

**GOOD GOVERNANCE  
and  
DECENTRALIZATION  
in NEPAL**

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## Preface

Good governance and decentralization are inextricably linked in today's Nepalese context. Rational allocation of decision-making is central not only to the efficient operation of a democratic polity but also to prevent an overburden of the decision-making load on a particular level of governance to its breakpoint and disintegration. Management efficiency cannot be had without a substantial devolution of central power, responsibilities and resources to sub-national units of government. It also enlarges the area for decision-making freeing the grassroots from the straitjacket of central directives. With a major constraint to the realization of the common people's aspirations gone, a wider space for people's representation and participation from below becomes available. Any complex society requires a diverse, heterogeneous and multitudinous decision making structure to carry out its multiple tasks in a coherent, explicit and predictable manner.

Apart from the moral imperative to work for greater democracy, there is also a political directive to decentralize government. The ongoing process of globalization and the expanding participation of people have overwhelmed the power of the central government to decide and act swiftly and efficiently. New conditionalities of foreign aid focus on people's preference and priorities, ownership, equity and participation in policies, institutions and processes in policy making. In other words, the central government is under greater pressure today than in the past to shift some of its powers to local units of self-governance--a governance that can become a workshop for citizen participation, community building, leadership development, social mobilization, conflict resolution and economic, political and social development.

This publication attempts to expose the links between democracy and decentralization and argues for vigorous decentralization measures from the government's side and, at the same time, local initiatives to sustain them. It will prove to be a difficult process given the centralization tendencies not only of national politics and policy but also of international pressures from global centers of finance and multilateral centers of development policy. Apart from that are regional obligations of the state that make the task of decentralization all the more difficult, but even more necessary. The authors will think that their endeavor has paid off handsomely if this study can provoke some questions in the minds of those engaged in the field of decentralization.

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# **PART I**

## **GOOD GOVERNANCE**

## Introduction

The increasing policy interest in decentralization in Nepal suggests the evolution of a participatory political regime that seeks to improve the responsiveness and accountability of elected or nominated authorities to the people. This is a good thing as it ensures coherence between public preference and the public goods and services provided to them. Nepal's multi-structural geography and social diversity offer a sound basis for a unique path of decentralization which would allow the production of public policies, goods and services to meet the myriad aspirations of the people, on the one hand, and at the same time retain an accommodative national umbrella that has characterized the unity of the Nepalese. In Nepal, until recently, intermediate social links and institutions did not figure much in discourses on the state, the society or the economy. After the restoration of multiparty democracy, people have been demanding more information and control, greater accountability, responsiveness and ownership in the governance and development processes. The weaknesses and inefficiency of the centralized political and administrative superstructure that have come in the way of improving the quality of life of the majority of people are indeed a barrier to effective democracy. This is why major donors have been laying increasing emphasis on policy reforms today, focusing on economic liberalization, decentralization, human rights, democracy, civil society and good governance as essential conditions for development assistance. The public demands for openness, fairness and predictability in decision-making have made the reinvention of decentralization a necessity.

Implementation of decentralization policies has, however, wide-ranging implications for organizing the functions of macro and micro agencies of the state at the horizontal level and the redefinition of relationships of the state with the vertical institutions of society. They should be welcome as they relate to the distribution of authority and responsibility and the sharing of public space with the state, including the right of the people to legislate.

In politics, for example, the hierarchically stratified power of central agencies over local government bodies affects a coordinated realization of collective interests. In fact, the very strata of hierarchy hinder and confound the aggregation and prioritization of local collective interests—hence, the argument for decentralization. The decentring of governmental power provides all those affected an opportunity to participate in the decision process and captures some of the rationality of collective action. The “rationality of collective action” lies not only in having an opportunity to participate in decision-making, but also in being able to arrive at some agreeable calculus of benefit sharing and in having the ability to hold each other accountable.

Any discourse on decentralization in Nepal, however, raises three questions: First, does the behavior of the government conform to the vision of devolution of power or just combine a mix of de-concentration and delegation? Second, when political parties and major actors of society pursue rival strategies of achieving decentralization (for example, some focus on devolution of power to elected units, others on market, still others on civil society, community, NGOs, ethnicity, territorial federalism, etc), how can the needs of an entire society be reconciled with public policy? And third, do donor-driven conditions that promote market liberalization and global integration leave any space for the autonomy required for people to self govern? Each question becomes the terrain of contestation between the actors claiming to represent the reality of the nation in an authentic fashion.

Just like the Constitution means different things for the different political parties in Nepal, the term decentralization too has focussed their attention in different directions. The result is that every change in government amplifies the ambiguities inherent in decentralization policies at all levels. The core of local governance in Nepal, the District Development Committees (DDCs), Village Development Committees (VDCs) and municipalities, suffers from a legitimacy crisis, as they are caught by a series of paradoxes between responsibilities and resources, between accountability and power and between legislative framework and ground realities. Who is to mediate these paradoxes and how are they to be reconciled? There is also the danger of auto-centric management of a few local self-governing units while others are allowed to suffer from economic severity. Owing to disparity in prior resource endowments, institutions and uneven productive capacities, the pursuit of

an auto-centric development might lead to regional inequalities in terms of information, natural resources, economic activities, population and forms of social and political organization. This could pose dangers through the loss of macroeconomic stability. The national policy, therefore, must address the sectoral growth needs and allocate the surplus workforce in growth areas to catalyze the development process in integrating inter-sectoral and inter-regional balance and overcome the rampant disparity, distinctiveness and marginalization by means of mediating institutions between the state and society. So, the central functions become clear here and they need to be efficient, focussed and well-defined. Indeed, there is an area that calls for centralization in the midst of decentralization initiatives. And, unless the fine line between the objectives (decentralization) and means (central mediation) is identified here, policy measures could be a source of chaos rather than order.

For the fulfillment of the official desire to use decentralization as a policy instrument to strengthen democracy and consolidate development from the base, a continuous assertion of people's sovereignty in public policy is required. This becomes possible if Nepal's development discourse, which is now being wholly influenced by outside advice, initiative and resources, looks inwards to reflect local needs and aspirations. It calls for the central government, International Non-Governmental Organizations (INGOs) and donors-- who have the propensity to establish counter structures at the grassroots level to be attuned to the need for local leadership growth, capital accumulation, entrepreneurship and increased participation of people in grassroots governance. The capacity of decentralization to serve as a major pillar of autonomous local self-governance that is accountable to the electorate and capable of promoting public goods and services entails a balance in macro and micro-institutions of governance.

The emerging trends of political economy suggest that Nepal is being squeezed by the economic pressures of global integration on the one hand while being forced to give in to the local pressures for decentralization and democratization on the other. "While the good governance portfolio of multilateral financial institutions impinge on the state's regulatory functions, the UNDP and some other bilateral donors are more explicit in their governance agenda with incursions into the political area such as empowerment and human rights. The irony is that a greater involvement of donors has not improved the situation either in aid management or in curbing corruption" (Gurung, 2001:32). On the contrary, this practice has made it difficult for the central government to maintain governance practice and reform, which has an exclusive role in expanding the political constituency for democratization, while supporting a development process that is just and sustainable. Constant political pressure for strong police and military forces to contain the growing Maoist insurgency has drained the scarce resources of an already weak economy, resources that are badly needed to solve the growing impoverishment in the lives of the rural masses. In a highly diffused populace such as Nepal's, it has become highly problematic for the faction-ridden government (and opposition) to function as a shared instrument of public power and to establish itself as a credible provider of public goods and services.

This highlights the dual structure of government in Nepal. It is one thing from the macro perspective at the central level and quite another from the micro perspective at the grassroots level. Basically, even though the macro level functioning of the government has a direct as well as an indirect impact upon the activities in every nook and corner of the country, the micro level functioning of it is even stronger in shaping the lifestyle of the people there working via the existing public administration, civil society, corporate bodies, the agencies of the security system and such other institutions of governance. The position, the character, the integrity and the attitude of the authorities in government at the local level, therefore, are significant factors in determining the status of participatory democracy as prescribed by the Constitution of the Kingdom of Nepal.

This publication attempts to explain the governance context set by the state, the market and civil society and seeks to answer a) how decentralization enables a majority of the people to become partners of development, b) how participation can lead to their empowerment, and c) how real decentralization automatically leads to the development of a self-governing society whereby people as stakeholders in development discover for themselves their inherent potential. It also elaborates different decentralization theories, juxtaposes those theories in the background of Nepal's political development and analyses the prospects for decentralized development through local self-government in Nepal.

The debate on good governance is designed to enable the people to realize the vision and objectives embedded in the Constitution of the Kingdom of Nepal 1990, the Local Self-governance Act 1999, the Ninth Five-Year Plan Document 1998-2002, Tenth Five-Year Plan 2002-2007 and other policies. These guidelines, rules and acts have a vital role in setting the conceptual framework for good governance. Good governance is the ability of the government to honestly and justly administer the state, the private sector and civil society activities that impinge on people's everyday life.

With the erosion of power of the traditional monocentric government in rule-formulation and rule-enforcement, owing to the close and complex linkages between domestic and international regimes, there is logic in referring to governance at two levels: a) polycentric,<sup>1</sup> and b) multi-level governance-- linking local perspectives into higher level processes of policy design. The process of self-coordination at and among various layers and poles of collective action is crucial for the success of local self-governance. Polycentric governance "contrasts with monocentric governance, where the rulership claims epistemological privilege: policy-making-- problem-solving at a national or aggregate level-- is here relegated to experts and, upon its adoption by the national legislature, is taken to be faithfully executed by a bureaucratic apparatus. However, even if such policy-making is based on extensive statistical information, such data can neither capture the knowledge that individuals have of their time and place, nor reflect the understandings inherent in the prevailing social capital. Governance based on the authority of the state as a monopolist problem-solver thus excludes indigenous knowledge" (Shivakumar, 1999:15). The rationale of poly-centric and multi-level governance makes the logic of collective action multi-layered made up of dissimilar elements derived not from the one center, such as the state, but from the several centers and layers embedded in the life of the national society.

This makes us pose some vital questions: What are the attributes of good governance at the center? What are the constraints facing local institutions in serving the common people? Are the local government institutions people friendly? What are the elements in local governance that need change instantly as well as in the long run, in order to make it more efficient in development delivery? Attempts will be made to answer them here. The questions cover issues in the broad perspective. They are, nonetheless, the issues determining: the capabilities of local governance, the participation of local people in development and governance, the distribution of opportunities (equitable or not) at the local level, and the proper ownership and representation of people in the local development processes.

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<sup>1</sup> "In contrast to the centralized and decentralized structures, a polycentric governing structure offers citizens the opportunity to organize not one but many governing authorities. Each government may exercise considerable independent authority to make and enforce rules within a circumscribed scope of authority for a specified geographical area" (Ostrom, Schroeder and Wynne, 1993:178).

## **Defining Good Governance**

Good governance is a process of executing a coherent governing plan for the nation based on the interests and priorities of the people. It purports to create a just society based on the principles of inclusiveness, liberty, equality and cooperation. Those in office, especially the elected ones, must represent the concerns, values and needs of the people and empower them through the realization of their basic rights, including the right to development and self-determination, by developing their access to markets, assets, goods and services and institutions. In the post-modern society, citizens' ability to articulate their needs to those in power lies in a transparent communication process. This process needs to provide them proper access to the institutions of governance, the media and expert policy dialogues that affect their lives. This is the way sovereign citizens can make the governing power transparent and accountable. Good governance equally needs self-discipline and integrity of those in power, the corporate sector and civil society (Dahal, 2000:73-74).

The belief that every citizen is entitled to an equal say in the conduct of public affairs is the heart of good governance. The mechanisms through which power flows to the people are either representation or devolution-- the opposite of centralization of power and monopolization of decision-making. One positive aspect of today's politics is the ability of the leaders to provide a public rationale for every action of government, whether good or bad. This makes it desirable that there is a correct disposition of civil society-state-market relations. The system of checks and balances and separation of power among different branches of government (legislative, executive and judiciary) help erode the base of organized interest-based politics and prevent any monopolization of power and wealth by the circle of patrimonial elites. Another positive aspect is in sustaining human relationships-- dialogues, engagement, compromise and consensus-- thus revealing a shared vision, the mutuality of interests and mutual accountability on how the political power is legitimately regulated and governed. Still, another is the provision of the right to information as the core of the governing process. Nepalese leaders, however, have yet to recast their souls, regarding the empowerment of women, Dalits and marginalized sections of the society and establish a culture of acute realization that would ensure their quest for social justice. Public order must be based on social justice so that the institutions of justice, articulation, voice and conflict resolution can be legitimately built as open and accessible to all the people. This way, societal discontents do not transform into anomie and political rebellion. This would mean that the political classes have to dissolve their personal ego and display and talk more to the people, thus refraining from exploiting the political space for personal profit.

Good governance thrives on a rediscovery of common grounds on which the elite --political leaders, bureaucracy, businesspersons and ordinary citizens-- agree on the core public issues and shape their respective courses of action. In a polyglot population, the architecture of good governance rests on the sound legitimacy of governors which is possible only in a climate where there is broad representation of social interests and where a heritage of pride in social pluralism combines with an honor for culture, family, education and statecraft. A great degree of fairness during election and a broad-based representation of diverse sections of people are required to establish the legitimacy of leaders. It is this legitimacy that provides a kind of public order in the system. Yet, a system can only become stable if the society becomes wealthy enough to overcome the tumult arising out of various political, ideological, social and religious convictions. Modernization also requires a reform in the entrenched work ethics that deprecates manual labor. Such ethics comes from a feudal tenure system that fosters share tenancy and exploits the peasants and workers which prevents the transformation of a largely agrarian society into a modern and prosperous one.

