by the book *State of Nepal* is very much confirmed by the UN report which reveals the state of governance and the functioning of democracy in the country.

As the political instability loomed large and the prevailing system could not continue uninterruptedly because of the ambition of monarchy to remain at the helms and enjoy active executive power democracy remains at the crossroads even at a timeframe of six decades of its democratic struggle. The book, *Remaking of the Nepalese State*, written by Sanjay Sherchan, unfolds the myth of participatory nature of politics and government as the factors

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<sup>44</sup> Sanjaya Upadhya, " A Dozen Years of Democracy: The Games That Parties Play", in Kanak Mani Dixit & Shastri Ramchandran, ed., *State of Nepal*, Lalitpur: Himal Books, 2002, p. 42.

<sup>45</sup> See, **Human Development in South Asia: The Crisis of Governance**, New York: Mahabubul Haq Human Development Centre (UNDP), Oxford University Press, 1999, p. 28.

<sup>46</sup> *Ibid.*

that led Nepal's democratic order to gain less momentum and impetus required for its institutionalization.

The book begins with the recent developments in the politics and government of the country that is after the restoration of multi party parliamentary democracy (post-1990) phase. However, to illustrate prevailing discrimination, the author tried to make his point through the practices of discriminatory culture adopted by the Thakuri-Chhetri (the ruling warrior class who by virtue of their bravery prevails for rule) in the society where it operates.

The Hinduite religious socio-cultural practices, the Khasa type of living and the social system including the common identity use of attire and the language, all made mandatory for formal legal practices at the national level to the dismay of the both Hinduite and other non-Hinduite hilly and terrain ethnic communities. The author vividly tries to elucidate the growing discrimination emerged out of the demarcation imposed through the caste system that only counts the Brahmins and Chhetris as the high class people who get state protection by ignoring others. Such a social system tacitly recognized by the state, all affected the democracy to grow out of unequal participation of all the communities together. As a remedy the author put emphasis on the federal restructuring of the state for self-rule, self-determination and autonomy to govern by themselves through real participation as the issue raised by the Madheshis, indigenous ethnic communities which were strongly supported by the Maoists for gaining political mileage to the benefit of their enhanced influence.

The book rests on the regimented logic with an idea of inclusive system for actual democratic participation by an added chapter on "A New Nepal" which basically deals with the process and mechanism that help the country to march towards establishing the same through adopting the policy of inclusion, pluralism by making it to create a paradigm of the Nepalese State System. In conclusion, the book's theme is based on the dealing with the socio-cultural groups - oppressed, marginalized and weaker section of population and their rights especially the minorities and indigenous nationalities. This should be taken at par with the affluent section for participation in the state organs and sharing state availed benefits to the author would lead to creating new Nepal – slogan popularly raised after the *Jan Andolan II* (2063 B. S.). In the end, it is mentioned that the Nepalese democracy demands "eternal vigilance, struggle for social justice and equity for participation in decision making and share the benefits with all the socio-cultural groups including the marginalized and weaker sections.



The state of parliamentary growth of Nepal and the development taking place within the span of a decade and more of its reintroduction one of the eminent observer of Parliamentary affairs in India, Subhash C. Kashyap, in his essay "Institution of Governance: The Parliament, the Government, and the Judiciary", rightly identifies following problem areas that Nepal is facing in the growth of its parliamentary system. He points out following weaknesses that affected in the growth of systemic stability in Nepal. (i) The political parties represented in the Lower House of Parliament operating without being ideologically organised and lacked the principles of party discipline. This had been made more complex due to the lack of defined relationships between the parliamentary party and the party organisation.<sup>47</sup> (ii) As the fallout of feudal character the "power structure and political process in Nepal remained largely feudal, centralised and elitist" despite adopting the democratic polity and elected parliament. The political parties had hardly paid any serious attention to develop democratic culture or behaviour among the party cadres and leaders or in the parliament. There remained feudal paradigm of master - servant relationships.<sup>48</sup> (iii) The parliament has rarely been regarded as "an institutionalised arena of competitive power politics" and thus power politics in the Nepalese Parliament could not become functional to the level of public satisfaction and thereby institutionalised affair rather in most of the cases the policies that formulated in the parliament were largely done with personal ambitions for getting power.<sup>49</sup> (iv) The commitment of elected legislators for serving the nation and people often found diluted by their own personal ambition of getting rich sooner.<sup>50</sup>

Kashyap's such points of contentions obviously hinted the crux of the problem as the political leaders still have drowned themselves into a fallacious belief that the democratic system itself guarantees freedom and justice. In this context they use to forget it as a way of life that needs to be followed and nurtured continuously by following its overall norms and values. In this connection Kashyap further points out that the future of Nepalese democracy lies to the extent the democratic forces be able

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<sup>47</sup> Subhash C.Kashyap, " Institutions of Governance: The Parliament, The Government and The judiciary", in V. A. Panandikar, ed., **Problem of Governance in South Asia**, *Op .cit.*, p. 109.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*, pp. 109-110.

<sup>50</sup> *Ibid.*, p. 110.

to withstand on their own on the basis of their strength to garner the support of the common people. The mandate of people and their adherence in rising above their own interest as well as their preference for power game will make them able to be successful in solving the problem of poverty and unemployment from which the common people are suffering.<sup>51</sup>

*Monarchy v/s. Democracy: The Epic fight in Nepal*, a book of collection of articles and the ideas furnished through various interviews by the renowned Maoist ideologue Baburam Bhattarai was published in 2006 a timeframe before the CPN Maoist agreed to work together with the Parliamentary Parties on the basis of signing 12 points agreement (Appendix II) made in new Delhi for democracy and the end of absolute rule of King the continuity about the background of its necessity, justification and the reasons that led the Maoist's to launch armed revolution popularly known as the "People's War".

It is also to notice that the book is published in order to rationalize the overall objective of waging of decade long People's War and the changes it intended to bring in the Nepalese Society. The author, Dr. Bhattarai, as per his acute leaning towards the communist ideology, specifically the Maoism pursued by his party, is found to be motivated in revealing the fact of the failure of the political parties in breaking the continuity of feudal culture and exploitation persisting out of that. On the other, the book also makes a clear-cut indication of the repeated betrayal of the monarchs against the spirit of Constitutional Monarchy and the people's aspiration of strengthening democracy. It is because of fulfilling the interests of the imperialist and expansionist designs of the US and India both are making their points to sustain monarchy in Nepal backing up it. In order to make his logic convincing Dr. Bhattarai through his various write-ups in the book points out the reasons of the fallacy for calling monarchy as a "stability factor in Nepal".

It could also be said about the book that it is to make the readers to attract towards course of establishing socialism in Nepal an agendum for future – a task unaccomplished for the betterment of the people through applying real and complete democracy. Because of those facts the author hints the *Narayanhiti* royal palace

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<sup>51</sup> *Ibid.*, pp. 110-111.

assassinations (June 1, 2001) happened as a result of national and international interests, when King Birendra along with his whole of immediate family members were massacred.

As per the title of the book the betrayal done by monarchy in Nepal at different stages and in different forms by various kings has been considered as the major fact that brought the parliamentary and revolutionary democratic forces closer basically to campaign not only for democracy to establish in its complete form but also to minimize the role of monarchy almost to a republican order. The epic fight that took place, as the author points out, for people's order and the sustainability of democracy in its complete form against the prevailing absolute monarchy made the parliamentary and revolutionary forces together. In their such a bid the political forces discarded the imposed misconception of considering monarchy as the "factor of stability", "symbol of unity", institution of religious sanctity of "Hindu Kingdom" meant to a rule of patronizing social justice by the monarch largely for playing the role of guardian for "rapid economic development". By spreading such notions the kings of Nepal imposed feudal and imperialist design by subjugating the whole of population and for this cause the foreign factors helped and encouraged the kings to take steps of regressions in occasions without taking care of the future and stability of newly established democracy.

In order to check the adverse happening of the years of democratic transition that took place after its reinstallation in Nepal the political leaders need to activate the political parties with their ideological outlook because it has been taken that the in-built mechanism to correct the steps of the political leaders concentrating for their personal interests. To Shailendra Kumar Upadhyaya such corrective measures should only be taken through following the norms and ethics of democracy. In spite of the existence of numerous weaknesses among the political leaders and their parties that the people have to live with them because they are the principal caretakers who operate the democratic system in Nepal.<sup>52</sup>

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<sup>52</sup> Shailendra Kumar Upadhyaya, "Peace Negotiations: Parties Should Discuss Issues with Maoists", *The Himalayan Times*, August 26, 2003.

It is because of the lack of institutional practices, the parliamentary system itself became a problem. Such cases are seen within the parliamentary form of governance in Nepal and are clearly noticed in recent years. Therefore, the need of required attitude, behaviour and practices are felt accordingly eminent in Nepal for the institutionalisation or institutional growth of parliamentary form of system. In order to understand the term institutionalisation we need to be clear what exactly an institution mean? As the term institution has a broad connotation and applies in various areas it is dealt in various ways in different disciplines. So, to have broader perspectives relating to its meaning and its coverage we need to review the relevant publications that especially deal with the term irrespective of the disciplines.

Immediately after the *Jan Andolan II*, Dr. B. C. Upreti, a known political analyst of the Nepalese studies published a book titled *Nepal: Democracy at Cross Roads (Post-1990 Dynamics, Issues and Challenges)*. As the book is written on the contemporary developments in the government and politics of Nepal, it specifically deals with the post- 1990 democratic process and the ups and downs it faced afterwards to the phase of the *Jan Andolan II*. The book focuses on the factors/ issues relating to the establishment of institutionalized democracy, a veered aspiration of the people of Nepal basically of the political elites/ intelligentsia in the context of state building. Since the inception of democracy in the Nepalese context in the post-1940s the country is undergoing a jigsaw phase of introducing democratic reforms and its sustainability in the politics and government of the country.

The book begins with the conceptual theories of democracy and its relevance in the Nepalese context as well, which is followed by its application and operationalisation including the impediments it faced during these sixty years. It also deals with the making of democratic constitution with parliamentary character as well as the provision of political parties, parliamentary elections of 1959 and the formation of B. P. Koirala led Nepali Congress government as the consequence of election results. The book also mentions King Mahendra's inhibition in forming Koirala government for retaining his own personal interest which was what later invigorated through the animosity and jealousy of other political parties towards Koirala and the NC's formed singlehanded government. Irrespective of that background information the book concentrates largely on the entire phase of democratic struggle and transition including its achievements. The book includes the narration of changes that

underwent from 1950 to 1960 and the ups and downs as well as the negative and positive moves taken by the royal regime afterwards for three decades of non-party palace led authoritarian Panchayat System. The dissolution of the elected government is seen as a product of monarchic assertion for assuming absolute power discarding the concept of popular sovereignty and the governance by power sharing with the common people. This is what is taken as one of the efforts for the continuity of feudalistic socio-economic character of the country as the traditional power basis of running the government.

Apart from that, the book also mentions the historical accounts of the incidents which occurred happened during the 1990 pro-democracy popular movement led by the leading political parties including the contemporary political issues that affected the smooth growth and stability in the democratic government. It also includes the first general election and its result, the consequent party position, strength in the parliament and the palace politics in the context of the formation of first elected government. All these descriptions in the book are followed by the narration of setbacks that occurred due to the political ambitions possessed by the contemporary political elites more specifically of his adjudged view which indicates that the political actors are needed to be dynamic and also required to give necessary dynamism to the provision of the constitution.

The book also gives a clear perspective on the problems of Nepalese democracy by pointing out the lack of social reform and addressing social issues that had created public disillusionment towards democracy irrespective of its theory of being pro-people. Until and unless reforms in the persistent social system of inequality will be continued as a result of the feudal character of society, the democratic system remained myth – an unachievable goal – to the weaker section of society. The state needed to act for the improvement of quality of life of the common people and their aspiration and the issue relating to be deal with. In order to tackle with such issues there is a need to discard prevailing disharmony among the political leaders rather they need to work together for the betterment of the people and the country. Whereas the political leaders have started to think about the continuation of monarchy along with the democratic system. By its behaviour the monarchy in Nepal adopted non-tolerant approach towards the democratic change. In order to address such a situation,

the book suggests that institutionalise democracy there is a need of the democratic forces pursue a policy of playing the role of independent stakeholders of politics and government of the country and act according to the need of the socio-economic transformation of the society.

The book, *A History of Nepal*, written by John Whelpton makes a cursory description of the country's history, geography people, culture, settlement along with focus it makes on the political developments of Nepal that took place after the phase of autocratic Rana rule. The author tries to describe the traditional character of regime and the political institution which used to deal with the rulers' imperatives and their command and control over the politics and government. The book significantly raised the issue of the monopolizing the economic benefits and political instability all caused due to ensuing political turmoil that occurred earlier within the ruler class and later practiced among the political parties and their leaders as the main stakeholders - which resulted to the incident of the royal massacre of 1<sup>st</sup> June 2001 as the climax of such turmoil and monopolizing tendencies. .

After the fall of Prime Minister Mohan Shumsher's government, King Tribhuvan's obvious choice for the post of Premiership was in favor of Matrika Prasad Koirala barring his half brother B. P. Koirala, the popular leader of Nepali Congress Party, merely because of former's clear inclination towards "accepting royal authority"<sup>53</sup>.

The book clearly denotes in its description that people's disillusionment was caused due to intra-party/ inter-parties rivalries and squabbles among the party leaderships who in their part tried to rise to power within the party/ government leaderships. As a result, the experience in the past shows that such disorders did frequently occur in the government and politics of the country. Whatever had been done against democracy, the book also tries to disclose King Mahendra's last moment motive for the liberalization of the Panchayat System of government. However, it also gives a rationalized point of King Birendra's difficulty in the form of facing resistance in this regard from the hardcore Panchas.

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<sup>53</sup> See, John Whelpton, **A History of Nepal**, Cambridge: Cambridge University Press, 2007 (Reprint), p. 89.

The restoration of multi-party parliamentary phase since 1990 is seen politically unstable when frequent changes of government took place. The difficulty in continuing stable government made the democratic system very distracting to the common people. This was caused basically for the tricks and tactics adopted for the making and unmaking of the government which was categorized against the parliamentary morality. The book also includes a brief description of the rise of the ultra leftist CPN (Maoist) and its insurgency campaign what Maoists love to call “People’s War”.

As cited by Kingsley Davis in the book, *Sociology*, it is mentioned that an association is understood to be an organised group of people whereas an institution is defined as doing something in an organised manner; that means a bulk of people doing something collectively or individually in a way accepted generally by all. He further elaborates that the term institution in a way suggests that it is a set of human functions or behaviour and practices based on certain laws built around major functions. It is also called an overall way of behaviour that is deeply rooted in a human setting and also is accepted in that particular (society) area. As thus, it can be said that institution is an organised system of behaviour that includes both behaviours and norms those are practiced for the common values in an organised society.<sup>54</sup> In this respect, it is important to see the term institutionalisation to be clearly defined and in this context to review the book *Sociology* edited by Paul B. Hurton and Chester L. Hunt is pertinent. The book gives a clear viewpoint about the meaning of institution by linking it with the behaviour of the human being and the steps that have to be followed for its attainment in a society. The book mentions that the entrenchment of certain norms that assign with the behaviour related with the status, positions and role functions is called institutionalisation. Here the term norms clarify the meaning of behaviour that takes place within an expected framework. In its entirety, the term institutionalisation signifies the behaviour that is fixed, anticipated and regular in other words it connotes with the act which is not conducted in spontaneity or experimental manner.<sup>55</sup>

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<sup>54</sup> As cited in Paul B. Hurton and Chester L. Hunt, **Sociology**, (2<sup>nd</sup> edition), New York: McGraw Hill Book Co., New York University, 1968, p. 185.

<sup>55</sup> *Ibid.*, p. 186.

The book further tries to clarify that an institution is an organised system of social relationship that embodies certain common values and procedures that facilitate the society in meeting its basic needs. The book refers the “common values” as shared ideas and goals; the “common procedures” as the “standardized behavioural patterns” that the group of people follows and the “system of relationships” that takes place in the “network of roles and status” through which the behaviour used to be carried out.<sup>56</sup>

Similarly, the book doesn't lag behind to caution that one has to be careful and draw conclusion about what the institution is, how it affects the growth of certain idea or system and how that could be institutionalised in the concerned area. The book puts forth its version of definition about institution by making points with following essence. Institution means an organised way of social relationship that manifests certain common values and procedures and also meets certain basic necessities of the society.<sup>57</sup> The book further tries to draw the meaning of institution in a more vivid manner by elaborating the ways it functions as a whole. Though the term institution refers to a set of relationships and a method of behaviour of people, it defines the relationship and norms of behaviour that the people use to practice. In fact, it is the process through which people use to organise into groups and thus form out institutional behaviour. Here institutional behaviour means the practicing of set rules accepted by larger number of people including the organ created in a form of an institution for its application in a manner practicing of institutional norms and values in reality.<sup>58</sup>

Similarly, the book also clearly explains the meaning of the institutionalisation, which tries to explain; what it is and what it signifies. According to its theme, the process of institutionalisation embodies the establishment of particular norms that may relate with status, position, role functions of definite behaviour. It also clarifies that a norm means a particular behaviour carried out with group expectation.<sup>59</sup>

Without making any major departure from the set definition of institutionalization, John Degnibol-Martinussen in his book titled *Policies, Institutions and Industrial*

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<sup>56</sup> *Ibid.*, p. 185.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*, p. 186.

<sup>59</sup> *Ibid.*



*Development: Theoretical Perspectives* tried to define the meaning of 'institution' in the following way: The book refers that the term institution encompasses with "institutional patterns or arrangements".<sup>60</sup> The book also mentions that the term institution includes "formal arrangements and informal norms, custom, conventions and standard operating practices" that defines the relationship of individuals with social groups or vice-versa and also the "broader institutional arrangements" as seen at different social frameworks<sup>61</sup>. It further adds that the formal organisations are the main bodies that uphold the functional behaviour with codified rules, and, as a result of that institutionalization of any system, procedure, role functions, practices, etc., takes a practical form.<sup>62</sup>

Irrespective of other areas, institutionalization, in the field of politics and government, denotes political institutionalisation that is considered as the basis of any country's advancement in politics and governance. This needs inescapable application largely to a third world country where success in this regard is not smooth. In fact, it is a process that indicates the upholding of rules, procedures, and set patterns in an apparent way basically make people to participate in the politics and formulate public policies, largely for facilitating smooth and peaceful transition of power, and implementing the development programmes for the benefit of common masses. However, Samuel P. Huntington in *Political Order in Changing Societies*, precisely but with a broader sense, tries to define political institutionalisation as a process through which "organisations and procedures acquire value and stability". To him, institutionalisation of any political system can be understood by its "... adaptability, complexity, autonomy and coherence"<sup>63</sup> through which he seemed clarifying it as the basis of endorsing the pattern of freedom by strengthening unity among the people with required dynamism that requires in a set of behaviours as per to their need by pursuing to deal with the complexity arising out of it.

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<sup>60</sup> Degnibol-Martinussen, **Policies, Institutions and Industrial Development: Theoretical Perspectives**, New Delhi: Sage Publications India Pvt. Ltd., 2001, p. 19.

<sup>61</sup> *Ibid.*, pp 19-20.

<sup>62</sup> *Ibid.*, p. 20.

<sup>63</sup> Samuel P.Huntington, **Political Order in Changing Societies**, New Delhi: Adarsh Books an Imprint of Adarsh Enterprises, 2009, p. 12.

However, until and unless the people concerned will not behave accordingly and the norms and values of any particular practices and strictly follows rules and laws the institutional growth of democracy is not possible. And, it will also be difficult to take place and the people will always remain to be psychologically haunted of its sustainability. So, it is appropriate to cite Philip Selznick as he mentioned in his book, *Leadership in Administration*, which it clearly spelt out that "to institutionalise is to infuse with value..."<sup>64</sup> To him, the process of institution building basically connotes the practical aspect of any concept/ idea adhering to the spirit for which the act is done.

The seminar report published by CEDA (T. U., 1971) on *Institution Building and Development* is basically related with the institutionalisation of the administrative and educational system in Nepal. It is so widely discussed that it could be used in other fields as well. The theoretical perspective presented in some of the parts of seminar report is quite useful that one could draw inferences from it even from the political point of view.

However, the paper titled "An Introduction to Institution Building: What It is - What It can do" presented by T. Uphoff as published in the seminar proceeding-report, *Institution Building and Development*, points out its linkage with the behavioural aspect of the term 'Institution'. In the paper he clearly mentioned that the process of institution building is basically related with the "introduction to establishment of organisations" that on its part "induce changes" with the "belief and action within a society"<sup>65</sup> currently persisting.

In the paper the author further clarifies that the institution building itself cannot guarantee the result of the practices being introduced, but it facilitates the establishment of the organization involved in the process on the ground to avail opportunities to try out and adopt.<sup>66</sup> The theme of the above opinion further clarifies that an institution succeeds to establish with an assumption that it could be productive

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<sup>64</sup> Cited in Norman T. Uphoff, "An Introduction to Institution Building: what it Is - What It Can Do", Seminar On Institution Building and Development (Seminar Report), Kathmandu: CEDA , T. U., 1971, p. 21.

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid*, pp. 21-22.

of social benefits and political satisfactions as it provides people with economic benefits or satisfactions. The development activities that take place in any society could be seen in the broader context that includes the growth in the productivity of economic, social and political sectors as per the growth of a country's capacity in satisfying the economic, social and political "needs and wants" of the people.<sup>67</sup>

During the course of material collection it is noted that the literature for review of the parliamentary system or democratic order in Nepal is limited and the resource materials related with the institutionalisation of the parliamentary democracy are very limited. However, in recent days, materials relating to democracy in Nepal, its issues and history, are being published frequently.

## **1.5 Scope of the Study**

The proposed study basically intends to present the state of institutionalisation of parliamentary democracy in Nepal and the relevant political incidence that took course to institutionalise the democratic system are also mentioned in an ample way. However, the cases of Britain and India relevant to Nepali context of parliamentary practices that made happened inside the country in the post-1990 phase are also referred but only in cursory manner. It is felt pertinent to illustrate the incidences of 1950's anti-Rana movement and thereafter covering the period of first parliamentary experience (1959/ 60) because it provides background of the study. The study is basically focused on the politics and government of the country since the dawn of multi-party parliamentary democracy (from 1990/ 91 to its setbacks that took place from Oct. 4, 2002). This date is deliberately set for the present study as it hindered the regular constitutional process of democracy that ultimately made people to raise questions linked with the operationalising of multi-party parliamentary system as envisaged by the constitution of 1991. The reference of such an incidence vividly discloses the ambition of the constitutional monarch's activity of breaching one's constitutional role in the politics of the country, with least care whether it helps or hinders the growth of democracy in an institutional manner. In this connection, it is pertinent to undergo a review concerning the issue, how the behaviour of the political parties and their leaders affected the growth of parliamentary practices in Nepal. With

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<sup>67</sup> *Ibid*, pp. 22-23.

the aberrations the institutionalization of parliamentary democracy suffered from a serious setback as the consequence of the situation that captivated the issue concerning in between maintaining stability, in the one hand and accountability, on the other, in politics and government of the country. Within the span of time referred to the present study that tried to inquire, why the leaders and political parties that struggled together for the establishment of the multi-party parliamentary democracy in the country could not work together for the purpose of its strengthening in the society. How they lost people's faith of being their (people's) troubleshooter? Study relating to the factors that the institutionalisation in a meaningful manner making the parliament an efficient institution to conduct its tasks effectively is also received. In this context the internal politics of the major parliamentary parties, rift including the mutual rivalry among inter and intra-party leaders and their ego factors are also analysed.

However, it is not easy to find out the necessary reference materials because such types of publications and literature have so far not been available in the market and libraries in Kathmandu. There is the availability of limited materials related to the topic. Therefore, the dependency on the secondary sources like books, research and seminar papers, articles, news analysis, news, views, survey, parliamentary proceedings, etc., used or consulted as per the requirement. With the entire help of secondary sources the current study endeavours to explore the reasons that affected the institution building of Nepal's parliamentary democracy so far. In this connection, the views of the party leaders, parliamentary officials and academicians published in different forms about the institutionalising the democratic system is also included and analysed as and when necessary. Extensive desk study is considered the main basis of present research that is carried out as the means of overall data collection. Nevertheless, for the theoretical aspects those related with the parliamentary system and the due process of functioning of the institution of parliament and its practices are also precisely dealt with. In brief, the study intends to excavate the reason behind the factors that hindered the institutionalisation of multi-party democracy in Nepal which in a way intended to help in identifying possible ways and means through which institutionisation of parliamentary democracy in the country could be attained.

## **1.6 Methodology**

The present study requires a great deal of information relating to the democratic political history of Nepal, from 1950 onward, a landmark period of the country, including the recent occurrences in the post-1990 political developments. Moreover, the latest information in the field of government and politics is collected considered more significant as the study aims to focus on the current state of democratic governance. So, as per the need, a comprehensive desk study is carried out for which dependence on secondary source is complete that basically deals with materials useful for the illustration of the historical overview. The resource materials like the books, reports, articles, and research papers and documents are simultaneously used as and when necessary. In this respect, the news, views, analysis, feature articles and interviews published in print forms are simultaneously used as the secondary source of information.

As per the objective of analyzing the basic theme of present thesis, the study is accomplished by applying descriptive and comparative as well as the analytical manners. So as to rationalize the logic put forth in the study are exclusively based on qualitative approach and thus has not adopted any quantitative measure. So to say, the present research is entirely based on secondary data. In order to make the study adequately contextual the information relating to the growth of British and Indian Parliaments are also used. For the British and Indian experiences and reasons of the growth of parliamentary system, the parliamentary history of England as well as of India and the encyclopedia relating to them are also consulted.

The desk study that is carried out basically focuses on the post-1991 period, one among the major landmark incidents in the development of multi-party parliamentary democracy in the country. However, the study also describes some of the major incidents that influenced the contemporary political developments of the country before the first parliamentary elections (1959) took place in Nepal. For the collection of contextual and relevant views various documents are used and for seeking specific information some of the relevant study reports have also been utilized for drawing inferences. Including the desk studies for reviewing the literature as well as the deliberations made on current political developments in print form are also closely reviewed and observed. Nevertheless, dependency on the desk study related with

reviewing the relevant literature as the secondary source of information covers the entire process.

## **1.7 Structure of the Study**

The present study is organised in six different chapters. The first chapter deals with the introduction of the study including the aspects relating to it, issues to be raised, the objectives to be attained, illustration of the relevant incidents reviewed during the study, methodology relating to the issues of study, presentation of study findings based on the analysis of the past events, etc. Whereas the overall focus of the present study is to illustrate the state of the process of institutionalisation of multi-party parliamentary democracy in Nepal; the presentation of the process of institution building of the parliaments in India and England are also noted accordingly. While discussing about the Nepalese context it is contextual as well as pertinent to focus on the political history of the post-1950 phase since when the common masses aspired for democratic change in the country. Prior to discussing with central issues, this study presents a cursory overview of the background events. This also includes making passing references of the initial events that took place during the 1950s and 1960s for bringing democratic transformation. In this context referring of the steps taken for the establishment of multi-party parliamentary democracy are done as well. The various forms of movements during the decades of 1970s and 1980s for the reinstallation of multi-party parliamentary democracy and finally the post-1990 phase since the popular movement, reintroduction of party based parliamentary representative governmental system to the phase of King Gyanendra's royal takeover of October 4, 2002 including the developments followed thereafter are also dealt with. The presentation is simultaneously followed by the efforts made for the consolidation of the system adopted in pursuance to the constitution of 1991 promulgated after the success of popular movement of 1990.

In the second chapter, the conceptual part of the parliamentary system and its evolution process as the political order with an illustration of the inception, evolution, and institutional growth of parliament as a governing institution including its practices and process is dealt with. In this process, the British, Indian and Nepalese cases are dealt with as per the necessity. Apart from that, this also includes the dealing with the concept of institutionalization and its implication in the political process basically of the parliamentary democracy as a system of government. As per the requirement a brief comparison of the basics of parliamentary systems of England, India and Nepal is carried out in which the origin of the parliamentary democracy

and the development of necessary institutions for their functioning in the countries within the study purview are also dealt with in a cursory manner.

The third chapter basically deals with the conceptual references of the parliamentary democracy in view of parliamentary democracy and its basic ingredients as the necessary elements in its functioning. The first part is largely based on dealing with the political parties, elections, opposition and the parliamentary committees, as the basic institutions required as the functional traits of parliamentary democracy. The second part of the chapter elucidates the parliamentary practices and their institutionalization in England, India and Nepal.

The fourth chapter lays required stress on the legislative role of parliament by making ample illustration of legislative structure which is known as parliament in a parliamentary democracy of Nepal, including its prime functional role and its effect on the evolving political order in the country. In this context, the Constitutional provisions developed for the institutionalization of parliamentary democracy in Nepal are also made, which include the reference to the Nepalese context of political parties, elections and the parliament – those are also dealt with. This chapter focuses on the issue of legislative process of the parliament and the state of its working procedures. An effort is also made in this chapter to deal with the parliamentary evolution as the apex legislative institution in Nepal and the context upon which it became so powerful organ of the government. In other words, this chapter also deals with the main thrust of the thesis that includes the parliamentary structure, process and practices in Nepal. The chapter also deals with Nepal's experience of post-1990 electoral process, parliament as a legislative organ and its working procedures, its initiation for streamlining governmental performance and side by side upholding the democratic norms and values. Role of parliament and the functioning of parliamentary committees in this regard are discussed to the appropriate length.

The fifth chapter deals with the parliamentary practices in Nepal which began from its reinstallation in 1990 as the intriguing dynamics in the politics of the country. In this context, an effort is made to explain parliamentary practices that started to take place since its inception (restoration). The description relating to this also includes the parliamentary functioning in Nepal and is followed with the behavioural responses of the successive governments. This chapter also focuses on the pros and cons affecting the strengthening of the institutional growth of the parliament in Nepal. For this, a brief analysis of the role of the political forces like political parties including the monarchy, political leaders and the constitutional bodies with emergent dialectics among them to take command of the state affairs is also made. This chapter concentrates on the issue of legislative process of the

parliament and the dynamics that surfaced in the contemporary phase of politics in Nepal. In this connection, the anomalies that persisted in the parliament, its consequences are also discussed to find out the necessary mechanisms or means that would help to institutionalize parliamentary democracy in Nepal through making it function in an effective and efficient manner.

Finally, the last Chapter, the sixth one, the concluding part apart from the summary of whole of the thesis has focused on the measures needed to pursue the fulfillment of parliamentary democracy and its sustainable functioning by making an effort to draw a conclusion for institutional growth of the parliament in Nepal. Focus is also on dealing with the findings that have been pointed out by the study as a whole. The chapter concludes the study by identifying the possible areas in an indirect way that will help in identifying the measures to be taken for redressing the negative developments in institutionalising parliamentary democracy in Nepal.



## **CHAPTER - II**

### **EVOLUTION AND GROWTH OF THE PARLIAMENTARY DEMOCRACY**

#### **2.1 Institutional Growth of the Parliamentary Democracy**

The struggle against the rulers' tendency of imposing arbitrary rule in denying political rights to common people by allowing them to participate in the political process of country's governance and the consequent suppression unleashed upon them when they asked for those rights, in fact, led the human civilisation to rise against autocracy. Such a movement later in the world turned to initiate for democracy movements. In the initial stage of shaping the idea of democracy, it was envisaged with a limited goal of political participation and limited rights to achieve. But, in order to make the human being to live a dignified life, the political philosophers/ theorists in the later stage have defined it in a broader dimension and maintained a clear outlook for achieving it - the purpose for creating an environment of protection to the weaker or vulnerable section of population so to say make the political system to reach the unreached population with its service delivery functions or availing benefits to them. The essence of their ideas makes it clear that without democracy, i.e., lack of right to participate in the political sphere of the state, a life of a human being living in a state system will not be considered civilised and complete. But in its evolutionary process it is further conceptualised. In this context it is more pertinent to put forth the idea of Irving Kristol who draws connotation of guaranteeing "equality of opportunity" to all in the process of attaining a complete and dignified human life in a state system rather providing the "equality of conditions" as people use to misinterpret or get confused. Over the time it is, however, elaborated further as a means of forming a government through the representative system of the people who bear legitimate rights to elect their representatives having adequate accountability on them as their electorates.

The term 'democracy', initially in its literal connotation, referred to creating palatable environment for peace, progress and prosperity (wellbeing of all the people as the real constituents) through allowing people, parties to participate in the political process of the country. The concept of democracy has been introduced as a political system with due values of gaining legitimacy in the form of wider public support as accepted by the human beings living under the geographical perimeter of a state. It is, in fact, regarded a vehicle to run a state system that moves onward on the wheels of

addressing the peoples' needs and aspirations on the one side and through that means garnering their support on the other.

It is to notable here that each individual as the constituent member of state is a who is by virtue of his/ her permanent settlement and being a member of state is regarded as the legitimate law-makers – the law under which s/he will be guided by s/ he's behaviour. In order to facilitate s/ he's participation in the process of law-making provisions of elections by electing the representatives of electorates is made in democracy. This is basically pursued to allow the people to adjudge representatives of their choice as to elect with a belief that they would work for the fulfillment of their wants and aspirations.

The act of ascertaining representatives through holding elections on popular basis is so far considered the most effective mechanism to run democracy which is called representative democracy. It helps the people in electing representatives to whom they entrust for the application of the public policies that they wished for. Whereas Michael Stewart maintains the idea beyond it upon which he categorically pointed out that the election is the citizens' mechanism which helps to control the representatives they have elected by making them answerable to them. To him, it could be done "partly by continuous criticism and partly by periodic elections through which representatives and government can be changed by expression of the people's will without the use of force"<sup>68</sup>

Similarly, Stewart's version also rightly suggests that the modern context of democracy and the values it bears in the political life of a human being became necessary inseparable for leading a dignified civilized life. While elaborating it for the practical purposes, he maintained a view which indicates that in the modern thinking it should be referred to the people who possess "power to discuss" on the public policies<sup>69</sup>. The objective of democracy is considered best served too through the government formed under parliamentary form of political system in which things are decided by parleying among the elected representatives of the people – decision through discussion. And, it regards that the basic values of democracy laid the foundation for the concept of parliamentary system in which the parleying or decision

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<sup>68</sup> In Michael Stewart, **Modern Forms of Government: A Comparative Study**, London: George Allen & Unwin Ltd., 1959, p. 198.

<sup>69</sup> *Ibid.*

through discussion in parliament became the sole basis to run the parliamentary democracy. The government that is formed under such a political system is called parliamentary government. To Copeland and Patterson parliament is considered to be a group of people acting in a "binding and legitimate manner and taking decisions collectively" on others' behalf whom they are representing<sup>70</sup>.

While taking the above idea into account, one would find that it gives an impression of the meaning of functional aspect of representative government entrusted with the role to decide and act on behalf of the overall electorates. As such, it is known as the government originated from the institution of parliament that operates basically through the laws/ policies made on the basis of the majority-decision taken through the discussion held among the elected representatives. It is, therefore, regarded as the "supreme representative institution" of the people that is supposed to remain responsive to the needs and aspirations of the people.<sup>71</sup>

In order to check such ideas it becomes imperative to know about its origin on which larger section of world population intends to go for it. England is known as the shrine of the origin of parliamentary system and for that reason it is popularly known as the mother of parliamentary democracies. In the initial phase of thirteenth century the act of declaration of the great charter of **Magna Carta** - a historic document of public demands in England- was made. Such a declaration was later considered as the initial act of laying the foundation of parliamentary democracy in England through Magna Carta people became able to put a halt to the unlimited power enjoyed by the British King.<sup>72</sup> In the process of declaration, King John was forced by the Barons (elites) to accept the document of **Magna Carta**.<sup>73</sup> Through the declaration the church, Barons and people became more powerful and started to enjoy more rights thereafter in the state affairs. From then onward, the king was not supposed to raise tax without the consent of the Barons, and had no power to put anyone in prison for nothing (without committing crime). This made the king to act only according to the law. As thus, the English people were considered liberated from the despotic rule of the British King and his arbitrary and whimsical rule.

## 2.2 Evolution of the Parliamentary Process and Practice

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<sup>70</sup> Gary W. Copeland and Samuel C. Patterson, "Parliament and Legislatures", George Thomas Kurain, ed., **World Encyclopedia of Parliament and Legislatures**, Chicago: Fitzry Dearborn Publishers, 1998, p. XXI.

<sup>71</sup> See, Subhash C. Kashyap, **The Political System and Institution Building Under Jawaharlal Nehru**, New Delhi; National Publishing House, 1990, p. 125.

<sup>72</sup> **The Book Of Knowledge**, (Vol. 6), London: The waerly Book Company Ltd., Date ? (N. D.), p. 110.

<sup>73</sup> Barons simply connotes with noble men in those days. See, *Ibid*.

In connection with the overall growth of parliamentary democracy in England, one could find that its history presents a glimpse of its gradual evolution that spread over a span of around eight hundred years. Political developments in England during those days were instrumental to bring major political change from monarchical autocracy to parliamentary democracy.<sup>74</sup> Basically, its evolutionary period had not witnessed any major revolutionary change but its growth took place in a gradual and steady manner and took a firm but deep root in the British society that so far seems to continue in future as well. As of the developments that took place in the British politics, it has also been referred that only when the British people became confident for its permanence and lasting effects, only then they formally adopted the parliamentary system.<sup>75</sup>

In this context, it is appropriate to mention that the word 'Parliament' itself was borrowed from French *parler* that basically was related with the meaning of judicial institution. In this connection, Courtney Elbert claimed that the term parliament in French signifies judicial sharing in formulating laws. On the other, he also mentioned that the meaning of term parliament in its Latin form suggests a kind of talk held among the priests of the church after their dinner.<sup>76</sup> But the English people had taken it as a form of talk that is to discuss on the public issues or the affairs of common good. The process of talk or discussion later took a shape of a political institution of public assembly mainly to discuss on the matters of public concern and thereby to govern the country by taking decisions out of those discussions. Such an assembly later led towards the evolution of Parliament as a political institution for making decisions through discussion that ultimately replaced the feudal councils and played a role of *parley* in between the *crown* and *Community* and thus became an expansion of the *King's Council*.<sup>77</sup> The process of holding parliament that began since 12<sup>th</sup> century took deep root in the British politics and governance and thus its processes were applied regularly thereafter at the national political level but with some exceptions. The British Parliamentary history also illustrates the happenings of such exceptions as the incidents when parliament was dismissed, ignored and taken for granted by the ambitious kings like James I, James II, Charles I, etc., mainly to get rid of the control of the monarchical power to revive the unlimited degree of power of the king during their respective rules.

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<sup>74</sup> Lord Morrison, **British Parliamentary Democracy**, Bombay: Asian Publishing House, 1962, p. 1.

<sup>75</sup> *Ibid.*

<sup>76</sup> Courtenay Ilbert, **Parliament: Its History, Constitution and Practices**, London: William and Norgate, 1948, p 7 & 8.

<sup>77</sup> H. F. Kearney, ed., **Origin of the English Parliament**, London: Longmans, 1967, p. 4.

In the year 1215, the declaration of the great charter of Magna Carta was made and King John of England had to comply with the conditions laid by it. Though Magna Carta had put a halt to the unlimited power enjoyed by the British king, but it had not any direct bearing to the beginning of parliamentary system at its outset.<sup>78</sup> In the declaration, the king was forced to relinquish his enormous power in favour of the wishes of people. This declaration had made the king to regard the rights of the Church, Barons and as well as of the common people. The declaration categorically imposed some important conditions that regulated the king's absolute power. But King John broke away from obeying the Charter before his death. His son Henry III who succeeded him also was not in a mood to accept the bindings of the charter. He started to raise heavy taxes but because of that he was not able to maintain order in England. Such events once again resolved the barons to compel "Henry III to take their advice, and rule the country better".<sup>79</sup> T. F. Tout vividly illustrates this issue as following:

Since the great charter, the barons had much more power than they had had before. The king was no longer a despot, but was expected to ask the consent of a body called Parliament before he raised fresh taxes or passed new laws. The parliament composed of the representatives of whole people. It was more like our House of Lords than our House of commons. It consisted of earls, bishops, and other leading nobles and clergymen. But it was becoming a real check on the king, and especially on a weak king like Henry III.<sup>80</sup>

As such, the declaration of **Magna Carta** marked the recognition of the rights of the people and the beginning of the parliamentary democracy in England. Similarly, the document gained the status of law of the land that granted greater power to the people. It, in fact, paved way for the creation of parliament in the later part of the political history of England. By considering the then newly recognised public assembly with its utility and authority, it has been referred, that "it can be seen the way in which powers of parliament later developed by the members' realization that they had become strong enough to assert new rights, and to make the sovereign accept their proposals".<sup>81</sup>

The overall growth of Parliamentary Democracy in England has witnessed its gradual evolution that spread over a span of several centuries, something around 700 to 800 years. It is liable to know the fact how political circumstances in England had been able to bring change from monarchical autocracy to parliamentary democracy even at the early time of 14<sup>th</sup>

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<sup>78</sup> **The Book of Knowledge**, *Op. cit.*, p. 110.

<sup>79</sup> T. F. Tout, **A First Book of British History**, London: Longmans Green Co., 1929, pp. 62 & 66.

<sup>80</sup> *Ibid*, p. 66.

<sup>81</sup> **The Book of Knowledge**, *Op. cit.*, p. 110.

century. Basically, the political history of England reveals that its evolutionary period had not witnessed any major revolutionary changes but its growth took place in a gradual and steady manner. The history shows that the growth of parliament had thoroughly been carried out once the British people gained enough confidence in stabilizing the act of legislation through parliamentary processes and their lasting effects on the political system that they had adopted then.<sup>82</sup>

The concept of Parliament after its adoption in England had taken several centuries to take its modified structure that we find at present. It has been found that the Parliament in the initial stage was a petitioning body, but in the later part it gradually turned into the legislative institution. It prevailed as a strong legislative institution and for its legislative function it is made unchallenged and unparalleled. The holding of Parliament in a continued manner later in the enlarged form with broader participation of people became a place of *conference* of the representatives of the *counties, towns* and *boroughs* in England. Such a parliament provided opportunity and forum for the deliberation and decision on the matters of public sphere including the law making and also about tax collection.<sup>83</sup> Apart from other reasons, the necessity of money for the ruler was referred then, as the "want of money" basically was the reason that created the institution of Parliament in England. The parliament, however, was initially a petitioning body or through which petitions were presented before the king in parliament.<sup>84</sup> But, the enactment of laws thereafter started to materialise only through the practice of sending up bills in the parliament drawn in the form of statute but not as the petition "so that the king was left with no alternative" but to assent. As a result, a system of "legislation by bill" began instead of "petition".<sup>85</sup> The origin of English Parliament, in fact, came into being happened because of the need of summoning of its sessions regularly. And the main reason behind its summoning was the need of money on king's part whereas for the people it was a forum to express

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<sup>82</sup> Lord Morrison, *Op. cit.*, p. 1.

<sup>83</sup> *Ibid*, pp. 2-3

<sup>84</sup> Courtenay Ilbert, *Op. cit.*, p 17.

<sup>85</sup> *Ibid*, p. 23.

their grievances against the oppression unleashed by the king's officers then called 'great men'<sup>86</sup> who, in turn, failed to observe charter or laws.

The period after **Magna Carta** witnessed the beginning of the practice of election of the people's representatives to participate in the parliament of England. The Book of Knowledge states it in the following manner:

It was about the time of Magna Carta that there began the practice of electing knights from each county to join the assembly of great lords. In 1265, Simon de Montfort, leader of the barons who were still at odds with the king, summoned what is usually regarded as the first English parliament. To this, for the first time, came not only the knights of the shires, but also citizens and burgesses to represent the cities and boroughs. But the gathering had no power to enforce its decisions, and was not summoned by the sovereign (whose business still is to summon and dissolve parliament). Probably the real first parliament was thus summoned by Edward I in 1295, which established the rule that the cities and towns, as well as the lords should be presented. Since the time of this "Model Parliament" as it was called parliament has had a continuous history. Though in the earlier days it neither meet so often nor so long as it does to-day.<sup>87</sup>

Similarly, the evolution process of parliament and its practices had started to take place from the very initial period of its beginning. In this connection, it is stated precisely but more clearly about the reason behind the evolution of parliament in British context. The following statement delves with beginning of parliamentary context in Britain – this has been referred in the following version:

Over the time the practice grew where by Parliament was consulted about taxation and than became recognised authority without which taxation could not be imposed. There by parliament became the guardian of the purpose and the doctrine grew-up-no supply, that is supply of money, without the ventilation of grievances. So the voice of Parliament became more powerful and the monarch had to take more and more notice of parliament. Legislation in due courses<sup>88</sup> became the prerogative of Parliament and not the prerogative of the crown.<sup>88</sup>

### **2.3 Growth of Parliament as an Institution**

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<sup>86</sup> Eventually the title of baron limited to some of the great men who were supposed to participate in the parliament separately. *Ibid*, p.17.

<sup>87</sup> **The Book of Knowledge**, *Op. cit.*, p. 110.

<sup>88</sup> Lord Morrison, *Op. cit.*, p. 3.

Before dealing with the term parliamentary institution in its literal connotation as the present thesis intends to deal with, it is considered imperative to put the term "institution" in theoretical perspective. Such an elaboration becomes necessary because the objectives set by the present study of finding out its importance as well as appropriateness to define it in its actual essence. In order to analyse the institutionalisation of the multi-party parliamentary democracy in Nepal also as a political system it is necessary to comprehend the word institution, first.

To put the thinking of scholars into perspective, it has been regarded that an institution gives a meaning of an established practice as a conduct of accepted human behaviour in a form of adhering to the established norms or custom or beliefs, which is exercised or applied in a society in an organised way. Institution also denotes the regularity of some particular behaviours related with any organisation or practice or role function. In other words, it not only suggests a physical structure of a formal organisation but also implies the established or accepted human behaviour that is related with some practices, customs, norms, beliefs, etc., linked with the functioning of an individual or more and influences the life of common masses of that particular area. In this context it is appropriate to understand society as a system within which marriage, family, kinship, educational system, economic system, political system, religion, morality, etc., operate and take a shape of the social institutions. Internalisation of that particular set of behaviour and acceptance by the involved actors are the matters of the process of institutionalisation.

While dealing with the term institutionalizing or institutionalization, sociologists and theorists usually denote it with the process that refers to the development of a kind of human behaviour always inclined to practicing or exercising the norms and values that work within the accepted and recognised framework of a system. In fact, it not only refers to an institution in its physical and conceptual form or framework only, but it is an act of carrying out the spirit for which it is perceived. Institutionalising or institutionalisation of a political system only grows on the similar outlook, behaviour and practices. But there is a necessity of following certain norms and values of any particular concept in order to guide such behaviours and practices. As such, the process of institutionalisation provides support in broadening the acceptability of any idea to be established in the human society whether it is related with the political, social, economic or in other aspects.



In this respect it is important to see the term institutionalisation to be clearly defined and thus it is pertinent to mention the views of the sociologists like Hurton and Hunt. To them, the meaning of institution is linked with the behaviour of the human being and the steps which are followed for its achievement in a society. They are of the view that the "establishment of definite norms" assigned with the behaviour related with the "status, positions and role functions" is called institutionalisation. Here the term 'norms' clarifies the meaning of behaviour that takes place within an expected framework.

Hurton and Hunt further tried to clarify that an institution is an organised system of social relationship that embodies certain common values and procedures and meets certain basic needs of the society. In a way it refers the "common values" as shared ideas and goals; the "common procedures" as the "standardized behavioural patterns" that the group follows and the "system of relationships" that takes place in the "network of roles and status" through which the behaviours use to be carried out.<sup>89</sup> As such, they also make it clear that the process of "institutionalisation involves the replacement of spontaneous or experimental behaviour with the behaviour that is expected, patterned, regular, and predictable".<sup>90</sup>

But they don't lag behind to caution that one has to be careful to draw conclusion about what the institution is how it affects the growth of certain idea or system and how that could be institutionalised in the concerned area. Their views put forth their version of definition about institution in the following manner. "An institution is an organised system of social relationship which embodies certain common values and procedures and meetings certain basic needs of the society."<sup>91</sup> They further tried to draw the meaning of institution in a more vivid manner by elaborating the ways it functions as a whole. In this context, they tried to draw their ideas in such a way, which could be seen as a useful definition.

An institution is a set of relationships and a system of behaviour that is required to the people. Although the institution itself consists of relationships and norms, it is p eople

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<sup>89</sup>. Paul B. Hurton & Chester L. Hunt, **Sociology**, (2<sup>nd</sup> edition), New York: Mc-Graw Hill Book Co., New York University, 1968, p. 185.

<sup>90</sup> *Ibid*, p. 186.

<sup>91</sup> *Ibid*, p. 185.

who fill up these relationships and practice these norms. And people organise themselves into groups forming out institutional behaviour. By institutional behaviour we mean the carrying of institutional norms and values into practice.<sup>92</sup>

Similarly, they also explained the meaning of the institutionalisation, what it is and what does it signify? They have opined; "Institutionalisation consists of the establishment of definite norms which assign status, position and role-functions in connection with such a behaviour. A norm is a group expectation of behaviour."<sup>93</sup>

Without making any major deviation from the set of definition analysed above John Degnibol-Martinussen tried to define 'institution' in such a way: The author refers that the term institution encompasses with "institutional patterns or arrangements".<sup>94</sup> He, in this context, mentions that the term "institutions include both formal arrangements and informal norms, custom, conventions and standard operating practices and those factors which determine the relationships between individuals and social groups as well as the broader institutional arrangements that appear at different socially constructed routine-produced, a behavioural regulation frameworks"<sup>95</sup>. He further elaborates that the "formal organisations are important carriers of such institutions as governance regimes which codify rules, and sometimes institutionalisation can also take less visible forms"<sup>96</sup>.

Irrespective of other areas, institutionalisation in the field of politics and government implies with political institutionalisation which helps create political institutions and a habit of abiding by its norms, values, rules, principles and policies set for its operation as well as functioning to attain its objective. Such a tendency is considered as the basis of any country's advancement in politics and effectiveness in its governance. This largely needs to be applied to a third world country where success in this regard is not smooth. In fact, it is a process that indicates the upholding of rules, procedures, and set patterns clearly in order to participate in politics and formulating public

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<sup>92</sup> *Ibid*, p. 186.

<sup>93</sup> *Ibid*.

<sup>94</sup> Degnibol-Martinussen, **Policies, Institutions and Industrial Development: Theoretical Perspectives**, New Delhi: Sage publication India Ltd., 2001, p. 19.

<sup>95</sup> *Ibid*.

<sup>96</sup> *Ibid*, p. 20.

policies, facilitating smooth and peaceful transition of power, and implementing to define institutionalisation as the "process by which organisations and procedures acquire value and stability". To him, the level of institutionalisation of any political system can be defined by "...its adaptability, complexity, unity and autonomy." <sup>97</sup> Upon such theoretical backdrops by and large the institutionalisation of political system refers to a political procedures through which political organisations, processes and practices are recognized worth to follow, undergo the process and pursue to continue practices of "a high degree of popular participation in public affairs"<sup>98</sup> for taking decisions at the political level. Apart from that we must not forget all the characteristics mentioned (above) by Huntington for the institutionalization of a political system.

However, until and unless the people concerned will not behave accordingly and norms and values are strictly followed, in that case its institutional growth will be difficult to take place and the people will always remain to be haunted with psychological doubt of its sustainability. So, it is appropriate to cite Philip Selznick, who clearly spelt out that "to institutionalise is to infuse with value ..."<sup>99</sup> To him the process of institution building basically connotes the practical aspect of any concept/idea adhering to the spirit for which the act is done.

Here, it seems appropriate to deal with additional ideas to put forth the concept of institution into the elaborated perspective. It has been felt to draw inferences even from the other disciplines for the institutionalisation of the political system as well. However, the noted scholar like T. Uphoff points out the linkage of the term 'Institution' with the behavioural aspect. He clearly mentions that the process of institution building is basically linked with the "introduction to establishment of organisations" that on its part "induce changes" in the "belief and action within a society"<sup>100</sup> currently persisting. The subsequent changes that use to happen are very

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<sup>97</sup> Samuel P. Huntington, **Political Order in Changing Societies**, New Delhi: Adarsh Enerprises, 2009, p.12.

<sup>98</sup> *Ibid*, p. 1.

<sup>99</sup> Cited in Norman T. Uphoff, "An Introduction to Institution Building: What It Is, What It Can Do", **Seminar on Institution Building and Development**, (Seminar Report), Kathmandu: Centre for Economic Development and Administration (CEDA), T. U., 1971, p. 21.

<sup>100</sup> *Ibid*.

much related with the adoption of new methods. In fact the study of institution building is directly connected with the process of "moving from introduction to establishment"<sup>101</sup> process of any organisation/ idea/ role function affecting the lives of common people in a society. For the existence of any organisation/ idea/ role functions it is vital that the adopted methods are well accepted or recognised if not by all but at minimum by the major section of the society and being practiced accordingly. It is the merit of the "development" of any organisation that "represents increased productivity" as well with wider impact. To him productivity strictly refers to the practice of accepting the results of participation in the field of politics and governance.

Growth in the field of political productivity in the broad context is the "country's capacity to satisfy the economic, social and political needs and wants of the people" for the betterment and wellbeing of their lives.<sup>102</sup> Through such notion the democratic system tries to attain socio-economic and political justice in the society. Same is also applied with the concept of development in any society which could be seen the broader context, that includes the growth in the productivity of economic, social and political sectors as per the growth of a country's capacity in satisfying the economic, social and political "needs and wants" of the people.<sup>103</sup>

Uphoff puts forth the meaning of institution building as: "Institution Building cannot guarantee the productivity of the technology being introduced, but it can aid in establishing the organization involved so that there is sufficient opportunity for the innovation to be tried out and adopted if conditions justify this".<sup>104</sup> He further clarified his above version in such a way, if an institution succeeded to be established it could be productive of social benefits and political satisfactions as it provides people with economic benefits or satisfactions.

Uphoff also elaborates the term institutionalisation in the following version:

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<sup>101</sup> *Ibid.*

<sup>102</sup> *Ibid.*, pp. 22-23.

<sup>103</sup> *Ibid.*, p. 23.

<sup>104</sup> *Ibid.*, p. 22.

To the extent that an organisation succeeds over time in demonstrating the value of its functions and having them accepted by others are important and significant, the organisation acquires the status of an “institution”. It becomes more stable and secure, better able to perform the function for which it was established or modified, thereby ensuring that the innovation raising productivity is incorporated into the society's "regular" activities and beliefs. Institutions can be thought of as the building blocks with which a society's edifices of higher productivity are erected.<sup>105</sup>

In order to pursue the common interest of establishing a democratic order, a state needs to pay attention in the functioning of its main organs that necessarily rely on traditional functioning model of rule making, rule application, rule adjudication and enforcement. It is because institution is considered to be the means of inspiration for exclusive observance of the rule of the game. It is important to note that the institution basically provides stability within the bound of norms and values for the common interest of the populace under it. Such bond of practices that provide legitimacy of any organisation or idea or practice or role function, signify institutionalisation of the system.<sup>106</sup>

As it has already been mentioned that the political institution symbolises with rule of the game and that too determines the political behaviour of the organisation directly related with it. In principle, it does not allow any organ or any person with high authority to behave in a "taken for granted" manner and always to be expected for following the set of "standard operating procedures", which are "... agreed upon and hitherto followed by the agents involved".<sup>107</sup>

With the consideration to all above theoretical perspectives on institution and the definitions relating to it indicates the ways, means and prerequisites for its growth and attaining the process of institutionalisation of any organisation or idea or role function. Similarly, while discussing about the democratic institution we can perceive that it embodies with the rule of law basically precipitated by the concept of rule by majority of the people with maximum participation. The process of democratic institutionalisation provides ground for consolidation of a liberal political system that we use to call democracy. This does not allow any autocratic or tyrannical thinking or behaviour including the similar nature of rule to take place and allow to prevail in the field of politics and governance. Institutionalisation of democracy also

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<sup>105</sup> *Ibid.*

<sup>106</sup> Robert E. Goodin & Hans-Dieter Klingemann, **A New Hand Book of Political Science**, New York: Oxford University, 1996, pp. 133 - 145.

<sup>107</sup> *Ibid*, pp. 145 - 146.

connotes the process of democratisation that empowers people, creates effective state mechanism under which people would feel secured and for that reason their behaviour demonstrates that they willingly abide by its law and order. Such a process creates a situation of setting up a basis of stable system of governance for the overall progress and welfare of the people and the state.

## **2.4 Inception of Parliamentary Democracy and its Practices**

While talking about parliamentary democracy, it is necessary to discuss about its practices because it provides the basis of its institutionalization. Effective parliamentary practices as per accomplishing the objective are considered as the instrument needed for their institutionalization. Regarding this, it is worth to remember the thoughts of Montesquieu, through which he points out the danger of the accumulation of power for legislative works in a single position or place. He makes it clear that, if the powers of legislative and executive functioning are confined to the same place, it will be instrumental for the birth of impaired individual liberty and the enactments of legislations intended to limiting human freedom because the enforcement of the legislation including its adjudication suffers from tyrannical steps and arbitrary control. In that case the person enjoying all three powers may resort to oppression with violent coercive measures.

In order to prevent such a situation to arise, the theorists known for their perceptions of democratic norms and values pleaded for an executive emerged out of legislature with the overall control of the later. Such a view was put forth intending to make answerable to the executive for its deeds and thus to control their actions within the limits of the law. In this context the thinking of Locke, Dicey and Madison also falls in the similar line regarding the powers of executive and judiciary which find their limits by the 'declared will' of the legislative organ of the state.<sup>108</sup>

When we talk of the process of institutionalization of democracy, we need to understand a system of government that functions and operates with efficiency and effectiveness to attain its objectives for which it is created; that is one ought to develop a kind of mechanism that operates and works for the betterment of the general public that basically deal with resolving their problems, maintain security, create an environment of their progress and welfare. Parliamentary form of democratic polity is the government by decision taken upon the consent of all or of majority support to implement the decisions taken on behalf of the people

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<sup>108</sup> See, Harold J. Laski, **Grammar of Politics**, New Delhi: Surjeet Publications, 2007, pp. 297 - 298.

as being their representatives. Such a process depicts as the replacement of “government by tradition”. Here the terms “government by tradition” entails the concept of the rule by personal whim or interest of an individual ruler or the group of rulers who rule by virtue of familial inheritance or through the application of force in the name of God and its wishes. Such a concept of arbitrary rule of an individual would replace and adopt the principle of rule by consent even by not at minimum support by majority of the community. Democracy in actual sense gets developed upon the will of the people. In other word, the rule by decision of majority or consent by all gets developed upon the will of overall constituents.

In the governing culture of modern state system, a state aspires to be known as a democratic one and for that reason it adopts a system of government answerable to the people that hints the presence of multi-party parliamentary democracy with feeling and impression of power sharing of all concerned through allowing the opportunity of the representation of maximum number of electorates in the country’s decision and law- making processes. In order to fulfill such a condition and aspiration of the people, a democratic state retains a polity of liberal governance with following traits that necessarily encompass the representative government created upon universal adult franchise, guaranteeing of individual freedom and granting of necessary civil rights by introducing the concept of popular sovereignty and pursuing the application of concept of rule of law.

With such a point of contention, it is pertinent to make a review of the growth of the parliamentary democracy - the present study intends. It has, as thus, become pertinent to reviewing the parliamentary democracies of England and India with a belief that they will lead the present thesis to find out the ways and means of the process of institutionalisation of the multi-party parliamentary democracy in Nepal. Upon such presumption an effort is made here to present brief reviews of their cases.

### **2.4.1 England**

The parliament and parliamentary practices in England became institution that has been guiding the British people as the basis of their overall governance ever since the thirteenth century from when the parliament began to prevail in the state system. The eight hundred year-long parliamentary history of England indicates the institutional growth of parliamentary system. It is, therefore, pertinent to elaborate the issue of political assemblies summoned from time to time by the successive kings during the early thirteenth century that had gradually acquired the name of parliament in England. And, by the middle of the fourteenth century, such assemblies with their characteristics and regularity had been widely recognised as the

established institution of Parliament.<sup>109</sup> The system that prevailed before this period was a feudal system in which the political decisions "to be taken were primarily military decisions, ..."<sup>110</sup> But after the emergence of the practice of summoning the assemblies on the regular basis contributed the system to take government decisions in the demilitarised way. The idea of taking decisions even relating to war and the money required to spend were thought not to be taken by the warriors but by the taxpayers themselves, that is by the decisions taken after parleying (discussion) on the issue by the representatives of the people, the taxpayers. Such an idea became popular in the society and thus it led the contemporary political system to turn into the parliamentary form of government.<sup>111</sup> By the end of fourteenth century, the parliament in England had established two methods of taxation; firstly, the parliament had introduced a rule of taxation only in its consent, and secondly, rather the parliament had acquired the authority for taxation. During those days, due to the frequent need of money to the government the regular commencing of parliament became a necessity.<sup>112</sup>

Similarly, the declaration of **Magna Carta**, in fact, signified the recognition of the rights of the people and was considered instrumental in the beginning of the parliamentary democracy in England. Realising its significance in the politics of the country the document of great charter gained the status of "law of the land" that contributed to granting greater power to the people. It had paved way for legitimizing the institution of parliament and its practices. However, the political history of England mentions that the sessions of parliament started to hold prior to the adoption of the great charter. Pertaining to the authority of parliament that was developed later by its members had succeeded in binding the king - the sovereign - to accept whatever decided by it.<sup>113</sup>

Over the time the system of government through the process of parliament became very much entrenched in the British society. Sir Alan Herbert, an ardent admirer of the parliamentary democracy, who once made a noteworthy comment in response to a '*scornful remark*' made against the Parliament, the law making assembly - as "the talking shop". In support to parliament, he presented his undaunted faith on it; and he states, "the English long ago made up their minds that it was better to decide things by talking than by cutting of people's head, which was the old way".<sup>114</sup> This statement clarifies the usefulness of making dialogue/

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<sup>109</sup> H. F. Kearney, *Op. cit.*, p. 1.

<sup>110</sup> *Ibid*, p. 4.

<sup>111</sup> *Ibid*.

<sup>112</sup> See, Courtenay Ilbert, *Op. cit.*, p. 16.

<sup>113</sup> **The Book of Knowledge**, *Op. cit.*, p. 110.

<sup>114</sup> *Ibid*.



discussion to evolve ideas for decision through participation. Such an idea later became an aspiring model to other countries in operationalising their politics and government to which efforts have continuously been made to follow by the greater part of the human society. This has, however, been preferred to the old autocratic, arbitrary, conspiratorial and violent means which by virtue of their practices the rulers threatened the dignity of human being and the civilization of peaceful living. But, it has been noticed that rulers on the pretext of managing the state affairs used to indulge in intervening the life of people, the method they used to rely and thereby decide on their own.

By the time the process of holding parliament that began since twelfth century had taken root in the British politics and governance and thus its processes were thereafter applied regularly. However, some exceptions had happened in its regularity due to the ambitions of kings who tried to regain their royal authority of ruling the country on their own irrespective of the parliamentary norms established by the declaration of Magna Carta, Glorious Revolution and Bill of Rights. But, by realizing its significance in human life within the state regime, it took such a firm deep root in the society and established a belief that no monarch - no matter how powerful is s/he could ever suppress such a desire of human being' enthralled people towards it. For that reason it prevailed even though the ambitious British kings tried to override it again and again.

The power struggle between the king and parliament during the seventeenth century for the purpose of taking in charge of the process of government in England should pursue to function with the spirit of "king in parliament" – a governmental system in which king, who enjoyed both head of government and state, was made part of the parliament whose power and actions had been made subject to parliamentary decision and scrutiny.<sup>115</sup> Such an initiative taken through the Glorious Revolution of 1688 had been able to institutionalise the process of government by parliamentary consent. This was followed by the 'Bill of Rights' that increased freedom of the British people and guaranteed their right against arbitrary trial including the right to have free and fair trial. Such a process was accelerated with the accession of non-English speaking king to the British throne that halted the power struggle between the king and parliament taking place from quite a long time that finally cut short the authority of the king and made the institution of monarchy subordinate to the parliamentary decisions. Due to lack of the English language knowledge the monarchical grip to government impaired and for that reason dependence over the cabinet increased thereby granting it a free hand resulting it to have increased authority to govern the country. The cabinet system of

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<sup>115</sup> See, V. D. Mahajan, **Select Modern Governments**, New Delhi: Chand & Company Ltd., 1995, p. 18.

government evolved as a mechanism having parliamentary support to assist the king that ultimately reduced it to a mere figurehead of the country.<sup>116</sup>

Since the holding of parliament began in England the beginning of taking decisions on the issues relating to public or state spheres started to continue there as the regular practice. In order to regularise it an institutional set up in the form of parliament was evolved, which over the time turned into a supreme legislative institution. From then onward the tradition of endorsement of such a Parliament for legislation and raising tax became obligatory.<sup>117</sup> In this context it is noteworthy that the practices of parliamentary process started to continue as an institution for taking decision on legislation and taxation in England. The parliamentary authority of making and unmaking of kings in different times and situations as enacted by the Parliamentary Act of 1327, the British Parliament gained enough political power<sup>118</sup> and thus it later functioned as an unquestionably imminent political institution there.

With its inherent character of liberal outlook to have differing ideas, facilitating broader participation and openness especially in the affairs of government and politics - this became a popular political system not only in England and within the European continent but also in other parts of the world. As such, in pursuance to the usefulness of the structural and institutional form of the British Parliament a number of European countries also adopted similar nature of legislative institutions. As of this fact, the British Parliament has been popularly called the mother of all parliaments.<sup>119</sup>

## **2.4.2 India**

While dealing with the context of parliamentary democracy as per the objective of the present thesis it is also pertinent to make a brief review about the developments those took place prior to the formal origin of Indian parliamentary governmental system and its growth in course of time within which democratic leadership worked with dedication for democracy. It will be appropriate to make a cursory review of the growth of the Indian Parliament and the idea behind its inception and adoption with which the democratic movement in neighboring Nepal was also influenced. It is also relevant to do so because the political activists and the leaders of India and Nepal had worked together for the freedom movements (basically to get rid of

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<sup>116</sup> See, *Ibid*,

<sup>117</sup> Kearney, *Op. cit.*, p. 4.

<sup>118</sup> Courtney Elbert, *Op. cit.*, p. 24.

<sup>119</sup> See, V. D. Mahajan, *Op. cit.*, p. 78.

the British colonial rule and the Rana autocracy respectively in India and Nepal) that took place on almost the same occasion in both the neighbouring countries.

The concept of parliament in India is the core of its political system that it adopted after the freedom it achieved from the clutches of British colonial rule. The democratic system that it adopted had created the legislative organ as the source of prime executive authority to function called parliament that proved to be a powerful and effective set of political institution at the national level basically with a motive to lead the country to progress and stability including the attainment of the wellbeing of the common masses as well.

It seemed that parliament as the basis of governing institution grew in India as a result of its orientation towards freedom and justice while struggling against the colonial rules of Dutch, Portuguese, French and finally the British. As the other European powers the British came to India for its trade and merchandise interests. The British for that purpose established a company in India called East India Company in the early days of the seventeenth century which in its part with a view to enhancing the purpose of trade and merchandise formed business depots in the three major Indian port cities of Bombay, Madras and Calcutta. As these activities were initiated under the Charter of Queen Elizabeth I enunciated in 1601 to authorize the Governor and the Company with certain legislative and judicial authorities in the areas of its possessions or control for sorting out trade dealings. Such an arrangement recorded formally as the first seeds sown in the Indian soil for practicing governance through legislation<sup>120</sup>. This was made effective through the Royal Charter of 1668 that gave the company of the authority to govern and legislate. Similarly, the Charter of 1726 clearly vested legislative power to Governor and his Council to govern the areas under British control including the matters related to its trading sphere.

With the expansion of merchandise affairs in the Indian territory the Company by 1765 forced the Moughal Emperor Shah Alam to grant the *Diwani* (authority to administrate) in favour of the British. But by the time of 1772 the Company turned bankrupt and became obliged to get loan from the British Government which in return on its part brought it under the parliamentary control. Thus, with such a gradual process, the East India Company acquired a full status of governmental authority under British Empire through various acts enacted by the Parliament of England. As a result of this the Act of 1773 also called Regulating Act was promulgated to regulate the Company in India. This Act holds significance in the legislative history of India, as it marked the beginning of parliamentary control over the government of

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<sup>120</sup> Subash C. Kashyap, **History of Parliament of India** (vol. 1), Delhi: Shipra Publication , 1994, pp. 18 & 19.

Company in India.<sup>121</sup> The spirit of parliamentary supremacy over the government as envisaged notion implanted by the Glorious Revolution of 1688 had led the government of England to initiate the establishment of similar kind of liberal mechanism for the management of the colonial territories in India.<sup>122</sup> Such a move was remarkably followed by the enactment of Charter Act of 1833 which introduced changes in the function of legislative system in India. As the Governor General was made designated to see the management for the whole of Indian territory, the Act also set up a legislative council in India under British control. In a sense to address the voices that had been raised during those days in England for allowing the Indians to govern themselves and the demands made in India for increasing the number of Indian representatives in the pattern of British Parliament, the Charter Act of 1833 was enacted.<sup>123</sup>

The legislative history of India shows that the British introduced the process of legislation through parliamentary practices by the enactment of the Indian Council Act of 1861 which was enacted by the British Parliament. This Act allowed the British governing territories of Madras and Bombay to have authority to legislate for themselves with having some kind of indigenous representation. Basically, this Act was enacted in response to the Indian indignation towards the British colonial authority's seizure of legislative power from the Indians as imposed through the Act of 1853 enacted by the British Parliament. The resentment expressed against such seizure of legislating power resulted to sporadic rebellious activities launched by the Indian origin soldiers (popularly known as Sepoy Mutiny of 1857). The mutiny challenged the British colonial authority over India against its tendency of negating autonomy for legislation for their territory by themselves.

It is so regarded as one of the main reasons of the development of legislative process in India through parliamentary practices from nineteenth and twentieth centuries under the British Parliamentary initiative.<sup>124</sup> In other word, the process followed and the practices conducted during those days were of the parliamentary in nature that helped to nurture the legislative exercises.<sup>125</sup>

As such, the governing process of the Indian territories within the British colonial rule had been brought up under the company of "English liberalism" that awakened contemporary

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<sup>121</sup> *Ibid*, p. 20.

<sup>122</sup> See, *Ibid*, pp. 17–20.

<sup>123</sup> *Ibid*, pp. 23 -24.

<sup>124</sup> A. B. Lal, ed., **The Indian Parliamnet**, Allahbad; Chaitanya Publishing House, 1956, p. xi.

<sup>125</sup> Subhash C. Kashyap, **The Political System and Institution Building Under Jawaharlal Nehru**, *Op. cit.*, p. 2.

Indian elite towards political participation and pluralism as well as the adherence to rule of law by both ruler and the ruled for their own betterment as being practiced in England. This could be seen as rightly claimed points about the idea of its initiation and upholding parliamentary practices as the main stay of the Indian political system and thus could be easily portrayed from the following version:

Parliament is the centre and focus of our political system. Its original and prototype is the British Parliament from which it has been deliberately copied. Our constitutional development in the nineteenth and twentieth centuries was made under the direct supervision of the “mother of parliaments”. Rulers and national leaders alike were nurtured on the political philosophies of Locke, Burke and Mill. Educated Indians imbibed the spirit of the British Constitution and made in their ideal and their goal. It is natural, therefore, that the parliamentary system should have been accepted by Indians...<sup>126</sup>

The historical events show that the political institutionalisation of Indian Parliamentary System reinvigorated through the struggle for freedom from the colonial rule, demand of legal and political reforms for participation in the process of governance of the country and finally of the demand of having the elections for constituent assembly to draft a democratic constitution of their own. After the British withdrawal, therefore, the Constitution of free India was “drafted, adopted and enacted in the name of the people” by an elected Constituent Assembly.<sup>127</sup> Thus, the Constitution embraced the parliamentary governmental system in India.

It has been perceived that the general pattern of Indian Parliament is very much similar to the British Parliament. Though India lacked hereditary elements of monarchy to be placed as the Head of the State, instead it adopted a provision of electing a President in that level through its parliament and legislative assemblies. In the British system monarchy is placed in the highest status with no power to rule but to put final assent of the bills passed by the Parliament as the Head of the State to enact laws and the practice of parliamentary supremacy have been missing in the Indian parliamentary practices. The parliamentary authority of India is “circumscribed by the written Constitution” that prohibited it to go against the principle of the

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<sup>126</sup> A. B. Lal, ed., *Op. cit.*, p. xi.

<sup>127</sup> Subhash C. Kashyap, **The Political System and Institution Building ...**, *Op. cit.*, p. 4.

fundamental rights of the people, the spirit of the division of powers among the principal governmental organs as well as its activities subject to judicial reviews.<sup>128</sup>

### 2.4.3 Nepal

Nepal, as it emerged as nation with wider form of geographical ramification and national structure, continued a system of feudal rule, which did last in an ardent manner till 1950. In order to get rid of such a feudalistic political rule the political parties came into being in the Nepalese political scene, which meant to launch anti-Rana revolution like movement of 1950 as well as to struggle for the establishment of parliamentary democracy in Nepal, both of which began along with one another. It is because the political parties marked to accelerate the anti-Rana movement for initiating the democratic movement in an organized way for the establishment of representative participatory governance with required rights and freedom to the citizens against the backdrop of the feudalistic-autocratic rule and the limits of “subject culture” that allowed them to remain only as ruled.<sup>129</sup>

The movement of 1950 brought a qualitative change in the political thinking of the people of British model of Parliamentary Democracy in India, being adopted even after its independence. As the contemporary political developments indicated that the aspiration of people of Nepal grew to be governed through the multi-party Parliamentary Democracy took a firm position in the minds of politically aware population they launched the movement to be free from the familial authoritarian rule of the Ranas. Here the term people of Nepal corresponds with the section of people influential among the commoners and were aware with the concept of multi-party democracy and the British model of parliamentary form of government.