### **Good Governance: Vision and Reality**

The Constitution of the Kingdom of Nepal 1990 makes it amply clear that the state shall protect "life, liberty and property of people," render social justice and maintain internal cohesion. Based on the consolidation of historical and cultural identities as well as creative action of people, the Constitution envisions a path for the state to carry out its long-term goals--"guarantee basic human rights to every citizen of Nepal, consolidate the adult franchise, the parliamentary system of government,

constitutional monarchy and the system of multi-party democracy." The Constitution espouses three key elements: *right to information*, *public-private partnership for development* and *the right to work* to create a society based on social justice. In executing the provisions, however, one can detect a sharp contradiction "between the liberal Constitution and the neo-liberal policies and programs" (Mishra, 2000:4) of the post-1991 Nepalese governments, thus making the public policies neither helpful to the growth of the state power nor to the poor, the unemployed and the excluded not even to the capacity of the market to penetrate society and alleviate the scarcity of resources. Failure to distinguish clearly between liberal ideals of democracy and neo-liberal economic policies has made it difficult to reconcile them for an optimum policy outcome that can make a difference in people's lives. This failure lies at the root of the institutional deficiencies that Nepal's government faces.

Overburdened by too much aid in low priority areas, too many projects, conditionalities and an increasing loan burden (Gurung, 2001:32), and unable to properly perceive the national situation, the political class has largely indulged itself in an "undemocratic policy-making process" (Mishra, 2000:17). Consequently, it has failed to lead the nation in the rightful constitutional path. Even in the Concept Paper of Nepal Development Forum (2002), 12 years after the Constitution was formulated, the scope of governance reform has been limited to civil service reforms to make the public administration "economical, efficient, lean, accountable, transparent, competitive and gender-sensitive." The paper finds the ills in a low level of commitment to good governance. Experts, however, point out a number of deficiencies in past administrative reforms. "Administrative reforms in Nepal have taken place to expunge the civil, judicial and security services of the vestiges of the past political dispensations in the centre of authority and responsibility and to fill the administrative void with loyal supporters rather than to promote the principles of the rule of law and merit or, indeed, to render necessary checks and balances on the unhindered application of political power and on its consequences on the nation" (Rana, 2002: 6). In other words, reform is just another catchphrase to further the ills afflicting governance as a whole today. Civil service reform is only a part of the broader governance reform-- a reform that purports to overcome the structural crises whose roots spring from various factors. Some of them relate to the retreat of the state from the society, the constitution failing to become a consensual document, aspirational politics of political parties, the economic plunge into a production crisis and violent conflicts leading to a security situation. Nepal's problem of adaptation to an endogenous transition to the democratic process has mainly arisen out of the negative role of centralized governance. This was supported by increasingly fragmented ideologies and interests of mainstream political parties, politicization and polarization of regulative institutions, including the failure of the public goods and service delivery system, causing a rationality deficit in the institutions of governance.

Looking at current political trends, one can speculate that the new century will be a very memorable one for Nepal, as political contestation will pirouette between the citizens who desire more democracy and those who fear its consequences. As people reclaim their sovereignty, they reclaim their right to local self-governance, asserting greater autonomy, social justice and universal rights. This is expected to pose a Sisyphean challenge for the country's leadership to respond to in any legitimate manner. It already appears torn between keeping the old style politics of patronage and embracing civic and voluntary groups and institutions that were constituted by and are accountable to sovereign people. The latter process evokes sweeping structural reforms in the nation's political, economic and social systems. Reforms are needed in the Constitution and the electoral process to make the political system more representative and responsive. Modernization of agricultural and industrial production, empowerment of women and a total abolition of the practice of bonded labor and untouchability are other areas awaiting reform.

People are more likely to participate in reforms if there is a sense of equity and fairness. The need to reconcile with social diversity while at the same time respecting their rights of equal citizenship has posed a new challenge to the polity of Nepal. Realization of the potential of local self-governance, however, rests on strengthening the capacity of the state and its government to deal with the problems of collective action. This suggests that the authority of central government needs to be reconstructed through the institutionalization of the role of all constitutional bodies including the Constitutional Council and inter-ministerial coordination and communication. There is also a need to curb the discretionary authority of holders of power, strengthen the national integrity system through checks and balances to curb corruption and arbitrary action and improve the quality of service



through the integration of sector programming, budgeting, policy implementation, monitoring and evaluation.

The global and national democratizing trend has already generated enough political consciousness for a new generation of people to set aside the old mind-set, invent their own fate, *karma*, and seek better life and liberty. Instant communication through phone, fax and e-mail has created a bedrock of cooperation and solidarity with the people of the world. This new found freedom of association has unleashed a multitude of synergies in ideas, networks, organizations and their activities. The global trends towards democratization is also accompanied by "oppositions and antagonisms asserting themselves against this trend in the name of various forms of "differences"-- ethnic, national, linguistic, religious and cultural. Throughout the globe, a new politics for the recognition of collective identity forms is resurging" (Benhabib, 1996:3). Governance works best when those at the helm of public affairs stop assuming that they know best. They should rather listen to the people, talk, discuss and seek mutually acceptable solutions. Governance without democracy provides little chance of equal access and public accountability.

Nepal's stagnating political economy cannot take the people where they want to go. The leadership's sheer jockeying for power and pelf rather than committing themselves towards good governance exacerbates the situation. All important decisions are taken by the core elite, whether they are elected or not. They seem cohesive enough in controlling the society by maintaining the status quo and assuming a hereditary succession of leadership in political parties and civil society. The same cohesiveness could be utilized to usher in good governance. But, more than a decade of political experience accumulates the boundless hypocrisies in the statement of leaders who loudly proclaim progressive values while pursuing conservatism, personal gratification and unaccountable political activism. Speculation is rife among party gerontocrats on their worries about what the new generation will do in the future. Their worry springs more from the fear of losing power to the "new generation" rather than for the future of democracy itself. There are several factors that have aggravated this inward orientation of politicians. There is a need to understand that the notion of governance transcends the formal political realm of the state or its executive-- the government-- and that solutions to problems start at the level they occur. When local and national level politics is seamlessly merged with regional and international policies the leadership must look for a coherent bundle of domestic and foreign policies. The two need to be coordinated through a mechanism. Otherwise, governance becomes too huge a problem to understand, the alternative to which will be more problems to confront.

First, an intensification of the problems of transnational roots, brought about by the likes of global economic integration, transport, environment pollution, terrorism, globalization, information flow, etc has rendered the government too small to govern issues of such massive scale. Governance, in this sense, has espoused a different regime--different from the national power of the government. The three governance vectors--the state, the market and the civil society--recognize the need for local, national, regional and global actions to tackle problems they have in common. Even within the boundaries of the nation-state, the rationality of government in Nepal has been subordinated to the pulls and pressures of private interest groups. This has choked off its political will, sovereign character and the art of governance, preventing it from shaping, guiding and affecting the conduct of all the actors of the society. Efforts of coordination, coherence and cohesiveness of governmental power have been marred by the free-riding tendency of the political party in power. A dearth of "ownership" among the ruling party and opposition political parties in the government has made governance "sectoral" rather than national in character and created a vacuum of power and authority at its very core.

No wonder, then, that the power of the government to carry out its public duties and to improve the quality of people's lives has become woefully deficient. What happens when "... the state is failing to deliver its side of the Faustian Pact, where the individual submits to the legitimate violence of the state in return for protection and security" (Angell, 1995:5)? Naturally, the loyalty patterns of citizens of diverse social origins are affected, hence the rationality deficit. It is this deficit that has compounded the problems of governance and transmitted them to every nook and corner that government authority is supposed to reach. Adding fuel to the fire was the rapid transformation

of the global political economy,<sup>2</sup> brought about by the leaps in information technology, which even the most efficient governance structures in the world were hard put to cope with, let alone a small resource deficit country which was only beginning to realize the complexities of the transition to political pluralism.

Political scientists throughout the land had warned of a security situation arising out of the tangent movement of politics—from service delivery to sheer grab for power. "The structure of the state and its government have not become all inclusive. Due to status quoist thinking and action ordinary people of Nepal have begun to realize that there is no democracy in the country" (Baral, 2000:6). The frequent and disorderly succession of political power in the post 1990 scenario led to governmental instability, which, consequently, undermined economic growth and the quality of distribution of social justice. The progressive deterioration in public order has provoked an intense form of identity politics (gender, ethnic groups, racial and religious organizations), parochialism (clan, caste and region-based ascriptive, hierarchical, diffuse and particularistic organizations) and primordialism (recruitment, placement and promotion of *affno-manchhe* in critical areas based on family and roots and deviating from established mechanism) among the social and political minorities. All this did aggravate the strains in the fault lines of the society.

Second, even where the science of governance was perceived to be seriously pursued, that art of execution has left much to be desired. The policies that came out were seen to be directly at loggerheads with the political dispensation in place—democracy. The imposition of a seductive single ideology, neo-liberalism,<sup>3</sup> in the whole of society by the government and mainstream political parties, and its rationalization by ideologically assimilated intellectuals, replaced the menu of choice provided by the multi-party democracy in the political and economic spheres. This neo-liberal (globalization) and neo-classical (market-based) ideology became constitutive of the official policy guideline and its inherent resistance to democracy was able to place the government against the welfare state that the Constitution visualizes.<sup>4</sup> Beneath the ideological conformity at the elite level about neo-liberalism was a banner of "roll back the state" displayed in clear terms. The policies exhibited it, the programs showed it and even political exhortations made it clear—the smaller the state apparatuses the less burdensome it would be for the people. All this was taking place in a country where the presence of state governance structures was either non-existent or marginal. "The neo-liberal perspective holds that democracy is a product, rather than an input, of economic development" (Faux, 2000:8). Such uncritical instrumentalization of democracy for the sake of neo-liberalism has reduced the Nepalese state to governmental power, which in itself is a waning one, crushed the very possibility of promoting the commons—the public sphere, the public good and the non-corporate sectors—and sharpened the caste, class, ethnic, religious and cultural divisions in the society.

Mere "rolling back the state," however, did little to change the fundamental work culture, nature of political economy and the art of governing (Bhattachan, 2000:48). The change it espoused is this: politics abdicated its decision making power to the market forces. This was an elite revolt against the egalitarian principles of democracy upheld by the citizens, the organized against the unorganized and the core against the periphery. The revolt created a condition for the exploitation,

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<sup>2</sup> Arguing about the scale of shift in the political economy in the third industrial revolution Cerny says, "In addition to the changing scale of public goods, the changing technological and institutional context in which all goods are increasingly being produced and exchanged has been central to this transformation. The third industrial revolution has many characteristics, but those most relevant to our concern with scale shift involve five trends in particular, each bound up with the others. The first is the development of flexible manufacturing systems and their spread not only to new industries but to older ones as well. The second is the changing hierarchical form of firms (and bureaucracies) to what has been called "lean management." The third is the capacity of decision-making structures to monitor the actions of all levels of management and of the labor force far more closely through the use of information technology. The fourth is the segmentation of markets in a more complex consumer society. Finally, the third industrial revolution has been profoundly shaped by the emergence of increasingly autonomous transnational financial markets and institutions (1995: 23).

<sup>3</sup> Since 1992, the Nepalese government adopted an economic approach of "shock therapy," focusing on privatization, liberalization and macroeconomic stability rather than an approach of "gradualism," that is, building an institutional infrastructure, focusing on the rule of law to enforce contracts, competition, corporate governance and the creation of a sound financial system before radical economic reforms. The sequence of reforms itself was controversial as the government did not create a competitive environment suitable for privatization. The economic policies seem to be totally counterproductive in terms of balanced and sustainable development of the country.

<sup>4</sup> Welfare state combines economic freedom with social accountability. The post-1991 regimes in Nepal prematurely read the obituary of the nation-state worldwide and accordingly adopted public policies to suit the class interest of those in power rather than the general interests of the society.

oppression and starvation of the masses in the periphery, thus fuelling political uncertainty, cancerous cynicism, social movements and revolution. A deconstruction of neo-liberalism is essential to bring politics back in command and strengthen the intrinsic value of the state to provide the material basis for democracy and public order.

Third, the strategic dimension. As global and regional powers forced Nepal back to its traditional "buffer" role for imperial purposes (the fault-line between the South Asian and the Sinic civilizations passes through the heart of Nepal), the Nepalese political class saw it opportune to compromise the prospects for a self-reliant economy, national independence and democratic development<sup>5</sup> embedded in the Constitution to remain in power. The best strategy for Nepal lies in adjusting the long-found Golden Mean to the global pushes and pulls so that the policies that come out do not go contrary to national and popular aspirations. In the current liberalisation scheme of things, this means finding a middle ground between capital and labor and connecting the fate of the fortunate to the fate of the less fortunate. Given the delicate geo-strategic location, and the division of national elites along geopolitical lines, any rational course for governance therefore requires the national interest to be embedded in policies and programs, even if only for the legitimacy of governance. But, in contrast, the post-1991 governments of Nepal remained a cauldron of complaints about betrayal of nationhood, citizenship and social integration. No matter which political party came to power, whether with majority or through fragile coalitions of a number of parties, it did not excite any ray of hope for the majority of impoverished citizens. As a result, the art of governance largely remained an anti-political pursuit of the least articulate. It disenfranchised the citizens and sucked the political class into an obsessive consumerism at the cost of the social needs of the majority. Thus, social transactions were neither confined to the space-boundedness of the nation, nor was the nation's geopolitics allowed to dispense its gravitational pull to confine the loyalties of the elite within its borders. The congruence of the social and political spaces of the Nepalese state thus became weak and continued to disconnect citizenship from nationality.

Fourth, private economic growth has been assumed to be the motor of public prosperity. Accordingly, public policies were and are designed to provide greater freedom for the economy assuming that it can improve capital markets and foreign investments. Contrary to expectations, they strengthened the unholy nexus of the business-bureaucracy-political complex at the expense of social needs-- the needs of the state, the citizens and the civil society. Policies were imposed in a paternalistic fashion which neither contributed to the expression of local self-governance nor was the economy itself mature enough to be steered through the market to facilitate transactions that garner social capital for development.