The 1950 movement that took place against the Ranas had not only the objective to put an end to their autocratic family rule but also became a means to introduce a liberal political order that allowed the citizens to exercise political rights and freedom. Basically, in the initial stage of democratic awareness the Nepalese political activists with the influence of their fellow Indian freedom fighters who were waging movement against the British colonial rule in the 1940s, had decided to replace the Rana autocracy with parliamentary democracy in Nepal.

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<sup>128</sup> A. B. Lal, ed., *Op. cit.*, p. xi.

<sup>129</sup> See, Gabriel A. Almond and Sidney Verba, **The Civic Culture**, Princeton: Princeton University Press, 1963, pp. 17-20.

## **2.5 A Comparative Summary of the basics of Parliamentary Democracies of Nepal, India and England**

As a summary of the above descriptions a comparison of the basics (features) of Parliamentary Democracies of Britain, India and Nepal is felt imperative to deal basically for the sake of validation of the undergoing study as per its objective.

In course of fulfilling the necessity of making this study substantive as per its objective, it is worth to depict Nepal's attempt to enter in the process of institutionalising parliamentary democracy. In order to substantiate this an attempt is made here to present a comparative review of the basics of parliamentary democracy of the countries mentioned in reference to make this study palatable in view of their contexts and relevance.

As it is acknowledged that the democratic system began (existed) in these three countries with different cultures, settings and periods are of the products of different contexts as well. The eight hundred year long British system of Parliamentary democracy is in practice as a consequence of the need of British scheme where plan for legislation through participation was taken as the prerequisite for governance. Over the period, it through evolutionary process took a firm shape and rooted as the matter of prime concern in the British politics. On the other the British introduced system of Parliamentary democracy in India which has been in continued practice even in the subsequent years of post-independence period, to date. The practice of legislation through a legislative council so made by the British in India since the mandate it possessed through the British Parliament out of the Indian Council Act to manage its colonial rule over the Indian Territory. Such a practice was introduced by the British almost a century before India achieved its independence in 1947. It became so entrenched in the Indian soil and among the then ruling national elites the parliamentary democracy became integral part of its politics and governance so far. Such an entrenchment of parliamentary system had happened because of the liberal component it possesses for freedom and rights to public participation in the political process of the country. Whereas in the Nepalese context, it is taken as the product of the movement against the regime's affection of dwelling with the tradition of autocracy, authoritarianism and feudal culture, which had practiced a tendency of keeping the common people apart from participation in the politics and government of the country. To the common Nepalese people such a movement tends to oppose the rulers' inclination of imposing a rule of authority that made things happen with their personal whim and wishes in of state affairs. In order to make rulers realize the essence of the concept of democracy as well as the importance of parliamentary democracy for public participation in

the decision making process of country, the India-based-educated Nepalese elites with the support of general masses brought a revolutionary political change by ending autocratic Rana rule in Nepal.

As of the above descriptions the parliamentary system in Britain evolved upon the demand of time that deals with the adoption of correcting measures of the monarch's tendency of imposing tax-raise arbitrarily and the repressive acts conducted by king's men upon the common people. It caused to make the king's government accountable to the people as well as made them leaning to fulfill their wishes through parliament on the issue debated and passed as bill rather than the petition put forth to the reigning monarch. Concerning to the introduction of parliamentary system in India, it was the British practice of colonial rule over the Indian territory and the working together with the British colonial rulers made the Indian elites known with its system of government which attracted them towards its liberal outlook of allowing differing views, adoption of the participatory decision-making process bent to make the government to act according to public wishes and pursued to rule of law decided by the representatives of the people. As an influence, the Indian intelligentsia indoctrinated the British form of government resultant to its acceptance by them as the part of their country's political way of life. While looking into the initiation of establishment of parliamentary democracy in Nepal one would find that it began differently in the form of democratic movement. As it was intended to checking the rulers' arbitrary behaviour and breaking the cultures of following autocracy and authoritarianism in the governance pattern as well as keeping the general public away of the country's politics the Nepalese elites worked to get rid of prevailing autocratic regime and to establish democracy in the country. This, however, was also a matter of inspiration derived from the involvement in Indian freedom movement and the company of the Indian leadership acting as the freedom fighters.

Despite having many ups and downs in the affairs of running the state, the Britishers have in their efforts of their political development maintained the tradition of monarchy but in a limited manner. The monarchy which they brought within the constitutional limits and called it constitutional monarchy as the fallout of British people's continued struggles meant to tame the monarch's arbitrary rule. The declaration of **Magna Carta** (1215), adhering to the spirit of Glorious Revolution (1688), adoption of Bill of rights (1689), etc., are known important political developments in making monarchy very much constitutional in the politics and government of Britain. It is thus the British political developments formally made the role/position of monarchy to Head of the State status but as per say executive role it is reduced to a figurehead only.



The parliamentary democracy with constitutional monarchy adopted by the British was also source of inspiration to the democratic leaders of Nepal who bent to opt for continuing the tradition of monarchy but by putting it under the constitutional limits similar to the British. As of this the Nepalese king similar to the British monarch also needs to assent the bill/s passed by the parliament to make it a law. Considering the need of such practices also in Nepal the parliamentary constitutions of 1959 and 1990 included the provision of constitutional monarchy and authorised it to behave only as per its norm and spirit. However, the British constitutional provision made the king authorized with a right to veto the parliament-passed-bill/s but it has never been practiced. Unlike the British king the Constitution of Nepal had not made any provision that authorized the king of Nepal to negate governmental recommendation of any nature or the Bill passed by the parliament but in practice it has occasionally negated them by halting their process to conclude on any pretext. It was for that reason, the effort to maintain the tradition of monarchy in Nepal was made unsuccessful by the kings themselves by behaving time and again against the spirit of parliamentary democracy and their reluctance to comply with the spirit of constitutional monarchy. It was because of the successive reigning monarchs' unwillingness to comply with limiting the role of king in the form of constitutional monarchy and stop itself in breaching the constitution and end defying public trust. Rather it in occasions overrode the constitutional role of assuming guardian's task as entrusted by the people and the constitution. Rather it showed a tendency of applying its effort in weakening people's mandate by seizing power upon its own but unauthorized wishes. Through making occasional interferences in the politics and government the kings of Nepal in different point of times clipped public freedom and curtailed some of the vital fundamental rights of the people and thus made efforts to weaken the constituent support base of parliamentary democratic governance.

As thus, the constitutional arrangement of both Britain and Nepal made the provision of recognizing their incumbent monarchs as the Head of the State of their respective counties. While we look into the parliamentary democracy of India we will find that the vast land of Indian territory was all full of hundreds of kingdoms and principalities which all were submerged into the colonial rule of British Empire and as a result of that they all lost their separate political entity. So, in this backdrop when India achieved freedom from the British colonial rule it opted to go for a republican order and thus made constitutional arrangement of creating a post of President as the Head of the State. It has been seen that the constitutional provision made for the Head of the State in these three parliamentary democracies the case of Nepal and Britain remained almost the same of the constitutional monarchs with a role to play more or less ceremonial only and equipped with constrained discretionary powers. Whereas in

India the president as the Head of the State could play more active role than the monarchs of Nepal and Britain and authorized with relatively more power and thereon allowed to exercise discretionary power especially while choosing the leader of the House and invite any of the claimants to form a new government in case when there is no single largest party that has a clear majority.

While talking about the issue of political parties, one of the important elements of democracy, British parliament is regarded as the pioneering factor in Britain for the birth of political parties which helped to proceed with the parliamentary proceedings more effectively once they came into being. So, it could be said that parliament is instrumental to the birth of political parties in Britain. Whereas it is juxtaposed in Nepal, the political parties are instrumental in establishing parliamentary system in the country. It is because the political parties initiated the movement for establishing a system of government guided and controlled by the institution of parliament. In the case of India it was also the political party which facilitated the smooth functioning of parliamentary system introduced by the British colonial rule there.

Over the time as the parliamentary system in Britain continues its efforts to establish democracy it set up various rules and regulation for its smooth functioning, which by practice becomes constitution of England. So it could be said that the parliament in England evolved the British Constitution. It is not the same with Nepal and India. Rather the constitution is the means to give birth of Nepal parliament. Whereas the Indian parliament also became another means to facilitate the drafting process of Indian Constitution and in turn the constitution after its promulgation validated the Indian Parliament.

England, by its inception of parliamentary system, is popularly known as the mother of parliamentary democracy, which believes and enacts parliamentary supremacy and the institution of Parliament is made so whose decision could not be overridden by any other governmental organ, institution or role position. By considering its possession of unlimited power and authority of enormous nature it is so called only unable to change man into women or vice-a-versa. In the case of Nepal and India both aimed at following parliamentary democracy as their mainstay of politics and government. Even though they have not pursued British concept of parliamentary supremacy because both lack parliamentary system evolved by practice but inherited by adoption. Parliamentary culture is evolved through enacting laws and making arrangements in the constitutional provisions but not of the practicing it to the level of developing it as institution. It is so unlike to England both Nepal and India have gone

for constitutional supremacy while adopting British model of parliamentary democracy as the basis of their respective governmental systems.

Since the inception of Parliamentary Democracy, its eight hundred year history indicates that England throughout believed in the supremacy of parliament and act accordingly. But, very recently, it, upon the decision of European Parliament, opted for accepting separation of power by relieving the House of Lords for its role of undertaking the task of making judicial reviews of the constitutional laws of the country. Through such a provision the British system allowed the constituting of apex judicial institution in the form of Supreme Court as an independent organ in its governance system and entrusted it with adequate authority to play its role accordingly as per the need. \* But, in the case of both Nepal's and India's parliamentary systems, since their introduction, it is the Supreme Court which enjoys the final and supreme authority to interpret the Constitution in their respective political settings as and when necessary.

In the formal constitutional practice the Government recommendation is ought to be implemented in all these parliamentary democracies which had been in practice in England and India since the parliamentary systems were introduced. Whereas in case of Nepal the experience has showed that the government recommendation (decision) was found to be overruled and overridden on occasions by the reigning monarchs and tried to manipulate the situation and context in regaining their lost power in one's own favour and destroying the base of parliamentary system by behaving arbitrarily against the spirit of constitutional monarchy. That's why Nepal's major political parties who in the past complied with constitutional monarchy have gone for the republican order on 28<sup>th</sup> May, 2008 (through the decision of first meeting of the Constituent Assembly) despite having faith on it\*\* as the traditional institution of the Nepalese society.

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\* Very recently in 2009 (October 1) the British Parliament announced the implementation of Constitutional Reform Act 2005. Part 3 of this Constitutional Reform Act 2005 spells out the provision and elaborates the issue in the following manner; "Makes provisions for a Supreme Court to replace the existing system of Law Lords operating as a committee of the House of Lords. It provides for the appointment of judges to the new Court, the Courts jurisdiction, its procedures, resources (including accommodation) and other matters. See, <http://www.opsi.uk/ACTS/acts2005/en/ukpgaen>.

\*\* Since the period it launched democratic movement to till before the launching of *Jan Andolan II* (2006).

## **CHAPTER - III**

### **ELEMENTS REQUIRED FOR PARLIAMENTARY DEMOCRACY AND ITS INSTITUTIONALISATION**

#### **3.1 Elements Required for Parliamentary Democracy**

It is understandably taken that the parliamentary democracy with the constitutional monarchy or with the republican order sustains efficient governance and effective functioning. Parliamentary democracy is the embodiment of political parties, elections, parliamentary committees, the cabinet system, along with legitimate opposition in the House, freedom of press and, above all the spirit of rule of law protecting fundamental human rights. The elements mentioned here are required to operate or to accomplish the set tasks for which they are adopted with a view to conduct the way people feel as the mechanism through which their aspirations are taken into account. In order to institutionalize parliamentary democracy there is a need to pursue the provisions to accomplish the task of stabilizing democracy.

##### **3.1.1 Political Parties**

It is undeniably realistic to presume that the life of a democratic state is built upon the party system. The term party system entails the kind of system that accepts the functioning of multiple parties in the polity of the country. Political parties are the wheels through which the vehicle of democracy is moved to carry on its mission for achieving the genuine aspiration of the people living in a politically organised society. Democracy and political parties are considered two faces of a coin so integral and intact that in ones absence another could not function effectively and would not be able to achieve their respective goals. With its role and functions the political parties are considered one of the necessary elements that bring life in a democracy. While talking about the origin of political party which is linked with the varied mindset of the people, their thinking, their working style and more or less the objectives they set for expediting their mission of common good to the people. Keeping in mind the pivotal role political parties use to play in activating democracy, it is considered one of its basic but fundamental characteristics. It is important to note that the parliamentary democracy only operates to its actual essence in the presence of functional political parties that have been able to root- in its influence among the

people. Political party to parliamentary democracy is essential element without which it could not deliberate or parley on the issues of public concern in an organized manner and facilitate it to attain legitimate decision making for public good as well.

Of the liberal kind of modern political system democracy stands with rare alternative concerning the legitimacy it obtains from people. Such a system provides opportunity to ventilate varied ideas that people possess. As the number of people is immense the possession of ideas also varied and to cater for streamlining of varied ideas in an organized manner to their logical end, the constituting of “parties are inevitable” as Lord Bryce put forth. While looking into the definitions about the political party the following idea represents more appropriate understanding about it, which spelt out that political party is a group of people in multiplicity but united together for accelerating common efforts to achieve the national interest by being based on some particular principle to which all of them agree. It also could be called precisely that a political party is an institution constituted jointly by a group of people with common political interest and having common faith on the clear-cut political "mission and principles.”

Upon such a presumption the political parties get involved in contesting elections, make efforts for winning support of the people by convincing them of their policies and programmes; make oneself competent enough to secure majority to form government for implementing the policies and programmes of its choice. With a promise through policies and programmes the political parties try to assure people for a secured and advanced life and thus endeavour for garnering support of the electorates. In order to succeed in garnering majority support in number, political parties are instrumental in the game play of politics. For that reason, the political parties always try to keep themselves within the peoples’ touch and they use to conduct various activities to raise public awareness and bring to light public concerns in a way suggesting their resolutions. It is, by virtue of its role, mission and goal, it is called a socio-economic groupings for political “recognition, articulation and control”. It is also for that reason democracy could not be effective without the existence of political parties. They are the change agents in the society and they symbolized for modernity initiated and advancement. Political parties are a construct of divergence of ideas and values which are pluralistic in nature conducive in weaving a tapestry in power sharing through representation with popular support. Political parties emerged not only as an alternative to divine right to rule but also as a process to rule by the electoral choice.

In the backdrop of the origin of political parties it could be traced back from the centuries old British history of the beginning of parliamentary democracy. The origin of parties in England

was the direct outcome of the struggle between the king and parliament for the supremacy over the command of state power and government. This was, in fact, the product of groups evolved out of the king's support and support to the parliament. The origin of political parties was evidently came to the fore when a group of parliamentary members tried to get through a Bill from the parliament initiating to prevent James II, the brother of King Charles II, to succeed to the British throne. In order to quash the Bill the king dissolved the parliament. The supporters of the parliament and king then were respectively being called *Roundheads* and *Cavaliers*, which had been changed to 'Petitioners' and 'Abhorrrers', in the same order, upon the petitioning to the king for constituting a new parliament including the summoning of its session by the former and abhorrence of Bill by the later groups.<sup>130</sup> By the time of King William III both the groups started to be called *Whigs* and *Tories* respectively. Till then, the former group stood for restricting king's power whereas the latter group supported for the royal prerogative. But by the year 1832 both the groups were popularly called 'Conservatives' and 'Liberals' upon nomenclature due to their change of principles to reversal stands. Although both Conservative and Liberal parties began as the parliamentary groupings but there were distinct difference the way they originated at the national level. It is believed that the Conservative party was initiated from the "centre outwards" whereas the national Liberal Party came into existence as a result of "extra-parliamentary pressure group activity".<sup>131</sup> Hence, the emergence of Conservative and Liberal parties emerged in England.<sup>132</sup> But, by 1900 only the Labour Party came into existence which for the first time came into power in 1924 and thus emerged as an influential party soon in the British parliamentary milieu. Thereafter the two party citadels were changed once the Labour Party emerged in the British party system. However, the two party characteristics remained unchanged because of the frequent break ups occurred thereafter in the Liberal Party which weakened its influence over British politics.<sup>133</sup>

Likewise, the Republican Constitution of India promulgated on 26 January 1952 made a clear provision for the Party System to operate and through its practices to smoothen representative parliamentary democracy. Party building in India began since the last lap of the 19<sup>th</sup> century, when Indian National Congress (INC) was formed (1885) it remained influential in the politics of the country because of the personalities involved in its leaderships. For that reason

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<sup>130</sup> See, V. D. Mahajan, **Select Modern Governments**, New Delhi; Chand & Company Ltd., 1995, p. 153.

<sup>131</sup> See, Moshe Maor, **Political Parties and Party Systems: Comparative Approaches & the British Experience**, London: Routledge, 1997, p. 69.

<sup>132</sup> *Ibid.*

<sup>133</sup> See, V. D. Mahajan, *Op. cit.*, pp. 153 & 154 and 69-71.

it remained continuously in power for long which it monopolized till the year 1977. The Muslim League (ML), a party formed upon the religious communal basis for the Muslim population, which initially acted for the independence of the country but by 1940s started to campaign for the separation of India and thus laid foundation for the creation of Pakistan. The leaders of INC and the ML during the *British Raj* had have experience of working with the British in the process of governance in the East India Company. During the period the leaders basically of the INC had got opportunity to work with British authorities in legislating and introducing various reforms in India which later proved instrumental in achieving independence of the country and adopting of parliamentary form of democracy in India. The Congress Party till before the independence was caught in between *Naram Dal* (soft-liner) led by Nehru and *Garam Dal* (hard-liner) led by Subhashchandra Bose - differing on the party strategy of gaining national independence against the British colonial rule.

In the year 1977, the rise of Janata Party in power broke the monopoly of INC which was then called Congress I as a splintered party from it as a breakaway faction but remained as the mainstream party till date. Thereafter the Congress I's rise to power was not as consistent as earlier, which happened in an on and off manner. The parties in India are also marred by occasional unity and division mostly upon the convenience of their leaders. Since 1977, India's party system has been experiencing the emergence of number of political parties after the weakening of Congress Party. Among the parties in India, the Congress I, Bharatiya Janata Dal are categorized in the centrist group in the one side, Communist Party of India (CPI) and Communist Party Marxist (CPM) on the other are in the leftist group and the non-secular Hindu based Bharatiya Janata Party grouped in rightist one. In addition, several regional parties are emerging there in recent years including the parties pleading for the cession of the country – especially in the Kashmir area including the parties in movement including the movements meant to go for bifurcating the states for attaining separate statehood in some of the states of India for maintaining cultural, lingual, regional affinities including the reasons for balancing the utilization of available resources as well as maintaining of separate identity of the region or domicile population as happening in the east of Bengal (Darjeeling area). Despite various cleavages of communal violence, regional, factional, religious and divisive movements seen within the Indian political parties, the prominent parties are proved vanguard of the unity of the country and democracy.

Unlike the history of British and Indian political parties the culture of political parties in Nepal is not that rich. It started from 1940s against the background of the resurgence movement in the countries of Asia (in opposition to colonialism). But, it was mainly bolstered in Nepal by the rise of feeling against anti - Rana autocracy. The political parties established

then had rarely been evolved based on any particular ideology rather their ideology was to make the country free from the oligarchic rule of the Ranas. In exception, the Communist Party of Nepal (CPN) was found pursuing a borrowed agenda of adopting communist rule based on Marxist and Leninist ideology. The Nepali Congress (NC), almost a decade after its inception, proclaimed its ideology based on pursuing democratic socialism.

The movement launched against the Rana autocracy succeeded it to bring down in the early months of 1950. Thereafter, the prominent parties during the decade of 1950s confined themselves in the activities of power game thus made the party leaders roaming around the power centre and for that reason started scrambling not only among the parties but also within the party for leaders and thus were confined their activities in the capital only. It was because of that the political parties could not expand its network in the rural areas out of Kathmandu and thus were out of touch with the grassroots people. Such a functional derailment of attaining the objective on the part of the political parties led them to ignore their role of playing as a change agent in addressing socio-economic issues of the nation.

Ignoring the issues of the people by the parties led the country to political instability basically reinforced due to the ongoing political anomalies. In most of the cases political parties showed a tendency of confining themselves for power game which led their activities to limit within the circle of centre only. Including other reasons, such a situation primarily led the country in a state of confusion for at least around a period of a decade (1950 – 59). Such a tendency later proved fatal in defending democracy from the untoward assaults on it like the unwarranted royal declaration of King Tribhuvan who proclaimed the possession of governing rights and inheritance of sovereignty by king and later of the royal takeover of 1960. Had the parties been able to spread their influence impelled with their network and activities in the rural settings of the country as well, that would have been detrimental to initiating the Royal autocracy in 1960 against the spirit of 1950 movement and the proclamation made in the euphoric moments of its success. The Royal encroachment in the politics and governance continued for such a long period of Thirty Years that led the country in a state of impaired rights oriented politics as well as pseudo representative based popular governance. The beginning of the party system, thus, spoilt by the inaction of the parties itself and the circumstances created by the Royal maneuverings in the politics of the country. The ban imposed on them and their activities during the Panchayat (king led governance system) period consequently made them inaccessible to the people for three decades (1960-90).

For the political parties, the period of three decades remained a challenge for their survival because of the ban imposed on their functioning, prohibition in their activities, suppressive



measures taken to harass their continuation by the establishment had pushed them into the brink of collapse or driven them out of the country for exile. The major parties like the NC and CPN took a refuge in India to operate their activities from exile and within Nepal being entirely underground.

The real beginning of party system started after the success of 1990 popular movement launched and led by the two major political parties, the NC and the United Left Front as group of five likeminded communist parties later emerged as the Communist Party of Nepal – United Marxist and Leninist (CPN – UML).

### **3.1.2 Elections**

Democracy is a kind of system which operates through the representatives of the people and election is the effective means for the selection of representatives. So, election is considered a means of citizens' mechanism in influencing the policymaking of the country.<sup>134</sup> Through the elections of the representatives of their choice, citizens tend to evolve a governing system to work in favour of their own interests. It is by virtue of the elections of the peoples' representatives, democracy in modern times functions upon citizens control and influence over the country's policymaking process. Such a mechanism is characterized as a practical way to go for pursuing democratic values in the aspects of country's governance system because this guarantees people's participation in the process of public policymaking.

As the number of population in the modern states is immense, the concept of government 'by people' could be achieved only through the election of representatives. So, elections are considered integral part of a democratic system that runs indirectly through electing peoples' representatives. It is with an intention of granting electoral mandate elections hinge upon majoritarian principle and elects the representatives among the contesting candidates through a competitive electoral system. In the modern times a carefully devised elections policy helps to develop a system of representing all sections of the society into the policymaking process of the country. Thus, it tries to guarantee that all sections of population are accommodated and not left behind in the matters of representation in formulating public policies.

Elections are among the most omnipresent system in the contemporary political institutions, and the voting is the effective act of political participation undertaken by a majority of adults

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<sup>134</sup> G. Bingham Powell, Jr., "Elections as Instrument of Democracy", **Elections as Instrument of Democracy**, London: Yale University Press, 2000, p. 3.

in majority of nations today.<sup>135</sup> Elections, if held effectively, presumed to act for “... legitimacy, identification, integration, communication, participation, socialization and mobilization” as well as the means of “political control”.<sup>136</sup> Hence, election are considered a means that helps democratization of the political system and its time bond regular happenings as per the law in the parliamentary system, it leads to institutionalise democracy through garnering wider acceptance of the political process in a form of rendering legitimacy to it.<sup>137</sup>

In case of effective elections it harmonizes the politics as its positive consequence but the experience in some of the cases have showed that it, however, becomes a means of political destabilization, destruction of social disharmony or providing legitimacy for the state repression or sometimes it becomes the instrument of disintegrative factor in a politically organized society.<sup>138</sup> But in most of the cases it is meant to play a key role in political participation for public policy making for the governance of the country mainly to lead the governmental system to be accountable and answerable to move forward as per the wishes of the people. In the parliamentary form of polity it largely helps the governance system to provide the opportunity of enhanced “scope of the civil polity” as a result of its vital role it plays in strengthening the link between the society and the polity for facilitating to achieve “enduring political system’.<sup>139</sup>

Election, in a parliamentary democracy, is central that resultantly helps the political process in securing representation of the people in the governance of the country through availing peoples thinking in the making of governance policy of the country upon the choice of the people. This is a means of stabilizing factor of governing process, which happens by means of getting of public mandate for legitimacy. Such a type of public mandate emerged from the elections provides required legitimacy to make its acts, presumably constructive as well as development oriented and accepted by all.

Like the recognized pioneering country for parliamentary democracy, England, election system for the representation of the people in the polity and its governance has also been adopted in the later part in the emergent multi-party parliamentary democracies. Both India and Nepal which have been aspiring to strengthen its

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<sup>135</sup> Norman D. Palmer, ‘Elections and the Political System’, **Elections and Political Development: The South Asian Experience**, North Carolina: Duke University Press, 1975, p. 6.

<sup>136</sup> *Ibid*, p. 7.

<sup>137</sup> *Ibid*.

<sup>138</sup> G. Bingham Powell, Jr, *Op. cit.*, p. 7.

<sup>139</sup> See, *Ibid*, pp. 9 -12.

nationhood with effective governance for the efficient management of their respective population and territories with progress and prosperity also adopted election as a method to accelerate the pace of fulfilling their democratic desires like the English system. Nepal, in the process of formalizing parliamentary democracy, has also adopted universal adult franchise system to elect required representatives for the public policymaking or implementing service delivery programmes.

Considering all the above factors, Nepal's parliamentary democracy also pursued to adopt direct election system as one of the main democratic components and processes to institutionalize its parliamentary system - as being followed by other established parliamentary democracies. Regarding this, the Constitution that promulgated in the early phase of the reinstallation of the system of multi party parliamentary democracy, it adopted universal adult franchise with the citizens of 18 years are made entitled to vote and elect the representatives of their choice - party based or an independent. The electoral system for the national legislature largely adopted the method of first-past-the-post to determine the winning candidate contesting in the electoral fray. Whereas, at the second phase for the constituting of Upper House a method of indirect elections of proportional representation (based upon the ratio of representation in the Lower House) with single vote transferable system is adopted to give the parliament in its complete shape.

In its second phase of parliamentary experiment, Nepal has undergone three consecutive parliamentary election in 1991, 1994 and 1999. These elections had mixed experience. For a very few the electoral politics was resounding with democratic ideas and representational. For others, electoral system was just a means to climb the ladder of power. Such candidates are constituency centric at the expense of national polity and their role in public policy-making becomes limited to pursue self-interests. So, they used to try their best to be elected by whatever means fair or foul, using money and muscle powers, luring people with impracticable promises etc. The exercises of Nepal's parliamentary democracy have not yet been able to make its campaigners to keep this in mind that democracy demands beyond elections. So, it is required to ponder that adopting the means of foul play to win the elections does not help institutionalize the democratic process.

### **3.1.3 Opposition**

In the electoral process of parliamentary democracy the party that wins the seats more than half of the total number of seats derives majority and thus is entitled to form government. The party, which wins lesser number of seats becomes minority, which assumes the role of opposition. The spirit of parliamentary democracy clearly suggests that the institution of parliament belong to both ruling and opposition parties. They together constitute the House of Representatives. Thus, the government belongs to both – one acts and another reacts. The parliamentary debates are imperative for policy-making process with inputs from the opposition to the bills tabled by the government for consideration. Both of them, therefore, have to accept each other's presence in the house complying with the idea of co-existence in the process of governance. In order to establish necessary custom and tradition in the parliamentary practices both the ruling and opposition parties need to play effective role. The majority party commands the proceedings of the parliament and runs the affairs of the state in their own way by assuming the role of government. In this process it has been expected that the government needs to pay attention to facilitate the minority to play its basic role to oppose and find out weaknesses as well as point out the misdeeds of government and thereby claim for forming a substitute government. The opposition by making people known about the failures of incumbent government claims itself as the alternative to form a new government by making their programmes and policies endorsed by the larger number of electorates. Such a move intended to offer an alternative, targeted against the policies and working strategy of the incumbent government that would lead the country to more effective governance. In another word, the role of opposition bears significance in view of its habitual duty of playing the role of a watchdog of the government behaviors/ actions and the policies to the benefit of the people and country.

Parliamentary system as a polity is visualized in a form of ruling and opposition parties to co-exist in the same public policymaking platform to deliberate on the issue of public concerns and present their views to come to appropriate conclusion. Wherein, because of the seats size the majority party – who is in command of the state affairs go along with its idea but the opposition follows the activities as the watchdog and criticizes the ruling party in case of mistakes committed by it. If the ruling party fails to accomplish the task in that case it

presents itself as the alternative of the government as if it is a government in waiting. It also depicts extensive implication which primarily represents a mechanism of public participation in the process of governance through decision taken on the basis of deliberation that allows varied ideas including the opposition to the issue on the floor of Parliament (House/ s) being discussed for taking decision relating to public/ state affairs. In respect to allowing the presentation of varied ideas, the parliamentary practices also permits opposition to the proposals/ schemes put forth for decision (after the discussion) to be taken as an integral part of the system.

By virtue of its role of being a watchdog criticizing, pointing out the misdeeds, monopolizing tendency of state resources as the misuse of power/ authority by restraining authoritarian tendency of the ruling party, opposition becomes crucial part of the government. So, it is considered that ... an effective opposition is necessary for the right functioning of parliamentary democracy. It is because opposition prevents the state machineries' to ally and siding with the ruling party or the authorities appointed by the party in power. There is a need of using the state administration, treasury and resources including the state security system in a non-partisan basis. Precisely, it could be called that opposition is the shield against the abuse of authorities by the officials and the arbitrary use of the legislature by the party in government. For the acts of opposition it has the right to criticize, launch protest campaign without disrupting the functioning of fundamentals of the political system as well as without interrupting the political life of the people.<sup>140</sup>

Thus, the system in its procedural spectrum allows even "freedom to criticize the authorities, to persuade others that the government is wrong, and that the law ought to be amended and to be in a position, if one can persuade enough people, to bring about changes in the law or in the methods of administration"<sup>141</sup>. In other words opposition to the government is a must which is taken as the means to right functioning of parliamentary democracy because opposition represents views of the minority or the people or group who differs with the government's style of functioning, so in Britain it has been getting due value and is called "Her Majesty's Opposition". The opposition tries to persuade to those ideological non-committal but swinging independent minded parliamentary members and general voters respectively during the parliamentary session and elections in its favour so that it could present itself as an alternative to take the charge of government. With such considerations the opposition by demonstrating its competence of running the state affairs propagates its

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<sup>140</sup> A. B. Lal., ed., **The Indian Parliament**, Allahbad: Chaitanya Publishing House, 1956, pp. 270-271.

<sup>141</sup> *Ibid*, p. 270.

differing ideas as well as counter schemes and strategies parallel to the government. Such behaviour of opposition as well made the British people to regard it as “Her Majesty’s Alternative Government”.

The parliamentary democracy in Britain holds two-party system which grew with a tendency of being tolerant to criticism and opposition emerged out of differing views. It seemed that the parliamentary system operates with a tacit understanding of majority takes charge of the role of government and the minority assumes the role of watchdog by criticising the government for its actions. Such a way of functioning has been in practice with a sense that a democratic government works effectively in the best interest of the people if its actions are opposed and criticised in the legislature. So, the parliamentary system demands vibrant and effective opposition. If it goes weak the government may turn dictatorial. For the smooth functioning of democracy there is a need of peaceful opposition but not the violent, physically assaulting antagonistic opposition. Thus, it functions in a way that the majority in the Parliament holds the position of government and the minority takes the responsibility of opposition leading to authorize its main leader as the opposition leader paid from national coffer for criticizing the government and governmental actions and policies. The opposition party by virtue of the demand of its natural role it criticizes the government for wrong doing, finds out faults in the laws enacted by the government and suggests alternative ways or puts forth counter proposals/ programmes to make the governance good for the people.

### **3.1.4 Cabinet System**

In the parliamentary system, cabinet is the top most executive body which controls and runs administration and guides national business through necessary policies. It functions in a process of undergoing through scrutinized procedures of legislature by bearing accountability and being answerable to it for ones decisions and actions. The term cabinet is derived from the word “Cabal” used by the British King Charles II, who used to consult with a group of people from Privy Council. The convention of seeking advice from a group of people, called cabal, selected from the Privy Council was entrenched in the government system of Britain, which became a customary practice there since the 17<sup>th</sup> century. Such a practice was more rejuvenated after the incident of parliament making the King comply with its decisions. Such a development helped the cabinet system to grow over the time. This was seen mainly during the Charles II’s reign when he used to look up to his minister for securing the legislation from the parliament he felt necessary. It is for the reason that the ministers had the influence over the parliament and by virtue of that they also enjoyed the confidence of the king in England and appointed as ministers, who all used to assist and advice him in the governance.

The term cabinet was also started in use out of the consequence of the practice of King's meeting of the "members in a small private room or cabinet" within the palace. Such a practice introduced vesting executive authority to the cabinet '- a body chosen by the legislators who and for that reason it had effective control over it as a means of devising to meeting practical purposes of vesting sovereign authority of the parliament. The post Glorious Revolution phase had been regarded as the instrument for institutionalized parliamentary system and as the means of evolution of the cabinet system. This had been considered an effective instrument of running parliamentary democracy in England since the reign of William III (during post 1693-96), who adopted to pursue a policy of selecting ministers only from the larger party with effective control over the House of Commons due to majority in the Parliament.

The establishment of parliamentary supremacy as major and direct impact of Glorious Revolution also led to the growth of cabinet system in England. For that reason parliamentary system is also known as the cabinet system. In its early phase, the cabinet was the body constituted by the "smaller" but "inner circle within the ministry" which later continues in the same form. After its inception, the meeting process of cabinet took a frequent pace and its authority boosted during the periods of George kings (I, II and III) rule in England. Especially the period of George I, who was of a German origin and was not aware with the English language left all cabinet proceedings to function by itself, which provided enough opportunity to the cabinet system to develop. As a consequence the minister who was able to win relatively more confidence of the king and also command good influence over parliament began to preside the meeting as a senior minister. Among the ministers Walpole played a key role in the meetings to fill the absence of Charles I in the cabinet and upon such a circumstance the post of Prime minister as the senior minister evolved. During the period of 1714 – 1770, due to the language constraints and being non-English origin, the king's absence in the cabinet meeting became a permanent feature resulting to the evolution of cabinet system. It was during Walpole's period the features of cabinet system developed which established a set of norms,<sup>142</sup> referring that:

- all the ministers should be of same party;
- all the ministers need to work under the leadership of the Prime Minister; and
- the principle of ministerial responsibility should be beard by all.

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<sup>142</sup> See, V. D. Mahajan, *Op. cit.*, p. 46.

The cabinet system became more evident during the period of King George III, who appointed Pitt the Younger as his Prime Minister. It happened because Pitt the Younger as prime Minister was entrusted everything for cabinet decisions upon his quality of being favorite nominee to the king for his popularity among the people.<sup>143</sup>

In such a way the cabinet system grew in the following years, which started functioning as a part and parcel of the parliamentary system. The government ministers as a part of the cabinet, on the principles of bearing overall responsibility of their acts done in official capacity and was made entitled to do so as long as they enjoy the confidence (support) of the Parliament. As of this the cabinet system depicts the operational authority of a cabinet which functions around the wishes of Prime Minister and the government s/ he leads. It is so, the parliamentary system is referred to as Prime Ministerial System as well. Parliamentary control over the cabinet and its functional initiative guides the parliamentary functions so exclusively that both looked interwoven, interdependent but “inextricably comingled” with one another. Concerning this issue Dicey vividly articulates that it is created upon the fusion of executive and legislative authorities of state. This type of articulation indicates the interwoven status of legislature and executive as the member of cabinet that is also known as council of ministers. The cabinet ministers are necessarily made to be the members of parliament at a definite point of time to continue\* because as per the values of the parliamentary system s/he needs to be answerable to the legislative body for the official actions s/he to perform. Cabinet is the machinery around which the whole political function of a government revolves because it is the “supreme directing authority” which formulates the overall policy for the course of action lying ahead to the government. By viewing upon the pivotal role a cabinet plays in the parliamentary system, it could be seen as the central machinery which with the approval/ consent of legislature coordinates, controls, integrates as well as guides the whole of the executive functions of the government.<sup>144</sup>

Britain and other monarchical countries with parliamentary systems have the provision of King as the constitutional monarch whereas the republican countries have the President as the titular head of state who possesses and heads all the executive authorities but in practice the cabinet is the *de facto* instrument which administers the government, executes authorities and acts accordingly In this connection, the case of Britain is seen that the ‘constitutional

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<sup>143</sup> *Ibid*, p. 41.