All this is reflected in the decline of state autonomy and capacity, which has undercut the government's coherence in goal- setting and execution. This proves that the Nepalese state is deeply penetrated by a myriad of intermediary institutions and international regimes. They have potentially challenged its authority and, in the process, sowed the seeds of social and political conflicts. Yet, there is no viable institutional mechanism to manage the conflicts and cleavages. Governmental instability, political factionalism, rampant rent-seeking and economic burdens plague nation-building projects. The burden of public debt is, meanwhile, exceeding the carrying capacity of the economy. Massive scales of poverty, inequality and existential risks are leading the majority of citizens towards an unpredictable future- a future that is being undermined by the spate of massive capital flight and brain drain to wealthier countries when the wealth and skills are so desperately needed at home. This has left the nation's folk culture stuck in archaic customs, primitive mind-sets, with all the fatalism, mindless hedonism and superstitions that go with it. If the embryo of the future of Nepal is embedded in present realities, the society is doomed to continue waiting for a comprehensive fundamental change.

Prompt changes in public policy are needed to minimize the accumulation of past challenges and to cope with new ones, before they become unmanageable. Otherwise, within a few years, the nation will repent over the lost opportunities because serious problems will just get worse, not better. If the public demand for quality of life remains unmet, and if decisions to resolve conflicts are

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<sup>5</sup> Saubhagya Shah says: "There is a historic trend among foreign powers to cultivate friendship not with Nepal as a country but with a particular family, clique or party to undermine collective Nepali interests" (2001:4). Dhruva Adhikary (2001:4) echoes similar views.

postponed, the problems will deteriorate further and choices for effective action will be drastically reduced.

## **Crafting the Vectors of Good Governance in Nepal**

Good governance requires the establishment of a rule-governed system to guarantee the equitable, just and rational distribution of the advantages among all holders of interests in common. The domestic regime of Nepal, however, is enmeshed in a growing web of power woven by the domination of core (centrality of Kathmandu), social (caste system), economic (feudalism), political (patron-client network), cultural (paternalism), psychological (sense of deprivation and powerlessness among underclass) and gender (patriarchal form of society) and creating barriers for the people to realize their constitutional and human rights. These factors of monopoly are the real barriers to people's participation in governance and development. They act as a brake on the devolution of power and responsibility, no matter how good the Constitution is and legal provisions are for the Village Development Committees, municipalities and District Development Committees -- the core of local governance in Nepal. Therefore, a good governance strategy requires structural transformation of the context in Nepal. The transformation should lead to another context through social movements which only a vibrant civil society, NGOs and people's own initiatives can trigger. Good governance assumes that the leadership must become a nationwide symbol of conscience and bear concern for the poor and the powerless.

To theorize the actual relationship between "structure" and "instrument" regarding democratic development, we need to analyze the mechanisms of leadership selection in the public institutions who are instrumental in the transformation of society, economy and polity. Mission driven leaderships presume to act in a pro-active manner, develop strategic plans from the bottom-up and enhance the efficiency and effectiveness of the entire governing units for the attainment of the goals of decentralized governance. The character of leadership in the society has become important, a character which makes the government honest, competent and representative. Nepalese citizens need someone they can look up to for moral and spiritual support, a role model to be followed to nourish the cognitive development of their children.

Governance of Nepal consists of three broad vectors - the state, the market and all the intermediary institutions between the family and the state, or what is called the civil society, each with a different direction. Pulling the collective strengths of these bodies through an effective coordination mechanism can accomplish the needed virtuous circle (synergy) for development. Good governance requires a sound management of these three actors of governance and development, through policy coherence, policy concertation, social embeddedness and interest in public welfare. The relations of the civil society with the state may have democratizing effects on the broader political scene while its relations with the market can provide critical information that is useful in policy making, execution, monitoring and review.

### **THE STATE<sup>6</sup> AS A GUARDIAN**

Does the Nepalese state articulate the public life of society and solve a variety of collective action problems? Or, is it separated from the society at large, thereby constituting what Gunnar Myrdal calls the "soft-state" syndrome where powerful persons have a tendency to disobey the laws of the land? Whatever its nature, the post-1991 governments of Nepal have succeeded in turning the rich into the powerful and the country and its people increasingly poor and powerless. This means the Nepalese ruling class has created a "subsidiary state," a term used by Albornoz to describe a state which is inclined to finance, protect and produce the needs of the more developed sectors of society (1992: 41). The governance logic of the Nepalese state has remained patrimonial for long, serving the dominant interest groups of the society, especially the aristocracy and bureaucracy, rather than of the peasants and workers (NESAC,1998:20). This state class and local elites are historically

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<sup>6</sup> "The state is fundamentally an institution to ensure the provision of public and collective goods--such as breathable air, safe water, an ozone layer, sound currency, law and order, defense, and (in an information-based world) public information. It has the coercive power to tax, set rules, and allocate resources. History and recent experience tell us that capable state institutions facilitate collective actions at the lowest cost to society. But history also teaches that there must be mechanisms--external and internal--to restrain the arbitrary and capricious use of state power and motivate public servants to provide better services" (World Bank, 1997:3).

characterized by their tendency to extract surpluses from the workers and peasants through rents and taxes in the forms of money, commodity and labor (Regmi, 1999:172) rather than by their contribution in production—a decentralized production essential for the sustainable livelihoods of the majority of people. The inability of the state to maintain internal autonomy from the dominant interest groups of society and dependent on outside states for its survival and development characterizes its role of a semi-dependency in the world system. "Nepal became destined to the role of a semi-dependency, a term which is used here to indicate the loss of autonomy in decisions on matters internal to a country by virtue of its parasitic dependence upon other states for resources and, hence, stability" (Panday, 1989:316). Political institutions of the state used to define a framework within which politics of decision-making, rationality and exchange took place.

Until 1950, the status of the people were defined according to different categories of land grants given to them by the state and their social position in the caste hierarchy. Through this, social control was exercised from the commanding heights of the political economy on land, labor and capital. After the establishment of democracy in 1950 Nepal entered into the phase of being a constitutional state and constitutions became the governing norms of the state, the market and civil society. The reasons of state and its sovereignty held primacy during the entire period of the Panchayat regime (1962-1990). The Nepalese state thus "remained hyperactive and hypertrophic in the sphere of production (land, forest, mines, capital goods, industrial units and labor in the organized sector), regulation (financial, capital and technological policies), circulation (foreign trade, foreign policy, transport, credit, banking, planning and distribution) and control (bureaucracy, army, police and civilian forces). The state's ownership of these resources has been presumed to be vital ingredients of its sovereignty (Dahal, 1995:58-59) as well as a hope for a just, humane and egalitarian society. What seemed the primacy of state planning --centralization, rationalization and nationalization-- until 1990 is now being labeled as government meddling. The state has earned a bad name in the neo-liberal discourse of post-1991 governments, political parties and intellectuals and its capacity to problem solving has been questioned. The effects of liberalization and globalization have weakened the capacity of the state in managing its autonomy against social classes and castes, proper utilization of public resources, set rules for, or actually determine, the accumulation and employment of capital. When state, market and conventional politics fail "to deliver the conventional goods, the politics of identity and culturally distinctive values become more salient" (Evans, 1996:6).

Institutional modernization in Nepal cannot simply be a matter of utopian revolutionary change, but a matter of setting a positive direction to the change already underway and which is apparent in local dynamics at the sub-cultural level. The dynamics was triggered by the formation of associations, organizations, societies and federations. Consequently, different sections of the society have been looking for their social roots, the roots of community. The state still purports to play the major role in securing or violating property rights, the lowering or increasing of transaction costs or the management or failure in the management of capital markets (Bates, et al 1998:7). These are connected with the meeting of social needs and the ability of the state to overcome recrudescence of "primordial aspirations" at the fault lines and resort to modernity - reason, science and wisdom in social and political life.

Only such an approach can cope with the emergence of a permanent underclass, Dalits, the poor and the marginalized and build their access to the institutional resources of the state. Special protection to Dalits and weaker sections of the society against the competition among power holders is especially important to facilitate their participation in "learning by doing" so that equity consideration in the long-run helps efficiency. Obsessed with macro-politics (free market, executive, parliament, judiciary, political parties, interest groups, etc), the government seems to have retrenched and retreated itself from the micro-processes (family, ethnic people, social values, gender, religion, culture, local community based organizations etc) which are the actual shapers of the "social capital" for development. As a result, movements for redistributive politics, equality and social justice of these units have become obvious to capture the positive externalities (their access to credit, education, health, land etc) in public life. Their demands for quality of access in policy-making have become the wellspring of minority politics evoking their basic constitutional and human rights.

Micro-processes can serve as the lifeblood of politics if properly managed; otherwise, deviant aspects of human life serve as the fault lines promoting a desire to play on the national

weakness and social dis-integration. Institutions of governance must try to constantly mediate between the state and the citizens as a transmission belt to prevent potential alienation, rebellion and resignation of people from politics leading them to harbour anti-politics sentiments. These micro-processes existed before, rather than after, the creation of the state and the market and, therefore, continue to influence the development paradigm as historical agents. This means there are better lessons of history to be learned to evolve the society cohesively and use its synergy for development.

## **Politics and Policy**

The tenacity of the leadership in defying the political odds and tensions arising from this is crucial to ensure the correct functioning of each branch of governance (legislative, executive and judiciary) including the bureaucracy. Nepal as a whole has more than its fair share of problems: Bhutanese refugees, poverty, tribalism, partisanism and weak administration, shortage of skills, low saving rates, large physical distances, poor infrastructure, weak entrepreneurial tradition, etc. The conscious or unconscious attempts of the leaders to avoid facing these issues cast a grave doubt on the country's readiness to meet the economic challenges for the next decade. There is a huge unmet demand for good education, especially civic education, the purposes of which are to help men and women equip themselves for life in the public realm, help them think of public good and overcome the popular cynicism about the conditions of remoteness of the existing institutional arrangements of governance. "Wherever one looks, it is the political context, the political dynamics and the political purposes which shape the structure of the state, fashion its development aims and determine their outcomes. Sustained and effective development can never be reduced to administrative arrangements, or managerial considerations evacuated from politics" (Leftwich, 1886:292). At present, the discourses on democracy have been clouded by utilitarian motives of political parties and personalities evoking a sort of zero-sum game. If all the parties seek a position of tolerance, the no-win game can become a win-win one.

The twelve years has shown parliamentary politics to be a symbol of the collective failure of elected representatives. They appear ignorant of the impact of what they have done to the nation and the future. A polity, no matter how democratic its constitution is, cannot operate if each political party wants to come to power and no one is interested in playing the role of the opposition. The Anti-Defection Act failed to discipline the elected representatives. A lack of real implementation of the Political Party Acts, ensuring their transparency and accountability in finance and operations, continues to erode public faith in the governing process. Calls for democratization of the party structure are expected to mount in the future. Their financial transparency and generational, regional, caste, ethnic and gender representation are bound to attract more attention. The extraordinary web of influence of parties in every aspect of public life is bound to unravel and their control and authority slip away as the democratization process gives the people a chance to break the monopoly of a few classes.

But even in the democratization process, there is a strong inclination to shape every social controversy in terms of clash of rights (prescriptive tradition versus social justice, men versus women, trade union versus management, press union versus establishment, etc). This has prevented the discovery of a common ground which was inherent in the sense of obligation embedded in the native tradition of *dharma*-- a tradition based not on the calculus of rational choice, but on sincere and impartial execution of institutional duties by the holders of power. Yet, as political struggles get ideologized, their adherents rationalize them even if they disregard the complexity of the relationship between popular opinion and democratic theory.

Critics claim, that the "country is in a perpetual stalemate where necessary laws are not legislated and where they are, there are not abided by" (Panday, 2001:17). And this has not gone unnoticed even in the public sphere. The weight of the media in shaping public opinion has increased even while governance structures have eroded. This has meant that the image of the parliament as a maker of sound public policies has steadily weakened. Failings in this vital democratic machinery have provoked serious economic jitters, tyranny of the majority and, consequently, created impediments to good governance. It is this kind of uncertainty that the Maoists and conservatives are seizing upon.

Anticipating fear and uncertainty about their future, the poorest of the poor are looking for an elusive economic emancipation, while the leaders find it just the opportunity to indulge in the

romance of politics by selling that daydream to the electorates- the majority whom are illiterate. They will continue to sell, so long as people have no alternative and participate in their appeal and activities. The idea that decisions are better when more people are involved in them needs encouragement if the quality of their life is to be enhanced in terms of both liberty and property. Social integration and nation-building in Nepal require a cultural component capable of responding to the demands of the society's diverse groups<sup>7</sup>. This helps in the conceptualizing of self, group and national identities and idealize them properly.

Democracy is the equilibrium whereby the branches of power find their legitimacy, transparency, accountability and sustainability tested and enhanced. For the equilibrium to come about, people in the political community must demonstrate that their system is fair and just. And, their competition for power for public office must remain within the legitimate rule of the game. One fundamental prerequisite, however, is this: political community building projects must precede multi-party competition. The doubts cast on the impartiality of the judicial system and the culture of impunity (Bhattarai, et al. 1999)<sup>8</sup> with which it treats the criminal and corrupt elite have left many Nepalese wondering whether they will ever be able to feel a sense of justice. In several cases, the system has failed to hold the executive and the legislature accountable for their misdeeds.<sup>9</sup> For, an unpunished crime tears apart human civility into shreds. There are heinous crimes so black that they do not admit human forgiveness, yet they go on being committed without any fear of reprisal or punishment. The death penalty has been abolished from the Nepalese constitution, but more citizens are killed these days than at any other time in history. There are institutions that are supposed to test the accountability of political leaders, such as voters during election time, the civil society, the media, the parliamentary Public Account Committee (PAC), the Auditor-General, the Commission for the Investigation of Abuse of Authority (CIAA), etc., but all appear to lack a sense of grasp and efficacy.