\* A non-member could be made cabinet minister but by six months s/he needs to obtain membership of the parliament if not will be relieved from the post.

<sup>144</sup> See, A. C. Kapoor, **Principles of Political Science**, New Delhi: S. Chand. & Co Ltd., 2000, p. 437.



conventions' of various times deprived the monarch from having all powers, privileges and prerogatives relating to the governance of the country. Whereas in the republican country like India, President is the head of the state and enjoys *de jure* authorities of the government to govern as similar to Britain. But, with some "constitutional sanctions" (Forty-fourth amendment, 1978) the president is authorized some added power and thus made to ask the cabinet to reconsider the recommendation as decisions tendered to him if he feel necessary.

In the case of Nepal, the constitutional provision of 1951 made the king a constitutional monarch and the head of the state. However, the king was empowered into the authority to consult, advice and alert the government (cabinet) in the matters of governance. As being the head of the state the king became both the protector (guardian) of the constitution as well as subject to abide by the constitution of the country. Constitutional stipulation was made for the king to act upon the recommendation of the Cabinet- the foundation of executive authority.

To the various thoughtful minds the cabinet system is developed in England in a way that centrally directs the process of governance as the key "instrument of government" that for the same reason operates as the core of governmental system as pursued by the spirit of British Constitutional System. Upon holding the pivotal position in the government system, the cabinet system in Britain is also called "the steering wheel of the ship of state". As the parliamentary system in India and Nepal is borrowed from Britain, the issue regarding the cabinet system also replicates almost in the similar manner.

As per the British experience of the parliamentary system the government system in both India and Nepal replicated in the same spirit and manner – more or less both in content as well as in intent. Upon such a background the members of cabinet that is the ministers in India and Nepal meet collectively for the meetings of their respective cabinets. Such a meeting takes place under the chairmanship/ leadership of the Prime Minister basically to decide about the policy and 'head up' the executive functions of their governments. By virtue of the leadership of the majority (party) in the parliament the Prime Minister as the head of the government retains unity and gives solidarity to the cabinet in particular and government in general. In the parliamentary form of polity like in India and Nepal the cabinets are constituted on the principle of parliament elected through universal adult suffrage. The cabinet systems in India and Nepal are considered a body of the head of executive organ, which define the policy of governance and runs the administration of the country accordingly. Though there are the provisions of head of the state in the parliamentary form of governmental system in both the countries, Nepal had the constitutional monarch prior to

2008, and India has the ceremonial President. The real authority of governance of the country, however, rests on the cabinet to which the Prime Minister is the head.

### 3.1.5 Parliamentary Committees

The governmental system that envisaged working of the executive and legislative organs in harmony with the unified and coordinated control of the same person elected by them is called parliamentary government. The parliamentary government entirely functions with ministerial responsibility and thus the final decision on the matters relating to governance is dealt by the incumbent government. The government in the parliamentary democracy, to Roland Young, is loaded with extensive jobs to be carried out which includes criticism, revision, initiation, investigation and scrutiny of crucial issues and accomplish all these works to which there is a need of some independent means to bear responsibility. The committee system sprang out and evolved upon these reasons.<sup>145</sup> In other words, the government needs to function exclusively with ministerial responsibilities of initiating to propose programmes, resolution, Bills and the discussion it requires, formulate policies and also finally get it approved/ passed.

For all the reasons of work overload and seeking a deliberative solution on each of the matters under the attention of parliament in a meeting of large number of peoples' gathering where they deliberate and discuss in the capacity of its members, consumes a lot of time which in no way suits to people's aspiration and ultimately to the growth of democracy. It is because the finalisation process of the programme/ policies in the parliament takes a lot of time to discuss and decide in a full House session which causes delay in its proceedings. So, constituting of Committees as a mechanism with procedural system is meant to make parliament effective in its job of legislation and also in making government answerable and accountable for its decisions and actions. In order to avoid such types of delays in the finalization process of the policies/ Bills to be passed, Committee System in the parliamentary proceedings is introduced. It is because, in the Parliamentary System of governance, the government operating in its own requires some measures of independent nature so that the criticism in the parliament should be made effective and the committee system offers those measures without party bias because the members ponder their ideas with their own conviction where party whip is not taken into consideration.

The Committee System in the parliamentary democracy intends to make decision making process swift and effective, the Parliamentary Houses use to create Standing Committees/ Subject Committees basically to look after the areas they are allotted for. Apart from that the parliament upon necessity also constitutes Select Committees and Joint Committees. Upon

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<sup>145</sup> V. D. Mahajan, *Op. cit.*, p. 124.

the reasons of making the parliamentary procedures and processes effective and efficient, the Committee System is originated in an inbuilt manner and functions the way it is created as intended when evolved. As per its utility in the parliamentary proceedings without which parliamentary democracy cannot function as effective as it was thought because it plays important role in the process of legislation as well as making the government accountable and answerable in the process of governance. The Committee System is taken as an effective means to deliberate on the issue among the few numbers of its members than the meeting conducted in huge number of members in the full house of parliament may be of couple of hundreds. It is to save time of the parliament and will be instrumental to examine the bills critically with appropriate attention and focus.

In the parliamentary system the speaker is authorized to regulate the proceedings specially while in discussion on the issues presented in the House, who allows limited number of MPs to participate in the discussion but cannot allow all interested to speak because such arrangement may consume a lot of time, which put constraint to allot time for discussion on the proposed issues, bills or legislations already presented in the House. The Committee System allows the House to enter into the discussion among the limited number of Committee members on the equally important issues as well because such arrangements help the parliament to spare its maximum time and thus allows it to critically examine other important issues with necessary focus.

As a parliamentary process bills are presented in a form of proposal for discussion which necessarily sends it to the subject committee as per the area it deals with. The subject committee in a group with limited number of its members, as it constitutes, meets and makes its members to participate in the discussion, where upon if required experts in the related field or line agency departmental officials are also invited for seeking specialized information, opinion and suggestion to polish the bills presented and make it fit to get through from the parliament.

It is with the similar thinking and along with the intention to reduce the burden of responsibilities to the parliamentary houses, the British Parliament adopted committee system. Prior to that, the House of Commons had to consider all public bills in nature in the Committee of the Whole House. But in the later part it pursued an effective means to avoid such a situation of considering the bills by the Committee of Whole House and the occurrence of resultant delay in its proceedings the Committee of the

Whole House leading to conclusive results the British Parliament introduced the system of standing Committee in the concerned House to consider the public bills with limited number of members against the huge number of members comprised by the Whole House. Such committees became popular because of the help it succeeded to render to the parliamentary houses which made it an appropriate mechanism in considering the bills among the specified less number of members of the committee than discussed by the huge number of members of the committee of the Whole Houses.

Prior to the inception of committee system the Committee of the Whole House consisted with all the members of the House of Commons used to commence to consider public bills. But after the introduction of Standing Committees it had to limit its role in considering only to three types of public bills – money bills, bills comprising provisional orders and any other bill which the House of Commons may decide to discuss in the Committee of the Whole House. It was like the House of Commons except the practice of Speaker chairing its meetings.<sup>146</sup> The chairman of the Committee of the Whole House presides its meetings. Unlike the House of Commons its rules and procedures were made relaxed. Its members were allowed to speak as many times they desired as against the rule of House of Commons where the members are entitled to speak only once on the issue being discussed in the open House.<sup>147</sup> It should be noted here that the Committee of the Whole House was called differently like the Committee of the Ways and Supply at times when it dealt with revenue measures and appropriation or expenditure respectively.

The British Parliament has the provision of five Standing Committees on Public Bills;

- (i) The Committee of Privileges
- (ii) The Committee of Public Accounts
- (iii) The Estimate Committee
- (iv) The Committee of National Industries
- (v) Committee on Statutory Instrument

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<sup>146</sup> *Ibid*, p. 127.

<sup>147</sup> The Committee System of the House of Commons, House of Commons, February 1998, <http://www.parliament.uk/commons/selcom/cttees.htm>, pp. 1-2.

These committees are appointed by the speaker of the House of Commons at the beginning of every session and lasts till its end. The committee could have 30 to 50 members and could co-opt fifteen or twenty-five additional experts as members on subject under consideration. Apart from that the British Parliament could constitute Select Committees as per the need and basically to consider the report on particular measures or on different headings. Including this the parliament also could constitute Joint Committees of both the Houses.

Similar to the British experience, the Committee system in India also becomes important component of its parliamentary functioning as well. In view of growing workload of the legislative organ of the government, the parliament in India has also to rely on its committees of both the Houses of the Parliament. Considering the varieties of issues it needs to deal, committees that the parliament needs to constitute; such as – (i) Committee to Enquire (ii) Committee to scrutinize (iii) Committee of Administrative Character relating to the business of the House, (iv) Committee dealing with provision of the facilities to members of parliament, and (v) Financial committee. Like the British, the Indian Parliament also has the provision for the constituting Select and the Joint Committees upon its requirements.

In the Nepalese experience of parliamentary practices, the committee system is also considered a core of its effective functioning for legislative and other functions it has to perform. With this consideration the parliament of Nepal from the very beginning of its inception started with the committee system as prescribed by its democratic Constitution of 1990. Like in the British and in the Indian Parliament the Nepalese Parliament also for the same reason of not affording of necessary time to investigate, regulate, discuss, deliberate and evaluate the issues it needs to look upon and also for availing the expert opinion to polish the bills or to sort out the complexities crop up from the technicalities of the matters under consideration of the parliament.

Basically, the committee system in Nepal is also adopted in view of considering the case with the adequate time it required to delve to make it to reach effective and efficient conclusion. The provision of the parliamentary committees along with its jurisdiction is specified in the rules of procedure of respective Houses of the Nepalese Parliament. Whereas, the issue relating to the provision of constituting Joint Parliamentary Committees and fixing its term of office is guided by the resolution passed by both the Parliamentary Houses. Despite having

the mandates of functioning as the mini parliaments, the committees are bound to present the report in the concerned full House for discussion and deliberation made on the particular bills, proposals or parliamentary resolutions proposed in the Houses.

The Article 64 of the 1991 Constitution specifically refers to the provision of the committees that the House of Representatives entitled to be constituted.<sup>148</sup> Whereas about the matters relating to the provision for the joint committee to constitute, the Article 65 of the Constitution specified its working mandate that deals with the management of the working procedure between the two Houses, help to resolve differences on any issue including any Bill under its consideration or to carry out any other specified function affixed by the parliament.<sup>149</sup>

The provision of both permanent and temporary natures of committees is made in the parliamentary rules of Nepal. The former remains throughout the tenure of the concerned House but the latter one survives till the date it accomplishes its stipulated tasks.

### **3.1.6 Freedom of Press**

Logical extension of freedom of expression connotes with the freedom of press which is considered an undeniable freedom of human being. It is also considered the right to search for truth is one of the inalienable natural rights of man. The press is conceived as a partner in the search for truth. It is because that human being is “thinking, independent and rational animal, capable of deciding between the good and bad and between the good and better when faced with alternative choices.”<sup>150</sup> In a democratic society there exists multiplicity of ideas out of pluralistic nature of social composition and human livings also by possessing the diverse type of opinions which use to be made widespread through the means of press freedom basically to cater the fundamental human rights of freedom of expression.

The history of freedom of press began since the Glorious Revolution of 1688, when King James II was driven out to France by the British Parliament for his tendency of ruling the country by his own way and for not seeking parliament’s approval, which led the libertarians campaigned against him through the print materials and propagate their ideas to make the

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<sup>148</sup> **The Constitution of the Kingdom of Nepal, 1990**, Kathmandu: Law Books Management Board (HMG), 1992, pp.36-62.

<sup>149</sup> *Ibid.*

<sup>150</sup> Quoted in, I. Bayo Oloyede, “Press Freedom: A Conceptual Analysis,” **J. Soc. Sci.** 11 (2), 2005, Department of Mass Communication, Moshood Abiola Politechnic, Abeokuta, Ogun State, Nigeria, p.p. 101-102.

people join against the monarch. Since then the significance of press freedom is taken seriously more particularly in the liberal type of democratic governance system.

For the libertarians press should not be governmental instrument rather it should be means to present argument and evidence through which people would be able to get information to check on government activities and assess it. Therefore, it is felt imperative that press should be free from government influence and control rather it should get concessions and facilities including the freedom to be promoted and keep its independence intact through which the governing system will get input for the effective functioning mainly to take care of public concerns.

Press freedom, the means of putting freedom of expression into practice, is the basis of essential democratic right. Therefore, it is categorised vital among the fundamental human rights which make people to evaluate a political system how democratic is it. The concept of press freedom is evolved out of the idea that people should know the truth about governance of the country and it is not possible to reach to the vast land mass of the public without the use of press and freedom related to it. In the modern times freedom of press includes not only the means of print materials, to transmit and spread all over the country to the knowledge of common people it so also done through audio visual and other electronic devices. The development of science and technology contributed a lot to expand the mass media for communication and those all could be used for unfettered exercise of freedom of expression and in a democratic country. Restrictions are rarely imposed in the matters granted through legitimate freedom of expression. In the modern days it has the similar significance to democratic order through which a democracy is adjudged. It has become so useful and important that it becomes universal phenomenon like the system of democracy and the aspired one by all. It is still considered a means to oppose authoritarianism, mismanagement, misdeeds, misuse of power and authority for responsible governance. It is also vitally linked with people's right to evaluate, praise, oppose, criticize and express alternative ideas including the articulation of innovative ones for the benefit of the society as well. It also caters people's unflinching desire to know the truth in the form of right to information. It's a means of making truth come out for public knowledge and understanding. And, in a democratic society it gives a basis the people to be aware of what their representatives are doing how they are behaving and how is their conduct influencing the governance. Their aspiration are being taken into consideration or not while formulating public policies are they accountable for their conduct or not, what needs to be done for the further advancement of the governance, etc. The strong freedom of press is essential in order to make freedom of



expression addressed effectively and thus is also considered a means that help democracy to be institutionalized.

## 3.2 Parliamentary Practices and its Institutionalisation

While talking about institutionalisation of parliamentary democracy there is a need of going through the process of looking into the parliamentary practices and its theoretical perspectives. In this context, it is imperative to incorporate the British and Indian experience about it.

### 3.2.1 England

Parliament in England is the highest institution evolved with a basic mechanism of governance in a way to bestow power to the people, the sole location where it originates.<sup>151</sup> Primarily, parliament means an exercise of talking that in a sense indicates discussing about the matters of common concern. Such practices by virtue of its activities later took an institutional shape baptized as 'Parliament'. With its nature and practices in settling issues that emerged then among the leaders involved in politics gradually "came into use for the national assemblies" and adopted its parlaying practices, which was later established by the middle of the 13<sup>th</sup> century.<sup>152</sup> This introduced the system of legislation by statute instead of petition as done earlier.

Parliamentary System of England is taken as a landmark concept in the liberal democratic polity that evolved some eight centuries ago as the birthright of people. This reflected their mindset to make it play a guardian's role in protecting people's freedoms and rights. The supremacy of British Parliament is unquestionable and by considering its legislative sovereignty De Lolme once opined that it accordingly could do everything except the changing of human genders (male and female) opposite to one into another or vis-a-vis.<sup>153</sup>

The declaration of **Magna Carta** in 1215 was a major landmark in the parliamentary growth of England when a group of nobles (members of assembly) succeeded in making the King committed to act in adherence to the laws in practice and refrain from pursuing arbitrary behaviour in this regard. The principle of parliament in England was laid down with a spirit that the King while ruling the country should not alone be made responsible for interpreting

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<sup>151</sup> See, Strathearn Gordon, **Our Parliament**, (VI edition), London: The Hansard Society by Cassell, 1964, p. 6.

<sup>152</sup> *Ibid.*

<sup>153</sup> *Ibid*, p. 33.

the laws or deciding the business of the country, basically of the financial matters in the form of raising taxes and spending them. For that matter, he was made to discuss with *Witangemot*<sup>⊗</sup>, the venue to meet for the *Witan* - Wisemen, and sought their counsel and consent to legislate and thereby exercise ruling authority based on the legislations. *Witan* had formalized through calling it to happen twice to thrice in a year occasionally attended by the common people who were sometimes asked to vote on the issues on debate.<sup>154</sup> Such a practice led to have “deep speech” to deliberate and discuss the point of their belief and conviction in the assembly. The assemblies then were constituted with the aristocracies as the representatives summoned from all parts of the kingdom with whom the King often asked for much required financial aid. Relating to representation the issue to “withhold supplies” that is of financial supply was the basic issue that had led to the calling of the assemblies in the form of occasional parliamentary sessions. Nevertheless, in return the member of the assembly representing the people had been authorized by granting rights to have their “control over the King and his executive government”. Thus, the parliament was established, which based on the “doctrine of the necessity of consent” of the assembly intend to allow the government to govern and run the overall governance of the country as mandate given by it.<sup>155</sup>

Parliament in England consists of the King, the House of Lords and the House of Commons that established its supremacy since the days of Glorious Revolution of 1688. To Erskine May the supremacy of British Parliament is practiced in such a way that “its errors can only be corrected by itself” and no other authority or institution or instrument could intervene in it. Over the years, the democratization of the House of Commons introduced in the later phase because of its effective functioning, its supremacy was established. To Ivor Jennings, practically it is to question government’s activities and debate on its policies for taking final decision.<sup>156</sup> As of now, such a parliamentary practice overwhelmed the British political institution.

In totality, the parliament in England functions with the combination of all three components considered to be the part and parcel of the parliamentary process and procedures since its authoritative beginning; the King, the House of Lords and the House of Commons. It accomplishes its fundamental functions of enacting laws with the help of all of these three components. In other words law making in England could not be carried out in absence of any

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⊗ *Witangemot* signifies with the assembly of wiseman of Anglo-Saxon period who were the member of assembly/ council called *Witangemot/ Witenagemot* and the *witan* resembles with wiseman. See, *Ibid*, p. 7.

<sup>154</sup> *Ibid*.

<sup>155</sup> *Ibid*, p. 9.

<sup>156</sup> *Ibid*, p. 37.

one among the three. Whereas in the matters relating to the origination of finance bill, the House of Commons only is entitled to do so. The House of Lords, however, is not constitutionally sanctioned for introducing any finance bill and has no authority to obstruct any such bill passed by the lower House as well. Further, as the other bills, the Lower House also sends the finance bills to Upper House for approval or suggestion but the former is not bound to incorporate the suggestion made by latter for amendment in it. The British Parliament operates in a way to legislate that the Upper House required to return the finance bill back to Lower House within 14 days otherwise the latter is free to pass the bill without waiting for formers' suggestion or amendment. Therefore, the financial bill does not necessarily require getting approval of the House of Lords for acquiring full legal status. Except the finance bill, both the Houses are entitled to present any bill on other headings and could pursue process to pass and secure by one to other and there by obtains final assent by the King.

In view of overall parliamentary responsibilities of legislating, making government answerable to it for its activities including the other prominent activities required to accomplish the task of governance it could not manage to discuss the issues in full house so the parliament operates with the help of various committees in different subject headings.

### **3.2.2 India**

The concept of parliamentary system was borrowed in India from the British Parliamentary polity. India adopted the parliamentary system in a full-fledged manner after it achieved independence from the British colonial rule. The democratic system that it followed had created parliament that since its inception functions mainly for enacting laws, pursuing necessary legislative process and also determining the national policies for government. The legislative organ that it adopted from the British as the source of deriving prime executive authority to function proved to be a powerful and effective set of political institution at the national level. Apart from these functionalities the government secures mandate from the parliament for its actions and also for the constitutional amendment where it submits all its accounts of governmental initiatives as well.

It is, therefore, considered one of the main reasons that the constitutional/ legislative development of India in the nineteenth and twentieth centuries took place under the supervision of British Parliament.<sup>157</sup> In other words, the process followed and the practices conducted during those days were of the parliamentary in nature that helped to nurture the

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<sup>157</sup> A.B. Lal, ed., *Op. cit.*, p. xi.

legislative exercises upon the guidance of the parliament in England.<sup>158</sup> Present day India - a nation with vast diversity, thus, continued to remain intact as well as democratic because its political institutionalisation began since the British rule, which introduced various reforms in response to subside the call for national independence from its centuries' old colonial rule.

The historical events show that the political institutionalisation of Indian Parliamentary System reinvigorated through the struggle for freedom from the colonial rule, demand of legal and political reforms for participation in the process of governance of the country and finally of the demand of having the elections for constituent assembly to draft a democratic constitution of their own. After the British withdrawal, therefore, the Constitution of free India was “drafted, adopted and enacted in the name of the people” by an elected Constituent Assembly<sup>159</sup> that pursued the parliamentary polity almost in line with the British model.

Considering the functioning of the political system the Constitution of India clearly spelt out about the parliamentary provision in Article 79 that provides an apex legislative institution in the form of Parliament which is bi-cameral in nature; Lok Sabha (House of the People – 544 members - directly elected Lower House) Rajya Sabha (Council of States – proportionally represented Upper House with 250 members - indirectly elected on the basis of single vote transferable system from the Lower House) and the President of the Union of India. With the authority of legislative and executive powers the President of India is constitutionally made integral part of Indian Parliament like the Queen in the British Parliament. Unlike the British Parliament Indian Parliament is not sovereign legislature. The Indian Parliament operates and functions under the written provisions of the Constitution whereas the British Constitution always remained subject to its parliamentary prescriptions. The legislations enacted by the Indian Parliament could be the subject of judicial review whereas the same could not be applied with the British legislation.

The Parliament of India legislates through the presentation, deliberation and the decisions taken on Bills proposed and passed in the both the Houses of the Parliament and then sent to President, the head of the State, for the final assent. As the Indian

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<sup>158</sup> Subhash C. Kashyap, **The Political System and Institution Building Under Jawaharlal Nehru**, New Delhi: National Publishing House, 1990, p. 2.

<sup>159</sup> *Ibid*, p. 4.

Union is known for its federal structure and for that reason its Constitution has limited its legislative authority. In its functioning the Indian Parliament in the capacity of national legislature has no authority to legislate for its federating States. But considering the constitutional provision for its creation it can legislate for the overall union. As per its main authority it controls the national purse and the union government is ought to take its consent to spend any money. The parliamentary consent is made mandatory for levying taxes and introduces changes in it. It holds the overall control over the union government that needs to bear total accountability as well as remained answerable to it for its decisions and actions. It is also for that reason the parliament is the sole place where formation, continuation and dissolution of union government takes place.

The parliamentary authority of India is “circumscribed by the written Constitution” that prohibited it to go against the principles of fundamental rights of the people, the spirit of the division of powers among the principle governmental organs as well as made its activities subject to judicial review.<sup>160</sup> There is no doubt that the general pattern of Indian Parliament is very much similar to the British Parliament. Though major departures from British system of having hereditary element of monarchy placed to put final assent of the bills passed by the parliament as the head of the state to enact laws and the practice of parliamentary supremacy is missing in the Indian Parliamentary system.

It has been perceived that the general pattern of Indian Parliament is very much similar to the British Parliament. Though, India lacked hereditary element of monarchy to be placed in the Head of the State position instead it adopted a provision of electing President, the highest status, through its parliament as well as State Assemblies. Although such a political and constitutional arrangement by intent is same, but by content it is quite different in nature and origin, which, thus, could be called a major departure from the British system. In fact, the position of Head of the State in India is very much similar to British that enjoys the privilege of putting assent to the bills passed by the parliament, but with no formal authority to rule. Unlike the

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<sup>160</sup> A. B. Lal, ed., *Op. cit.*, p. xi

British Parliament, India lacked parliamentary supremacy. Rather the Indian Parliamentary practices takes place upon the principle of Constitutional supremacy.

As the historical developments mentioned in the above statement has made it clear that India had inherited the parliamentary form of government from the British system.<sup>161</sup> At the initial stage of introducing legislative practices in India through parliamentary processes it was then called 'Imperial Legislative Council' under the British Empire and its first session was held in Calcutta (1854). Though the parliamentary practices had been started in India but the institution of parliament in its physical structure in India could not gained a permanent place to meet because its location was changed time to time at the wishes and convenience of British ruler.<sup>162</sup>

The independence that India gained on August 15 of 1947 was followed up with the adoption of Republican Constitution on January 26 of 1950 that marked the formal promulgation of the present constitution, which fundamentally opted for British modeled parliamentary system as the basis of its politics and government. The parliamentary practices, however, were not a new exercise at least for the Indian educated population and the elites who had got opportunity to undergo the political process introduced in the Indian soil by the British colonial rule. To the Indian population in those days such a political process that hinges upon "... adult suffrage, free elections and fundamental rights"<sup>163</sup> had been considered as the basis of a governmental system initiated for the wellbeing of population in general. In actual sense, it was an unaccustomed but modernistic experience providing them an opportunity to participate in the process of decision making though in the limited way of their own governance. Such a political process has been in practice much earlier of India's independence that had been introduced by the succeeding British parliamentary governments. Over the time the parliamentary system in India got

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<sup>161</sup> See, S. S. More, **Practice and Procedure of Indian Parliament**, Bombay: Thacker & Co. Ltd., 1960, pp. 7- 8; and also see, W. H. Morris-Jones, **Parliament in India**, London: Longmans Green & Co. Ltd., 1957, p. 200.

<sup>162</sup> It is notable that some of the early meetings of the Indian Legislative Council were held in Calcutta and Simla (especially during the summer season) and this continued till the Congress Party came to power. As thus, the meetings of the Indian legislature have shifted to place to place during the end of 19<sup>th</sup> and beginning of 20<sup>th</sup> centuries. After the completion of the construction of the Parliament House in the new Indian capital city of Delhi its regular sessions had started to hold there (since 1927). Previously it started to take place in Calcutta. Later it was moved to Simla for the summer season and finally it was placed in Delhi. See, W. H. Morris-Jones, *Ibid*, pp. 186 - 187.

<sup>163</sup> A. B. Lal, ed., *Op. cit.*, p. 239.

opportunity to be institutionalised. Even though it is a borrowed concept to them but for its liberal outlook and accommodative nature, the question about its legitimacy is rarely raised.

### 3.2.3 Nepal

It is important to keep in mind that the struggle for parliamentary democracy began along with the anti-Rana revolution of 1950. However, it is also pertinent to mention here about the movement that took place after the end of the World War II against the autocratic Rana oligarchy, which started to take place with the martyrdom<sup>164</sup> of leading political activists. It marked the beginning of the democratic movement for establishing representative - participatory governance with the essential rights and freedom to live a life of citizen. Such a movement had begun against the backdrop of the autocratic rule that basically emerged out of the limits of *subject culture* that allowed the people to remain only as ruled, not governed. The revolution of 1950 brought a qualitative change in the political thinking of the people and raised their awareness level that attracted the educated youths towards the British model of Parliamentary Democracy. As thus, the aspiration to be governed through the multi-party Parliamentary Democracy is cherished by the people of Nepal. Here the term people of Nepal correspond with the section of people influential among the commoners and were aware with the concept of multi-party democracy and the British model of parliamentary form of government.

The 1950 revolution that took place against the Ranas had not only the objective to put an end to their autocratic family rule but also to introduce a liberal political order that would allow the citizens to exercise political rights and freedom. Basically, at the initial stage of democratic awareness, the Nepalese political activists with the influence of their fellow Indian freedom fighters, who were waging movement against the British colonial rule in the 1940s, had decided to replace the Rana autocracy with parliamentary democracy in Nepal.

The democratic movement that began in Nepal since 1950 has already passed over a period of around six decades, a span of time when four kings ascended the throne. During the period, due to royal unwillingness and interventions, the democratic system could not sustain and the people had to carry out political movements in various forms. This affected the country's

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<sup>164</sup> Martyrdom was attained by Sukra Raj Shastri, Dharma Bhakta Mathema, Dashrath Chand and Ganga Lal Shrestha all who worked against the Rana rule. They were put to death for their revolutionary ideas and activities around a decade ahead of the 1950 political change that leads to the downfall of Rana autocracy.

political stability that ultimately impinged on the progress and wellbeing of the general masses including the progress and economic development of the overall country. For that reason even at this juncture of twenty-first century an irony still persists that the struggle for parliamentary democracy in Nepal could not come to an end. However, during these years the Nepalese people have tasted the parliamentary form of governmental system twice. First, for a brief period of eighteen months during 1959/60 and lastly for over a period of 12 years (this is referred to till Oct. 4, 2002); but the situation against democracy further worsened during the period of King Gyanendra's direct rule since Feb.1, 2005 till April 24, 2006 (the day when public demand of reinstating the *Pratinidhi Sabha*, Lower House, of the Parliament was met) made it to remain in name only and process of clipping King's potential authorities for the misuse of its authority began in such a way the existence of monarchy in Nepal looked in dire strait. Prior to this the period of king's direct rule nullified the civil liberties allowed earlier as the political freedom in a multi party democracy made the political confrontation between the king and the people inevitable, which ultimately led to the launching of April 2006 movement popularly called *Jan Andolan II*.

In Nepal the struggle for parliamentary democracy took almost four decades. As a consequence of popular movement 1990 Nepal, since then, had been governed through the multi-party parliamentary form of democratic polity. To the weaker and oppressed section of population of the country, the introduction of the multi-party parliamentary system is the beginning of the end of the exploitation and injustice prevailing in the society largely governed under the feudal concept. Similarly, the political change that took its course in the country marked as the culmination of operating a popular form of political order in which people would be made the basis of governance. Prior to its achievement the people in Nepal had continuously expressing it through various political movements. Within the period of the reintroduction of multi party democracy, Nepal had already undergone three parliamentary elections (1991, 1994 and 1999). However, democratic practice was jinxed from then with the process of making and unmaking of various forms of parliamentary governments; majority, minority as well as awkward coalitions.

In this context, it is, however, pertinent to discuss the democratic movements that began since the later part of 1950s, which provided opportunities for the origin of parliamentary form of governmental system. Experience of functioning of various party governments of the king's choice had tried to provide a lukewarm effort to introducing a functioning parliamentary government in the country. Prior to the formal introduction of parliamentary constitution in 1959, three consecutive Advisory Assemblies one after another were constituted in various stages within the decade of 1950s basically to govern through legislation enacted by it. In



1959, Nepal experimented with an opportunity to experience parliamentary democracy but only for a brief period of 18 months. The period after the royal takeover of 1960 to 1990, hence, was ruled by the monarchy in Nepal in a form with a pseudo type of representative system which was called Panchayati Democracy by its followers. This system pursued a path of governance under the monarchical discretion and his advisers and made the presence of legislature a cover-up mechanism to endorse royal wishes.

In the recent political context, the democratic political system has been reintroduced in Nepal in early 1990. From then onward it has been constantly facing the challenges of its institutional growth. The political leaders who struggled for the reinstatement of multi party Parliamentary Democracy in Nepal found to be haunted by the fear psychosis of the danger to its lasting existence from any unconstitutional means, so to say arbitrary takeover, basically by the king. It is because; in most of the cases the people including the political leaders have not been able to develop an approach of developing their political conduct accordingly as the system demands. As such the stability of recent experiment of parliamentary democracy in Nepal is facing numerous challenges by creating various problem areas while practicing it. To complicate the situation further the controversy over the interpretation of the parliamentary provisions during the decades of 1990s has been frequently noticed and the dispute of supremacy of claiming jurisdiction in an overlapping manner by one to other also surfaced time and again.<sup>165</sup>

The aberration seen in the parliamentary practices as the conduct by its members and officials who often indulge in overriding and ignoring the role functions and responsibilities of its mechanisms and organs had have a negative impact on the whole of its institution and functioning. Such circumstances have led them to earn disrepute among the people. This was made more acute as well by the responses made for tackling the situation by the incumbent MPs that in most of the cases have failed to understand the gravity of the situation. For that reason they became unable to respond as per the requirement of the issues that crop up in the politics of country. Considering the anomalies that surfaced during the parliamentary practices of Nepal with inadequacy in understanding the process itself, efficiency in varied levels so as to deliberate and strengthen in-built capabilities of parliament and its members including

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<sup>165</sup> Basically the legislature (Parliament) felt its jurisdiction often been encroached by judiciary and take decisions even in the political matters. Such situation led to a proxy rivalry between them of claiming supremacy by one on another.

the officials, had failed to make any positive imprint on popular psyche. Subhash C. Kashyap, an Indian analyst on parliamentary affairs rightly states.

Parliament suffers from lack of adequate institutionalised process of getting information and dissemination among members and committees. While some of the members are highly talented, a majority of them need intensive orientation and training in parliamentary institutions and procedures, in how to be effective members, how to use available parliamentary devices, their rights and obligations etc.<sup>166</sup>

With the above considerations the situation was found not that favourable towards the growth of multi-party parliamentary democracy during those twelve years (1990 - 2002). It was for the reason noticed that at the level of elected representatives the constitution remained prevalent in the affairs of the governance of the country though there were several instances of minor effects impeding the functioning of parliamentary governance that led to its spirit being undermined knowingly or not.

Important legislations have been enacted and the measures taken as the part and parcel of the parliamentary practices so that democracy could be institutionalized. The act relating to prohibiting MPs in changing the party, for instance, for power game with shifting loyalties affecting the party system has commending effect on party politics.

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<sup>166</sup> Subash C. Kashyap, "Institution of governance: The Parliament, The Government and The Judiciary", in V. A. Panandikar, ed., **Problem of Governance in South Asia**, New Delhi: Konark, 2000, p. 110.

## **CHAPTER - IV**

### **PRACTICE OF PARLIAMENTARY DEMOCRACY IN NEPAL AND ITS BASIC TENETS**

#### **4.1 Practice of Parliamentary Democracy in Nepal and its Basic Tenets**

Nearly after a three decade long struggle the people succeeded in restoring multi-party parliamentary democracy in Nepal in the year 1990. The political struggle that began with the call for popular support by the underground parties and its leaders in mid-1940s had basically championed for ousting the century long autocratic family rule of the Ranas. By the time the revolution was launched the leaders who were leading anti-Rana revolution visualised the need of establishing the British type of Westminster model multi-party parliamentary democracy. The popular revolution had brought a level of political consciousness among the Nepalese people to understand the significance of having necessary rights to lead a life of dignified citizen. The agenda of power sharing in the process of decision making, it intending to make the monarchy constitutional and the king a figurehead in the governance of the country to conduct its affairs according to the wishes of the people through their elected representatives was attained in the process.

As a result of the involvement in the independence movement of neighbouring India the Nepalese eminent youths acquiring education in various Indian cities later assumed leadership of the parties formed in Nepal, who got an ample opportunity of being acquainted with the concept of multi-party parliamentary democracy for which the Indian freedom fighters were striving. This had been taken well by the people of Nepal who found to be supportive to the political struggles launched by the democratic forces in the country even during the later part of country's political history.

Over the time, the growth of awareness about democracy among the common people helped to strike initial blow to the feudal character of society impinging on its socio-economic and cultural practices. But, as it has been regarded true that the tradition dies hard so is happening with the remnants of feudalism entrenched in the Nepalese social life even during the contemporary times of 21<sup>st</sup> century. Time and again such feudal remains found to be affecting the country in its drive towards political progression for democracy rather pushing it backward for regression. As such, on several occasions the people of Nepal undergo struggle

for democracy that in fact confirms such a notion. The democratic movement that began in 1940s has not come to an end even at the beginning of twenty-first century. Though successes were achieved on several occasions, it could not be made sustainable. Against this background, the following political developments that took place in the politics and government of the country cites the glaring examples of regression against parliamentary democracy. They are:

- ◆ the breaking of promise of handing over power to the representatives of people to draft a constitution by the elected representatives of constituent assembly and agree to function on the recommendation of party government as pronounced by King Tribhuvan himself in the euphoric moment of restoration of the *defacto* governing role of Nepalese monarchy from the clutches of Rana oligarchy;
- ◆ King Mahendra's takeover from the popularly elected government thereby dismantling the multi-party parliamentary democracy; and
- ◆ King Gyanendra's steps (first of all on October 4, 2002 and finally on February 1, 2005) of direct rule by dissolving the elected parliamentary government and relieving the party governments appointed by himself.

## **4.2 Structure and Function of the Nepalese Parliament and its Working Procedures**

With the values of having individual freedom for living a dignified life, the notion of respecting varied ideas and the norms for following them in an equal manner demonstrates faith on liberal democracy that basically aspires to fulfill the spirit of rule of law. In most of the cases such thinking led the people to go for the multi-party democracy. And, pursuing for the parliamentary form of polity, the government system carried over by the representatives of the people based on the decision taken formally in the representative institution by adopting deliberative measures, has been noticed more prudently in this regard. To them, rule of law refers to achieving the wellbeing (peace, progress and prosperity) of people through disciplined behaviour determined by the law for securing individual as well as common interests in the society. Such a governance in a state system is thought to be effective when the ruled (people) will remain operative under the rule solely formulated and decided with their

participation in a deliberative way and is carried over by their ruler (elected representatives).