The authority of the Prime Minister inevitably suffered due to the political activism of the judiciary in the mid-nineties, which was instrumental in ushering in the political instability of today. Although it was the elbowing for power by the political leadership that gave room for the judiciary to step in to the political arena, it is not advisable to clock politics within the sanctity of a judicial decision and subordinate political imperatives to legal perspectives. And when that does happen, like it happened in Nepal, the results are here for everyone to see.

People's power is the instrument of collective action but this democratic mechanism was not allowed to foster due to growing factionalism and confounding of authority among the party, the parliament and the government. For an equilibrium to emerge in such a scenario, the balance between individual and community needs to be brought about even if it means a reinvention of politics. Good governance combines economic growth with social concerns. As the neo-liberal economic reform agenda has fallen from grace, it has reinforced the belief of many that unconditional acceptance of the free market ideology has served the interests of only a powerful few and that the market operates more under the virtues of efficiency and competitiveness than the democratic principle of equality which the Constitution upholds. The "soft power" of dreams, popular culture, compassion, trust, craving for youth and modernity therefore must be balanced with the "hard power" of security, economy and politics so that key governance goals, such as security,

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<sup>7</sup> Nepal has 61 ethnic groups and more than 80 languages. The hierarchy of ethnic and caste groups span from the most urbane Bahun, Chhetris, Newars, Thakalis, Marwaris to Rautes and Kusundas (who are still living in the forests and leading a nomadic life). This diverse hierarchy imposes complexity in the standardized formulation and implementation of the development process.

<sup>8</sup> Dr. Devendra Raj Panday forcefully argues that the dismal condition of Nepal is "further reinforced by a lack of punishment amounting to a "culture of impunity. That is, a public official, especially an important one, hardly ever gets prosecuted and punished for corruption" (2001:93).

<sup>9</sup> For example, duty-free *Pajero* facilities extended to senior officials of all the three branches of government- the executive, the legislative and the judiciary- trampled all the tax laws of Nepal and destroyed the beauty of democracy by undermining the separation and checks and balances of power existing in the Constitution. To be more precise, the checks and balance of power among the three was put to effective use to foster a spoils system in the upper echelons of power. This consensus among the three has been conspicuously absent, on the other hand, in rooting out the major governance ills, like corruption, afflicting Nepal today.

Other areas where the parliament has appeared weak are in national issues: in the relaxation of the labor act, the citizenship act, implementing the work-permit for non-Nepalese, the Tanakpur issue, promotion of the country as an off-shore financial center etc. Similar is the case with the formulation of public policies relevant to the nation and the diverse sections of the society to promote gender, social, inter-generational and ecological justice.



rule of law, voice and participation and public welfare (Zurn,1999:6-7) are addressed. Four broad processes - expansion of the money economy, loss of the community economy, growing privatization of the schooling and health systems and increasing atomization of family and community- underway in Nepal- are eroding the existing notion of national and local self-reliance as well as its culture based on pastoral and peasant lives. With the new equilibrium eroding, a new one, a democratic one, needs to evolve.

There are plenty of positive signs, however, in the areas of raising consciousness, expansion of franchise, participation of women, the deprived and the poor and enlargement of social, political and economic associations, networks and identities. The post-1990 public life provided a second time for the Nepalese people to feel free enough to discuss political affairs openly. The new freedom, however, is also pregnant with danger because fault-line actors are seething with discontent and seeking to trespass the constitutional bounds. If citizens' display of confidence to influence the government declines, if they discover that their right to equality is far removed from distributive justice and, consequently, their apathy to moderate politicians increases, the legitimacy of democratic institutions will surely be affected most adversely in the future.

## **THE MARKET AS RESOURCE ALLOCATOR**

The economy is the foundation on which social life is organized, sometimes. There is a belief that market economy can effectively coordinate the functions of resource allocation and distribute income through exchanges between buyers and sellers through a price mechanism and address the problem of scarcity of goods and resources. The market<sup>10</sup> can aggregate information, provide the motive for self-interest maximization, institutions and capital accumulation-- the central driving forces of economic change. But, markets are not context-free; they are embedded in the physical, social and political life of the nation. Nepal's market system, by this definition, is stunted, segmented and narrowly contained within a few developed parts of the economy. It has yet to integrate its hunting, pastoral, peasant, industrial and informational economies operating in the nation and at the same time help modernize the economic life of the Nepalese. In this context, the government's adoption of "state minimalism" and "societal maximalism" since the late 1980s through policy reforms and legislation of acts<sup>11</sup> contributed to a disequilibrium in the state power, reach of the state in society resulting in a vacuum of authority in the periphery. Gurung sees the phenomenon in the global perspective. For example, he argues, "the slogan of privatization and NGO-promotion, indeed, is the Western technique of weakening the government of aid-receiving countries (1999:5)." With such non-market agendas in the market reform process, there was little that the reforms could deliver. Neither could the political outcome of the reform measures be expected to suit the needs of a fledgling economy caught in the time warp of a huge political transition.

The government's policies, thus, neither helped a sound market -oriented development nor was able to prevent the hegemony of rent-seeking politicians and bureaucrats.<sup>12</sup> Totally deregulated markets are in any way not prescribed when anarchical tendencies rule supreme. In fact, it is

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<sup>10</sup> Douglas B. Holt labels the contemporary market the "post-modern market," because it "depends increasingly upon two strategies to increase sales and profits. First, areas of social life that traditionally fell outside the market--health care, education, prisons, religion, the arts, poverty, the environment, caring for the elderly and the dead--are now being brought into the market. Second, consumer identities are being fragmented, proliferated, recombined and turned into salable goods. Thus, transnational companies compete on how quickly and effectively they can create markets out of new styles, meanings and experiences produced in public culture" (1991).

<sup>11</sup> Nepal adopted Stabilization Program in 1985 sponsored by International Monetary Fund (IMF) and received structural adjustment loans from the World Bank in 1987 and 1989, Structural Adjustment Facility for 1987-1990 and Enhanced Structural Adjustment Facility in 1992 sponsored by IMF. Important acts to promote structural adjustment policies are: Privatization Act 1992, New Industrial Policy 1992, Industrial Enterprise Act 1992, Foreign Investment and Technology Transfer Act 1992, One Window Policy, Labor Act 1992 and a number of regulation to free the market from democratic control. The Administrative Reform Commission 1991 not only pushed the agenda of debureaucratization but also redefined the role of government in a) construction of basic infrastructures, b) regulatory role in quality control, ensuring steady flow of goods and services provided by the private sector and non-governmental organizations, c) function of providing necessary security for the life and property of citizens and their health, and d) protection of the environment and executions of other essential functions that cannot be carried out by other agencies (Dhungel, 1997:7).

<sup>12</sup> "The systemic politico-bureaucratic nexus today is engaged in sharing the spoils of power and authority facilitated by easy-money that flows with donor-driven foreign aid in search of the elusive exogenously determined goals precisely like those conceived by the donors for the reforms" (Rana, 2002: 6).

regulation that needs to be strengthened in such instances. The constraints that hamper reforms are the absence of a proper legal framework, competitive regimes, strong anti-corruption measures and a framework of transparency. Only when these basic premises are met can the market be let loose, that too in a gradual process that ensures that social life is not unmanageably disrupted. It is the reversal of priorities in the reform agenda that has undermined every constitutional guarantee for good governance, including *the right to information*. When juxtaposed with liberalization, which was going on simultaneously, deregulation assumed hideous proportions. The result has been that the country is unable to retain its resources to maximise the benefits for its own people. They remain scattered and their exploitation has become uneconomic. Citizens are hence forced to seek opportunities in other markets. Even the basic needs of life are imported and natural resources exploited for the benefit of others or allowed to deteriorate because of lack of conservation capabilities. Under such circumstances, even functioning economic units find it profitable to wind down if only for efficiency's sake. Businessmen have already started calling for state intervention for their survival. Remember, the single goal of the market reforms was to make the state burden lighter. And, since the state itself is under attack from different directions, it falls on the international community to intervene if national economics is to be put on the right track. There could not be a greater irony here.

The motivation of the market economy has remained simply to maximize returns on investments rather than bring about social accountability. By avoiding any consideration of the liberal constitutional context, within which welfare economic policies have to operate, the post-1991 governments forged a capital-centered, uniform, structural adjustment over the immensely diversified economies and societies whose impacts have yet to be assessed properly. Even worse was the coupling of liberalization measures with those of deregulation. Liberalization is needed when production forces find the national boundaries coming in the way of their production capabilities, but this was not so in the case of Nepalese liberalization. Nepalese production bases were in fact being eroded by policy at the time of liberalization. Liberalization destroyed all the barriers between strong neighborhood economies and the country's own weak economy. A new form of exploitation began. Economic deregulation subjected all small scale and cottage industries of Nepal to an international competition. The national economy was incapable of withstanding and, consequently, destroyed the public policy making power of the Nepalese government and the sovereignty of the people. Whatever decision making authority was there went to regional and international economic powers through the global market forces. The Nepalese have discovered that to choose economic policies they consider beneficial for them or default to the constitutional choice of public-private partnership is just an elusive dream.<sup>13</sup> All this points to a problem that goes higher than economic policies, a

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<sup>13</sup> Based on the argument that competitiveness can be promoted through policy, a government can initiate measures to involve the private sector to bring about efficiency in the supply of goods and services. Protection, targeting, export promotion and subsidies have been considered to be effective policies and have been practiced by governments throughout the world. The Directive Principles and Policies of the State, in the Constitution of the Kingdom of Nepal, do envisage the transformation of "the national economy into an independent and self-reliant system" with... "such provisions as will prevent economic exploitation of any class or individual"... and ... giving preferential treatment and encouragement to national enterprises, both private and public."

But, while attempts are made to reinforce public-private partnership, care should be taken not to confuse private interest with public interest. Nepal is not foreign to the idea of how public assets turn into private profits. The objective of both the sectors should be the same- public service. But it is well known that the motives are different- one is motivated by profit, the other by public office. Officials should be kept at a distance from being able to share in the profits of entrepreneurial activities. For a better governance, argues Joseph Stiglitz, "Government should encourage the private provision of public goods, including through non-governmental organizations, not only as mechanisms for the creation of effective competition to itself, and therefore putting discipline on itself, but also as an effective way of conveying voice" (1998:9)

Throughout the world, officials have been seen to frequently manage economic enterprises without resigning their government positions. Such officials inhibit democratic development even if they provide clean government. Governance also seems to have been effective in some countries where corruption is widespread and has even been taken as a well defined rights system.

It is not unusual to see political cadres becoming entrepreneurs in their own right even while holding on to their political positions in Nepal. Others have openly set up businesses and exploited their political contacts for maximum advantage. In the rural areas, government and economy have a greater tendency to be in the same hands as the elites are more successful in keeping the status quo intact through various means. Power politics tends to blend politics and economics, reinforcing each other and making them largely inseparable. But it is only a rules-based system that can handle untoward power politics. In the West, there has long been a clear divide between public and private domains and between politics and

problem that is of policymaking itself- able people manning the policymaking helm. But the political transition process of the time ensured that everybody handling the state affairs was new to statecraft. Worse, in many instances the leadership apparently thought that going against the state priorities was the only moral thing to do- albeit a hangover from the days of their political struggle when they were attuned to oppose anything coming from the stateside. Add a little bit of corruption here and a little bit of populism there and one has a potent recipe for political destabilization, economic chaos and social disintegration. Even today, clashes between the constitutional bodies is not uncommon if it involves personal profit. Personal profit has proved to be such a powerful political motive that it has even been able to unite the three branches of the government, as we saw in the case of duty-free Pajeros to public officials. It is another matter that the judiciary, the executive and the legislative branches were constitutionally designed to bring about checks and balances against exactly such tendencies.

From the very beginning, the economic policy of the nation has been at the heart of conflict between people and the government. The privatization and liberalization process emerged as a cornerstone of its economic development strategy which, many believe, is a result of the connivance of politicians and business groups who regard the process of capital formation as the prime movers of economic growth and who treat the nation and people as mere commodities. But there may be an international dimension to it as national capital is not the one benefiting from the policies thus far. In fact, the capital market has not been allowed to grow to a significant size to be able to handle national development and industrialization even when opportunities have knocked at the policymaker's door.

For example, had the privatization been carried out through the stock exchange the say of the capital market in the decision making process would have been enhanced. Most of the privatization was carried out outside the realm of the national capital market and a select few individuals were awarded the spoils by politicians and bureaucrats. And enough evidence is yet to come about before the Nepalese can say that their banking sector, largely in foreign hands already, has been contributing to national development through national priority projects. For that, the government has had to call for foreign capital, in spite of the fact that a lot of national savings lie unused for productive purposes. Financial institutions that came to capitalize on the liberal policies have been providing interest-free loans to imported consumer and capital goods with a zeal that is hard to be found in any long-term development endeavour. Such focus of financial resources has been aggravating the already troublesome trade balance. The Nepalese capital's disinterest in development is stark. Some banks rather pay fines to the government as a matter of policy rather than finance national priority projects. No one knows where the neo-liberal revolution designed by the Nepalese government will take the Nepalese people.

## **The Social Challenge**

As a private sector, the activities of the business community are influenced by the market and prices and, therefore, it is concentrated in those areas where infrastructure is better developed, economic growth is de-linked from the lives of the poor and a free choice for wealth accumulation, not distribution, can be exercised. However, development is about more than free markets for the private sector. It is also about good corporate sector governance, its integrity and its financial and social accountability. People are not merely consumers of goods and services, they are citizens having the constitutional right to development and work. As the state's economy is sinking deep into the mire of stagnation, owing to wrong policy prescriptions, the majority of people are denied their fundamental rights and access to economic equality, making the politics of law and order thoroughly dysfunctional.

The theory of the economic model of adjustment, which gives preference to economic reforms over democratization, has apparently only tinkered with the Nepalese mal-development

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economics, unlike crony capitalism that many Southeast Asian countries are trying hard to come out of the grips of at the moment.

Instead of opening the way for local authorities to make claims on the successful firms under their jurisdictions, the public-private partnership should work to keep them apart remaining alert to the historical dangers of corruption. One way out could be to pay the political leaders well enough so that bribery is not a pre-requisite for survival in the political office. If, additionally, the public is made aware of democratic values making them more critically involved in supporting democracy, chances for public pressure to keep the partnership on an even keel are high.

syndrome. Governments of multiple hues and coalitions took the side of predatory capital and displayed weaknesses in mediating the needs of the people with the demands of local and global capital. As a result, the willingness to pay tax, abide by the laws of the land and contribute to the quality of life of people still remains remote. With the ideology of liberalization, the business community of Nepal has developed an economic identity of a class marked by a self-consciousness of being distinguished from the majority of ordinary citizens often seeking freedom from social and legal control.

On the debit side of the market economy's ledger, every year the education, income and expectation gaps between the rich and the poor continue to widen. These gaps are bound to weaken the willingness of both sides to cooperate for development. A similar gap is expected to widen between the state and non-state actors, as the government is now trying to control NGOs and the civil society in the name of transparency and accountability of funds. It has not reflected on the effects of its own wrong policy prescriptions. The gap is vast between urban and rural areas and among the development regions, whether measured by education, economic output or other indicators of modernization causing crisis in the living conditions of the majority of people. This poses additional long-term threat to social stability. There is a strategic imperative in rectifying such regional imbalances. Any process of real economic development entails a change of the social context of development.

Urban citizens enjoy better access to job opportunities, public services and a number of other services provided by the market. The economic life of the nation, the Tarai, is independently articulating through India. How can the resulting disparities, aggravated by economic liberalization and globalization, be mitigated? Economic policies cannot be regarded as non-political and non-ideological because these policies are crucial to the nature and distribution of power in society. Social policies cannot be de-coupled from political ones, as the latter are designed to address social ills. In Nepal, as the market invades public life, capitalization of the society is weakening the autonomy of political and social spheres, hitting hard the weaker sections. The rural poor are thus marginalized, unable to articulate. The closure of many factories has stirred up nationalist sentiments among many Nepalese who fear that the government is selling off their property cheap. The fear of many middle and lower middle class families of losing their homes, jobs and business is likely to provoke nationalist and radical reactions in the future. If economic policy is not constituted on the basis of co-determination, redistribution of wealth, social regulation and control, the unmet needs of the majority will serve as a cause for popular resentment and, consequently, the delegitimization of the regime.

Rising budget and trade deficits and inflation just add fuel to the flames. The elite continues to consume what the nation does not produce, leaving the successive generations to inherit an increasing debt burden and massive poverty. The persistence of Nepal's deep-rooted poverty casts a grave doubt on the country's readiness to meet the economic challenges of the next decade. To be sure, economic development requires a competitive, transparent and innovative business which can muster the confidence of people- citizens, workers and consumers- for a social vision where the priority of social justice over individual economic advancement becomes a norm. Good governance requires disciplined market forces that defends the capacity of the people to shape their economic institutions in accordance with their vision, mission, priority and participation. Thus will they be able to treat the causality, accumulation, continuity, intensity, complexity and directionality of poverty.

A variant of the construction of a stakeholder economy in which shareholders' interest is balanced by the rights of the community, the workforce and the consumers provides an ideological motive for a development strategy. The benefits of the past statist and now market-friendly interventions did not trickle-down to the poor people. So, there has been a shift towards a self-governing polity and participatory development guided by laws and socially accepted codes of behavior.

## **CIVIL SOCIETY AS A PUBLIC SPACE**

In Nepal, where both the political society and economic society have a common motive of maximizing power and wealth, the non-profit sectors-- a world of the weak, poor and the powerless-- are the ones that bear the costs. But, it is also here that the civil society can create a public space for the poor people's participation and collective action. People participate in social transformation

through both intermediate political and civil societies which process demands, stimulate dissent and constrain the arbitrary actions of the government. Political societies include political parties, their sister organizations and state institutions while civil societies include professional, voluntary, community and civic bodies. Both help in shaping the direction of governance and development. Nearly all parts of Nepal suffer from a slow growth of vibrant civil society that is capable of initiating public discourse on policy issues and mediating among the state, the market and the international regime. How will the present state of civil society evolve? On the basis of trends already underway, five critical factors that support the proliferation of civil society can be found in Nepal.

First, the historical legacy of Nepalese voluntary, self-help and charity sectors is expected to give continuity to civic institutions and engagements as well as seek to connect the meaning of cultural forms and consciousness to the modern forms of social, economic and technological contexts. These societies are duty-based and constituted to promote a *dharma-based good society* where the weak and powerless are given necessary service. Second, the tendencies of all mainstream political parties and their leaders' faith in privatization and economic liberalization is bound to render a minimalist role for the state, meaning that a space will be available to inspire citizens, consumers and workers to band together in search of common goods, as these societies are based on human and citizen rights. Third, the civil society sector continues to grow, side by side with the state and private sectors, offering a new channel of communication among the populace and set a culture of contestation and a democratic approach in public life. It would act as a symbol of resistance to hegemonic discourse, an apostle of social struggles and change for creating a democratic citizenship and social inclusion. Fourth, by linking up to the global associational revolution for democratic transformation, the civil society will provide an impetus for a number of local initiatives and creativity where local NGOs and people's organizations at the grassroots level will become their partners in interacting, monitoring and influencing public policies on governance. And finally, donors' shifting patterns of aid from the state to increasing the capacity of NGOs and civil society in charting the future of their societies add further strength to these intermediary bodies in the regeneration and reconstruction of modernity.

But, not everything is going to be sweet and sound. A lot of evolutionary changes are needed for the Nepalese civil society to be effective and at the same time grounded in Nepalese reality. Today's civil society built on science, rationality, progress and citizenship marks a paradigm shift from the traditional form encompassing the core values of inclusion, justice and solidarity. The future politics of civil society will aim to grasp the local people's point of view, their conception of life and help them realize their vision of the world, a vision grounded in the aspiration of kaleidoscopically diverse people of several racial and geographical origins. There is no doubt that the Nepalese society will also enter a new phase of evolution when decentralized units of self-governance take shape. Something surprising is bound to happen as people assert their sovereign power smashing the shackles of bad legacy of the power elite and the undemocratic social control mechanism. This will offer an impetus for grassroots consultation and ownership on policy matters which will meet head-on the culture of vengeance, partisanship and the wholesale abandonment of democratic principles by those in power. Indeed, the increasing centralization of governance even today is a sure sign that the struggle for human rights--liberation, entitlements and social opportunities-- remains very much unfinished in Nepal.

The autonomy of civil society, such as trade unions, human rights organizations, student unions, teacher's associations women's groups, environmental advocates, professional organizations, etc., is essential for breaking the monopoly of power and wealth and enforcing a pluralist sense of justice. Autonomy, however, does not mean that everybody goes one's own way. On a wider level, the common good does bind every actor, not just the civil society actors but actors representing every other facet of governance, for a shared objective. The state-civil society discourse has been poorly institutionalized in Nepal in terms of their autonomy, coherence, consistency, complexity, organizational unity, and adaptability in functions. The problems emerging in the discourse of civil society now are:

- ← High level of population growth and low level of development will likely spark a struggle for resources, especially for food security and livelihoods. This will be coupled by a demand for ecologically and culturally sustainable development. The doubling of population within three decades is a trend that would reach Nepal's population to above 40 million by the year 2020 from its current 23.1 million. The capacity of

modern technology to reduce jobs would add a vast pool of jobless workforce which is already three million strong. Unless there is paradigm shift from consumption and revenue-based models of development to a production based one, one where the workers and peasants have the capacity and skills to compete in the market mediating with the demands of the globalization process, the potential for unrest in both the rural areas and cities remains high.

- ← The rate of increase in poverty shows stable and steady characteristics, which is bound to persist over a period of time. If the goals of poverty alleviation remain unmet, the country may have to face social and political struggle of firebrand activists for rights, entitlements and justice furthering the crisis of governability. The current trends of graft, criminalization and a culture of impunity for the entire political class add further weight to such a likelihood.
- ← Rural-urban migration is resulting in massive concentration of rural population in urban areas, nearly 40 percent by 2010. This suggests a familiar ring: dislocation of social peace and stability and the rise of social evils. Unless the civil society matures itself to help the state become able to maintain social cohesion, conflict resolution and peace, the demand for good governance will remain a critical agenda.

## **BUILDING NATIONAL INTEGRITY SYSTEM**

How can a national integrity system of governance be built? This critical agenda has become absolutely necessary in the context of Nepal if only to fight corruption that is eating into every aspect of national life. The obvious answer is: by detecting bribery, promoting economic and political transparency and accountability of the office holders and punishing the corrupt. Prithivinarayan Shah's statecraft, as underlined in his *Dibya Upadesh*, recommended harsh punishment for those who gave or accepted bribes. He wanted to discourage corruption through "confiscation of all the offender's property" (Stiller, 1989:63) as the corrupt were regarded as the enemy of the nation and its people. Ironically, however, today, Nepal has a lower-than-average economic transparency. As the dimension of grand corruption transcends national borders, a national integrity system requires the state to build coalitions with like-minded groups within and across the national boundaries.<sup>14</sup> This is especially important for present-day Nepal where past corruption cases have been surpassed by leaps and bounds in every dimension. Principles, traditions and social norms have not come as obstacles for anyone to retain their integrity, even for those who are supposed to provide role models for social behaviour. "Political leaders in general excelled the former regime's culture by presenting themselves as normless creatures motivated for amassing wealth and for laying the patronage routes to status and power" (Baral, 2000:197). At a time when the preoccupation of Nepal's political class is in patrimonial, predatory, cronyist, arbitrary and rent-seeking activities, it is indeed an unsurpassable challenge to build a national integrity system whose rationality is captured by development to serve the well-being of the majority of people.

The subordination of civil servants to a periodically elected political executive is expected to make the former accountable to the latter for their actions as a *dharma* (duty)-- their responsiveness to the electorates. The right to vote enables citizens to hold government accountable to their needs and aspirations, while the right to information granted by the Constitution also makes civil servants transparent and responsive. But the accountability standards in Nepal are, however, lower than in any other countries of South Asia. This has encouraged corrupt practices and often collusion among civil servants, politicians and businesspersons, adding negative elements into economic development and political stability. Political leaders dominate the issues. More weight is given to political expediency rather than related expertise. The government's anti-corruption institutions, though highly publicized, have little effect because of the apparent involvement of the whole of the political class, the judiciary, law-making and law-executing agencies in graft and corruption.

Responsible governance will require a new ethics of responsibility to the natural world and the future generation, an ethics that goes with human rights and democracy. Meeting the basic needs of half of the population who languish below the poverty line requires an atmosphere capable of attracting investment and employment generating activities. For these objectives to be met, cleansing

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<sup>14</sup> Devendra Raj Panday argues, "The state institutions that comprise a part of "the national integrity system" must work as partners in remedial action and coalesce with other partners that comprise the other part of the integrity system. This will include not only national institutions and interests but also the like-minded groups in the international arena whose cooperation is necessary for checking the supply of grand corruption (2001:163).

of the governance apparatuses and establishing an integrity pact<sup>15</sup> along the vision of the Transparency International (TI) are of vital necessity.

Similarly, in combating corruption, the problem of the gap between accusation and proof must be addressed. The Commission for the Investigation of Abuse of Authority (CIAA) is accused of laying out those cases which have conflict-laden facts and, therefore, has undermined the merit of the cases. Important testimony has been tainted in the past by mishandling of the cases. Inability of anti-corruption agencies to crack down is causing cold feet among investors. New cases of corruption are becoming more evident and huge. More important-new dimensions are being added to existing corruption: corruption that requires international cooperation, corruption that requires bilateral efforts, corruption that emerges out of vicious cycles of causation within the country and lack of enforcement mechanisms of anti-corruption laws. All the accountability institutions, such as the Auditor-General's office, the Public Account Committee, CIAA and the Special Police Department need to be strengthened to bolster the national integrity system in fighting corruption and criminalization of economy through the creation of a strong law-enforcement mechanism of the governance process. The tendency of the government to encourage unlawful behavior among political dissidents and conspiracies and unholy maneuverings within the government must be exposed by the media, the civil society and other watchdog agencies and brought to the book of the court.

The lack of national consensus within the government on how to respond to the viciousness of corruption has meant that corrupt persons are allowed to go their own way without impunity. As a result of government indecision, there is a widespread impression among the corrupt and criminals that further corruption will be tolerated by the regime. An increase in the extent of cronyism is the big factor behind the roiling failures of the governing class that has lost touch with the needs and feelings of ordinary people. It has failed to provide hope and a sense of inclusiveness that they long for in a competitive market environment. Not surprisingly, these features will certainly evoke grounds for pessimism in the future. Governance should, therefore, be institutionally and normatively redesigned to serve the needs of the diversified and articulate citizens as well as to legislate an equity between the generations.

The above analysis is not cynicism about the state of governance in Nepal but a realistic anticipation of the problems to be confronted in the future. Nepal needs to improve its micro-economic foundations for a long-term management of macro-economic and macro-political processes. For that, good governance is not only important as a means to realize the basic rights of the majority of the people but also to set a context for the state to become a repository of collective strength of its citizens--a context that can also enable the market and civil societies to act according to the Constitutional rules of the game defined for them. This will help promote the provisions of essential services whereby people can develop their full potential for eventual empowerment. Realizing the goal of human rights for all requires a development synergy of all the actors- the state, the market, the private sector, NGOs, civil society and the international regime. A broad-based consensus among them on the national agenda is vital. The role of the state to support public power very much depends on how much it is enmeshed in the society and how far it is helping to manage the contradictions of the existing social and economic order. An overarching vision of transformation helps tremendously in the endorsement of development.