In order to pursue for effective rule of law a state should have appropriate laws suitable to address its socio-economic need and political context as well. Such laws could be enacted through better legislation process in the legislature (institution of people - elected representatives) capable of articulating public interests effectively through representing the people in general. In a democracy the process of legislation continuously takes place for carrying out state-functions in a legitimate manner. In this context, effective application of laws is considered imperative to discipline human behaviour and thereby to steer them to make efforts for the individual advancement as well as the overall progress of society. Such a desire of wellbeing inspired people to formulate laws through legislation to address the problems of society and fulfill human wants that give way for its effective implementation through its enforcement/ observance and for that matter creates necessary legislative institution – Parliament. Basically, it is with the idea of allowing people to participate in the enactment process of laws thereby to be governed by it, the parliamentary system of government is evolved in Nepal.

In order to achieve democratic governance in the country the political developments that took place in Nepal since the democratic innovation on 1950 could be taken as a testimony of the fact of intense desire of Nepalese people for establishing a participatory legislative process. Thereafter several endeavours have been made by the political parties for introducing such a legislative governance process despite the inherent weakness to pursue the case. In order to assist the successive governments joined by the leaders of various political parties in numerous occasions then, three Advisory Assemblies were constituted. This, however, was initiated through the Interim Constitution of 1951 with a concept of adopting parliamentary practices that in a way introduced a governance system of “King in Council” as well.<sup>167</sup> Some efforts for public representation were initiated but to the dismay of major democratic force of

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<sup>167</sup> As the provision of Interim Constitution of 1950 suggested that the King will act in accordance with the recommendation and the advice of the Council of Ministers it has been seen as the process of following parliamentary practices. See, Tri Ratna Manandhar and Niranjana Sharma, **Adhunik Nepal Ko Rajnitik Itihas** [Political History of Modern Nepal (in Nepali)], Kathmandu: CNAS, T. U., 2053B. S. (1991), p. 3.

1950 popular revolution, the NC. Such an effort, for its critic, was seldom carried out to its actual effect.<sup>168</sup>

A full-fledged parliamentary democracy<sup>169</sup> began only in 1959 following the parliamentary elections that took place for the first time in Nepal upon the promulgation of parliamentary constitution. Such a multi-party parliamentary exercise, unfortunately, proved a very brief experiment lasting only for eighteen months (during 1959/ 60). Thereafter, Nepal was dragged to none-party palace controlled autocratic regime. The Rashtriya Panchayat (national legislature) formed as an organ of pursuing legislative process supportive to perpetuating the absolute monarchical governmental system for thirty years, had become an assembly of people elected by selected practices. It was only in the year 1990 Nepal once again succeeded to restore multi-party parliamentary democracy.

Over the period of 1960 – 90 after the long democratic struggle the people of Nepal succeeded in restoring multi-party parliamentary democracy that was imbued with the principle of electing time-bound parliament (the elected institution) basically to operate on regular basis and to lead the government to function only upon formulating laws and codes by representing and reflecting the wishes and aspirations of people. In Nepal, the Parliament, the apex legislative organ, is a supreme representative institution of overall people, which is entrusted to function on their behalf to be governed for their own welfare. The whole affairs of parliamentary functioning are meant to follow deliberative measures to take decisions and enact laws necessary to address the issues of the people thereby guide the governance of country accordingly. With such a notion, rule of law is made the basis of parliamentary government in Nepal. It is, thus, pertinent to note the legislative functioning of Nepalese parliament.

As in other established parliamentary democracies the Constitution of Nepal has also made the Parliament as the apex legislative body and the important governmental organ. The main executive and the basis of its executing functions basically emanates from the parliament wherein the former necessarily bears accountability and remains answerable for its actions. Parliament has been made the lone central venue from where government originates, continues and terminates. It is with the support of parliament, government acts as well as

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<sup>168</sup> Three Advisory Assemblies with (1<sup>st</sup>) 35, (2<sup>nd</sup>) 113 and (3<sup>rd</sup>) 91 members during 1951, 1954 and 1958 respectively were constituted. See, *Ibid.*, pp.16, 32, 67.

<sup>169</sup> The democratic Constitution of 1959 drafted with the help of British constitutional expert Sir Ivor Jennings had made the provisions of constituting a legislature with two Houses, *Pratinidhi Sabha* (House of representatives - the Lower House with directly elected 109 Members) and *Maha Sabha* (Senate – the Upper House with 36 Members, half of which indirectly elected by the House of Representatives and remaining half nominated by the king.

accomplishes its main tasks of legislation, decision making and policy formulations and thereby proceeds for their executions. As the supreme institution of elected representatives with public mandate, parliament in Nepal is understood to be empowered to exercise sovereignty bestowed on the people.

The year 1990 marked once again the formal beginning of parliamentary system in Nepal when a democratic Constitution was introduced in November. As according to the Constitution of 1990 the parliament is made a bi-cameral institution that on the whole comprises the Head of the State, the King (His Majesty), House of representatives (HOR - the Lower House) and National Assembly (NA - the Upper House). The King, as Head of the State, represented the institution of monarchy – was authorised (till the Constitution of 1990 existed) for final assent to the bills passed by the parliament by placing the mark of *Lal Mohar* (Royal Seal) on it which provides a basis of legitimate governance. However, upon the parliamentary declaration of 2063 B. S. made in the aftermath of *Jan Andolan II* the king's authority of granting final assent to the bill/s passed by the Legislature-Parliament was also nullified.

At the initial stage of the beginning of parliamentary system (till the first Parliamentary tenure), the House of Representatives consisted of one each members directly elected on the basis of universal adult franchise from 205 constituencies, covering all the seventy-five districts – ranging one at minimum and seven at maximum, of the country. In the normal situation (not in a case of early dissolution of parliament) the Constitution had made the provision for regular elections of House of Representatives in every five years. The constitutional provision for constituting National Assembly mentions that it comprised of 60 members. Among them 15 were elected – three each by five electoral college in the form of representing the decentralised local level bodies that consists of Chairman and Vice-Chairman of all the VDCs, Mayor and Deputy Mayor of all the Municipalities and all the elected officials of the DDCs of among the concerned five development regions of Nepal. Among the remaining 45 members 10 were nominated by the king and rest 35 (out of that at least 3 should be women) get elected by the members of the House of Representatives on the basis of proportional representation of the political parties in the Lower House through the method of single vote transferable method. The term of office of the Upper House member was six years but the constitution had made such a provision that it never empties (unlike HOR) so it was also known as the permanent House of the parliament.\*

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\* As the elections of local bodies could not have taken place during the beginning of the first Parliament it was arranged that the Electoral College consisting of the MPs of the concerned development regions to elect the members of the NA through the lottery. Their term of office was arranged in a way that one-third of total members will have 2 years term, another one-third 4

The tenure of the NA members were arranged in such a way that one-third of them expires in every two years and replaced at the same time by new ones. For the chairing of meetings as well as the conducting of business of both the Houses separately there were provisions of the Speaker and the Chairman of the House of Representatives and National Assembly respectively. Apart from that there was a provision of Speaker being entrusted with an additional responsibility of chairing the joint sittings of Parliament and also manages the affairs of the Parliament Secretariat.

The King as the Head of State was empowered to summon and prorogue the sessions of Parliament on the recommendation of Prime Minister, which was normally decided in consultation with the presiding officers (Speaker and Chairman respectively of HOR and NA) of both the Houses. The Parliamentary sessions were summoned within one month of the elections held for the House of Representatives. Thereafter, each year the summer or the budget session commences with the Royal Address to the joint sitting of Parliament. The King through the Royal Address in the HOR presents the annual programmes and policies of the government (HMG/N) to the Parliament. The Constitution made the provision for two regular sessions to be held in a year, commonly known as the summer session and winter session without making a gap of more than six months between the two sessions. The Constitution also provides for a separate session of the House of Representatives, also known as the Special session that may be summoned by the king upon the demand of at least 25 percent of the total members of House of Representatives.

People through general election directly elect their representatives to House of Representatives whereas the members (major chunk) of National Assembly constituted through indirect election of the Members of the HOR as well as by nomination by the king. For the election to House of Representatives, citizens of 18 years of age and above were entitled to vote. To be a candidate in the parliamentary seat a person should be the Nepali citizen and should have attained at least of 25 years of age. The candidates were elected on the basis of first past the post system. The Election Commission was constitutionally responsible to conduct, control and monitor elections in the country nevertheless it depends heavily on HMG/N for all kinds of support including finance, security and staff.

The House of Representatives was an authoritative chamber whose majority support confirms the continuity of any government. It plays decisive role in financial and non-financial bills. The National Assembly on the other hand is basically a revising body with no say at all on the financial bills rather advising on the fiscal budget. Thus, by virtue of directly elected status,

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years and the remaining one-third have 6 years. Thereafter the vacant places are to be filled as and when emptied following six years term to all.



instrumental in making the House of Representatives sole authorised body to decide upon public expenditure and levying new rate of tax. Nevertheless, the National Assembly acts as an alternative to the House of Representatives, in case of its absence, for the purpose of the extension of emergency period.

Similarly, the Constitution has made the provision for the formation of HOR composed of 205 members all directly elected by the people one each from the parliamentary constituencies spread all around the country for a normal term of five years. The NA comprises of sixty members and is constituted with a mixture of both elected by the HOR (with indirect voting method of single vote transferable system) including by the decentralized local bodies and nominated by the king. Among the members 35 were elected from the HOR on the basis or proportional representation of the parliamentary parties and fifteen representing 3 each from five development regions of the country from among the officials of decentralised local bodies and the king was entitled to nominate ten. The eligibility of age to be a member of NA is provisioned at minimum of 35 years. The term of the members in the Upper House is of six years. In this House the term of office of one-third members expires in every two years and replaced by the same number of new members.

The Constitution and laws of Nepal had accorded certain but distinct privileges to the Parliament. These includes full freedom of speech in both the Houses, exclusive right of the House to regulate its internal business, members' freedom from arrest on civil charges during parliamentary sessions, rights of the Parliament to decide on matters of contempt for the breach of its privileges etc. In order to maintain the separate dignity, the Parliament Secretariat has recently been made autonomous from the executive control through a separate act, the Parliament Secretariat Act, 2058.

It should be noted that the parliament was not in itself a forum to draft laws, it facilitates procedures in passing bills and give it legal status as laws/ acts. It is, therefore, laws/acts in its initial legislative process like in other parliamentary democracies are also called bills in Nepal. Prior to the enactment of laws/ acts, bills are presented in the parliament for necessary deliberation in any of its Houses (in case the legislature is bicameral like in Britain, India and Nepal). As such, a bill presented in the parliament could be called a primary form of draft law, which is sent to subject committees for necessary deliberation and help parliament to decide on it.

In view of its overall responsibility and enormous work loads of decision-making, law making, evaluating government's activities of scrutinising it for incurring expenditure, regulating it for

taxation, making it accountable and answerable to parliament for its deeds, carrying out deliberation on the issues of public and national concerns as well as issuing directives to the executive in this regard the two Houses of Parliament could not manage to spare time to make adequate deliberation with appropriate study and investigation of every issue in committees. For that reason the committees are called “**Mini Parliament**”. So, in order to make parliament accomplish its tasks effectively the Constitution of Nepal 1990 made provisions (Article 64 and 65) for constituting parliamentary committees upon the subject matter to deal or delve for the concerned Houses.

The HOR and NA had nine and four subject committees respectively as permanent committees. The Subject Committees of the HOR that looked into the subject matters upon their titles are called 1) Finance Committee, 2) Public Accounts Committee, 3) Foreign Relations and Human Rights Committee 4) Natural Resources and Means Committee, 5) Environment Protection Committee, 6) Population and Social Committee, 7) State Affairs Committee, 8) Law, Justice and Parliamentary Committee, and 9) Development Committee. Similarly, the NA Subject Committees also looked into the subject matters as per the headings these are composed of; 1) Remote Area Committee, 2) Government Assurance Committee, 3) Social Justice Committee, and 4) Delegated Legislation Committee. In addition to this the parliamentary rules have allowed to constitute temporary committees as well as joint committees consisting of the members of both the Houses. The Speaker nominates or the subject committees elect the Chair of the concerned committees.<sup>170</sup>

It is also pertinent to mention here that after the *Jan Andolan II* the Interim Parliament known to be the Legislature - Parliament has also the provision for the parliamentary committees numbered to 22. Among them fourteen are subject committees, seven are standing committees and one as the Woman Caucus constituted in the Interim Parliament after the promulgation of the Interim Constitution of 2063 B. S. Making the provisions for similar types of parliamentary committees even after the political change of April 2006 could be seen as the continued adherence to the parliamentary system and its institutionalised practices the country is aspiring for since long (1950).

### **4.3 The Constitution of Nepal, 1990**

The success of anti-Rana popular movement helped Nepal ascertain the constitutional process and power sharing with the commoner in the affairs of politics and

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<sup>170</sup> See, **Rules of the House of Representatives, 2048**, Kathmandu; Parliamentary Secretariat, Singh Durbar, 1991, pp. 119 – 121.

government in its statehood. However, the pronounced idea of political process for constitution making upon popular wishes in Nepal lasted only till the decade of 1950s. The monarchical reluctance to power sharing with the commoners, led the Nepalese people to struggle again for democracy. And for that reason, Nepal has so far evolved five constitutions {this excludes the present Interim Constitution, 2063 (2007)}.<sup>171</sup>

In essence the decade long Maoist insurgency as well as the post October 4, 2002 and the February 1, 2005 scenarios of unconstitutional Royal interventions also hinged upon the necessity of new constitutional arrangement. Such arrangements are made with a clear motive to deny any future effort of applying extra-constitutional measures that had time and again been utilized for subverting the process of institutionalising democratic governance in the country. Similar moves in the past had already led the political process to a state of non-operation, contrary to the wishes of people what has been envisaged by them to reactivate through their expression during the *Jan Andolan II* phase.

Among the constitutions evolved in Nepal so far, the Constitution of 1990 was considered the most advanced, acclaimed as the most democratic. The political parties bearing immense sufferings and sacrifices were able to make the promulgation of such an advanced democratic constitution in Nepal after having long struggle for three decades (since 1960). In the Year 1990, with the initiatives of the political parties and its leaders the common masses launched the popular movement against the then monolithic Panchayat polity. Through the movement the Nepalese people expressed their desire for the re-installation of multi-party parliamentary democracy in the country. The main intention for launching the mass movement was to introduce a

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<sup>171</sup> The first one known as Prime Minister Padma Shumsher's Constitution was drafted in 2004 B.S. (1948) but was not promulgated; the Interim Constitution of 2007 B.S. (1951) adopted immediately after the popular revolution launched for the dethronement of the family rule of the Ranas; the Parliamentary Constitution of 2015 B.S. (1959) was introduced with a motive to enter into parliamentary democracy; the Panchayati Constitution of 2019 B.S. (1962) was brought into force basically to maintain a rule answerable to monarch without the existence of any party and party representatives; and the Constitution of the Kingdom of Nepal 2047 B.S. (1990) was promulgated as a result of popular demand for the country's transition towards multi party representative parliamentary democracy. The Interim Constitution of 2063 (2007) governs the state presently that will be followed by the Constitution drafted by the Constituent Assembly elected in April 2008.

radically changed governmental system by bringing about upside- down changes that allows the beginning of pluralistic type of politics in the state affairs and pursuing for liberal form of governance in the country. In order to address such popular will the front runner democratic forces of the popular movement, the Nepali Congress (NC) and the United Left Front (ULF)<sup>172</sup> jointly issued directives stressing on some conditions that the new constitution needed to include. Some of the important party directives referred that:

- the new Constitution must be fully democratic;
- the King must remain as a constitutional monarch;
- the King must act only on the advice of the Council of ministers; and
- democratic rights must be guaranteed for all citizens;

In addition to the party directives, the government made some decisions relating to the repealing of institutions representing the then undemocratic Panchayat System. They were dismantled as a direct outcome of the popular movement. The new Constitution intended to evolve new political institutions and legal provisions in compliance with the democratic system, for example, independent election commission as well as the press and academic freedoms.<sup>173</sup>

As the transformation from the authoritarian regime to democratic governance was put into practice, however, faced uphill task to succeed in institutionalising liberal form of pluralistic political system of democratic governance. It is because, some section of people having privileges in the former state system found their interest affected by the political change of 1990. As a result, they were not found acquiesce with the new political arrangements of democratic governance. In this connection the act of then King Birendra of forming the Constitution Reform Committee confirms the above assumption. Wherein he with an intention to cool down the people's indignation expressed against the then undemocratic system and its old guards made a vain bid by making announcement of the formation of Constitution Reform Committee arbitrarily without consulting the democratic forces and even the interim

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<sup>172</sup> The United Left Front was created in the form of coalition among the CPN (Marxist), CPN (Marxist-Leninist) CPN (Verma), CPN-Democratic (Manandhar), CPN (Tulasilal), CPN (Fourth Convention), Nepal Workers and Peasants' Party and independent communist leaders.

<sup>173</sup> See, **Nepal Press Digest**, April 18 - 30, 1990.

government led by the Prime Minister Krishna Prasad Bhattarai. Both the freedom-loving people and the leaders of the democratic movement out-rightly rejected the Constitution Reform Committee constituted by the king. The move was considered a clear breach of compromise made on the fateful night of April 9, 1990, when multi-party democracy was restored. In reaction to this move, the immediate outcry of the common masses and the democratic parties forced the king to reconstitute a new Constitution Drafting Committee in accordance to the wishes of the people and the parties. In response to such reactions King Birendra had to correct the situation immediately to suit to the mindset of the people who were in the mood of democratic transformation. This made the representation of frontline political parties' possible in the process of the drafting of new constitution. Similarly, the act of creating hurdles in the way to make the country enter into a full-fledged democracy had been noticed occasionally. In this context the act of bringing to public notice a separate constitution drafted by the royal palace against the spirit of the popular movement and also the act of pressurizing Prime Minister Bhattarai by the half a dozen of army Generals basically to retain the principle of Hindu Kingdom and sovereignty to be bestowed to the King as earlier in the new constitution being drafted then.

With the promulgation of new Constitution along with the principles of inherent democratic parameters, Nepal, after 30 years of palace led autocratic governance, once again made tryst with constitutional democracy. The Constitution of the Kingdom of Nepal, 1990, sought to establish the British model of liberal form of democracy. Upon the wishes of people the parties made the Constitution incorporate the provision of new institutions with democratic values like Constitutional Monarchy, Multi-Party Democracy, Parliamentary System and Independence of Judiciary. In the history of Nepal the Constitution for the first time acknowledged, as the parliamentary system envisages, that the sovereignty lies with the people of Nepal and is exercised by Parliament elected directly through universal adult franchise. The promulgation of new Constitution marked the beginning of new era in Nepal wherein the responsibility to govern and authority to administer the country passed on to people instead of the traditional power holder, institution of monarchy, through party based elected government. Focus of new system obviously was on the elected Parliament, which not only passed laws and fiscal budget for the government to act

and make public spending upon the wishes of the people but also held the government accountable for its decisions and actions.

The new Constitution was taken as the initial but the beginning of firm attainment of constitutional order with parliamentary governance in Nepal through making the monarchy constitutional and led to the functioning of multi-party democracy in the country. In other words, it could be said that the new Constitution is introduced basically for sharing power with the people through their representatives by establishing the multi-party parliamentary governmental order in the country. As thus, the success of historic popular movement (1990) that tended to replace the monolithic palace led none-party autocratic system as an outcome of decades' long democratic movement. Since then Nepal has been constantly making a bid to smooth democratic transition of its governmental system with the constitutional order solely to evolve representative parliamentary order that leads to the mechanism of governance answerable to electorates for its actions. The new Constitution has made the provisions of guaranteeing the existence of basic human rights, constitutional monarchy and multi-party democracy including the parliamentary system as its unalienable features.<sup>174</sup>

The emphasis that has been made in the preamble of the constitution for guaranteeing the continuity of parliamentary system is itself evident. It could also be traced back in the Constitution that categorically upholds the provision of the regularity of the sessions of both the houses of parliament. In this regard the Constitution suggests a gap of no more than six months between the two sessions in a year. The Constitution also provides for a separate session of the House of Representatives, also known as the Special session that may be summoned by the king upon demand of at least 25 percent of the total members of House of Representatives. It could be easily outlined that the focus of new system obviously was on the elected parliament which meant to create and control the government of the day. The Constitution guarantees multi-party democracy with the King in Parliament. It is one of the basic preconditions of the constitution that is beyond the power of any including the Parliament to amend. It is also clearly sensed that the constitution sought to establish the constitutional monarchy and the king was bound by the advice and recommendation of the elected government which in turn should remain accountable to the parliament.

During the initial few years (three years) the functioning of 1990 Constitution showed some encouraging signs those could be taken as positive results basically in the

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<sup>174</sup> See (the Preamble), **The Constitution of the Kingdom of Nepal, 1990**, Kathmandu: Law Book Management Board, HMG, 1992.

economic front (marked with distinct growth rate achievement of 7% which never before had happened). Apart from whatever positive and constructive factors the 1990 Constitution possessed it proved later inapplicable the way it was taken because it could not help to address the emerging political issues of public concerns. For that reason it eventually could not produce desired success in improving in the long-awaited people's day-to-day life. The act of Maoist insurgency and the governing pattern including the behaviours of the political parties exposed the weakness of the system. Between 1991 and 2002, intra-party and inter-party rivalries were the mark of parliamentary democracy which led to untimely dissolution of the parliament by the majority NC government in June 2002. Ultimately, King Gyanendra's intervention on February 1, 1995 fatally damaged functioning of parliamentary system and its reputation. The commencement of *Jan Andolan II* revealed its failure. The process of people's movement began when the governance process suffered a setback out of various factors seen due to varied political developments of the country.

Following points could be seen resultant to the failure of the 1990 Constitution:

- Disharmonious attitude of political parties and their leaderships who suffered from a behaviour of 'fragmented political culture'<sup>175</sup> by creating individual factions and posing irrational opposition for the sake of playing the role of opposition;
- Self-confined state of mind of political leaders, once regarded as the freedom fighters against unrestrained royal regime, who ironically looked upon monarchy as a source of power to rise to power and perpetuate it by seeking its support thereby facilitating it to step in the politics which was instrumental in slipping out sovereignty of the people in the hands of the king<sup>176</sup>;
- Depending basically upon technical interpretation of the Constitution by the parliamentarians, rather than upholding the essence of its spirit leading the whole political process pursuing a game for making

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<sup>175</sup> Cited in Lokraj Baral, "Sashkiya Swarup Ra Lokatantra ko Sthayitwa" [Forms of Government and Permanence of Democracy (in Nepali)], A paper presented in a Discussion Programme organized by Society for Constitutional and Parliamentary Exercises (SCOPE) for the Forms of Government Determining Committee of the Constituent Assembly of Nepal on July 17, 2009 at Kathmandu.

<sup>176</sup> Lokraj Baral, **Opposition Politics in Nepal**, Lalitpur: Himal Books (Second Edition), 2006, p. 265.

government and its survival or else its unmaking without paying any heed to public good;

- By the acts of judiciary which made technical interpretation of the constitutional provision without taking care of the pluralistic nature of Nepalese society, thereby giving impression of ignoring the demand of multicultural, multilingual and multiethnic identity;
- No serious effort for Constitutional amendment was ever made by any quarter and in this context the issue of making inclusive representation of the ethnic, marginalized and weaker section of society remained unnoticed. This provided the Maoist revolt a fertile area to bring the population felt neglected to their fold working for insurgency;
- Failure in introducing any amendment in the constitution blocked to accommodate dissatisfaction of the people and encourage them to participate in protecting their interests in the governance process which they want to secure through being included in the process by means of their specific clan's representatives;
- The post 1990-government's choice of the particular class and clans in the field of government appointments without caring multi-cultural presence of the population with different identities, caste and ethnicities; and
- Lack of delivery of effective public services and help people in improving their quality provided enough opportunity to the rise of violent politics in Nepal with the formation of Maoist Party that started its violent campaign affecting the law and order situation of the country by posing the demand of drafting a new constitution by the elected Constituent Assembly;

The above mentioned factors could be taken as the major reasons that led to the failure of 1990 Constitution. In this backdrop it is for sure the political system that Nepal will adopt in future may not be able to discard the values of the demand of inclusion of all class, creed ethnicity and people also with geographical identity in the politics and government of Nepal. Nepal has occasionally experienced practicing parliamentary democracy (latest for around one and half decade) seemed most suitable as it had been of mass acquaintance than introducing any new form of



government (system) and confuse the common masses. It is, however, also realised that the nature of system the 1990 Constitution prescribed a ditto of 'Westminster' model that may not be adopted as it was done in the past and the electoral system of first past the post only will not be pursued as done previously.

#### Lesson learnt from the 1990 Constitution

- Use of ambiguous language about the role and authority of government head and state head had created confusion and utilized in an overlapping manner in the past. In some of the occasions experience showed that such confusions led to misinterpretation of constitutional provisions for convenience on occasions. Therefore, there is a need of making explicitly clear-cut demarcated provisions in the future constitution regarding of their roles, responsibilities and authorities while running the state affairs;
- Halfhearted or the mechanical exercise of the Constitution had been felt instrumental in distorting the spirit and objective of the democratic system that led to the public discontentment towards the political leaderships and their affiliated institutions, the political parties.
- Lack of timely initiation for the constitutional amendment led the halting of improvement in the system and behaviours of the political parties, their leaders and the people's representative to make their accountability to the electorates and the state; and
- Practicing of the Constitutional provisions in an mechanical way made the parliament depend on the number game for the survival and making of government. So, there should be strong realization that the constitutional provisions should not limit to technical manner only but also adhere to its spirit and objectives and act according to public want and bearing to public responsibility.

#### **4.4 Political Parties, Election and Parliament**

Multi-party democracy is the significant sign of adherence to the concept of pluralism as the basic thrust of democracy. In such a democratic system the parties act as the vanguard and champions of plural ideas that allows ventilating varied ideas upon their principle, working strategies and differing sets of goals they pursue to achieve in the name of the people and the country. Such a set of varied ideas offered by the political parties avail the people to choose as according to their thinking compatibilities. In order to attain the support of the people, the political parties act and perform accordingly, that by being based on their conviction as the fundamental guiding principle through which a democratic system functions. In other words various ideas make a democracy operational that in a way provides different thoughts of public likings, which offers the choice of corrective measures through presenting alternative ideas to perform accordingly.

In a democracy the government becomes effective provided that the political parties are strong with mass base and having the capability of shaping peoples' idea as influential as competent to lead people and represent their mindsets. If the government is not strong it will not be effective and thereby would be unable to deliver goods to the people. Democracy cannot be successful if the political parties fail in delivering comfort and security to its people, resolve their problems and fulfill their aspiration as well. It is, so, believed that an effective party system considered an essential feature of democracy on which rights of the people uninterruptedly sustained and provides opportunities to flourish as the basis of civil liberties for the functioning - efficiency of a government with widespread legitimacy. With such a view that a strong party system is considered the lifeline of democracy, inspired by such an idea of modernity the like-minded Nepalese youths in the late 1940s entered and initiated in the process of establishing political parties of their choices. Thus, the politics of Nepal since then was characterized by the birth of number of political parties, but unfortunately most of them suffered from spiraling break-ups, factional politics of pulls and pressures and faced constant interpersonal scrambles among the party leaderships within and without. Their continued jostling for power encouraged the monarchy – a continuity of traditionalistic political force, hesitant ever to power sharing with the people, remained always tempted to thwart the basic formula of constitutional monarchy upon which its authority was revived in 1950. Such approach

towards the country's overall politics resulted democracy to suffer in Nepal not only in the 1950s but also during the period of 1990s, to the early half of the first decade of 2000.

Political parties in Nepal have been in existence for over a period of half a century. Theoretically, to play a true mechanism to foster freedom and the champion of liberty, the political parties in Nepal were established. However, since the dawn of democracy the political parties formed in Nepal worked for achieving the goal of establishing liberal-pluralistic-popular form of people oriented political system transforming traditional authoritarian despotic institution of monarchy to constitutional monarchy.

Though the political parties in Nepal had set an objective of establishing a democratic society in the country the experience, however, shows that once their struggle for introducing democracy succeeded in the country their behaviour incompatible to sustaining democratic zeal. It is because they rarely go hand-in-hand together for long to attain the common cause of democracy except in some rare occasions that happened for shorter period. Example could be traced back since after the 1950 revolution when the entanglement of Koirala brothers gave enough opportunity to then King Tribhuvan in encouraging him to play Matrika against B. P. for forming the government. Similar examples of disharmony could also be seen as the coinciding incident during the brief parliamentary years when the other political parties and their leaders faced disastrous defeat in the parliamentary elections held for the first time in 1959. In a bid to downsizing the Nepali Congress Party some party leaders demanded for the king's action against the parliamentary government of Prime Minister B. P. Koirala elected with two-third thumping majority.

Same could also be sketched out after the success of popular movement of 1990 when the political parties like the Nepali Congress (NC) and the United Peoples' Front (Common front of 5 Communist Parties) led the downfall of the Panchayat polity with palace-led none-party rule that facilitated the restoration of multi-party parliamentary democracy in Nepal. Once the democratic political change was introduced the competitive politics among the principle parties initiated in such an overwhelming manner that their behaviours demonstrated as if they had never worked together for the common goal of democracy. The competition was so intense that took a form

beyond the spirit and norms of parliamentary democracy which demands peaceful competition rather than animosity. Such behaviours led the country to bear the installation of various governments in very short span of time (thirteen governments in 13 years of multi-party democracy). With these activities the political parties irrespective of their ideology made their tendency to rise to power at any cost as the basis of their undeclared agenda of politics and, thus, made the whole process leading to power politics that is to attain of ruling status. The later phase of multi-party democracy in the 1990s also witnessed the whole democratic process introduced then were leading it to derailment from its objective and mainly limited it to achieve electoral democracy in the country overlooking the fact that democracy demands beyond elections.

It was in a way taken as the repetition of the scenario experienced during the post-1950 Rana phase when the prominent political parties during those days rarely paid any attention to work together for institutionalising the gains achieved in the democratic front as pronounced by then king on the eve of the down fall of Rana rule for drafting a democratic constitution through the elected Constituent Assembly. Most of the political parties during those days seemed largely interested to have an offer to rise to power and continue to remain in ruling status by hook or crook irrespective of democratic ideals for which they claimed to come into existence. It is still found unpredictable to note that this may not happen again in the politics of Nepal in relation to the differing stands and agendas the political parties are pursuing in Nepal in the recent days of post - *Jan Andolan II phase* (2006) though they are working together in a form of coalition partners in the government.

While looking into the political scenario of the country, the degenerating politics of the parliamentary parties as well as the violent activities of the CPN-Maoist in the mid-1990s made the issue of institutionalising parliamentary democracy in Nepal engulfed into intense problem. This was more aggravated by the repeated takeover (October 4, 2002 and February 1, 2005) of King Gyanendra.

While looking back to the early 1990s, it is to ponder that with the promulgation of democratic Constitution of 1990 the multi-party parliamentary democracy once again began in Nepal with necessary constitutional back-ups (processes and provisions) and

institutional set ups (formations). By virtue of such arrangements the political as well as constitutional change of 1990/ 91 was followed by the evolution of a governance system characterised by parliamentary democracy that gave way to parliamentary elections, assumption of the role of government by the party or coalition of parties that wins confidence of the majority of the members in the House of Representatives, the Lower House of Parliament and the role of opposition assumed by the rest of the elected representatives. In its second experiment of multi-party Parliamentary Democracy, Nepal has undergone three consecutive parliamentary elections in 1991, 1994 and 1999. The parliamentary elections were held on party basis which also allowed non-party independent candidates to contest wherein the political parties including the independents entered in the electoral fray with their respective election manifestos and programme to reach out the electorates. The political parties by attracting the voters towards their publicly declared policies and goals mentioned in the manifestos as their plans and programme to make necessary efforts to influence the election results in their favour. Such exercises include applying of various tools and methods to attract the voters. It has been seen that the campaigning process for elections had contributed a lot in increasing the peoples' level of awareness basically in the field of politics and governance in Nepal as well as the functioning of multi-party parliamentary democracy in the country, their present status and the necessary changes for improvements to be introduced.

The concept of parliament or parliamentary democracy, its processes and procedures are meant to secure legitimacy of the decisions for actions taken in response to the articulation of interests made by the representatives for the welfare of people and nation that is to be governed under the legislation formulated by undergoing deliberative process in the parliament. Considering these democratic values the parliament in Nepal started to function as a focal point of its multi-party democracy since 1991 but within a short span of time its processes and proceedings largely confined to power game that largely led to its functional derailment.

The experience over these years of the functioning of parliamentary democracy in Nepal is mixed both with positive and negative developments and their consequential impacts. In some of the cases, the parliamentary exercises carried out, over these years, had been found it pushing to some untoward cause. For that reason the political

developments that took place, affected the political scenario very seriously that led the growth of parliamentary system halt and made it to earn enough notoriety among the people. Such a situation emerged basically due to the cases of focusing on sharp partisan politics by the parties, intense division due to the growth of factionalism within the party leaderships, lack of culture of harmony and tolerance among the political parties, orientation towards personal gains and privileges by the MPs irrespective of any party. The intra-party and inter- parties discord and disharmony also greatly contributed to weaken the strength and reputation of government by the members of Parliament of ruling party themselves, basically of the NC. It is due to factional interests and also of partisan politics within and among the political parties that led the MPs to involve in floor crossing, their sell out in a form of horse-trading and some other ethically questionable activities.

On the other hand, the power game overwhelmed the whole process of democracy and governance in Nepal. In this process the traditional theory of winner takes all situation created enough constraint in power-sharing as expected by the non-majoritarian parties and thereby became intolerant against monopolised appointments made in the state apparatus only by the party in government. Such a situation led to the culmination of contributing to the escalation of discord and disharmony among the political parties basically between the fellow partners who worked together while knocking down previous regime of the king. This had been further deteriorated by the frequent recommendation for the dissolution of House of Representatives and declaring for mid-term polls, changes in the coalition partners in every now and then without paying any attention to the stability of government and its resultant impact on the people. Such politics confined to power game that had led the popularity of parliamentary democracy diminished in a great deal and also tarnished the image of parties and their leaders. Such a case of over politicisation for power led the representatives and parties in parliament paying inadequate attention to the governance part of the country that distanced the people from their own representatives whom they had elected.

The political parties with their activities and performance during those days had been found no less responsible for creating such an aberration that implicitly allowed individualistic tendency of its party representatives to grow for serving their personal

as well as partisan interests of their parties and in occasions of their factions too. The beginning had been noticed from granting of the custom-duty free facility to the MPs for purchasing very costly vehicles (*in Nepalese context*) like **Pajero** for the personal use of the incumbent MPs. This privilege was made wide open to the extent that could be misused for making financial gains by the MPs too. With such a state of mind the leaderships in the government and the major parliamentary parties were seen to be motivated by the strategy for survival in the power game. In this process, it has been seen that the succeeding single party majority or minority or the coalition governments in leaderships with the major parliamentary parties like CPN (UML) or the NC in the various phases of time have been found invariably influenced the members of parliament of the coalition partners including their own. Such behaviours practiced to the extent of encouraging to the level of horse-trading for garnering support and to have immediate personal as well as partisan gains. This was also followed by government's activities to luring the MPs by cash and kind as well as privileged in sending them to Bangkok in the government expenses for nothing more like a fun trip. By such measures the government tend to retain required support in the Parliament and thereby to prevent the opposition to garner those MPs' support who have had a tendency of shifting their loyalties every now and then merely upon the offer of better offers of cash and kind.

Such a degeneration of politics of the country has been seen as if the beginning of the process of gradual turning of Nepalese democracy into some sort of a "kleptocracy" upon which the officials of main state organs and their functionaries had been felt concerned basically with making wealth and getting privileges<sup>177</sup> rather than welfare of common people whom they represented. As thus, lack of commitment towards adhering to the norms, in pursuit of values and work in the spirit of parliamentary system had led the whole democratic movement and the exercises ineffective and thereby made it non-performing up to the expectation of people.

As per the beginning of competitive politics in the post 1990 change and the resultant cut-throat competition for rising to power or to retain their presence in the state power structure led the major parties to act in an unhesitant manner for getting support of the

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<sup>177</sup> See, Lok Raj Baral, "Nepal: Problems of Constitutional Transition", Essays on Constitutional Law, Vol. 26, Nov.- Dec.1997/ Jan.1998, Nepal Law Society, Kathmandu, p. 57.

monarch to their fold with whom they have had long struggle for democracy in the past. In the process, they even overlooked the fact that the 1990 constitution had already turned the institution of monarchy and its role constitutional against the traditional values of ruling the country directly which it was bearing in the past.