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<sup>15</sup> According to TI the "integrity pact" is intended to accomplish two objectives: "a) to enable companies to abstain from bribing by providing assurances to them that their competitors will also refrain from bribing, and government procurement agencies will undertake to prevent corruption, including extortion, by their officials and to follow transparent procedures; and b) to enable governments to reduce the high cost and the distortionary impact of corruption on public procurement."

## Good Governance-Decentralization Inter-linkages

The concept of good governance has attracted tremendous attention in many developing countries due to both changes in the nature and core functions of government. These changes have also brought forth possibilities for different social actors including the donors to affect the policy of government. Issues of governance permeate all levels of decision-making in the body-politic. Therefore, the domain of governance does not solely belong to the state or its executive-- the government. New developments like the globalization of trade and knowledge, the growth of civil society, NGOs, consumer associations and public issue-based institutions, renewed legitimacy of the private sector as well as the emergence of several international regimes have brought all these actors into the forefront of the governance agenda. In a way, these new developments have provided a countervailing power to non-state actors in governance matters. Governance tries to address the issues of transaction, incentive structure, coordination, communication and collective action in different domains--global, regional, national and local. "The similarities between the problems of providing local public goods and global public goods are such that much can be learned from both environments if looked at from a common framework" (Keohane and Ostrom, 1995:11). Even politics has had to adapt to the new developments. There has been a growing relationship between political competition for resource, power and authority and the sustainability of economic, ecological and social systems. All these entail a new form of governance whereby the public policy agenda is at the centre and each actor-- the state, the private sector (including market institutions) and the civil society-- defines the concept in its own way as each has different needs.

A broad interpretation of public sector management, or governance, underlie the following parameters: "a) political institutions within which management is exercised with a focus on how democratic institutions function, b) the authority and working of the judiciary, c) the administrative system and culture, d) the role of civil society, and e) the underlying socio-political dynamics which conditions the functioning of the above institutions" (Sobhan, 2000:2).

When citizens elect a government, they do not want it to be a passive instrument<sup>16</sup> of the state. Elected governments are required to perform a number of public tasks, become accountable to the people and subject themselves to democratic control. One institutional development theorist argues, "No market can survive without extensive public goods provided by governmental agencies. No government can be efficient and equitable without considerable input from citizens" (Ostrom, 1999: 366). Especially in developing countries, where market forces are relatively underdeveloped and civil society groups are either unorganized, suppressed or even made to operate as an appendage of the dominant interest groups of the society, the government becomes the only legitimate instrument of people's power with considerable space to undertake policy initiatives, shape public debates and define actions that are most appropriate for public agencies to execute. Thus, the renewed interest in the state stems from the fact that it is "essential for putting in place the appropriate institutional foundations for markets. And, the government's credibility - the predictability of rules and the consistency with which they are applied - can be as important for attracting private investment as the content of the rules and policies themselves" (World Bank, 1997: 5).

In many developing countries, the process of globalization has led to a greater opening of the state and the liberalization of the markets. This has begun to submerge the entire world in a single economic system, redefining the viability of the nation-state in a number of areas, for example, as a regulator of citizens' lives, collector of tax, protector of the public interest and a distributor of goods and services. In a number of cases, globalization policies have been able to fracture the mid-20th century "social contract" between the citizens and the state and forced the government to adjust to the imperative of external demands, thus posing a crisis in its capability to devolve power to the people. "Borderless finance and production, administered by an international managerial class, has crippled the ability of most nation-states to regulate their own markets for social purposes" (Faux, 2000:1).

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<sup>16</sup> Local governance institutions are largely rule-takers rather than rule-makers and, therefore, decision-making on major issues is largely pyramidal in the present overall context of governance in which the center and district exercise disproportionate and also inappropriate influence. Whereas at the local level VDC, municipality and ward levels there is no equity in participation or representation of women, Dalits and marginalized people.



Has the Nepalese state been able to accommodate varying levels of competing demands and act as a creative catalyst of social change? There has to be a pause before answering that question.

The diminishing capacity of the Nepalese state arises from the a) de-institutionalization of politics caused especially by the nature of elite cooperation, competition and confrontation; b) lack of public ownership of the policies and the accountability arising out of that de-institutionalization; c) lopsided execution of public policy owing to a lack of political will of the government, d) inability of the state to accommodate demands originating from below (devolution of power) and outside (globalization) at the same time, and e) incapacity of the government to settle political conflicts without resorting to coercion and violence. Empirical evidence from many developing countries suggests that there is a deficiency in their quality of governance preventing it from being termed "good." The indicators of good governance play a substantial role in explaining why most of the developing countries like Nepal, Bangladesh, India, etc failed to develop faster than certain other developing countries, such as South Korea, Malaysia, Thailand and Singapore. Some governance experts attribute the success of the Southeast Asian economies to their entrepreneurial political culture, effective and honest leadership, higher level of educational and social values and predictable policy regimes or institutions. Others have argued that development has mainly to do with the constitutional and legal systems, the extent of national integrity system in the government, quality of education being provided, degree of protectionism, prevalence of government intervention in markets and the nature of public-private partnerships. Nonetheless, one can make some crucial assumptions about good governance:

- ← Both good governance and democracy "depend crucially on the character and capacity of the state which, alone, can institute and insist on it. And the capacity of a state to deliver good governance and protect democracy is in turn a function of its politics and its developmental determination" (Leftwich,1996:17).
- ← Good governance rests on the constitutionalization of societies, that is, maintenance of coherence in the system of representation and in the mechanisms and processes for defining government strategies and policies, the establishment of a general rule of law, the development of a competent administration, a rational assignment of service responsibilities, a rational assignment of revenue instruments and the strengthening of local self-governance (Ostrom, Schroeder and Wynne, 1993:193-206).
- ← Good governance is a crucial precondition for economic growth. Only those countries are said to be having good governance which have a highly qualified public and private service mechanism that can withstand undue political pressure and manage all types of conflicts. This institutional determination requires enough social capital necessary for rationalizing public action as well as to steer social transformation. "The crucial Challenge is to build societal capacity for managing diversity and preventing social capital from being transformed into an instrument of exclusion and violent conflict" (Colletta and Cullen, 2000: 123).
- ← Good governance requires a high level of control of corruption and the capability to enforce an effective law and order tradition that "reflects the degree to which the citizens of a country are willing to accept authority of established institutions to make and implement laws and adjudicate disputes." (Olsen et al. 2000:348).
- ← The "structure of incentives given by the institutions and economic policy regimes - and thus by the governance - of a country are a major determinant of their rates of growth of productivity and economic performance" (Olsen et al. 2000: 359-60).
- ← Good governance "is neither provision nor production. Instead, governance requires the ability to make and enforce rules for organizing the local public economy, establishing an institutional framework within which patterns of provision and production emerge from the choices of local citizens and officials. The governance process includes the resolution of conflict among participants, as well as the maintenance of agreeable and equitable arrangements" (Oakerson,1999:18-9).
- ← A good governance with a strong dose of "decentralization brings positive externalities to the local level, countering much center-periphery formation; particularly important for such a key externality as challenge" (Galtung, 1996:179).

The role of institutionalization is crucial for good governance to take root. In spite of that, quite a number of developing countries suffer from the lack of institutionalization of essential democratic elements. Without the development of adequate socio-economic pre-conditions at the grassroots level, the impersonal power of the state is known to be transferred to paternalistic and personalized political parties and their affiliate organizations. This poses problems of governability itself. Weak and ineffective governance spring mainly from the normless behavior of social, economic and political actors that results in the absence of political consensus on the choice of political ends and means. In such a situation, the tasks of mustering support from the diverse political groups,

managing conflicts by peaceful means, sustaining policy effectiveness and decentralizing power for good governance become next to impossible.

A government nesting in the normative order of good governance does seek to fulfill the requirement of freedom, justice, transparency and accountability. There is no doubt that leaning too much on utilitarian tendencies often undermines the popular articulation of demands and participation, the very legitimacy of democratic governance. Given the way governance is executed in the country, can Nepal establish the normative character of good governance? Certainly yes, if power, authority and wealth are made functionally accountable to those who produce them, i.e. the people, and develop a mechanism to cope with the external challenges.

In a heterogeneous society like Nepal, the need to accommodate highly diverse sections of people in decision making becomes imperative. This idea of accommodation should provide a conceptual framework for the evolution of the necessary people's participation- beyond the interest and pressure groups, political parties and legislatures- and devising a system of drawing loyalties of all sections of the people for social and national integration. Any authoritarian effort in isolating, suppressing, depriving or even eliminating them would produce a negative orientation in their behavior and can radically affect the policies of the government. A good governance policy is expected to unleash the people's vision and initiatives in formulating goals, inventing means to realize them, satisfying legitimate needs and demands and being accountable for their performance. To ensure participation in a heterogeneous society it makes sense to decentralize the state powers as far as applicable so that the local mediation mechanisms are given ample opportunity to play their part to include every hue of the society in the national mainstream. Mere representation at the central level does not ensure inclusion, especially in a political society that promotes elitism and geared towards enhancing individual power and wealth.

The establishment of a decentralized society is the leitmotif of good governance because a centralized polity limits the choices for the people in key areas that affect their life, liberty and property and undermines the principles of subsidiarity embedded in the Constitution that legitimates the "sovereignty of people." This is why decentralization of power forms the first necessary step to enable people to realize the notion of self-governance by removing the barriers to participation, such as culture of domination, alienation, inequality, poverty and deprivation, and enhancing their capabilities for self-fulfillment and self-reliance. In this way, decentralization has become a vibrant field of inquiry from the point of view of good governance and it is likely to persist alongside the agenda to reform politics.

**PART II**  
**DECENTRALIZATION**

## Globalization Versus Localization

Although globalization, according to many political scientists, is not a new phenomenon and that countries pursued it in various ways since the birth of the nation state, nobody denies the fact that the current phase of globalization is different-- different in the sense that it unleashed three major trends. The first is *denationalization* of the state involving major changes in the power of the legislature, the executive and the judiciary and shifts in the relative weight of financial, technological, environmental, security and other organs. The second is the *de-statization* of politics making the state's involvement in society less hierarchical, decentralized, poly-centric and multi-tiered involving both territorial and functional units. And, finally, the *internationalization* of the policy regime increasing the strategic significance of the international context of domestic state action and blurring the distinction between domestic and foreign policy regimes (Jessop, 1999:9-15). The main issue of "governance in a global economy is the loss of monetary and fiscal options for the nation state and subservience to rules sometimes made by the international trade and financial interests" (Bardhan,200018). Argentina presents an extreme case of the loss of monetary sovereignty. To participate in the global economy, it surrendered its economic policy prerogative to the US. The communications revolution has truly made it possible for different global power centers to execute their agendas almost immediately.<sup>17</sup> If this has opened new unforeseen opportunities for global peace and prosperity, at the same time, risks have also multiplied by as many times.

The risks of globalization, because of the speed with which information can flow around the world, have posed themselves more starkly for those marginalised by global events in the present day world. Although individual countries themselves have these potential quicksand patches to take care of in their own economies, globally, more than half of the world's population finds itself ignored or exploited by the globalization process. These countries form potential traps, cautioning the world as a whole against completely depending on globalist forces as a reliable way to move forward. Since individual countries will find it very difficult to handle the situation for their own good, they have started forming alliances and blocs to protect not only the prosperity they've achieved so far, but also their identities as well. As a result there are two distinct forces at work to further the transnational cause, which are capable of eroding the boundaries of the nation state. The first is the globalizing tendency of national policies and the second one is the regionalization of national economies. But there is a third force that aims to move away from these two tendencies and work for local benefits, and that is decentralization.

Jonathan P. Doh<sup>18</sup> describes the parallel phenomenon of neo-federalism in the United States and subsidiarity in Europe, which are transferring power from national capitals to regional, state, and sub-central governments. The combination of these two trends is generating competing centrifugal and centripetal forces in relation to corporate strategy and structure. Doh argues that pan-continental economic and regulatory harmonization, combined with the voluntary or involuntary transfer of greater power to lower levels of government, leads to an increasingly complex web of transnational, national, regional, sub-central, and local government policy making and institution building.

The initial rejection of the Maastricht treaty by several European states was a setback for the development of a more integrated political union and a blow to full and complete economic integration. The battle for a single currency called the euro against countries that want to opt out is a continuation of the centripetal- centrifugal forces going the opposite direction. This could be a very

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<sup>17</sup> Shahid Yussuf says, "The 1990s could be called the decade of globalization. The General Agreement on Tariffs and Trade (GATT) had 102 members in 1990; its successor, the WTO, had 134 members in 1999. Trade in goods and services has grown twice as fast as GDP during the 1990s, with the share of developing countries in total international trade climbing from 23 per cent to 29 per cent. "All forms of capital are circulating more widely and in far larger amounts than ever before. For instance, developing countries received \$ 155 billion (net) of foreign direct investment in 1998, 16 times the amount they received in 1990. The scale of global production networks is revealed by the extent of trade that flows through them--about one-third of the total." Shahid Yussuf, *Finance & Development*, "The Changing Development Landscape," December 1, 1999 SECTION: Vil. 36. No. 4, p. 15 ; International Monetary Fund.

<sup>18</sup> Jonathan P. Doh, "Regional market integration and decentralization in Europe and North America" *Business and Society*, December, 1999 SECTION: Vol. 38, No. 4; Pg. 474-507; American University.

good example of local forces prevailing over globalist or regionalist tendencies in the rejecting countries.

The response of nation-states to these forces of globalization and localization will determine whether incomes in poor countries converge with those in industrial countries and whether efforts to banish poverty are successful, according to Shahid Yussuf, who helped bring out the World Development Report<sup>19</sup> that focuses on globalization. Globalization might not have taken off were it not for a seismic shift in attitudes. Countries worldwide have moved to market-based economies and democratic forms of government, the decisive events being the tearing down of the Berlin Wall in 1989 and the spread of democracy during the early 1990s.<sup>20</sup>

These global developments would not have come about without the continuous push by Western countries to democratize the rest of the world. The fact that democratization has remained a vital foreign policy tool of many industrialized countries cannot be ignored. The multilateral institutions have, for their part, been instrumental in bringing about market oriented reforms through their lending and economic development aid instruments. In other words, powerful alliances have been witnessed in the eighties and nineties working hard to bring about globalization, democratization and decentralization. Instead of taking globalization and decentralization as a simultaneous development of the post cold war era, one can look at the increased demand for decentralization as a response to globalizing tendencies of the national governments as well. From this viewpoint, one can see that the global pull has threatened to obliterate vulnerable regions and groups of people. So instead of being sucked into the morass of the global milieu they have stood up to retain their identity by using the decentralization tool.

In the Nepalese case, the present crisis of governance is a direct product of the national government's preference to be dictated to by international conventions, multilateral conditionalities and bilateral political and economic agreements over local development and democratic imperatives. In other words, if the locals do not have a say in their national governments and if they cannot dictate their own agenda, then it might have been a wise choice to create another authority that will- even if the alternate authority is just a local or regional one. Mere setting up of institutions is not going to solve the crisis. The national government's global agenda will just percolate until it reaches the nooks and corners of the country, creating an even bigger crisis. So the creation of these local institutions and the devolution of authority should be done carefully so that the discrepancies and deterioration in governance seen at the national level is avoided at the local level.

This viewpoint is clearly one that calls for urgent remedies at national level policymaking- an orientation to be inclusive of the local aspirations rather than being just a tool of the transnational forces which are indeed rapidly taking on the least prepared most violently. The response in this situation would be for countries to make extensive preparations not to be caught off-guard. This would call for an understanding of the global tendencies in their intent and impact and then creating institutions that check the negative ones from entering the national scene. A more pro-active preparation would entail creation and use of devices that would be able to garner benefits for the local constituencies from globalization rather than be swamped by it. This is a challenging task for any country, leave alone a least developed one like Nepal.

Yussuf argues: "localization is forcing states to take note of sub-national dynamics and accommodate local demands. It has many causes. Dissatisfaction with the ability of the state to deliver on promises of development is one." The strength of local and ethnic identity--reinforced by education, better communications, and the rising concentration of people in urban areas--is another. A third cause, in a world where globalization is leveling cultural differences, is the desire to deepen a sense of belonging to a place. And a fourth is the sharpening competition between sub-national units in an open environment, combined with the reluctance of richer communities to share resources with their less well-off neighbors.

Yussuf thinks that making embryonic democracies work and using decentralization to improve the quality of services requires a hierarchy of institutions. For instance, electoral rules determine the nature of local representation at the national level and the distribution of power

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<sup>19</sup> Shahid Yusuf directed the World Bank's World Development Report 1999/2000. *Entering the 21st Century* (New York: Oxford University Press for the World Bank).

<sup>20</sup> Shahid Yusuf, "The Changing Development Landscape," *Finance & Development*, December 1, 1999, SECTION: Vol. 36, No. 4, P. 15; International Monetary Fund.

between the executive and other branches. Similarly, local election rules can be designed to increase voter participation and even out representation across social and income groups. Fiscal rules can buttress political autonomy by assigning revenue bases and responsibilities and prescribing revenue-sharing arrangements between the center and the localities.

## Local-Central Government Relationship

The relationship between the local and central governments determine the identification of communities of interests and communities with well-defined jurisdictions. Local-central government constitutions depend on two level of choice: "a) an *enabling* level that determines a set of rules that local citizens can use to create and modify local governments and b) a *chartering* level that determines the specific character of a unit of local government when citizens act to bring it into existence in accordance with enabling rules" (Oakerson, 1999:81). In Nepal's context, the LSGA underlines the role of His Majesty's Government as follows:

- ← HMG is the policy maker, coordinator and catalyst with the power to create and classify local government institutions, their size, boundaries, scope of provisions of authority, functional jurisdiction, laws, rules and procedures. Local bodies have the power to frame rules and bye-laws to facilitate their functions. The local government federations, however, seek to insert a separate provision for local self-governance in the Constitution.
- ← HMG can monitor and give necessary directions to local bodies to see if they are functioning under the law and have given necessary priority to equity consideration in uplifting the backward communities, women and children and ecological justice. It also determines the municipal plans and projects of intra-DDC nature and the functions of local level development agencies.
- ← HMG has the power to introduce special programs in order to consolidate and enhance the capacity of local bodies. Depending on the increased needs, it can also offer additional amount of grants to local bodies, other than the prescribed minimum grants to them.
- ← Under special emergency conditions, HMG can suspend, dissolve and even increase one additional year of tenure of the local bodies, if elections are deferred. But, these measures have to be ratified by the parliament within three months.
- ← HMG courts settle most of the major conflicts or disputes if the mediation committees constituted at the local levels do not resolve them.
- ← HMG appoints the secretaries at the district, municipal and village level to look after the administrative, finance and office management work of their respective areas. Local federations demand the power to appoint office secretaries, their career development and evaluation in order to make them accountable to local bodies while HMG has given them the power to appoint additional staff and hire necessary technical persons on contract.
- ← HMG determines the areas for financial resource mobilization, the range of fee rates to be collected including the policies on grants, areas of revenue collection and auditing. It has the power to form a Fiscal Commission including the involvement of the representatives of the local federation to study and investigate into tax imposition, sharing of revenue between the central and local government and furnish suggestions to make the tax system and accounting method effective and update it.
- ← HMG can probe into corruption and financial irregularity by local bodies.
- ← HMG can form a high level "Decentralization Implementation and Monitoring Committee" to be chaired by the Prime Minister with a number of ex-officio members to muster political will to implement decentralization and to monitor whether or not the acts have been implemented with the LSGA objectives, policies and provisions.
- ← HMG can delegate its powers to any committee, organization or official and can withdraw those powers upon the completion of the stipulated task.
- ← Local bodies have to maintain contact with HMG through the Local Development Ministry.
- ← DDC can create a Coordination Committee involving all the related coordinators of service centers, mayor and chiefs of various subject units related to its secretariat.

LSGA also instructs the concerned ministry to prescribe the development and construction works at the local level, sends them the estimated grants of the following year and builds their technical capacity. It also instructs the Ministry of Local Development to send annual grants to local bodies.

Local bodies can make contacts with any foreign governments, INGOs, diplomatic missions and international organizations with the prior approval of His Majesty's Government.

## Theoretical Perspectives of Decentralization

The need for decentralization is not just an option for countries as a way of good governance. It is increasingly being necessitated by circumstances, both national and international. National pressure for decentralization stems from the openness of the polity that is being increasingly adopted throughout the world. In Nepal, political openness was institutionalized in 1990 by restoring multiparty rule. Real democracy requires the people themselves to be involved in shaping their own lives. And decentralization is the only means of devolving authority from the center to the local units of governance.

Another aspect of the national imperative to decentralize for countries like Nepal comes from a combination of the country's geography and the status of its economic development. Since communication between the center and local governments is not as smooth as it is with countries having adequate infrastructure, one needs a measure of local autonomy to run local affairs, if only to avoid delays in decision-making. Similarly, the diversities existing among the people and places are not conducive for central governments to provide directives for everything. Even simple government tasks like running high school graduation examinations will need to keep the local circumstances in mind.<sup>21</sup> It is not always possible for the center to run local operations. Hence, decentralization becomes an imperative.

The international pressure comes from the globalization tendencies of national economies. At a time when national economies are being pushed by global forces towards centralization of a global scale, there is a need for governments throughout the world to decentralize as much powers as they can so that each local unit can decide on how to protect its own resources from unfair exploitation by global developments and instead extract benefit from them. This means that even for the protection of national identity and national interests, central governments throughout the world will be forced to seek the help of local efforts. There is no alternative to decentralization, the only question is how to go about it.

The mere existence of elected government ensures neither decentralization nor good governance. Sharing the prerogatives of power—choosing and deciding—between the capital city and different regions, towns, and villages of the state is the way to empower the grassroots people by enlisting their participation in the development process, bridging the market inequalities between different regions and people and structuring a socio-economic transformation of the society, economy and polity. And, competition among the multiple layers of units can spur the development of more rational policies and programs and offer solution to distributional conflicts. It is commonly argued that through decentralization efforts, local government, being closer to the people, can make optimal use of local resources to address their basic needs and demands.

In a socially diversified population, the central government's action will often have uneven levels of impact upon their lives. And there is growing recognition that people can secure basic public goods and services only if they are locally available. The emerging critique of statism, of the social thought of centralized planning that legitimized its expansion in society, and the need for the articulation of grassroots concerns have reopened the fundamental discourse on democratic decentralization. Undeniably, this was inspired by the global wave of democracy. It was this discourse that initiated the criticism of both the old centralization paradigm and the new globalization advocacy that purported to subject the state to structural adjustment policies. Both would ultimately bring about a reversal of the democratic order in international capital's favor and thereby further erode the efficiency of national policy.

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<sup>21</sup> The School Leaving Certificate (SLC) board is forced to run different examinations for the Himalayan region and the rest of the country, because of the unfavorable climate in the Himalayas during the examination season. This only reflects the problem of centrally running nationwide examinations and a direction that a proper solution should take, as a lot of climatic, geographic and occupational diversities have been known to exist in Nepal hindering the uniformity in school calendars. Another aspect to running schools according to local conditions can be found in the allocation of yearly school vacations—in the mountainous regions, the *min-pachas*, or the winter vacation, has been the norm while the Tarai region has traditionally had a provision for summer vacation.



The "Washington consensus" further reinforced this fear extending the "affirmation of markets beyond the economy to a wider range of society's activities, heretofore subject to economic as well as other forces, and to all societies, those in transition from central planning and to those in transition to statist modes of economic organization. The market has become not just one of several instruments to achieve economic and social objectives but the only instrument. It has become transcendent, over-riding boundaries established by the political process, answerable neither to the public through the political process, nor to the civil society" (Wachtel, 2000:247). Joseph Stiglitz, the Nobel laureate, thus argues that this consensus not only closed the development debate but also reinforced "traditional hierarchical relationships" and, consequently, prevented a successful transformation.

## **Typology of Decentralization**

Good governance at the local level depends on the reciprocal roles of five kinds of actors. They are: elected representatives, local public officers, the civil society and people's institutions and donors. These actors need to respect the rules of the game in the process of grassroots democratization. This is a prerequisite for strengthening the development process as a whole. Power is a central concept in all aspects of decentralization--political, spatial, economic and administrative-- the capacity of a system to get things done in the interest of collective goals. Only through power can political "authority" make decisions in order to create "policies" to resolve the problems of the society. Disciplining political power for the creation and implementation of policies for the interest of the people is the central motive behind decentralization. People's representatives are presumed to be closely attached to the societies they represent and seek to govern. Local self-governance assumes that people within a certain geographical space are governed by methods emanating from a single source of power in that space. Decentralization of power, therefore, helps to exert social control on the central institutions of governance.

Decentralization generally assumes two forms. **Horizontal decentralization** disperses power among institutions at the same level, for example, constitutional organs at the central level are decentralized with powers and functions apportioned to each of them. Similarly, elected bodies, public officials, non-governmental institutions, and the civil society at the local level are involved in the process of helping the local government to better reach the rural and urban poor, disadvantaged and marginalized people and to increase their participation in the development and governance processes. **Vertical decentralization** allows some of the powers of the central government to be delegated downwards among the tiers of authority such as ministries, departments, DDCs, VDCs, municipalities, wards and peoples' institutions. Vertical decentralization can be defined in three ways:

**De-concentration** "merely involves the shifting of workload from central government ministry headquarters to staff located in offices outside of the national capital."(Rondinelli et al: 1989,76) Decentralization based on de-concentration does not allow the local units ample freedom to take initiatives and decisions without the consent of the central authority. But, it allows the delegation of certain financial and administrative decision-making powers to local authorities and people do not have to go to the capital city for every decision.

**Delegation** "refers to a situation in which the central government transfers responsibility for decision-making and administration of public functions to local governments or semi-autonomous organizations that are not wholly controlled by the central government but are ultimately accountable to it" (Litvack, et al 1998: 4-6). Delegation of power thus implies granting of some authority and decision-making powers to local authorities. But central government retains the power to reverse the local decisions and can take these powers back. Local authorities are responsible to carry out only assigned functions. They do not have autonomous policy-making capacity. The delegation of power means the delegation of trust.

**Devolution**, "a more extensive form of decentralization, refers to a situation in which the central government transfers authority for decision-making, finance, and management to quasi-autonomous units of local government" (Litvack, et al 1998:6). Devolution implies full autonomy to the local units

of self-government where central authority exercises only minimal control over areas of vital national interests, such as banking, defense, foreign policy, etc. The devolution process facilitates the growth of autonomous units of self-governance at village, town and district levels. Federal states with plurality of cultures are, by definition, devolved. Every hierarchical polity superimposed from above percolates rigid models to each layer in defiance of the basic democratic values of equality. One such theorist argues that "a self-governing society should operate on the principle that decisions and their implementation are the responsibility of, and should be undertaken by, those affected by them" (Devine, 1998: 141).

An increase in political power of a self-governing society can be attained in proportion to their importance to the general social and economic welfare if decentralized decision-making is based on the social interests of people. This is in contrast to the recourse to market forces in the name of escaping barriers posed by vertical links. A balance between horizontal and vertical centralization and decentralization must be made to increase the scope of participation of functional representative bodies like independent non-governmental organizations (NGOs), the civil society organizations, local governments, consumer groups and self-help organizations. Each of these needs to have clearly defined power, resources and responsibilities without coming in the way of democratic control and coordination. As the meaning of decentralization cannot be conceived of outside an inter-subjective framework it would be of value to advance it from three disciplinary perspectives:

***Administrative Decentralization*** underlines state control over territorial and administrative units, seeks to encourage the division of labor through functional differentiation and postulates bureaucratic accountability to the people rather than to their superiors through the structuring of rules, procedures and institutions. From an administrative perspective, "decentralization is the transfer of responsibility of planning, management, and the raising and allocation of resources from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or public corporations, area wide, regional or functional authorities, or non-governmental private or voluntary organizations" (Rondinelli & Nellis: 1986, 3-4).