Nevertheless, the leaders of major democratic parties for their political expediency had in times been found practicing the same. In contradiction to their past rhetoric and the constitutional spirit they called it *a political force* in the political game as well as in the governance process and thus tried to owe it by unduly recognising its legacy over the politics and government of the country.<sup>178</sup> Without trying to understand the repercussion and niceties of such references they had made and thereby seek its protection had contributed in complicating the political scenario and helped reactivating a player whom the constitution had formally made the entity that functions only upon the recommendation of the government. Such a perception, in fact, was considered fallacious on the part of the political parties to accept the king as one of the players and the force to be reckoned with had proved detrimental to the parliamentary democracy of Nepal. As of this, the experience so far has been demonstrated that the king, whosoever, never lagged behind or missed the opportune moment to demonstrate its tendency to encroach the constitutional boundary of its authority by hook or crook. Whenever it got any ripe opportunity against the political party/s or its leaders did not hesitate to manipulate the situation in its favour as a key player and strengthen its position by defaming them mainly to make them discredited in their efforts for democratisation of the country. The instances of the dissolution of the House of Representatives in 1994\*, 1997\*\* and the holding of fresh elections of parliament and the recommendation for postponing the elections in the year 2002\*\*\* are taken as the evident cases in this regard.

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<sup>178</sup> *Ibid.*, p. 55.

\* The recommendation for dissolution of the HOR by PM Koirala was delayed by King Birendra to announce in its favour on the pretext of legal consultation.

\*\* The recommendation for dissolution of the HOR by PM Thapa was turned down by King Birendra by citing the Supreme Court's 1995 decision of reinstating the House as long as there remains a possibility of forming a new government.

\*\*\* It is to note here that the palace was found interested to dissolve the HOR and called for a fresh mid-term poll for the parliament without any hesitation or delay whenever it feels useful for its



In the post 1990 political scenario, the Parliament of Nepal experienced three general elections of the House of Representatives, the Lower House all directly elected by the citizens of the country of above eighteen years on the basis of universal adult suffrage. However, minor controversies among the contesting major political parties occurred over the results of the parliamentary elections but those could not attract necessary flak against the independence and fairness of the elections. With this, it could be said that the elections held so far remained unchallenged in the courts of justice for its legitimacy and impartiality. The following table illustrates the electoral results of Nepal's second experiment with parliamentary practices since 1990.

Political Parties	Elected Seats in the 1 <sup>st</sup> General Elections (1991)	Elected Seats in the 2 <sup>nd</sup> General Elections (1994)	Elected Seats in the 3 <sup>rd</sup> General Elections (1999)
Nepali Congress	110	83	112
CPN UML	69	88	70
RPP	4	20	11
NSP	6	3	5
UPFN <sup>⊙</sup>	9	0	1
NWPP	2	4	2
NPF	-	-	5
CPN (D)	2	0	0
Independent	3	7	0

*Source: Election Commission, Nepal / Various Documents.*

The parliamentary elections were the outcome of the success of popular movement, utmost desire of the Nepalese people for multi-party parliamentary democracy and the new constitution promulgated accordingly. In the first general election (1991) out of 40 registered political parties only 20 had participated but the two, the Nepali Congress (110) and CPN United Marxist-Leninist (69), principal campaigners of the restoration of multi-party

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interest to take benefit out of the situation and defame the political parties as well as the democratic system. In this context accepting the recommendations of HOR dissolution in 1995 and 2002 made by PM Manmohan Adhikari and PM Sher Bahadur Deuwa respectively.

<sup>⊙</sup> A section of hard core communist leaderships led by Dr. Baburam Bhattarai with his followers splinted from the UPFN had left out electoral course and resorted to violent movement of politics in the name of CPN Maoist since February 1996.

democracy in the country alone had been able to secure the 88% (179) of the 205 seats of the parliament. Therefore, the euphoric support to the champions of parliamentary democracy itself helped the Nepali Congress to secure the mandate of the people with a clear majority and the CPN UML remained as a vibrant opposition.

During the period of first parliament the people witnessed the collapse of the Nepali Congress government only due to the infighting among the MPs within the ruling party itself. As the immediate cause the absence of the 36 MPs from the treasury bench of the House of Representatives in the crucial period of passing vote of thanks for the royal address delving with the government's programmes and policies for the upcoming fiscal year became the main reason for the government's collapse. In an abrupt move Prime Minister G. P. Koirala recommended for the dissolution of the Lower House of Parliament to be followed by the mid-term polls (1994).

The incidents of infighting within the ruling party as well as the disharmonious relationships of the ruling and opposition parties made the euphoric freedom loving people bewildered by the leaders and parties' wrangling for their interest and ego during the first parliament. The nascent democracy could not extract desired result of the hope of political stability and progress. The aim of nurturing multi-party democracy was put to lurch due to intolerance shown by the leaders and parties over their grievances. Nevertheless, due to the creeping infighting and factional politics resulted to the spiraling instability in the politics and governance of the country. Despite those alarming facts, Nepal has undergone three consecutive parliamentary elections within a span of a little over a decade.

It is because of the factions led by the ruling party President Krishna Prasad Bhattarai and Prime Minister Girija Prasad Koirala had contributed a lot for the existence of institutionalised opposition within the party in government during the period of first parliament.<sup>179</sup> Such infighting within the party has direct bearing in the mid-term poll, the second parliamentary elections of 1994, when the ruling NC lost its majority. Similar episode had continued even in the period of third parliament when some enraged MPs moved against the PM Krishna Prasad Bhattarai for his inability to perform in the governance of the country. The move was solely intended to replace

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<sup>179</sup> Sanjaya Upadhyaya, "A Dozen Years of Democracy: The Games That Parties Play", in Kanak Mani Dixit and Shashtri Ramchandran, ed., **State of Nepal**, Lalitpur; Himal Books, 2002, p. 45.

Bhattarai by Girija Prasad Koirala for Prime Ministership. Such an intra-party wrangling gave enough opportunity to the opposition parties to make nexus against it in several occasions. The ensuing personality clash in the party not only made the party leaderships suspicious with one another but also marred by a sense of insecurity (stability of government).<sup>180</sup> Such differences led to the collapse of party's government and ultimately brought a division in the ruling Nepali Congress resulting to a vertical split in it. Whereas the parties like the CPN UML, RPP, and Nepal Sadbhavana Party had already faced the similar situation for almost to the same reasons of leadership infighting.

The parliamentary practices then getting anomalous had been further aggravated by the emergence of hung parliament as the outcome of second parliamentary elections. This led the country to face further setback in its mission of establishing the governance of multi-party parliamentary democracy. As a result of frequent interchanges in coalition partners repeated alteration of governments became the order of the day during the period of second parliament. However, the formation of one after another new coalitions every now and then demonstrated enough of inducing perversion against the spirit of parliamentary democracy but those all carried out through the tactical interpretations of the constitution and within its preview.

The second general elections which happened to be the mid-term polls of Nov. 1994 resulted against the anomalies within the NC, the party seeking fresh mandate, and therein cut its size to 83 seats. Whereas, the CPN UML emerged as the largest party with 88 seats and the Rashtriya Prajatantra Party (RPP) labeled as the party of ex-Panchas had been able to increase their strength many fold from 3 to 20 seats in the House of Representatives.

As a largest party in the Lower House the CPN UML formed the minority government with its leader Man Mohan Adhikari as the first elected Prime Minister of a communist party in the country. According to the mandate of the election, the plea of the second-generation leaders for a coalition government by the NC was ignored. The NC rather opted to sit in the opposition bench. The minority government of Prime

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<sup>180</sup> See, Harihar Birahi “*Atitko Ainama Ajako Anuhar*” [To day’s Appearance in the Past Mirror, (in Nepali)], *Himal Khabar Patrika*, October 2 -November 1, 2005, p. 43.

Minister Adhikari could not last more than nine months because the functioning style it had adopted was considered against the spirit of the multi-party parliamentary democracy, which undermined the strength of majority by the parties in the House of representatives, other than the ruling party like NC, RPP and Nepal Sadbhavana Party (NSP) sitting in the opposition bench. Rather it was felt that the government was interested in populist activities only without caring for the other parliamentary parties' untoward attitude to its' such acts.

Being the minority government, the CPN UML was preparing for the next election and started launching various populist programmes with an intention to secure comfortable majority in the Lower House of the parliament in the next elections. While doing so the UML government did not care for the economic rationale of its populist policies and decisions and thus it seemed eager to bring down the existing economic system by scattering fund merely gaining for its popularity. At the last moment of minority government Prime Minister Adhikari in a bid to escape NC led no-confidence motion recommended the midterm poll which was later ruled out by the Supreme Court decision against the recommendation of the Prime Minister.

The aftermath of Supreme Court decision led the parliamentary democracy of Nepal to coalition politics resulting to frequent changes of coalition partners every now and then. The coalition of three parties the NC, RPP and NSP formed the government headed by the NC parliamentary party leader Sher Bahadur Deuba as the Prime Minister. The Deuba government lasted for eighteen months. Thereafter the RPP, and the CPN UML coalition led by RPP leader Lokendra Bahadur Chand came into power. The Chand government was replaced by the coalition of NC, RPP and NSP led by the RPP leader Surya Bahadur Thapa. During this period the internal power rivalry of the CPN UML led the party to split into two. Immediately after the UML's division the NC withdrew from the coalition and formed the next government under the leadership of G. P. Koirala with the coalition of the NC and the CPN ML (a breakaway party from the CPN UML). But due to the differences in the governmental policies this coalition could not last-long which resulted the NC and CPN UML coalition possible to work together again under the leadership of G. P. Koirala. During the final year of the 2<sup>nd</sup> Parliament the NC-UML coalition government recommended for early polls.

In order to curb such anomalous practices the electorates resolved to grant a clear mandate to a single party in the future elections. Hence, the Nepali Congress once again was able to muster majority to form its government in the third parliamentary elections in 1999. In the elections it again emerged as the party with comfortable majority (110). Similarly, the CPN UML became able to secure 69 seats in the Lower House. As projected earlier during the election campaign the parliamentary party leader of Nepali Congress Mr. Krishna Prasad Bhattarai became the PM who remained in power for nine months and was later replaced by Mr. G. P. Koirala. However, the replacement of the government leadership was done on the charge of non-function, worsening of the law and order situation of the country and increasing of Maoist violence. But Prime Minister Koirala's assumption to power could not help him and his government to improve the country's law and order situation rather his image tarnished to its lowest. His critics had got enough opportunity to criticise him for further aggravating the situation due to his incompetence in the governance of the country.

Unceremonious ouster of Bhattarai from the Premiership (governmental power) had added insult to injury to the pro-Bhattarai camp. In retaliation of Koirala's act the Bhattarai camp concentrated their activities for political vendetta. In this process they have challenged the Koirala-leadership in the parliamentary party of NC and in the national convention of the NC itself. However, Koirala emerged victorious and was successful in proving his majority but all at the cost of sharp (vertical) division in the party. This ultimately marred his government in performing effectively. With this rift the leadership divided seriously not on the issues or the principle of the party or on the working strategy but once again on personality clash. Such incidents had resulted to bleak and non-performance of the government.

Though the country had the elected parliaments, the service delivery of the successive governments was not up to the peoples' rising expectation. Similarly, the performance of the peoples' representatives, political parties and their leaders demonstrated that holding of elections successfully were not merely enough to run the parliamentary system to the repute that is anticipated out of its spirit. Over the period the Nepalese people realised that elections only do not solve the problems, the requisite is political stability, committed and sincere government with an intention of performing good on

the part of governance. People in Nepal want ethical performance and results from their political leaders they elected.

Political developments that forced the Nepali Congress to remain out of the governmental power had led the people to expect that its leaders would have learnt the lesson and would not repeat the same mistake that they had committed earlier. Contrary to the expectation of people the party ranks and files within short span of time again indulged in infighting. The party leaders started practicing non-cooperation and pulling one another's leg for ascending to power that ultimately led to the split of party into two separate Nepali Congresses in the year 2002.

The overall parliamentary practices during these twelve years were often been noticed hardly compatible with the spirit of parliamentary democracy. It is because the cadres of political parties and its leaders including the other independent practitioners of politics had not been able to develop an approach of exercising the system accordingly. As such the stability of recent experiment of parliamentary democracy in Nepal is facing numerous challenges by creating various problem areas while practicing it. To complicate the situation further the controversy over the interpretation of the parliamentary provisions has been frequently noticed. Such behaviours have also endangered the fate of democracy itself. The anomalies have been time and again reflected among the party leaderships and in the parliamentary proceedings. The constitutional monarchy did not miss to capitalize such anomalous situations to make the politics adverse to the forces advocating for parliamentary system of governance. The monarchy was also found impatient to establish the Royal primacy in the governmental system.

Of the three general elections the NC was able to secure comfortable working majority in the first and the third elections. The Nepalese people had given it mandate to govern the country but in both the time the NC leaders started to demonstrate their differences not over the government's policies, party ideology, or the preference over the public and national programmes rather they use to quarrel over their own interests. Some of the leaders have accommodation problem whereas some others have management problems. However, the problems do not seem to be that serious but they encounter each other as if they are for the fight to finish without caring public reaction and considering the feelings of their cadres. After the dissolution of 1<sup>st</sup> Parliament and the announcement of midterm polls in 1994 the party was virtually divided on the row

over the 36 and 74 groups led by two stalwarts of the party K. P. Bhattarai and G. P. Koirala respectively. It is interesting to note that fortunately or unfortunately the party remained intact during that troublesome phase. Though the situation remained same even during the later phase neither the party divided nor the leaders stopped infighting. But for some unknown reason the leaders had been found that they are not for the division of the party.

The infighting that surfaced distinctly in the first parliament became a continuing process even in the third parliament and much of the time of the party leaders who have been at the helms of power had wasted their time for managing such problems.<sup>181</sup> The failure of NC to learn from past mistakes was still looming large at the levels of party leadership, which affected governmental functions. The mandate for ruling the country given by the people in the elections to the NC was thoroughly misused by the leaders for infighting and also for attaining petty interests. The party leaders contested the leadership elections within the party but had not shown the spirit of accepting the results even if lost repeatedly. What has been noticed that the political leaders were ready to play the game but they were never interested to abide themselves by the results as rule of the game. The governmental inability even to maintain law and order in the country was frustrating to the common people. Instead the government was been evading most of its time to win continued support for the government from its own MPs at the expenses of public security.

During the UML minority government the relation between the government and party leadership did not face similar situation like the NC but by and large remained cordial among its leaders. However, inter personal bickering surfaced on the charge of corruption to each other among the ministers but nothing serious happened. Whereas, during the UML and RPP coalition government under the Prime Ministership of Lokendra Bahadur Chand had to undergo a tug of war for the party leadership between Chand and Thapa, which grew in such a way that RPP was virtually divided with majority of its MPs supporting the party President Surya Bahadur Thapa. This led the coalition government of Prime Minister Chand to collapse. In its succession

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<sup>181</sup> See, Krishna Khanal , *Harek Kurama Rajinama Magnu Rajnaitik Sanskar Hoin* [Asking to Tender Resignation of the PM (Government) over each and every issue does not match with (democratic) Political Culture (in Nepali)], *Deshantar Saptahik*, February 11–17, 2001.

the coalition among the NC, RPP and NSP formed the government under the leadership of Surya Bahadur Thapa. During his tenure the RPP was divided into two RPP-Thapa and RPP-Chand. On the other hand, the CPN UML was also divided and the splinter group called itself the Communist Party of Nepal Marxist-Leninist CPN (ML) was led by Bam Dev Gautam. Both the parties were divided not on the ideological ground but by personality clash of the party leaders and intra-party rift among the leaders could not be ruled out as the reason of the party division.

During the second parliament the Nepali Congress was in united and intact state till it remained in the opposition bench but once it formed the government having coalition with other non-communist parties the relation between the party and government deteriorated. Due to the support of the other parties and independent MPs the Sher Bahadur government then was in tight position so it had to appease its cabinet members representing other coalition partners even to the dislike of the party leadership. Finally, the government was pulled down when it was seeking vote of confidence in the parliament. The NC President G. P. Koirala was allegedly charged for the fall of Sher Bahadur government.

In fact, the main crunch in the parliamentary process of Nepal began from then onward and the politics of the country embroiled in the game of power politics - advancing with insufficient ethical values. It is so; the succeeding governments had rarely been able to focus on the betterment of the people and the country. In contrary the succeeding governments have mostly to concentrate its activities in remaining itself in the helms of power. Consequently, it encouraged the politics of violence launched by the Maoists in 1996 by failing to respond to their 40-point demand. In the hey days of Maoist insurgency the Police and NC cadres were the main target of their activities.

As thus, it is proved that the technicality of merely being at government and proving majority is not enough to act but the support of entire party leaders and MPs is equally important to make the government functional. With problems like intra-party or inter-party wrangling, constantly being reflected in the parliament had led the incumbent government was constrained to perform in an effective and efficient manner. This provided opportunities to the revivalist forces, known pro-Panchyati Royalists, to



question the compatibility of the multi-party parliamentary democracy in the country. In most cases, intellectuals and other sensible persons had started to express their concern over the non-functional parliament and non-performing government. On the top of that the common people are bound to live under the terror of violence resorted by Maoists. In this state of affairs criminals started taking benefit of Maoist movement and indulge in crimes like disturbing peace and order, theft, looting, robbery, murder, smuggling, drugs peddling, extortion, etc. The government could not demonstrate its effective control over these incidents to stop. The most disturbing factor to the general public was that the government was turning its blind eyes to the corruption and non-function in the government offices. Rather the people in power had to seek rapport and with its own party leaders and the MPs for constant support to remain in power.

The UML as the second largest party in the parliament with the mandate of playing the role of watchdog that the opposition bench is supposed to do in a parliamentary democracy had failed to live with expectation. Its opposition role was opposition for merely opposition sack. It was always demanding for the resignation of the Prime Minister on the petty issues which had no legal status.<sup>182</sup>

Moreover, the situation had been made more unfortunate by the political leaders themselves who had sacrificed and struggled long for the establishment of democracy in the country but afterward they turned like the bunch of interest-ridden individuals. Without presenting a clear vision to guide the country for progress and prosperity the political leaders had shown a tendency to grab power by any means and perpetuate it as far as possible but deliver far lesser than the expectation of the people. In despondency people even started to say that the democratic system that was introduced after a long struggle may not last in *status quo*. Even the political leaders were required to develop a political character as according to the norms and values of multi-party parliamentary democracy, which their behavioural pattern solely lacked.

Over these backdrops it is wishful to think that the government which needs to spare it's time to addressing the problems or managing the issues faced by the country and people will stand for running the affairs of state in an effective manner. The government, in fact, required to assume the role and act accordingly as the body with

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<sup>182</sup> *Ibid.*

the mandate of people to govern the country for full stipulated (five years') term and should act decisively to face such problems without any hitch. On the other hand, the institution of monarchy even in its constitutional form functioned as antithetical parliamentary democracy and found working to protect the interests of its own and its protégé as well. With such collusion of interests the political parties representing the people have been always seen at loggerheads with one another for their respective concerns and stances. Even so, in the political history of Nepal the former over the time again and again emerged winner but due to its weaknesses it always remained shaky and vulnerable in safeguarding the interest of the people as well as its own achievements.

Institutionalising parliamentary system in the country was difficult. It was just a mechanical effort of pursuing the process of governance deciding and running the affairs of state through parliamentary practices partly because the political parties' priority was remaining in power although making half-hearted efforts to achieve its democratic ideals. On the other hand, their failings were the success of the monarchist and their manipulative tactics made politician to rely on the monarchical support to function in government. The process was basically found confined to pursuing merely the technical and legal side of the Constitution without paying adequate attention to uphold the adherence to parliamentary practices in its actual spirit and ideal. The political parties represented in the Parliaments so far (constituted upon the results of 1991, 1994 and 1999 elections) with their minimal performance in a way squandered the expectation of the people to be benefited in general and strengthened the democratic system in particular. Their commitments to the spirit of the Constitution had been found pushed at bay and following of constitutional provisions became largely a mechanical subject. Such a distortive pursuance often disillusioned people in general towards it in a large extent and the political parties being regarded as the protector of the interest of common masses and their wellbeing had been proved deceptive.

Whereas the year 1990 proved a landmark in the history of democratic struggle when the reinstallation of multi party (parliamentary) democracy in Nepal took place that dislodged the king led autocratic-non-party Panchayat polity. But, by the time of its undeclared discontinuation that happened after King Gyanendra's move of October 4,

2002 the country was more or less governed with the parliamentary spirit and principle.

During the tenures of three parliamentary terms (that began after the election of 1991, 1994, and 1999), the practices all affixed by the said elections the successive governments one way or the other gave impression of functioning in a parliamentary way. The governance then found as per the parliamentary practices adhered to the principle of legislation basically from the apex legislative governmental organ – the parliament, seeks its consent to taxation and applies means of controlling public expenditure through it. The concerned House of Parliament also adopts a practice of taking decisions through debate and deliberations on the proposed policies presented by the government or by the individual member and thereby act accordingly as well as scrutinizing government administration. Though it is known as the supreme legislative organ of the government, its supremacy is unlike to the British Parliament and thus it has been made subject to judicial review, basically on the matters of its decision and working procedures. The parliamentary system that Nepal adopted in the euphoric moment of early days of 1990s was similar in nature to the Indian system where it is not the parliament but the Constitution has been made supreme.

In this process, the phase of *Jan Andolan II*, as the post script of the parliamentary growth in Nepal, could be seen as a ray of hope which reinstated the dissolved parliament (in the year 2002) that cut off king's authority of playing role in the process of governance as well as in legislation. This visualised a unicameral legislature (parliament later called legislature-parliament, after the promulgation of Interim Constitution, 2007) without king. The new parliamentary practice adopted after *Jan Andolan II* made the procedure of enacting a law without the mark of *Lalmohar* placed by the king for final assent of the bill passed from the parliament. All the decisions taken thereafter more or less aimed against the previous model of *king in parliament*. This could be figured out as the concept that in reinforcing manner adhered against Nepal's effort of replicating the British concept of King in Parliament changed to Parliament without King. The whole political processes that took place in the post *Jan Andolan II* phase have been initiated against ambitious King Gyanendra's vengeance or psychic fear on the part of the political parties for the past activities initiated against institutionalization of democracy by him and his predecessors. The Interim Constitution, 2063 (2007) promulgated thereafter also incorporated a parliamentary provision called the Legislature-Parliament, a unicameral supreme legislative organ of the government, without

having any role of monarchy and its presence at any point of time in the process of governance through legislation. The political development that took place in the post *Jan Andolan II* took a more radical course against the monarchy to republicanism, ruling the country since around two centuries and half by pledging to go for a new constitution drafted by the elected constituent assembly to institutionalize multi-party democracy without the presence of institution of monarchy.

# **CHAPTER - V**

## **POLITICAL DYNAMICS AND PARLIAMENTARY DEMOCRACY OF NEPAL**

### **5.1 Political Dynamics in the Parliamentary Democracy of Nepal**

Like in the other parliamentary governmental system, parliament and parliamentary democracy function in Nepal with a clear distinction of *de facto* and *de jure* executive heads. In this type of democracy, it is a normal practice that the government head used to be elected by the legislative organ which is in itself elected on the basis of universal adult franchise. In such a system, the position of a head of the government is made answerable to the organ from where it originates. This, in fact, holds the real status of *de facto* government head. Whereas the *de jure* head of government is made the head of state with a position of nominal head. Such a provision of the head of state is arranged for elected one in the countries where traditional inheritance for succession does not exist. The concept of post-1990 constitutionalism limits the role of monarchy as the titular head of the state who acts upon the recommendation of the elected executive, i.e., the Cabinet and the Prime Minister. In parliamentary democracy, the Prime Minister plays the role of qualified advisor to the head of the state (President/ King).

#### **5.1.1 Parliamentary Parties & Government**

Conceptually, political parties are the instrument through which politics of the area activates. They operate within the political boundary of the democratic system in favour of the people. In fact, in a party system it will be the political parties that aim to make a governmental system function effectively to the benefit of the people. So a party system requires strong political parties as an imperative and for that reason they are regarded as a pillar upon which the edifice of democracy is build. In a democracy, therefore, there is a need of strong political parties effective to influence people for getting required support to form a strong government and thereby lead it to be successful in delivering goods to the people. So a strong party system is regarded the lifeline of successful functioning of a democracy and much in the parliamentary democracy upon its practice of operating government based on the principle of

ruling party/s as well as the presence of opposition to increase their accountability in the governance of the country.

It is on those grounds the political parties in the world evolved almost together with the concept of democracy. The growth of political parties in the West led to the beginning of party system and, in this context, the British experience seemed the initial beginning of the party system. The case of India and Nepal seemed common about the evolution of the political parties. In both cases the birth of political parties was linked with freedom movements; in India's case it was to gain independence from a colonial power, whereas in the Nepalese case its inception was very much linked to launching of freedom movements against the autocratic regime imposed by a family rule from within the country.

Political parties are the wheels through which a vehicle of democracy is pushed to carry on for achieving the genuine aspiration of the people living in a politically organised society. With its role and functions the political parties are considered one of the necessary elements that bring life in a democracy. Keeping in mind the pivotal role political parties use to play in activating democracy it is considered one of its basic but fundamental characteristics. It is important to note that the parliamentary democracy only operates to its actual essence only in the presence of functional political parties that have been able to entrench its influence among the people. Upon such a presumption the political parties get involved in contesting elections and thereby compete to secure majority to form government for implementing the policies and programmes of its choice as put forth among the electorates to win their support. Whereas the parties that remained behind in garnering support of the electorates in number game play the role of opposition to the government and keep a close watch on its activities so that it must not turn unaccountable and indulge in misuse of power or behave excessively without limiting itself within the constitutional perimeter.

Basically, in a successful running of parliamentary democracy both the ruling and opposition parties share almost equal level of accountabilities. The opposition party/s that needs to play a constructive role in the parliament while opposing the government and in that case its actions often proved to be asset for the successful functioning of parliamentary system. It is because without the presence of constructive opposition the parliamentary government cannot get any feedback and in that case it could not pay attention in taking corrective measures in its actions. If the ruling party fails to pay attention on those issues raised in opposition to its action then it may turn into autocratic and unaccountable and also fails in its course. In that case the opposition would be considered for the formation of alternative government to influence the people with alternative policies and programmes. Through presenting such

alternatives the ruling and opposition parties work in a competitive manner to consolidate the parliamentary democracy.

In the case relating to the political parties of Nepal, it could be said that their birth took place in the initial period of Nepal's political awareness for rights and democracy linked with the cause of freedom and emancipation of the Nepalese people from the autocratic governance of Ranas and in its place to introduce parliamentary democracy in the country. While launching anti-Rana movement the political parties had hardly understood the intertwined relationships between the movement for democracy, and constitutional democracy that requires both procedural functionalism and political dynamism backed by a certain degree of ideological commitment for introducing the established process of parliamentary democracy in the country.

The first general election of 1991 was the product of the success of popular movement held under the new democratic constitution promulgated in the year 1990. Therefore, the slogan of the movement of restoration of democracy and euphoric support to the champions of parliamentary democracy itself helped the NC to secure the mandate of the people with a clear majority and install the CPN UML as a vibrant Opposition. The elected government of NC led by Prime Minister Girija Prasad Koirala could not last more than three and half years. The tenure of the elected government was recorded turbulent for the opposition it faced from within and outside the party. This was largely because of Prime Minister Koirala's anti-communist posture.<sup>183</sup> During the period the main opposition, CPN UML simultaneously stormed the house and street with a slogan *Sadak dekhi Sadan Samma* (protest from street to Parliament) on different occasions. The main opposition protested in support of the demand of salary hike and other facilities to the government personnel immediately after the assumption of new elected government and sometime in opposition to the controversial issues of Tanakpur and Arun III Hydro Power Project constructions.

Meanwhile, the main opposition became furious when its charismatic leader Madan Bhandari was killed in a jeep-accident allegedly as a result of the government plot. But the collapse of the NC government was caused only due to the infighting among

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1. See, Krishna P. Khanal, "Party Politics and Governance: The Role of Leadership", in Dhruva Kumar, ed., **State, Leadership and Politics in Nepal**, Kathmandu: Centre for Nepal and Asian Studies (CNAS), T.U., 1995, p. 64.

the MPs of the ruling party itself. Due to the absence of the 36 MPs from the treasury bench in the crucial period of vote of thanks for the royal address dealing with the government's programmes and policies for the fiscal year, the government failed. In an abrupt move Prime Minister G.P. Koirala recommended for the dissolution of the Lower House of Parliament to the King and announced for the mid-term polls in 1994.

The mid-term polls of November 1994 resulted against the anomalies of the NC within the party and cut its size from 113 to 83 seats. Whereas the CPN UML emerged as the largest party with 88 seats and the Rashtriya Prajatantra Party (RPP)-the party of ex-Panchas had been able to increase their strength many folds – its strength from 3 to 20 seats in the House of Representatives. As the largest party in the Lower House the CPN UML formed the minority government with its leader Man Mohan Adhikari as the first Premier from any left party in the country. Citing the mandate of the election the NC did not form the coalition government, and the plea of possibility for coalition with other parties was ignored. So, the NC opted to sit in the opposition bench. The minority government of Prime Minister Adhikari could not last more than nine months. The style of its functioning was considered against the spirit of the multi-party parliamentary democracy by the major opposition parties like NC, RPP and Nepal Sadbhavana Party (NSP). Rather it was felt that the government was interested in populist activities only. During the UML minority government the relation between the government and party leadership did not face similar situation like the NC and remained cordial among its leaders. However, inter personal bickering were surfaced on the charge of corruption to each other among the ministers but nothing serious happened. But during the UML and RPP coalition government under the Prime Ministership of Lokendra Bahadur Chand the tug of war for the party leadership between Chand and Thapa grew in such a way that RPP was virtually divided with majority of its MPs supporting to party President Surya Bahadur Thapa consequently the Chand government collapsed. Surya Bahadur Thapa succeeded the Chand government by forming the NC, RPP and NSP coalition government. During his tenure the RPP was once again divided into two parties as it was in the period of their formations, RPP-Thapa and RPP-Chand. On the other hand, the CPN UML also divided and the splintered group was named Communist Party of Nepal Marxist-



Leninist CPN ML) led by Bam Dev Gautam. Both the parties were divided not upon the differences on ideological grounds or policies and programmes or the adoption of strategies but mainly for the reason of personality clash among the party leaders but intra-party rift among the leaders could not be ruled out as the reason of the party division.

This was basically marred by the infighting for the leadership claims and personality clash. As being a minority government the CPN UML was preparing for the next election and with such role it wanted to secure comfortable majority in the Lower House of the parliament. To achieve such objective the minority government of the CPN UML started to utilise the national exchequer the way it could impress the general masses. While doing so the UML government did not care for the economic rationale and thus it seemed eager to bring down the existing economic system by spreading fund merely for the popularity of the UML government. At the last moment of minority government Prime Minister Adhikari in a bid to escape NC led no-confidence motion recommended the mid term polls which was later ruled out by the Supreme Court decision of reinstating the Lower House of the Parliament against the recommendation of the Prime Minister of the minority government.

During the second parliament the Nepali Congress remained intact till it was in the opposition but once the government was formed after having coalition with other non-communist parties the relation between the party and government deteriorated. The then Sher Bahadur government was in a very tight position so it had to appease time and again to its member of the cabinet representing other coalition partners even to the dislike of the party leadership. Finally the government was pulled down when it was seeking vote of confidence in the parliament. The NC President G. P. Koirala was allegedly charged for the fall of Sher Bahadur government.

During the final year of the 2<sup>nd</sup> Parliament the NC-UML coalition government recommended for early polls. In the third parliamentary elections the NC again emerged as the party with comfortable majority (110). Similarly, the CPN UML became able to secure 69 seats in the Lower House. As projected earlier during the election campaign the parliamentary party leader of NC Mr. Krishna Prasad Bhattarai became the Prime Minister who remained in power for nine months and was later

replaced by Mr. G. P. Koirala as a result of spiraling differences among the party leaders regarding the style of governmental functioning. However, the replacement of the government leadership was done on the charge of its inefficiency, worsening of the law and order situation of the country and increasing Maoist violence. But Prime Minister Koirala's assumption of power could not help him and his government to improve the country's law and order situation rather his image tarnished to its lowest. His critics have got enough opportunity to criticise him for further aggravating the situation due to his incompetence for the governance of the country both within and without the NC Party.

Forced removal of Bhattarai government from the power had added insult to injury to the pro-Bhattarai camp and they began a fresh campaign to oust Koirala from power in the similar manner as the Bhattarai government was ousted. In retaliation of Koirala's act the Bhattarai camp have concentrated their activities for political vendetta. In this process they challenged the Koirala-leadership in the NC parliamentary party and in the national convention of the party itself. However, Koirala was successful in proving his majority during both occasions but this has marred his government in performing effectively. Such incidents had resulted the government to bleak and non-performance at all.

During the three general elections, the NC has been able to secure comfortable working majority and the CPN UML has successfully play the role of pulsating opposition in the first and the third parliamentary elections. The Nepalese people have given it mandate to govern the country but in both the time the NC leaders started to demonstrate their differences not over the government's policies, party ideology, or the preference over the public and national policies rather they use to quarrel over their own interests. The experience shows that the political parties in Nepal have been found shaky in their unity when they rose to power. This is because not exactly for the working strategy of the government or on the matters relating party principle or ideology rather in most of the occasions for the power and position. Some of the leaders have accommodation problem whereas some others have management problems. However, the problems do not seem to be that serious but they encounter each other as if they are for the fight to finish without caring public reaction and considering their cadres feelings. After the dissolution of 1<sup>st</sup> Parliament and the

announcement of midterm polls in 1994 the party was virtually divided on the row over the 36 and 74 groups led by two stalwarts of the party K. P. Bhattarai and G. P. Koirala respectively. It is very interesting to note that fortunately or unfortunately the party remained intact during that troublesome phase. Though the situation remained same even during the later phase neither the party divided nor the leaders stopped infighting. But for some unknown reason the leaders were pretending during those days that they are not for the division of the party.

The infighting that surfaced distinctly in the first parliament became a continuing process even in the third parliament and much of the time the party leaders who have been at the helms of power had wasted their time for managing such problems.<sup>184</sup> The failure of NC leaders to learn from past mistakes was still looming large at the levels of party leaderships and the governmental functions. The mandate for ruling the country has given by the people in the elections to the NC has thoroughly been misused by the leaders for infighting and petty interests. The party leaders have contested the leadership elections within the party but have not shown the spirit of accepting the results even if beaten twice or thrice. In the process it has been noticed that the party leaders are ready to play the game but never were interested to abide themselves by the results as the rule of game. The thinking of common people had been fading up with governmental non-performance even for the basic services of maintaining the situation of law and order. Instead the government has been sparing most of its time to protect the government and win continued support from its own MPs to make government survive from such infightings.

In fact, the main crunch in the parliamentary process of Nepal began from then onward and the politics of the country embroiled in the dirty game mainly of power politics-hardly having required ethical value. Since then any government could rarely focus for the betterment of the people and the country. In contrary the succeeding governments have mostly to concentrate its activities in remaining itself in the helms of power.

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<sup>184</sup> See, Krishna Khanal, *Harek Kurama Rajinama Magnu Rajnaitik Sanskar Hoin* [Asking to Tender Resignation of the PM (Government) over each and every issue does not match with (democratic) Political Culture (in Nepali)], *Deshantar Saptahik*, February 11–17, 2001.

As thus, it is proved that the technicality of merely being in government and proving majority through head counting is not enough to act but the support of entire party leaders and MPs is equally important to make the government functional. The situation was more worsen in the third parliament when the frequent adjournment of the winter session of the parliament on the alleged charge against the Prime Minister of the corruption in the Lauda Air deal became the order of the day even for the consecutive second month. All united for the demand of Prime Minister Koirala's resignation on the unfair dealing of the leasing of a wide-body aircraft from a foreign company in a step to fulfill the requirement of the national airlines. To get their demand fulfilled the opposition started to boycott the session of the parliament continuously even though Prime Minister wanted to make his position clear about the issue<sup>185</sup>. In addition to this the government's position is further weakened due to the non-cooperation of a section of ruling party MPs who are critical to PM Koirala and were aspiring for his removal as well.

With these all problems, intra-party or inter-party, constantly being reflected in the parliament had led it near to nowhere for inaction and non-performance. This has provided opportunities to the revivalist forces to question the compatibility of the multi party parliamentary democracy in the country. Intellectuals and other sensible persons had started to express their concern over the non-functional parliament and non-performing government since 1990. On the top of that the common people were bound to live under the terror of violence resorted by Maoists. Out of the uncertainties relating to political stability the government is encountering the criminals currently are taking benefit and they have started to indulge in crimes like disturbing peace and order, theft, looting, robbery, murder, smuggling drugs peddling, extortion, etc. In such a situation, the government could not demonstrate its effective control over these incidents to stop. The most disturbing factor to the general public was that the government is turning its blind eyes to the corruption and non-function in the government offices. Rather the people in power were seeking rapport with its own party leaders and the MPs.

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<sup>185</sup> See, *The Kathmandu Post*, March 13, 2001.

The CPN UML as the second largest party in the parliament had failed to play the role of watchdog that the opposition is supposed to do in a parliamentary democracy. Instead it was demanding for the resignation of the Prime Minister on the petty issues which have no legal status.<sup>186</sup>

Moreover, the situation was made more unfortunate by the political leaders themselves who had sacrificed and struggled long for the establishment of democracy in the country but they have later turned like the profit-making businessmen.<sup>187</sup> As of this some of the intellectuals even started to voice that Nepal is now presenting a case of a failed state syndrome. Without having any clear vision to guide the country for progress the political leaders had shown a tendency to grab power by any means and perpetuate it as far as possible but deliver nothing tangible to the people.<sup>188</sup> In despondency people even started to say that the democratic system that has been brought after a long struggle may not last in *status quo*. For the democratization of the system in an entrenched manner it should not only be the people who need to pursue a political culture suitable for the democratic system but even the political leaders required to develop political character for its sustainability.<sup>189</sup>

Over these backdrops, it is wishful to think that the government should spare much of its time in addressing the problems of the people or managing the issues of the country. But it is for sure that it will help to run the affairs of state in an effective manner. The government, in fact, required to act as the body with the mandate of the people to govern country for full five years term and should be decisive to face such problems without any hitch.

### 5.1.2 Parliamentary Dynamics

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<sup>186</sup> See, Krishna Khanal, “*Harek Kurama Rajinama Magnu Rajnaitik Sanskar Hoin*” [Asking to Tender Resignation of the PM (Government) over each and every issue does not match with (democratic) Political Culture (in Nepali)], *Op. cit.*

<sup>187</sup> See, Dhruva Kumar, “What Ails Democracy in Nepal”, Dhruva Kumar, ed., **Domestic Conflict and Crisis of Governability in Nepal**, Kathmandu: Centre for Nepal and Asian Studies (CNAS), T.U., 2000, p. 15.

<sup>188</sup> See, Sreedhar Khatri, “*Nepal Asfal Rajya Banne Lakshan Dekhaudai Chha*” [Nepal is Showing the Symptom of a Failed State (in Nepali)], *Deshantar Saptahik*, February 18-24, 2001.

<sup>189</sup> See, Lok Raj Baral, “*Yatha Sthitima Congress Ra Loktantra Ko Bhavishya Chhaina*” [In Status-quo the Congress Party and Democracy has no Future (in Nepali)], *Deshantat Saptahik*, January 28 - February 3, 2001.

The democratic movement began in 1950 has already passed over a period of five decades in Nepal. Over the period several rounds of political movements had been carried out in various forms. Even though at this juncture of twenty-first century an irony still persists that the struggle for institutionalizing parliamentary democracy in Nepal could not come to an end. However, during these years the Nepalese people have tested the parliamentary form of governmental system twice; first for a brief period of eighteen months during 1959/60 and lastly for over a period of 12 years but thereafter king Gyanendra maneuvered to make it remain only in name. In the first case the then king Mahendra with his ambition to remain at the helms of governmental leadership and for the assumption of governmental power took over the reign of country and, on the other his second son King Gyanendra repeated almost the same in the year (October 4) 2002. Except banning of political parties the then king dismissed elected parliamentary government merely after a little over one year of his accession to the throne.

If we put aside the law and order problem caused by the Maoist insurgency and look into the political scenario of the country then one would clearly notice the problem that has emerged out on its way. The issue of institutionalising parliamentary system has continued to pose challenge. As the psyche of educated Nepali people of middle class leaned towards striving for the installation of multi-party parliamentary democracy in the country the parties and leaders from the very beginning worked for that end. But, the efforts made after the 1950 movement were all foiled by the Royal unwillingness to power sharing with the people by manipulating the party factionalism and weakening the democratisation process. The act of indifference towards democratizing the governance was put aside for the royal interest of taking command of governance system and thus prolonged the mission of establishment of multi-party parliamentary democracy. Such a tactics was adopted since the period of king Tribhuvan to his son Mahendra and also to his grandsons Birendra and Gynendra continued against the interest of the people and the political parties aspiring for multi-party parliamentary democracy.

The thirty years', 1961 to 1990, period of non-party monolithic Panchayat System had been taken as a phase when the growth of culture of palace controlled governmental rule was the order of the day. Freedom and rights of the people, basically linked with political sphere, were curtailed to a great extent. The constitutional amendment made after the referendum of 1980 that approved the continuation of non-party Panchayat polity by upholding the active

monarchical leadership in the governance, it introduced adult franchise. This phase tried its best to abide by the illusory idea of soil-suited concept of government, a System of governance run by a monarch who commanded entire state affairs. The third phase - around a period of twelve years - April 1990 to prior to October 4, 2002 takeover that began in the aftermath of popular movement had witnessed the parliamentary system functioning one way or the other sticking mainly to its theoretical approach. Whereas, the sincere attention in carrying out its spirit, norms and values had rarely been paid. And, the last but ongoing phase since October 4, 2002 has witnessed a setback of parliamentary process of the country when efforts were made one after another to cut the basic (main) roots of the system so that the essence of multi-party parliamentary democracy to be lost. This proved a final assault for the Royal takeover of February 1, 2005 by King Gyanendra. This process was started on October 4, 2002. King Gyanendra made a blatant breach of the constitution with his efforts to annihilate the concept of liberal governance by the representatives of the people the idea envisioned and acquiesced in the compromise held in the mid-night of 1990 as a result of the successful accomplishment of Popular Movement.

Besides that, it has been noticed that in the early phase of the beginning of parliamentary democracy in Nepal no concrete steps for its evolution was taken despite some reforms were initiated in the country. The publicly made commitments in the euphoric stage of 1950 through the royal proclamation of holding the election of the constituent assembly to draft a new constitution by the elected constituent assembly constituted by the representatives of the people in order to begin the process of democratising the political system as per the wishes of the people were neither pursued nor facilitated by King Tribhuvan himself and by his son King Mahendra. After applying lots of political pulls and pressure on the part of parties King Mahendra later agreed to hold parliamentary elections by promulgating a constitution prepared by his nominated draftsmen. He allowed first ever general elections to take place in the year 1960 and that was followed by the assumption of B. P. Koirala led Nepali Congress Party government commanding two-third majority in the parliament but the king dissolved both the government and parliament only after a brief experiment of 18 months. Thereafter, the modern political forces represented by the political parties working for the establishment of multi-party parliamentary democracy had launched political movements for the restoration of democracy. The democratic campaign continued for thirty years by being entirely underground and from exile because of ban imposed by the succeeding king led governments. Thus,

through the Royal move the democratic system that was introduced then failed to take shape in the political sphere of the country.

The democratic movement that ushered in Nepal has been continued in different ways for decades by some of the political parties came into existence prior to the 1950 anti-Rana movement. Among the political parties the Nepali Congress remained always in the forefront in launching movements for the democratic restoration. The movements it launched were in the forms of countrywide protests, armed campaign while in exile (India), policy of national reconciliation, participation in the local *Panchayat* (bodies) elections to capture the out-posts and weaken the system from within, peaceful protests in the form of *Satyagraha* and finally in the year 1990 – in the form of popular movement. Nevertheless, the democratic forces led by the political parties had once again to resume struggle for the restoration of democracy in the year 2006 in line with parliamentary system that was all destroyed by King Gynendra's takeover of October 4, 2002.

It is more than a period of five decades, Nepal's movement for democracy is still continuing. Over the period several rounds of political movements had been carried out in various forms. Even though at this juncture of twenty-first century an irony still persists that the struggle for institutionalizing parliamentary democracy in Nepal could not come to an end. The political change of 1950 allowed general public to taste some freedom and exercise some rights that also provided opportunity to the political leaders to participate in the governance of the country. During the process the much avowed promise of holding the elections of Constituent Assembly to draft a constitution by the representatives of the general public was kept at bay. With much pulls and pressure a democratic constitution with multi-party parliamentary system was adopted that was followed soon by the parliamentary elections of 1959. As a result of the parliamentary elections the Nepali Congress ascended to the power with two-third majority.

The decades of 1950s and 1960s could be seen as a phase of the introduction of the concept of parliamentary democracy and the creation of its basic tenets like constitution, electoral system and the mechanisms of the functioning of democratic government. But within a span of one and half years, such a process of introducing democratic liberalism and transfer of power to the people was halted after the takeover of king Mahendra who stepped in keeping himself at the helms of state affairs on the pretext of party rifts, deterioration of law and order situation as well as a situation jeopardizing the national unity and sovereignty.



The parliamentary system had been endangered by the successive acts of dismissing the elected parliamentary governments of 1960 and 2002, the successive kings' then started to appoint one after another governments of their choice arbitrarily. With such an act it in a way clearly clings upon the contemporary kings' intention to hinge upon their wishes of assuming executive power ignoring the role of constitutional monarchy. In the later case the Royal intervention took place at such a time when the Lower House of parliament had already been dissolved on the recommendation of then Prime Minister Deuba and the tenure of local bodies by that time was also not extended, i.e., the country was left with no democratically elected institutions and representatives.

Since the royal takeover the five mainstream political parties representing in the dissolved Lower House of the Parliament launched a stir against the process of "regression of October 4, 2002" and mainly for the "restoration of the achievements of the popular movement of 1990". In connection with their agitation they tried to push a little bit hard against the king and his arbitrary maneuverings that proved detrimental to the growth of multi-party parliamentary democracy in the country. In the meanwhile, they realised their past mistakes and uttered for their correction by pledging not to repeat them in future.<sup>190</sup> In the backdrop of Maoist movement, they even agreed that the country could not be run following the old fashioned politics and governmental system they had pursued in the past. So, in order to restore the 1990 achievements and also to attain social transformation they commonly agreed to adopt a full-fledged programme as the future course of action. In this context they declared an Eighteen Point Common Agenda with the following major focus as their basic roadmap for the governance in the days to come and thereby to guarantee the sustainability of multi party parliamentary democracy in Nepal. The points they raised as their working agenda in future very clearly indicated a departure in their past policy of accepting to maintain monarchy granting constitutional role but in the following periods they want it with ceremonial role only without any discretionary power if

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<sup>190</sup> See, **Seven Party Declaration** (Document), *Kantipur*, May 9, 2005.

remained to continue.<sup>191</sup> Following points could be taken as the major points, which vividly illustrates the above concept agreed in unison of the agitating political parties.

- To make the monarchy entirely constitutional and make it free from having any discretionary power.
- To make the parliament more efficient, effective and powerful.
- To make the national army loyal to the elected government accountable to the parliament and controlled by it.
- To pay specific attention on the issue of minority and weaker section of the society and their wellbeing.
- To initiate effective mechanism for controlling of corruption even at the political level.

To the mainstream political parties the royal move was the revival of the takeover of 1960 initiated by the then King Gyanendra's father Mahendra and thus labeled it as an unconstitutional step. In response, the mainstream political parties started to protest and jointly took a firm stand of non-cooperation to the king and his-nominated one after another cabinets led earlier by Lokendra Bahadur Chand and later by Surya Bahadur Thapa as the succeeding prime ministers. The king's action rather preferred in installing handpicked governments instead of party government as envisaged by the constitution of 1991. The agitating parties had spelt out the Royal takeover of October 4, 2002 against the spirit of 1991 Constitution. To them the step was instrumental in derailing democratic and constitutional process of the country. In their opinion the Royal takeover created a political vacuum at the very critical juncture of country's history recorded for governmental instability as well as that point of time when elected House of Parliament was non-existent and the fresh election for constituting the said Lower House of Parliament was made impossible due to the intensified Maoist insurgency campaign.

The issue of the institutionalisation of multi-party parliamentary democracy in Nepal required to be seen with the successive political developments that took place after April 1990, which

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<sup>191</sup> See, (Five Parties' 18 Points) "What Is In The 18 Points", *Himal Khabar Patrika*, (1-15 Jesth 2062), 14 -28 May, 2004, p. 40.

upon the success of popular movement for the reinstatement of multi-party parliamentary democracy, that in a way could be called the very initial process of the introduction of political change in the country. It could be said that the process of institutionalisation of parliamentary democracy began the moment when King Birendra declared the lifting of three decades old ban on political parties. This was followed by the declaration of nullifying the functioning of existing Panchayat institutions, the governmental mechanisms created then to run administration of the country - as the left out formal remnants of feudal system in the form of king led non-party authoritarian system for three decades.

Similarly, the formation of Constitution Recommendation Commission was also made upon the advice of the Prime Minister Krishna Prasad Bhattarai whose government was formed on the interim basis in order to activate the smooth transition of the country from the despotic monarchical rule to party based democracy with parliamentary government. In November 1990 the then king, however, grudgingly promulgated\* the new constitution drafted by the Constitution Recommendation Commission and endorsed as well as recommended by the Interim Government as an urgent response to the popular demand for the establishment of multi-party parliamentary democracy in Nepal. The reintroduction of parliamentary democracy in Nepal was accomplished mainly on the basis of the provision of new constitution, which was framed and promulgated as an accepted formula of compromise for power sharing between the people and king.

### **5.1.3 Opposition Politics**

The spirit of parliamentary democracy clearly suggests that the institution of parliament belongs to both ruling and opposition parties. It is because both of them have to accept each other's presence and co-exist in the house of parliament. In order to establish a healthy custom and tradition in the parliamentary practices both the ruling and opposition parties need to play important role. The majority party commands the proceedings of the parliament and runs the affairs of the state in their own way by assuming the role of government. In this process it has been expected that the government needs to pay attention to facilitate the minority to play its basic role to oppose and find out weaknesses as well as the misdeeds of government and thereby claim for forming a substitute government. The opposition, by trying to be persuasive

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\* Even upon the request of Prime Minister Bhattarai the king refused to read out the preamble of the newly drafted constitution rather he read out a piece of note which he took out from the pocket of his coat.

and corrective to the incumbent government, advocates for coming into power by its separate programmes and policies that would lead the country to more effective governance than the incumbent ruling party/s.

The twelve years of multi-party parliamentary rule in Nepal witnessed frequent contests of the uninspiring power games by the party leaders and representatives. For that reason the political actors known to be the champion of democratic order primarily rallied behind the concepts of "tyranny of majority" with a formula of "winners take all" government official positions as well as the anarchic behaviours of the opposition party in the name of right to oppose. Thus, their politics basically relied on such a notion that heed no care largely to any accommodative principle for power sharing with other groups that had already proved their eminence in the country.<sup>192</sup>

The Nepali Congress that secured comfortable majority in the first parliamentary elections could have shown magnanimity by paying due attention to the grievances of opposition. As the UML had played a role of major partner in the popular movement of 1990, the principal co-author of the democratic constitution and also the co-actor in the interim cabinet that conducted the first parliamentary elections together, its role for democratisation process remains crucial. Hence, the Congress government was anticipated to listen to the grievances of opposition. The UML on the other also had failed to understand its vital role of alerting the government of committing mistakes. Moreover, it also did not show any interest in following the rule of the electoral game that the party that secured the ruling majority must be allowed to pursue its way. The aberration more adversely began from its lack of confidence of the resolution of political problems that could be sought from the parliament rather than from the street. Over the period of all three parliaments the experience shows that it is the power centric conflicts between the ruling and opposition parties that led to the evolution of disharmony in their relationships.

As a direct fall out of above reason including the intra-party wrangling the first elected government of Nepali Congress could not last more than three and half years. Thus, the tenure of the elected government was recorded turbulent. This was largely because of Prime Minister Koirala's anti-communist posture.<sup>193</sup> During the period the main opposition, CPN UML simultaneously stormed the house and street with a

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<sup>192</sup> Prakash Chandra Lohani, "Emerging Disaster: Distressing Contemplation", *The Himalayan Times*, December 15, 2005.

<sup>193</sup> See, Krishna Prasad Khanal, "Party, Politics and Governance in Nepal: The Role of Leadership", in Dhruva Kumar, ed., *Op. cit*, p. 64.

slogan *Sadak dekhi Sadan shamma* (protest from street to Parliament) on various occasions. The protests of main opposition took place sometime in support of the demand of salary raise by the government officials and some times in opposition to the controversial issues of the agreement of construction of Tanakpur Dam as well as about the funding arrangements of Arun III Hydro Power Project.

Moreover, Prime Minister Koirala's irrepressible lone drive of marching ahead in the process of governance as well as the sacking of eight senior Ministers from the Cabinet weakened his own efforts to govern. His tendency of taking crucial decisions without taking into confidence of the senior party leaders had deteriorated the continuity of his government.

It could this be said that ignoring Ganesh Man Singh, the Supreme Leader of Popular Movement of 1990, and Krishna Prasad Bhattarai, then Nepali Congress President in the process of governance of the country. Koirala had had contributed the process of institutionalised opposition within the party. And, on the other hand, his anti-Communist stance and inflexible behavior then created hostility among the main opposition against his regime. Koirala's moves without paying much attention to his own party's senior leaders and his anti-Communist posture led his adversaries from within and without the ruling Nepali Congress to evolve a nexus for his early ouster from power. Prior to this the UML in the early days of Koirala Government had assured the senior leaders of his own Nepali Congress Party against him. In this connection the main opposition promised with the Congress leaderships that they would not create any hurdle to the ruling party to run the government for full five years term if it will change the governmental leadership<sup>194</sup>.

The main opposition became furious when its charismatic leader Madan Bhandari was killed in a jeep-accident to which it allegedly categorised it as a result of government plot. Having such a suspicion the UML stormed the parliament and the street and led the halting of the business of the house and disturbed the peaceful flow in the streets of the capital city as well.

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<sup>194</sup> Beni Bahadur Karki, "*Sansdiya Gatibidhi Ko Bartman Pariprechchhya: Ek Charcha*" [Present Context of Parliamentary Practices: An Illustration (in Nepali)], **Contemporary Legal, Political and Parliamentary Problems**, Kathmandu: Society for Constitutional and Parliamentary exercises (SCOPE), Vol. 2, 1994, p. 4.

The situation worsened in the third parliament when the frequent adjournment of the winter session of the parliament on the alleged charge against the Prime Minister of the corruption in the Lauda Air deal became the order of the day even for the consecutive second month. All the opposition but one united for the demand of Prime Minister Koirala's resignation on the unfair dealing of the leasing of a wide-body aircraft from a foreign company in a step to fulfill the requirement of the national airlines. To get their demand fulfilled the opposition started to boycott the session of the parliament continuously even though the Prime Minister wanted to make his position clear about the issue<sup>195</sup>. In addition to this the government's position was weakened due to the non-cooperation of a section of ruling party MPs were critical to PM Koirala and aspired his removal as well. As such, the opposition UML had been able to make tacit understanding with the estranged ruling party MPs for the removal of Koirala government remaining in power.

#### **5.1.4 Dialectics between Monarchy and Parliamentary Parties**

Till April 2006, monarchy remained the centre of Nepalese government and politics but remained as the authoritarian factor in Nepal which was assumed by the kings of Shah dynasty since over a period of around two and half centuries ago. Such an autocratic rule began with the moment when Nepal emerged as a national entity. This eventually appeared since 1768, as a result of the military adventurism overridden by the expansionist design of King Prithivinarayan Shah of the centrally located tiny Gorkha principality. Prior to this, the area that falls under the present Nepal was full of fragmented small princedoms as separate but tiny state entities. King Prithivinarayan known for expansion of his tiny princedom of the nearby principalities by annexation and assimilation and also for his war tactics which he launched against almost all principalities surrounding central Nepal as well as its nearby areas including the relatively prosperous Kathmandu, Bhaktapur and Patan kingdoms, had by default led to the process of unification of the country.

Nevertheless, the successive Shah Kings thereafter ascended the Nepalese throne with a weak command over the rule of the country largely resulting into the power rivalries seen in the court politics. As an outcome of the happenings of violent conspiracies, the Ranas emerged as the *de facto* ruler whereas status of the successive kings remained as *de jure* power centre.

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<sup>195</sup> See, *The Kathmandu Post*, March 13, 2001.

The authoritarian Rana rule continued till the early days of the year 1950 succeeded by the popular revolution launched to end autocratic family rule. It was only after the beginning of the anti - Rana movement that the people of Nepal got an opportunity to learn about the concept of liberal democratic governmental system. The democratic forces basically spearheaded by the Nepali Congress Party launched the revolution for introducing democratic order against the despotic family rule of the Ranas that denied basic rights and freedom to the people throughout their family rule for 104 years, till their regime lasted. As a consequence of the popular notion of installing democracy in the country, the Ranas, king and the Nepali Congress entered into the tripartite agreement, known as Delhi Compromise brokered by the Indian Prime Minister, Jawaharlal Nehru, in Feb. 1951.

The essence of Delhi Compromise was basically a set of guidelines to adopt a Westminster model of multi-party representative democracy with constitutional monarchy as the future course of politics and government of the country. This whole process was presumably thought to be adopted through the mechanism of democratic constitution prepared by the constituent assembly elected by the people. This had led to King Tribhuvan's return to Kathmandu who had fled from the country and taken refuge in India in discontentment with the Rana's command over the affairs of the country and the royal palace as well. The democratic forces mainly the Nepali Congress Party then were optimistic that the King would abide by the tripartite compromise that worked out as the formula to determine country's politics and government as the replacement of the Rana rule.

The decade of 1940s is considered the dawn of anti -Rana movement that for the first time made the people to experience party's emergence in Nepal. The political parties in conformity with modern liberal and democratic approach initiated to make the matters of politics and the activities relating to it as an issue of active public interest/ concern. Several political parties were formed mainly to dislodge the suppressive Rana rule and to establish democratic order in the country. But, the things' regarding the democratic innovation in Nepal has not been proved a cakewalk. However, it has been found that the crux of the problem of Nepalese politics and government were fundamentally concentrated on the issue of power sharing between the king as traditional power centre and the political parties representing people as the modern force in the governance of the country. Such a problem of power sharing between the traditional and modern forces of Nepal persisted since the Delhi Compromise. It is because, the Delhi Compromise by the succeeding regimes (except the phases when

the multi-party parliamentary polity with constitutional backups was in practice 1959-60 and 1990- 2002), are merely taken as efforts relating to the restoration of king's lost power of the head of Nepalese governance system. However, the regimes forgot the basic essence of the anti- Rana movement and the Delhi Compromise of promoting the modern form of liberal political arrangements of bestowing power to the people for ruling the country through party representatives in an institutionlised manner.

However, to make the governance representative as envisaged by the Interim Constitution (1951) party governments with some formal legitimate legislative mechanism were constituted. Since the last quarter of 1951 to the first quarter of the year 1958/9 three Advisory Councils were installed to act more or less as the legislature of the country. Two of them were constituted by king Tribhuvan and the last one by king Mahendra. With a provision of making it function/ operate in the parliamentary way the Advisory Councils were constituted basically by nomination. The power, authority and the number of members of those Councils were varied on each occasion. The first Council had almost the similar power like a parliament whereas the two Councils constituted later had lesser power and authority.<sup>196</sup> Due to frequent changes of the governments these advisory councils always found to be short lived and could not function as anticipated.

Over the time, the pronounced democratic order was put into lurch through concentrating power in monarchy itself by the kings in succession against the spirit of Delhi Compromise. The contemporary political history of Nepal shows that the process of accumulating state power initiated by King Tribhuvan had been more conspicuously carried over by his son King Mahendra (1960) and his second grandson King Gyanendra to the dismay of spirit of constitutional monarchy. In this process, King Birendra also did not lag behind to grab the occasions to confuse the political scenario and weaken the parliamentary process in an implicit way unlike both of his immediate predecessor and successor. Contrary to this the psyche of educated Nepali people since the post world war II period tended to strive for the installation of multi-party parliamentary democracy in the country.

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<sup>196</sup> Tri-Ratna Manandhar and Niranjana Sharma, **Adhunik Nepal ko Rajnitik Itihas** [Political History of Modern Nepal (in Nepali)], Kathmandu: Centre for Nepal and Asian Studies (CNAS), T.U., 2053 B. S. (1996/7), pp. 16-18, 32-33 and 66-68.



However, with the political change of 1950, two contradictory things happened at the same time in the power circle of Nepal. On the one hand, monarchy in Nepal was euphoric with the restoration of its traditional power thereby eager to reestablish its ruling primacy. On the other, the political parties were looking for introducing democratic governance in the country with popular verdict and the assertion of the popular will. With such a state of minds the happenings then illustrated that the Royal unwillingness foiled the efforts initiated for the sharing of power with the people, the manifestation of 1950 movement called popular revolution. For that reason the political parties could not pay attention in democratising the political system with sincere undertakings. The royal unwillingness to allow the process of institutionalising democratic process prolonged it to happen even in the later part of country's political history.

The successive kings, in the post 1950 Nepal, were found interested only in maneuvering to make verbal commitments but in reality they were found hesitant to put their sincere efforts and always found eager to put democracy at bay. Following illustrations surmise some glaring examples of foregoing presumptions.\*

- ◆ King Tribhuvan, through promulgating a Special Circumstances Act, 1952 suspended some of the important clauses of the spirit of the popular demand of democracy which 1950 revolution had accomplished. In order to establish monarchical primacy with retaining absolute authority in the affairs of governance the king reduced the executive power of Cabinet against the concept of "King-in-Council".
- ◆ Similarly, King Mahendra, immediately after the accession to the throne, introduced his "direct rule". Such a direct rule was considered extra-constitutional step that basically was taken to consolidate the process of accumulating state power it began from the period of his father King Tribhuvan. Whereas, during the initial phase of his tenure he through introducing parliamentary constitution in 1959 allowed first general elections for the Lower House of Parliament. Nevertheless, he did not lag behind in incorporating the provisions that promote the preeminence of the monarchy and bestowed on him such prerogative powers that could override even

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\* Such a presumption is made on the basis of historical accounts relating to the political developments that affected the consolidation of democracy in Nepal.

parliamentary legislation as well as the cabinet decisions. Such arrangements showed that the king was not in a mood to compromise and share his position relating to role and power with any institution elected and represented by the people in whatsoever form. This was more or less confirmed by his action of dismissing the representative government and the dissolution of elected parliament without any reason for public interest or dislike. Thereafter the monolithic government system he introduced with a view to establish his reign in the country with monarchical primacy. And the political parties championing for multi-party parliamentary system were victimized. Such dialectics continued till he was alive (1972).

- ◆ Such monarchical misgivings against democracy continued even during the beginning of King Gyanendra's reign when he merely over a year after his accession to the throne (June 2001), i.e., on October 4, 2002 dismissed the elected parliamentary government against the values of democratic constitution that clearly envisioned for constitutional monarchy. In order to go ahead with his aspiration of playing *constructive role*, which he frequently mentioned after his accession to the throne, in the governance of the country irrespective of the constitutional spirit his actual behaviours contravened his own commitment. As a proof he started applying his ambition of seeking role in the part of governance of the country, he thereafter started to install governments of his own choice. This, however, was not proved to be the final step taken against the growth of parliamentary democracy in Nepal because King Gyanendra again took similar step making his intention clear of regaining the state power that was cut short by the Constitution of 1991, to be at the helms of government. Within a span of less than twenty-eight months of his first takeover the February 1, 2005 act was the second one. Moreover, after the final takeover the casualties were not only the multi party parliamentary system and democratic constitution itself but also the provision of political parties and civil liberties as the traits of a democracy and against its ardent supporters.
- ◆ The regime of King Gyanendra undermined the political parties and their leaders basically for their messy politics and for that reason gave impression that they are not qualified to be taken into confidence when vital decisions on national polity are being made. They were also not liable to be taken into account for determining peace or reconciliation disturbed by the revolt of CPN-Maoist in the country.<sup>197</sup> The country's politics transformed from triangular to binary conflict situation, this lasted in the form of the parties

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<sup>197</sup> See, Krishna Chandra Nepali, "Athar Bude Agragaman Ra Bahra Bude Sahamati"[Eighteen Points Progressive Understanding and Twelve Points Agreement (in Nepali)], *Deshantar Saptahik*, December 4, 2005.

including the Maoists vs. the king, previously that was happening all against all.

It can, therefore, be concluded that the democratic movement that began in the 1940s has passed through rough weathers with many ups and downs and thus could not grow to sustain institutionalised democracy that could sail smoothly in the political arena of the country. For that reason Nepal has to undergo several rounds of political movements in various forms in different phases. Even though at this juncture of twenty-first century an irony still persists that the people have to continue effort for institutionalising multi party parliamentary democracy in Nepal.

The presumption made above has been reinforced by the steps taken since October 4, 2002 and more by the activities conducted after the February 1, 2005. Such actions have amply demonstrated that King Gyanendra had shown rare faith on the spirit of the Constitutional Monarchy as envisaged by the Constitution of the Kingdom Of Nepal, 1990. Hence, it is no wonder to find that King Gyanendra in the post - October 2002 phase had particularly deleted the utterance of the term constitutional monarchy and parliamentary system in his public addresses even while referring to his unflinching faith on the multi-party democracy.<sup>198</sup> While analysing King Gyanendra's approach towards the liberal form of democracy adopted by the country after the success of historic popular movement of 1990 the omission of the terms 'constitutional monarchy' and 'parliamentary system' seemed quite deliberate and was mainly intended to detract people from the issue of power sharing in the political governance of the country. It must be because he never forgot to assure national and international forces that he was not against the multi-party democracy to which he did not lag behind to make verbal expression of his faith towards it. But, one need to pay attention to the intent rather than the content and for that reason king's post-October 2002 behaviour (including his predecessors since the post – 1950 phase) could be identified as detrimental to the growth of democracy in Nepal. Similarly, unlike his utterance his reign has been found incompatible because his version regarding multi party democracy remained very much different from his action relating to parliamentary democracy. Nevertheless, the urge for individual freedom and democracy, among the people which they have enjoyed and exercised for over a decade made the *Jan Andolan II* in April 2006 inevitable and successful.

This could be analysed keeping in view of the allegation made by the mainstream political parties against the king who persuaded Prime Minister Deuba to initiate dissolution of the

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<sup>198</sup> In his address to the programme organised in his (civic) honour by the people of Far Western Development Region in Nepalgunj conducted after the Royal takeover of February 1, 2005.

House of Representatives for a fresh mandate<sup>199</sup> on the issue of non-cooperation both from the party rank and file and parliament in extending the period of emergency<sup>200</sup> in the year 2002. Such a presumption is felt near to reality keeping in view Deuba's utterance for opting to pursue in line with the king's wishes<sup>201</sup> while he was in need of support to save his government.

The King allegedly succeeded in subverting the act of dissolution of the House of Representatives and the process of constitutional amendment being initiated for introducing the system of ceremonial monarchy as agreed by the parliamentary parties and the Maoists for peace building.<sup>202</sup> After the dissolution of the Lower House Prime Minister Deuba also was convinced with the assumption that the Nepali Congress from where he made a split and formed the NC-D would not be able to endanger the survival of his government. However, Deuba's assumption proved fallacious because the king unceremoniously kicked him out and his government with the dissolution of the HOR in 2002. Deuba tried his best to make the king abide by the spirit of constitutional monarchy which he failed and found him incompatible with the principles of parliamentary democracy and constitutional monarchy "by nature, by temperament and by character"<sup>203</sup>.

The parliamentary forces basically the NC and UML began staging protests against the arbitrary dismissal of elected government which they called the beginning of the regression against the hard earned democracy. For that reason, nevertheless, the political circle especially of the Nepali Congress accused Deuba of falling into king's trap and led the country to face such consequences. Such allegations have so far not

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<sup>199</sup> Mentioned in B. C. Upreti, **Nepal: Democracy at Cross Road; Post 1990 Dynamics, Issues and Challenge**, New Delhi: Kanishka Publishers Distributors, 2007, p. 146.

<sup>200</sup> A rift between the Prime Minister and the President of Ruling Nepali Congress Party occurred wherein the former wanted the extension of emergency period but the latter disagreed for that. See, Jayaprakash Ananda, **Akhatiyarko Thuna: Mero Samjhana**, {My Memoirs: In the Custody of Central Investigation of Abuse of Authority [CIAA], (in Nepali)}, Kathmandu: Madheshi anavadhikar Sanrakshan Kendra, 2060 B. S. (2003/4), pp. 67-68.

<sup>201</sup> *Ibid.*

<sup>202</sup> Such a version was also confirmed to this- researcher when asked (in June 2005) in an one-to-one interview to comment on the episode some of the leaders of NC and UML who happens to be the former MPs in the Lower House of the last Parliament about the reason of then PM Deuba to dissolve the Parliament abruptly.

<sup>203</sup> *Daman Garna Hatiyar Diyeko Hoina* (Weapons have not given to Suppress) Interview with Sher Bahadur Deuba, the former PM, in Nepali, *Nepal Saptahik* (Magzine), Baisakha 17, 2063 B. S.(December 31, 2006).

been refuted by Deuba who had been unceremoniously stripped off and ousted from power later by the same king within a span of nearly in 28 months.

It is to ponder that the issue of dissolution of parliament was expedited very swiftly only to prevent it from introducing and deciding on any proposal for constitutional amendment as reported in a local weekly which clearly specified that most of the parties in parliament consisting of above two-third majority were all in agreement with the CPN-Maoist to resolve the crisis peacefully<sup>204</sup>. With the passing of resolution of said constitutional amendment in the parliament the parliamentary parties were working to incorporate the agreed points in the existing Constitution and thereby pave way for making the Maoists to join political mainstream of the country. And, in response to this, the Maoists leaderships had showed readiness to drop their prime demand of drafting new constitution through the elected constituent assembly. But, due to early dissolution of parliament all understanding reached was abandoned. However, in the later phase the five political parties agitating against the king's effort of subverting parliamentary and constitutional process of the country came up with a common formula to check his autocratic behavior - presumably regarded against the spirit of democratic system. In order to reinvigorate such understanding the group of five agitating parties was joined by NC-D and CPN-UML. They jointly agreed on 18 - Points Forward Moving Understanding which specifically mentioned about provisions in making monarchy ceremonial in the real sense for the sake of strengthening the multi-party parliamentary democracy in the country. Some among the "18 - Point Understanding"<sup>205</sup> (Appendix I) are given below to explicate the points made in this thesis.

- ◆ The title of 'Majesty' should be conferred only to the King, Queen and Crown Prince.
- ◆ The Royal Nepal Army should be entirely placed under the control of Parliament.
- ◆ The provision for State Council should be revoked.
- ◆ King should not have any discretionary power.
- ◆ The administration of the royal palace should also be taken care by the concerned ministry.

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<sup>204</sup> The Members of Parliament of the NC and CPN-UML at that time altogether commanded the two-third majority of the Parliament required for the constitutional amendment.

<sup>205</sup> See, Krishna Chandra Nepali, *Op. cit.*

- ◆ King's property should be made public.

In this backdrop, the issues of restoration of the 1990 - achievements and social transformation come to fore and as a result of this they even apprehended that the country could not be governed by following similar practices they had pursued in the past. As per such overtures, the slogan for inclusive democracy, full democracy etc. came to the fore as a means of attracting people in their cause.

Contrary to this, the attempts were made for imposing right extremism made by some of the old guards of Panchayat polity - the palace led previous non-party stalwarts often been accused of having regressive motives against democratic transition of 1990. Such people are being allegedly inspiring and instigating the king to have direct control over the rule of country. For that reason the democratic forces including the mainstream political parties were jointly working against king's design of assuming the role of active ruler as the mainstream political parties are allegedly labeling him. As a matter of fact, the parliamentary system has been endangered by the successive acts of assuming the executive power by King Gyanendra. Since the arbitrary dismissal of Deuba government the king was accused of going ahead of his roadmap of accumulating power by taking advantages of the alarming security system of the country because of the Maoist insurgency as well as of the weakened position of political parties. By the time the king started to go ahead with a new course of taking actions on his own even overlooking the principle of constitutional monarchy and multi-party democracy. This was further aggravated with the indifferent attitude and incompatible behaviour shown by the king towards the democratic consolidation in the country.

The offer to the leaders of political parties of the king's choice to form the government was surprisingly welcomed by the UML mainly to embarrass the Nepali Congress leaders reportedly in retaliation for not proposing General Secretary, Madhav Kumar Nepal, as a candidate proposed by five agitating parties for the post of Prime Ministership. This led the UML to agree to join the Deuba government by abandoning the anti-regression movement launched against the king's arbitrary action. Including the installing of two previous governments this shows that the king preferred to choose handpicked governments instead of party government as envisaged by the constitution of 1991. The agitating parties had spelt out king's behaviour as a step instrumental in derailing democratic and constitutional process of the country. In their opinion the royal step created a political vacuum at this juncture of history when the elected House of Parliament was non-existent. With all above

accounts the struggle for parliamentary democracy continued in Nepal even at this juncture of the beginning of 21<sup>st</sup> century.

To the common people of Nepal the effort for transformation to multi-party parliamentary democracy in 1990 marked not only political change but also the beginning of an end of the exploitation and injustice from the society that had largely been governed under the paradigm of feudalism. Similarly, the political change that took thereafter had been taken as the culmination of functioning of a popular form of political order in which people would be made the basis of governance. However, things did not happen as the people in the euphoric moments of restoration of democracy aspired. It was because a kind of personal and partisan politics for power and privilege plagued the ranks and file of the principal political parties that accordingly had made them far from sincerely fostering people centred programmes. As a consequence the Nepali people found themselves being inaccessible to their representative party leaders to the extent that such opportunities were weakening democracy on the one hand by the ultra-leftist forces like the Maoists in favour of going for monolithic campaign for communism and by the traditional Royalist group revived the previous palace-led governance in the country, on the other. Since then the people in Nepal have been caught in the political movement aiming at the full-blown democracy or any kind of orthodox model of dictatorship (palace controlled non-party or one-party [Maoist] governed) in the country. In other words, the people of Nepal are between devil and the deep sea.

Irrespective of all above aberrations that took place over the span of parliamentary years some positive sign of the evolution of democracy could be seen successfully being practiced the basic of democracy like holding of elections regularly at the stipulated time as well as pursuing the values of peaceful transfer of power. Within the span of twelve years of democratic restoration, Nepal had successfully undergone three general elections and the process of making and unmaking of various forms of parliamentary governments operating within the bonds of democratic constitution. On each of such occasions transfer of power took place within the constitutional parameter. Whereas, King Gyanendra's extra-constitutional action taken on Oct. 4, 2002 had contributed to the governmental practices incompatible to democratic growth in the political process of the country. In fact, such an action raised constitutional question for the sustainability of the multi-party parliamentary system. The king, wherein, utilised the situation by adopting a strategy of misguided interpretation of article 127 of the Constitution in an effort to reinstate the royal primacy against the principles of parliamentary form of polity as well as the constitutional monarchy. Such a step of grabbing the opportunity had further endangered democratic future of Nepal and thereby

blocked the process of its institutionalisation. The probability of the restoration of derailed political process was categorically ended by the statement made by Dr. Tulshi Giri, then Vice-Chairman of the government installed after February 1, 2005 headed by the king. Contrary to the spirit of Parliamentary Democracy and the Constitutional Monarchy his expression of labeling the Constitution, 1990 as the stumbling block to the wishes of King Gyanendra wherein he laid stress on applying for a kind of democratic system that should be under the monarchy<sup>206</sup>.

In order to address such a bleak scenario Baral suggests a corrective measure that explains following matters.

While analysing the events one would find that the political parties are mostly undergoing a practice without ideological commitment to democracy and norms required for it. With such political designs, the parliamentary parties pursued knowingly or unknowingly the whole exercise for parliamentary democracy proved anomalous and the practice irrelevant for much avowed task of democratisation. Taking into account of such points, the political problems the country has been facing basically haunted by the causes originated from the party's view point of limited objective of establishing democratic system and the promulgation of Constitution suitable to it accordingly. It is because of lack of attentiveness the behavior of political parties demonstrates a sharp gap between "constitutional spirit and the actual practice". Notwithstanding of the other reasons the pervasive "individualistic culture and behaviour" that the politicians and party leaders demonstrated in the following years of 1990 when parliamentary democracy was in practice including the impacts of exclusive "legalistic interpretation of the Constitution and its resultant aberrations"<sup>207</sup> and their mechanized operation undermining to paying adequate attention to the values the system bears.

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<sup>206</sup> Harihar Birahi, "Atitako Ainama Aajako Anuhar" [To day's Appearance in the Past Mirror, (in Nepali)], *Himal Khabar Patrika*, October 2 -November 1, 2005, p. 43.

Lok Raj Baral, "Nepal: Problems of Constitutional Transition", *Essays on Constitutional Law*, Vol. 26, November-December 1997/ January 1998, Nepal Law Society, Kathmandu, p. 53.



# CHAPTER - VI

## CONCLUSION

### 6.1 Summary of the Study

By concept there are various terms that have been used to put institutionalization into broad perspective. However, all indicate almost the same theme of continuity of the process with stability, regularity, fixed pattern and structured behavior/ conduct (operation/ functioning) of any system that bears values and help as a means to progress the purpose to which the system is designed for. In this respect we can find that the scholars articulate various versions about it. To Huntington, it is practicing of a “process” that helps “organisation or procedures acquire value and stability” of the process being pursued. To Kingsley Davis, it leads to an organised system of behaviour that includes both behaviours and norms practiced for the common usefulness in an organised society. Similarly, Hurton and Hunt referred it to the entrenchment of certain norms that assign with the behaviour to attain "common values" with the "common procedures" to operate by pursuing the "standardized behavioural patterns" to attain common good of the society. To Degnibol-Martinussen, it encompasses the meaning of "institutional patterns or arrangements" that include "formal arrangements and informal norms, customs, conventions and standard operating practices" for the "broader institutional arrangements" to operate a society. To Philip Selznick, it is "to infuse with value” about the operating conditions and procedures to follow. To Uphoff, institution building is basically related to the "introduction to establishment of organisation" that on its part "induce changes" with the "belief and action within a society". To Robert E. Goodin and Hans-Dieter Klingemann, it specifies “rule of the game” and determines the behaviour directly related with the organisation and its members’. In principle it does not allow any organ or any official to behave in a "taken for granted" manner and always expects them for following the set of "standard operating procedures", which are "... agreed upon and hitherto followed by the agents involved". Apart from the key defining words mentioned above there are many concepts so on and so forth to delve with institutionlisation with nearly the same theme. Relating to it, Nepal’s challenge to democratic sustainability required to be addressed by the political practitioners, parties, leaders and other concerned unlike in the past and thus have to ponder on the conceptual matters of institutionalisation as mentioned above and develop natural habit of behaving accordingly.

Keeping in view the institutionalisation process of multi party parliamentary democracy it is pertinent to take into account the version of Copeland and Patterson's bid to conceptualise the understanding of parliament who pointed out that it is "...a group of individuals operating on behalf of other in a binding and legitimate manner and taking decisions collectively but with formal equality". To them, in other words, such a form of governmental system decides and acts on behalf of the overall electorates, the constituents – the people with lawful rights to elect their representatives for formulating laws on their behalf - as their legitimate representatives for their own purposes in continuity. However, Nepal since the reintroduction of democracy till the Royal take-over of October 2002 the making and unmaking of subsequent governments occurred more or less through parliamentary steps taken within the framework of constitutional norms. But, in essence, the case of Nepal in the aftermath of democratic restoration of 1990 represents a derailed process on occasions in pursuing the values and spirit of parliamentary democracy, which for that reason disallows the institutionalization of the system by practice.

The success of 1990 movement led the politics of the country towards a new development pursuant to institutionalization of democratic polity. The dismantling of non-party monolithic Panchayat System and the all level political institutions created for its functioning, dissolution of then King controlled government, lifting ban on political parties as well as the formation of interim government and the constitution drafting committee on the choice of popular forces could be seen as the beginning of the institutionalisation of democracy in Nepal. In the succeeding year of 1991 democratic constitution was promulgated that clearly spelt out to advance ahead with the multiparty nature of political system with the parliamentary form and the constitutional monarchy including the format of constitutional supremacy as a mixed prototype of British and Indian models. In the successive political developments, it was also experienced that the necessary components, regulations, processes and infrastructures for the establishment of multi party parliamentary democracy had been evolved to begin with parliamentary practices of governance in the country.

By the time of the formal evolving of state machineries, apparatuses and governance system of democratic nature, the efforts looked sailing smooth. However, in the later part when their actual implementation and operation began, indifference towards following them in the yardstick of following universal norms and values had been noticed occasionally that adversely affected the process of institutionalization of the

system. Similarly, the leaders known as freedom fighters had become self centered and corrupt. Such a behaviour demonstrated by the political leaders becomes stumbling blocks in the process of institutionalisation of the democratic polity that Nepalese people were aspiring from over half a century of country's democratic awakening. For that reason it is imperative to understand the reasons of matters that did not work during the period. This necessitates putting the concept of institutionalisation into perspective to understand the process of political institutionalisation of multi party parliamentary democracy in Nepal. The concept of institutionalisation as envisaged by the sociologists like Hurton and Hunt seem pertinent to mention here. According to them "Institutionalisation involves the replacement of spontaneous or experimental behaviour with behaviour which is expected, patterned, regular, and predictable". Such an idea has rarely been pursued for the sustainability of newly introduced parliamentary democracy in Nepal. The democratic system becomes the victim of the unpredictable behaviour and actions taken contrary to popular expectation. As a result, the parliamentary democracy could not deepen its root in the politics of the country. By and large it could not win the confidence of the common people of being instrumental to influence the society in a positive manner.

## **6.2 Conclusion**

By February 1<sup>st</sup> 2005, Nepal in its political history found itself at a turning point that it could not hold its aspiration of institutionalising democracy. In this connection retaining of constitutional monarchy side by side with multi-party parliamentary democracy became a crosscutting issue. The mindset of the leaders known for their endeavours in the past democratic struggle against the autocratic rule of the monarchy was always found interested in retaining kingship but in the form of constitutional monarchy. However this was not realized\*. Lack of commitment to allowing the process of democratic governance, the tricks played by the king and its repeated ventures to undermine the democratic system and its diehard supporters – mainly the main political parties and their leaders, basically contributed in spoiling their achievements of restoring democratic practices and democratic institutions. Such tendencies made it to act against the reputation of the political leaders and their parties

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\* It is not only the act of unconstitutional dismissal of elected government but also the curtailing of civil liberties to protest and curbing the political parties to operate staging peaceful demonstration against installing handpicked government of its choice putting parliamentary practices at bay in this regard.

as well. Such acts were followed by king's intention to protect the interest of old guards of the dismantled Panchayat System - loyal to palace led autocracy. Such an initiative and its unauthorised intervention in Nepal occurred again and again. For that reason the political leaders who struggled for the reinstatement of multi party Parliamentary Democracy in Nepal had been found haunted by the fear psychosis of the danger to its lasting existence from the unconstitutional takeover since the early hours of democratic restoration of 1990. This has yet been found among them even at this phase and may continue even in future.

In the modern governance system, democracy gets wider applause for the reason it develops and functions on the choice of majority. Similarly, democratization provides a basis of availing wider opportunities to all. And, its lasting momentum depends on the general public support that provides it required legitimacy to function effectively in a form of widely accepted political order. Growth of such a political order as the form of a system helps it to institutionalize the practices and institutions evolved for its regularized functioning in a gradual process. Such a process of institutionalized growth helps the parliamentary system to take a deep root to function in a sustainable manner.

Nepal's drive towards democracy could be seen with the resemblance of the phases of country's nation building process as initiated for the wellbeing of the majority of the people. Upon this reality, the untiring struggle of the political leaders led the reinstatement of multi party parliamentary democracy, which was achieved with numerous sacrifices in the year 1990. But because of the anomalies mentioned earlier seen in the form of politics of factionalism, egoism, disharmony, intolerance among the leaders had put them in difficulty to work together for which they had commonly suffered for the best part of their lives. The aberrations had been surfaced in such a way that it vitiated the atmosphere of inter and intra party relationships affecting their mutual understanding, harmony and unity for democracy about which they were identical. Such behaviours also affected their public image to tarnish among the people, who have had enough trust and confidence on them to act as their liberator.

Such anomalies were considered responsible to create an illusion among the critics, who openly urged the king to initiate for the Royal takeover and called it necessary for saving the country from the political disaster. On the part of the political parties, who on the presumption that the king still remained a power centre, also did not lag behind to seek support of royal

palace. In this connection even the leaders of main political parties, who tirelessly dedicated their lives for democratic movement also made occasional endeavours to woo the monarch and seek favour for gaining political mileage as pursuing the ways for political expediency to rise to power. Taking advantage of such weaknesses of the political parties and their leaders, the royal palace as the traditional force – protecting the interests of its kinsmen and diehard followers - had also started to challenge the authority of Parliament – the symbol of modern political institution representing the people - through bypassing it in several occasions. Side by side the intolerance and disharmony demonstrated by the political leaders among themselves took almost a tendency of rivalry and thus disallowed a minimum level of working relationships in the multi-party parliamentary democracy. While viewing into such anomalies some of the intellectuals opined that if the situation remained same, the possibility of Nepal's statecraft may not last and its control over its jurisdiction may be lost as of a failed state. In order to avert such a situation there is a need to institutionalize the parliamentary institutions with the practices required for it.

The post 1990 democratic restoration phase was marred by the gravity of leaders' behaviours using political clouts focusing on extracting profit out of discharging duties. With such a tendency, the political leaders' drive seemed confined to secure power, position basically meant for gold and glory. This had led to no less negative impact on the general people to the extent of defaming their reputation of the champions of democracy in the country. Such a tendency of political parties and their leaders made them to go for a traditional thinking of majority rule followed with a concept of winners take all. By pursuing such a thinking in the field of governance the leaders neglected accommodating and responding to the interests of Nepal, the citizenry composed of tremendous diversity of human settlement and living with varied cast, creed, ethnicity, lingual and religious groups as well as of varied geographical settings remained dominated by a section of caste group. Till the phase of 2002 the elected governments had been accused of not paying adequate attention to the interests of the people of weaker section, basically the interests of minority groups and weaker sections of the society.

It is also to keep in mind that since the democratic change of 1990, the political context of the system had been disturbed by the anomalous behaviours of the power centres like the King, political leaders and the institutions they represented. From then onward the country has constantly been facing the challenge of its continued practices for its institutional growth.

Nepal since the beginning of its national history is facing the unresolved issue of power sharing among the political actors; king, ruling aristocracies, people represented by the political parties, dissident rebels/ insurgents, etc. But ever since the restoration of parliamentary democracy the unresolved issue of power sharing persists with the groups underrepresented or represented at all. Now, the situation has turned to the beginning of violent ethnic movement in *terai* – the area underrepresented to the proportion of their size, ratio and economic potentiality/ viability. In order to take advantage of discontentment among the *terain* population, recently, in some of the cases the voices of cessation has been advocated by some of the armed political outfits of the region.

The development that took place in this regard has made the people feel an urgency of making the governance process of the country adequately inclusive. For this reason there is a need to comply with the concept of thinking in line with Copeland and Patterson relating to the effective and regularized functioning of parliament “.... a group of individuals operating on behalf of others in a binding and legitimate manner and taking decisions collectively but with formal equality”. Including other aspects this version could be taken in a way that suggests and demands inclusion of all including the minority groups in the field of governance of the country and make possible of their representation and facilitate it to grow as a “common enterprise” as well not as an element of concern of limited number of people only. It is for that reason number of measures like reservation for representation in proportion to the size of the groups, recruitment, mandatory provisions for representing fixed number at minimum for participation as well as to restructure the state so as to create federating units for addressing the issues of ethnic, geographical and other neglected sector’s participation in the field of politics and governance.

Such arrangements have finally been introduced to a level of culmination point with inclusion and ensuring the growth of multi-party democracy the Interim Constitution of 2006, declarations of the reinstated parliament and the interim parliament called Legislature-Parliament constituted for interim period before the making of new Constitution by the elected Constituent Assembly have introduced such provisions of restructuring of state for forward-moving (*Aagra-gaman*). While moving towards this direction, the reinstated parliament was able to clip King’s executive as well as legislative authorities granted by the Constitution of 1990 in the form of allowing the

king to play only the role of constitutional monarchy. Together with the common pledge made by all the mainstream political parties to go for democratic constitution making through the popularly elected Constituent Assembly (Appendix II), such moves could be taken as the process of institutionalising the multi-party parliamentary democracy. It is to notice that what have been decided or incorporated as the fundamental principles of Nepal's governance in the years of recent changes may prove a milestone because these decisions (all Appendices) on the demands taken as the bottom-line for incorporating and facilitating the move with added intensity to make democracy more popular and institutionalized. Once the framing of constitution begins by the elected Constituent Assembly as the mandate given by the *Jan Andolan II*, the institutionalization process of democracy will take a course of forward moving. This will not only serve as a means to protect the gains of 1990 political change but also provide a basis for the institutionalization process of democracy in an intensive way.

The *Jan Andolan II* marked the beginning of the end of King's role in the governance - directly or indirectly. It, basically, nullified king's direct rule that demonstrated a tendency of imposing arbitrary rule against the spirit of constitutional monarchy and the parliamentary polity since Oct. 4, 2002. The 2006 movement helped to initiate Nepal's transition toward democracy and opened a threshold for wider spectrum of opportunities to have legitimate authority to govern as endorsed by the people. In this backdrop, it could be said that the democratic movements since 1950 onward (to present) could be referred as the process of nation building through incorporating the will of the people in the governmental system for respecting and adhering to their wishes.

While discussing about the course of Nepal's parliamentary system with the constitutional monarchy pertaining to its role in democratic development in the country, it had already been noticed that the understanding of common people about the operational processes of state functionaries and governmental machinery, was increased then they became more expressive towards their dislike for the institution of monarchy upon its self-centered non-people-oriented roles. As the political development of the very recent years demonstrated in the streets of the various parts for pro-democracy movement of Nepal since the Royal takeover of October 2002, the

state of Nepal's provision for constitutional monarchy is found in lurch and the majority of people have abandoned to think of monarchy as sacred institution and saviour of the countrymen.

After the success of *Jan Andolan* of April 2006 Nepal has entered a new phase of political history. The defiance to the intention of imposing absolute monarchy by accumulating unauthorised power in the cover-up of taking lead role to maintain peace and order by King Gyanendra has led to many sacrifices and the sufferings of the freedom loving Nepalese people. The courage displayed through 19-days incessant protests by the millions of people on the streets of the capital city of Kathmandu and the major cities elsewhere in the country through peaceful means divulged the king's intention of monopolising the control of governance of the country against the democratic constitutional spirit. In order to quell the ambitious move of king against the spirit of constitutional monarchy the political parties had drafted and promulgated an interim constitution discarding any role of the king at any point of legislation to proceed in the process of governance of the country. With such political developments of sidelining the major stumbling block of democracy, the king – the post- *Jan Andolan II* political developments decided to curb the role of monarchy from the national bodypolitik. Nepal now is in a position to tap the opportunity of a real beginning of democratization process with its stability and sustainability through applying consolidated institutional means. In this context the people aspired for the democratising the access of all state apparatus and the authorities in all political institutions of the country including the political parties and their leaders as well according to the rule, spirit and values of democracy.

Representation of people in the government process is the initial objective of democracy. So, representation for government by the choice of the people is regarded integral part of democratic process. This is the effective means of democracy, which demands dialogue and deliberation on the public issues, wants and comfort including their wellbeing. Representation through election is the effective means in the functional democracy. Therefore, in the modern liberal democracy election is seen inseparable and infallible process because democratisation facilitates electoral legitimacy of universal effect among the population of the country. Similarly, the procedures of respecting and adhering to the wishes of people are of paramount significance in the politics and governance of the country to institutionalize democracy. Election in democracy is considered as the process laying of foundation to proceed the democratisation, so, it needs to be conducted in a free and fair manner.



Nepalese experience about it is not that clean, correction in it will lead to institutionalisation of democracy a smooth sailing; otherwise it will lead to creation of a system of pseudo democracy and allow leaders to pursue kleptocracy. The experiences in the world show that the possibility and spoiling the process through its misuse cannot be ruled out. There are every chances of going it other way round of public interest and against the peoples' rights. This could be traced back upon Justice Robert H. Jackson's observation, to him, institutionalisation may also be utilised to a process to prevent majority number of people to elect the kind of representatives of good intent but may be swayed away to elect a representative interested even in abolishing "bill of rights and set up an absolute government through legal methods".

In the case of Nepal, the institutionalization of multi-party parliamentary democracy has been blocked by succeeding monarch/s, who have always been found to undo the progress of democracy in the country. Such a tendency prevailed on the pretext of protecting democracy, which was being weakened by the democratic leaders themselves. It is to pursue that Huntington's institution means "stable recurring patterns of behaviours". Democratic institution deals with quelling the tendencies that intended to resolve any form of mechanism that undermines the political freedom and rights of a common man by any authoritarian regime. It is also adhered that unless the issues related to weaker section and minorities decided by the majorities and the socio-economic and political cleavages continued, social justice to the minorities and weaker section remained a farfetched goal. If the situation remained same, Nepal's democracy will only be established but not get institutionalized.

Most of the measures taken at the political level basically in the parliament to strengthen democratization process through adopting institutional mechanism withhold the desire of stabilization of political process with the positive effect. Nepal has the experience of expediting political institutionlisation of parliamentary institutions directly through the revolution but not by evolution. To make this goal attained, the political leaders also need to be proactive instead of only being reactive to the causes of the people. It has been seen during the second experiment (post-1990) of parliamentary system that the political leaders in most of the cases rarely take any preemptive decision/ action before the public rise up.

Contrary to the British experience of institutionalizing its political processes (institutions), it is experienced that the evolution of Nepal's experiment in democratic order is very much

based on movement politics (revolutionary nature). In both the cases the situation is found different in the matters of stability, growth and progress of the political institutions in this regard. A change through evolution is found to be sustaining to have progressive outlook and development oriented but the changes brought through revolution are different and difficult to retain, because of various movements inspired in this regard by it and the other untoward activities to neutralize the former that basically will be influenced by cropping of the unpredictable political dynamics. In case of Nepal, this has been proved a reality, basically due to the discontinuity of the protection of interest of the power centres replaced by the new but the sole one with paramount significance in the form of common people even at the grassroots level, greater in number.

As the political aspects got dominant implication, Nepal's present political change has taken place after the success of *Jan Andolan II* that brought a major departure from its earlier trend of maintaining constitutional supremacy and moved ahead with the pursuance of parliamentary supremacy by making King Gyanendra to re-instate the parliament dissolved some 5 years back. In case even the ongoing process of parliamentary supremacy is altered there is nothing to panic because constitutional supremacy will be adopted. However, the present pattern of parliamentary supremacy is more or less guided by the decisions taken by the eight political parties – a coalition meant to initiating *Jan Andolan II* for progressive measures meant to institutionalise the democratization process wrecked by the regressive moves of October 4, 2002 and February 1, 2005 by King Gyanendra (Appendix II). Against this background, the parliamentary declaration of 2006 (Appendix V) could be seen as a basis to march forward to institutionalize parliamentary institutions. As such, the monarchy in Nepal after the *Jan Andolan II* has outlived its utility by losing the faith among people. The irony persists as the individual kings in the past grew their personal ambition to rule despite democracy by making political parties defunct and curbing the civil liberties in a form of casualty on the pretext for the good of the national unity and nationalism – a kind of slogan seen always chanted by the individual ruler unhappy to be called undemocratic.

In order to avert such a situation the remedy is only the institutionalization of the multi-party parliamentary democracy. It is because, institutionalization to Huntington is practicing of a “process” that helps “organisation or procedure acquire value and stability” of the process being pursued. To Kingsley Davis, it leads to an organised system of behaviour that includes both behaviours and norms are practiced for the common values in an organised society. To Robert E. Goodin and Hans-Dieter Klingemann it specifies “rule of the game” and determines the behaviour directly related with the organisation and its members’. In principle it does not allow any organ or any official to behave in a “taken for granted” manner and always expects

them set of "standard operating procedures", which are "... agreed upon and hitherto followed by the agents involved". To Maurice Duverger, it deals "with internal and external practices' of any system to function."<sup>208</sup> It is more pertinent to Panebianco, who stressfully put forth the idea of "systemness" of any process which solidifies the system as the "source of legitimacy" that deals with "limited freedom of autonomy' but evidently discards the "higher degree of maneuverability".<sup>209</sup> Apart from the key defining words mentioned above there are many concepts so on and so forth to delve with institutionlisation. If Nepal's challenge of threat to democratic sustainability is to address the political practioners, parties, leaders and other concerned have to ponder on the conceptual matters of instittutionalisation as mentioned above and to behave accordingly.

Keeping in view the institutionalisation process of multi party parliamentary democracy to take place in the country, whatever mechanisms created or the procedural functions developed, it is felt imperative to evolve a habitual tendency of its practices through adhering to the spirit of rule of law. For this, it is also crucial to have confidence in it as the popular basis that holds a legitimate footing to carry out the progress and welfare of the overall people of the country.

In this connection it is apt to understand that democratic dispensation implies not only the activism of political parties and its outfits but also calls for citizens and civil societies' effective participation and also continue the process of enhancing the influence of those institutions. Institutionalisation of democracy guarantees unfettered provision of offering indiscriminate opportunity to all citizens for participation in the process of decision-making for the governance of country as well as ventilating their varied ideas, wants and grievances. In response the leaders need to operate with required action with much avowed plans and programmes including its implementation with bearing accountability and transparency.

Democratisation of the political system means the transition to a liberal kind of order wherein ideas with different versions are allowed to flourish. It is the kind of polity that sets a goal to serve the interest of common masses as well. It is not a mere change of political regime but is tantamount to a kind of transition for serving the interests of non-elitist masses also in the governance system. In a sense, democratisation in Nepal

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<sup>208</sup> Cited in, Moshe Maor, **Political Parties and Party System in Comparative Approach the British Experience**, London: Routledge, 1997, p. 67.

<sup>209</sup> *Ibid.*, p. 69.

could be taken as a process of institutionalisation of the governance system that proceeds with the public decision and decides and acts upon people's wishes and aspirations. So, in the process of democratisation in Nepal, there is a need of creating environment for growing institutions designed to make the elected representatives responsive to public interests and thereby secure the welfare of the country and common masses as well. A combination, therefore, is felt necessary elements for the institutionalisation of democracy and governance of the country for the fulfillment of the wishes of people. To the politically aware Nepalese people the institutionalisation of democracy could be easily traced as not only sharing the benefits of economic resources but also signifies the sharing of political power or vice-a-versa. Whereas institutionalization of parliamentary democracy indicates the process of enabling the common people to improve their living by providing them with unfettered opportunities of reaping the political and economic benefits available in the country.

### **6.3 Suggestions**

Upon the basis of above studies and arguments made the present thesis is grounded on following suggestions and with a belief that its pursuance will help in institutionalizing parliamentary democracy which will be able to absorb political shocks of constitutional breach as has been the case in the past.

- **Adherence to the concept of Pluralism and Rule of Law:** The democratic system accepts plural thinking to exist in the form of complying with pluralism, which is mostly spearheaded by the political parties with various ideas, principles and working strategies. Therefore, in the context of Nepal's democracy, public trust and confidence on the political parties is realized a must and for that matter their leaders and party mechanisms should be in people's easy reach and access. Similarly, to correct the anomalies seen in the politics and government in the country, pursuing of the parliamentary norms and values in the sincere manner is felt very imperative. In order to strengthen the public faith and confidence on democratic governance, there is a need of complete adherence to the governance guided by rule and no arbitrary behaviour to be allowed. The acts by any person of vital position or personality linked with important role-function should remain to be patterned, structured and standardized by the defined law or the spirit of democratic values of multi party parliamentary principles.
- **Pursue Participant Culture for evolving effective Civility:** As it is known that Democracy is a governmental system which demands effective

participation of the people in the affairs of public policy making meant to deal with governance of the country. By theory, democracy required to create environment palatable for practicing of public participation basically meant to forming popular government merely for the sake of guiding the governance by taking attention of the ideas and will of the people, the legitimate constituents, through their elected representatives. Provided that the method of participation should have the effective mechanism to elect their entrusted-representatives who ought to remain accountable towards the wishes and aspiration of the common people as per the demand of parliamentary nature of democracy. It is, therefore, to keep in mind that democracy requires guaranteeing the rightful participation and pursue to evolve participatory culture by making the constituents to take interest in the politics initiated for public policy formulation and their implementation. Growth of such participatory culture helps the institutionalization process of parliamentary system to materialize. So, the general masses need to be encouraged in this regard.

- **Develop a tendency of habitual following of peaceful means for the resolution of problems being encountered:** Democracy demands peaceful resolution of any dispute related problem because it believes in the process of dialogue. In resolving any problem of differing views dialogue should be made the basis to sort out the problem because it helps to proceed to the conclusion with moderation. In particular the parliamentary form of system basically creates environment for initiating parleys on the issue of public policy to address or of the issue of political nature encountered for resolution. Now a days people have grown a kind of tendency of applying extreme methods in bringing people to their fold and extract result as per their conclusion. Such a tendency thus led the people to resorting to militancy in resolving the problem quickly through applying pressure tactics of terror and violent means. Dependence on dialogue method for peaceful resolution takes time in the process of parleys applied to iron out differences and negotiate to come to the agreement.
- **Parliament should be taken as the Apex national Organ for Policy Formulation and Lawmaking acts:** As the principle of parliamentary democracy clearly suggest public policy and taking decision by government should take peoples' wills and aspirations into account. Whereas the acts that guide policy formulation and decision-making process in a country get legitimacy or legal status only upon the extensive deliberation and parlaying among the people-elected-representatives' of the apex law-making institution, called parliament (legislature). It should remain as the main but sole apex law making institution. Once any bill is passed it that should be followed by the executive which makes it applicable and the judiciary interprets its spirit if any confusion arises in its implementation. In normal political situation it functions as the highest law making body and such authority will not be

overridden by any institution and by any role position. It enjoys thoroughly the possession of such authority, without its endorsement a democratically elected executive cannot function and act. It is made so powerful that a government cannot spend a penny even for governmental/ public act without its assent in a country where the parliamentary system is adopted. It is so important to pursue a governance system with parliamentary supremacy in dealing with law formulating act enhancing the institutionalisation of parliamentary institution in Nepal.

- **Need of looking forward to Progressive Measures both at Political and Economic Fronts:** Present modern context of the human want for dignified and civilized living pursue a life that as far as possible make a drive for incorporating political and economic gains at minimum which specifically deal with emotional attachment with state as a matter of individual's political expectations as well as the leading of comfortable life through fulfilling materialistic needs, respectively and in a democracy a government always strive for this. Both of the human desires could be achieved through political and economic arrangements made for the individual by the state through the means of granting rights to its citizens. Democracy basically deals with the political arrangements of an individual citizen by granting rights to people that is made complete only in the presence of materialistic comforts commensurate with the economic rights of an individual and the environment for this a state creates to make its citizens achieve their legitimate needs. In this context a parliamentary democracy is expected to institutionalize a system that facilitates people to participate in the political process of the country and make them competent enough to utilize their state given right to utilize their rights and facilities provided by state. Without adequate economic rights or the facilities a citizen's political rights will be impaired and s/he will not be in position to full utilization of that. It is, therefore, required to have full attention in providing economic rights with necessary protection simultaneously with the political rights.
- **Need of Democratic education to masses as the part of political training that deals with the process and spirit of democracy:** Normally, political parties are considered as the wheels of the democratic system which on its part proceeds on by making political force lead the people attracting towards its belief and strategy and always try to gain their constant support. This in indirect sense inculcates various aspects of governance and politics of the country. In this context it uses to point out the strengths/ weaknesses of government actions, policies, decisions or its working strategy. During the process people get the opportunity of political training about the context of governance and ongoing political process of the country.

Among the Nepalese masses, democratic system suggests the parliamentary form of multi-party system the most. Such an understanding loomed large in

Nepal in the wake of the beginning of political awareness, since 1950, when the people, though in limited number dared to initiate rising against autocracy. Though haltingly, the Nepalese masses since then have been politically trained/ influenced in a way striving for the adoption of parliamentary form of multi-party democracy. In this backdrop it is considered important to pursue the practice of parliamentary institutions with the adherence of competitive politics as a must to make Nepal to sustain democratic polity. Smooth operation of parliamentary democracy is possible only in the condition where larger chunk of population understands its process and operating conditions. Because it's a kind of political system in which people participates through their elected representatives through applying deliberative mechanism resulting to undergo a slow process. In the process, if mistakes committed in making decisions, it allows adoption of self-correcting measures and the persons entitled to rights are subject to abide by the rules in respecting to others. While taking attention of such spirits of democracy one should be aware enough to understand it and s/he needs knowledge about this which use to be fulfilled through political education/ training. It is acknowledged that an educated citizen fulfills the role parliamentary system sought for. Apart from the political education that uses some kind/ level of formal education is desirable to understand the political process of the system and the discharging the duties it demands.

- **Need to comply with the spirit of rule of the game and institutionalize culture of participation:** While we look into the past political events it has been noticed that the political actors were seen keenly interested in playing political games but they wanted to be free from the rule of the game. Such a situation has been occasionally noticed that the political parties use to play at the elections processes both within and without when the elections results did not favour them they lose control over their reason and react negatively against the spirit of contesting elections. In some of the cases it has been also noticed that the politicians use to keep the rules at bay and rely on the process at their convenience.

Politics is also an exercise with ethical values by its practitioners. For that reason it is not considered a game that allows the player to play as per player's convenience. Moreover democracy is a liberal kind of political game in which player needs to play abiding by its norms and values as well as the set rules evolved out of it and thus is not anticipated to be interpreted the way practitioner lay down its standard as comfortable and beneficial to s/he's interests. In most of the cases in the third world countries people do not understand the significance of their participation in the politics of the country and the influence they could exert in the governance part. In such a situation it is the elites, who play the game of politics and always show the tendency of controlling and molding developments it in their own interests and tries to extract benefits out of that in their own favour. This leaves the political

exercise tainted with uncultured and irregular practices affecting to the institutional growth of democratic system. In our context people are interested to participate in the politics but are reluctant to abide by the results when they find their interest affected. The institutional practices of parliamentary democracy always demands the political culture of self-esteemed participation, maintain patience, tolerance and bear responsibility of exercising rights pursuing peaceful means with discipline as well as abiding by the rule of the game.

- **Political Parties require to remain United and pursue Coherent Strategy to lead the people:** Instead of pursuing present fragmented lines and divided leaderships the political parties are required to remain effectively united both at their influence and concerns. They are required to educate, train and lead their cadres in particular and the people in general to behave in deradicalised non-violent manner and exercise their lawful rights of making demands and expressing grievances through peaceful and harmonized means. It is important to inculcate that the public behaviours should be confined to political means of following participation with patience and preferring to abide by the rule of game and exercise their rights in the legitimate manner. It is also equally important that the party and party leaderships required standing by their ideological base and they are needed constantly to remain committed towards the democratic principles including to be adhered to democratic norms and values as well as to respect to the universal principle of human rights. The parties and their leaders also essentially need to influence the masses rather being swayed away by the mood/ demand of the masses or impracticable slogan/ commitment that may in future prove practically impossible to deal with. Paying attention to these things will help to lead the people in right direction. Its fulfillment only will promisingly sustain the process otherwise the democratic practices will be endangered and its persistence will always be found questionable. The political parties, therefore, need to pursue a strategy of taking continued of cohesive line as suggested above.

Apart from that, the political parties and their central level leaders (at least) as well as the elected national level representatives of the people are required not to limit or confine themselves in their geographical areas of influence only rather they are required to take the whole country as their working area. As a fall out of the Panchayati politics, the national level leaders even during the post-1990 parliamentary era were also confining their working sector within the area from where they were elected or they belonged to and paid their attention and also raised issues concerning it only of the areas limited to their related constituencies. The central level political leaders, especially the national level representatives are required to take interest, give attention, discharge duties, accomplish tasks and other matters concerning the people of nation as a whole and their advancement including the raising issues of



national importance, concerns and development should equally be cared and shared by all as the whole of nation as the single constituency and make it benefitted from their policy formulation, programmes and activities as well as influencing the government to do the same.

No matter the future of Nepal's political system will be called by whatever name and adopted in whatever form (of government presidential or parliamentary or hi-breed, French model) it needs to adopt parliamentary nature of practices. The experience has shown that it will function persistently within the political milieu of Nepal that has been built by the familiarity achieved out of constant democratic movements, which was followed with practices and exercises to correct the aberrations committed so far. By whatever means the democratic system Nepal adopts, it needs to create an environment within which people live a life with human dignity having individual freedom as well as enjoys personal liberties in determining the structure of a well ordered regime.

In the backdrop of political instability the party governments in Nepal performed in bleak manner resulting into the changing mood of the people attracting them to radical feelings and act accordingly. At this crucial juncture of democratic transition Nepalese political parties and their leaderships need to focus on the political stability, political order and political culture as demanded by democracy and democratic standard (parliamentary parameters of sovereignty to the people, representative government, decision by discussion, rule of law adherence to the rule of the game and peaceful means, resolve through dialogue, etc.) in which even the radicalized political forces are publicly unable to negate. It is to ponder that the institutions created for practicing the premises of representativeness as well as parlaying for deliberative decision-making help institutionalization of democracy. Therefore, the political forces should not let the opportunity waste as created by the Interim Constitution of 2006 promulgated as a result of the spirit of Jan Andolan II that encourages to decide and act in consensus for the democratic transition in Nepal. Now, the country has implicitly pledged in favour of respecting human dignity by turning itself a republic - eliminating the continuity of the command of its institutional feudal remnant of monarchy. In order to enter into non-feudalistic socio-political system Nepal vowed to go for federal restructuring with republican dynamics - discarding the unitary method

of governance and introduced the ethos of secular belief, an effort formally recognised other religions at par with Hinduite culture.

An institutionalised democracy is characterised by the existence of effective united political parties, undivided party leaderships, citizens empowered for exercising their lawful rights, government maintaining law and order, delivering services, accountable and maintain transparency by being answerable to its acts to the national legislature. Striving for such an effort could create a condition for institutionalizing democracy in Nepal. On the whole, as a result of institutionalised functioning of democracy with positive impact on the governance of country through acquiring more extended inbuilt capability of the state with having endurance and legitimacy emerged out of constant public support will help it to enhance it to face challenges in its way forward.

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