***Political Decentralization***, as an interactive web of democracy, is about internal party democracy as well as democratization of the state, de-concentration of wealth and social power. It is based on the creation of a civil society through mass mobilization and mass participation in the institutions of representative bodies. Political decentralization is "the transfer of decision-making authority to previously underrepresented or marginal group". This is a perspective more likely (though not always) to be local, rather than central, emphasizing the situation of the citizenry at large and the roles of opposition groups and organizations (Samoff:1990:516). The basic objectives of political decentralization are to increase the efficiency of local political units, citizen representation and participation in decision-making and their freedom of choice in the process of deciding the matter of their primary concern. Political forms of decentralization are "typically used by political scientists interested in democratization and civil societies to identify the transfer of decision-making power to lower-level governmental units or to citizens or their elected representatives" (Cohen and Peterson, 1998:10).

Political decentralization is a process of sharing power, authority and responsibility by the people for the development of their civic competence in discharging the goals of social justice, democracy and emancipation. The positive attributes of political decentralization are that it can revitalize political participation and enhanced accountability on the part of governing bodies by expanding information flows, curtailing absenteeism and supporting the control of corruption and nepotism.

***Economic decentralization***, in today's context, assumes citizens' sovereignty in the choice of public goods and services through the rationality of the market mechanism. This school of thought is nurtured by the World Bank, the International Monetary Fund, USAID, Asian Development Bank and neoclassical macro economic theories of public choice that advocate that "people act rationally, always pursue their economic self-interest, and will make optimal economic choices if left unfettered by government regulations and constraints." (Rondinelli et al, 1989: 60).

The critic of this rational choice school views that in the absence of adequate socioeconomic preconditions, the market becomes deficient in allocation of goods and services, anarchic in its operation, unjust in its information base as well as outcome and poor in its motivational postulation. In such a situation, rationality becomes a perfect myth. The majority of poor people show up at the market with absolutely uneven resources, a few with practically nothing at their disposal. In poorer countries, the overwhelming majority fall into the latter category. Others view rational choice theory as ahistorical, actor-oriented, which does not take sequence into account and, in essence, is "driven by theory rather than being problem driven" (Bates et al, 1998:11). The Structural Adjustment Programs executed in many ex-communist and developing countries, for example, have shown no sign of improving the situation of the poor. Instead, the de-politicization of the economy has been able to take away the sovereign citizens' control from most of the decisions about production and distribution of goods and services. A critic of structural adjustment programs argues that they "were not structural adjustments, but purely conjectural adjustments, consonant with the immediate needs of crisis management. The consequences of such policies constitute the problem, not the solution to it" (Amin,1996:3).

In the context of Nepal too, the application of the neoclassical and neo-liberal theories in policy has helped to dismantle an already inadequate and fledgling public sector, worsened the poverty and unemployment situation in the country and subjected the national economy to deregulation, denationalization and globalization in the name of providing entry points for foreign private investment. The key components of economic decentralization common today in the developing countries, including Nepal, are: privatization, denationalization, deregulation and de-bureaucratization. Each of these components is intended to promote macro economic stabilization by reducing the size of government, budget deficits, subsidies, etc. and purports to subordinate the social and political goal of the people to the whims of the existing international market system which is far from perfect. All this is in stark contrast to giving the people the necessary power to use the local resources at the local level to determine their own future. This is what decentralization is all about. In other words, economic decentralization discussed here is more of a horizontal exercise, from the state units to the market units, rather than one aimed at empowering the grassroots. For example, decentralization of planning would have taken this vital aspect of production and distribution to the local level. Instead, what we have today is that the central planning authority has been made obsolete—by handing over that power of planning to the market forecasters of large companies most of which are foreign in any case. Hence, economic decentralization discussed thus far is more about paradigm choice rather than one about decentralization per se.

The case of economic decentralization can be strengthened if production or distribution behemoths, the large companies, were also brought to the development debate so that the same analytic tools can be applied to them. Thus, one can superimpose the arguments against state, government or political power centers over the operation of large financial or industrial units and come to conclusions that would serve the decentralization theme pursued by development studies thus far. But this is not usually the case, the neo-classical paradigm appears to be seeking justification in the most unlikely of places, even in a decentralization discourse. Whether decentralization of large economic power centers is desirable or not is one matter, but to bring a case of horizontal decentralization in a discourse about vertical decentralization skews the whole debate to serve particular policy thrusts aimed at serving particular paradigms. And there is no dearth of academic material doing so.

The paradigm has been skillfully used by some thinkers to link erosion of central control with decentralization, even though taking away the central powers is no guarantee that it goes to the local level. Central authority could be marginalised by international regimes, bilateral or multilateral agreements, sheer ineptitude of governments and even globalization. Decentralization is not expected to reduce central authority, only create ample space for the local people to run their own lives the way they see fit. For a successful decentralization, it is imperative that there is a strong power at the center. Weak governments cannot run a successful decentralization scheme. Strength in central power is undermined by the power elite, whether in the party structure or business circles or even the social sector. A government is assumed to be strong if it represents all the sections and yet is autonomous in its functioning. This is also why decentralization has been lumped together with good governance, in contrast to the bad governance that is prevalent when there is an erosion of

government control. A better approach to pursuing economic decentralization might be available in looking at small enterprises which are closer to the people and are quick to respond to their needs, instead of the large companies making international rounds and more interested in the flow of international capital and political power rather than meeting the needs of a diverse people. In other words, the economic space should be more readily available for the small enterprises than for the commercial giants, unless warranted by other longer term strategic needs. Although economic decentralization is the topic of corporate governance, we would still find it relevant to discuss the theoretical justification of the neo-classical paradigm in our context, here.

*Privatization* "is the act of reducing the role of government, or increasing the role of the private sector, in an activity or in the ownership of assets." (Savas:1987, 89). It is widely contended that too much state intervention strangles the productive energies of the private sector. In many de-communized and authoritarian regimes, centralized planning contributed to a swelling bureaucracy and helped in sustaining the political status quo. Critics argue that privatization is intended to separate the economy from social control by granting industrialists and business classes autonomy from the state and society, has fostered different stages of development within the same state and has justified economic growth free from ethics and civic obligations. In nations like the United States, Canada, Brazil and Mexico and the newly industrialized countries of Asia, for example, privatization has produced a rapid decay of the public realm, an indiscriminate depredation of the public good and the maldistribution of market-driven benefits.

*Denationalization* is a particular form of privatization that involves "selling to the private sector (or giving away to the public or the workers) government-owned enterprise or government-owned assets used in producing goods or services; by extension, this form of privatization also encompasses "demunicipalization", and other forms of "de-statification". (Savas, 1987: 89). The defenders of the free-market school of thought have a radical imagination. They imagine that self-help organizations, non-government organizations and private sectors will be able to initiate development only through the erosion of the re-distributive capacity of the welfare state. Besides this, they also favor the free play of market forces as a convenient strategy to empower individuals to build their own fate.

Critics argue that the mobility of capital, technology and information across borders has not only challenged the coherence of democratic governance but also pointed to the withering human values and the very social fabric of democratic accountability. The cost of the actual decline in real wages, job layoffs, the widening gulf between the rich and the poor and de-coupling the fate of the workers from corporate profits has been enormous. In other words, structural adjustment of only the poor people is taking place which, by implication, is causing a democratic deficit. The belief in the capability of market-based transactions to solve all problems, including social ones, has fostered the most narrowly profit-oriented definition of rationality.

*Deregulation* "franchises eliminating other price control and entry barriers in order to permit the market to respond to peoples' needs"(Savas, 1989: 89). The reason for deregulation is that bureaucratic control over policy breeds bribery, corruption, commission and patronage and impedes economic growth. Deregulation of labor markets and a reform in the tax structure might induce external investments but these investments must be weighed against the unintended effects in social sector activities, especially the ecology, education, health and welfare. Creating a flexible environment in business and excessive extraction of natural resources for export in the process of becoming market-friendly make the majority of the poor even more deprived of a sustainable livelihood.

Its critics, therefore, argue that without a proper coordination the people of developing countries suffer badly owing to their smaller competitive advantage. They thus remain vulnerable to external market fluctuations. Therefore, cutting of tariffs, privatization, opening the economy to foreign companies and total denationalization of development subvert the various policy-oriented issues including monetary and fiscal policies, expenditure and pricing. Some degree of central control is, therefore, essential to keep various societal elements in balance (such as defense, foreign policy, banking and the social sectors, etc.) and to prevent the possibility of anarchy.

*Debureaucratization.* The notion of 'downsizing the state,' to create private opportunity and personal responsibility in all the realms of human life provides the rationale for cutting down the size of the bureaucracy. De-bureaucratization also encompasses the reduction of the role of the central government in many areas of the national economy (Dahal, 1996). It should also oppose the power of large corporations, if they have a monopoly. Debureaucratization pushes for deregulating the economy in an effort to promote incentives, competition, efficiency, transparency and accountability. Essentially, a bureaucratic state is identified by its techniques of ruling, regulating and governing the polity, economy and society through the use of a bureaucracy. Since bureaucratic forms of administration have proved unsuccessful in large-scale organizations, owing to their hierarchy, chain of command, status-oriented role, over-regulation, and technocracy-based culture, it impedes the process of economic growth, innovation and development.

In order to push for a Weberian type of 'legal-rational' bureaucracy, efficient enough to innovate, adapt, and orient itself towards a goal, rational choice theories advocate 'de-bureaucratization' of the development and governance processes and rational control of the environment. In developing countries, in general, and Nepal, in particular, political democracy followed a series of economic reforms. The policy imperative of de-bureaucratization to give a sufficient degree of freedom to private entrepreneurs had thus already been realized before the multiparty polity was ushered in. Neoclassical economists view that bureaucracy has its own autonomous interests which may neither coincide with democracy nor development. Liberal and Marxist theorists reveal that bureaucracy represents the essence of a state, and the state, in turn "represents an aggregation of private interests in which public policy is but the outcome of a pluralistic class struggle among interest groups." (Gilpin: 1975,28)

Bureaucracy needs to be reinvented to make it efficient, people-centered and fair. The Weberian type of legal-rational bureaucracy worked well during the agricultural and industrial revolutions when people worked with hands, rather than brains. It provided job security, economic stability, infrastructure development and social justice. But, in the information society of today, competitive market pressures have put the hierarchy-laden bureaucracy under duress rendering it increasingly difficult to function. An information society requires flexible and adaptable institutions that can offer high quality goods and services to the people. "It demands institutions that are responsive to their customers, offering choices of non-standardized services; that lead by persuasion and being inventive rather than commands; that give their employees a sense of meaning and control, even ownership. It demands institutions that empower citizens rather than simply serving them." (Osborne & Gaebler: 1992,15)

The basic objectives of economic decentralization are to give the local government financial autonomy for resource mobilization; power and responsibility for resource use, control and investment; sovereignty in the setting of priorities and adequate capital, technology and management support. Economic power increasingly generates demands for political participation. In a free market economy, where government is an extraneous entity and in a centralized system where government becomes too large to offer a sense of community and belonging to its citizens, states are liable to suffer from the crises of governance. It is certainly difficult to escape from the market, but the market approach to development can cause economic disparity and the domination of external capitalism unless competitive advantage or specialization in certain sectors already exists in an economy. There is an emerging consensus among development thinkers about the inadequacy of growth, trickle-down, modernization and structural adjustment theories in resolving the question of poverty and enhancing quality of life.

There is, therefore, an imperative to decentralize, as much as possible, the international economic relations (outward-orientation) where advantages persist in the sources of supply, the market and commodities if only to protect the national economy from excessive external dependence. Government involvement in some businesses is a safeguard against foreign control and ownership. It would also help in enlarging the social safety net to include more poor and powerless sections of the society. This brings to the fore the vital role of the mixed economy where planning and markets are balanced and well coordinated. In fact, a rational economic policy, in contrast to rational economic theory, is a critical prerequisite to sustainable development that reduces socio-economic exploitation, physical dependency, psychological alienation and political oppression (Bongartz:1992,10) of the people, and increases their capacity to cope with, and benefit from, the globalized economy. The

primacy of the market does not offer a solution to poverty. "Without direct involvement by the state there can be no escape from massive poverty and disempowerment" (Friedmann, 1996:168). Even ardent believers of the neo-classical and neo-liberal system have realized that the current global financial architecture did not function properly for the interest of the public. James D. Wolfensohn, president of the World Bank said it more bluntly, "At the level of people, the system is not working" (Faux, 2000:6).

## Decentralization in Nepal: Historical Perspective

Local self-governance system existed in Nepal even before the unification of this nation in 1769 AD. The Lichchhavi dynasty that ruled Nepal from the earlier years of the Christian era to the end of 8<sup>th</sup> century invented the *Panchali system* (arbitration of justice by five village elders), classified the religious and secular institutions, compiled the existing philosophical treatises and initiated social and administrative reforms. A unanimous consensus among five elders set the rules for self-governance in society. The expansion of local voluntary, social and economic spaces for the social and cultural autonomy of people during Kirant, Malla and early Shaha periods indicate that Nepal has treasured the experience of formal and informal political structures to govern society in an ordered manner. The contribution of Jaya Sthiti Malla, Ram Shaha and Drabya Shaha are especially remembered for the codification a system of justice and rule of law in the country, through a civil code, notwithstanding the inheritance of the caste ordering that defined the costs of relations (transaction costs) among the people for their social, cultural and economic performance. The popular Nepalese aphorism "Go to Gorkha for justice" captures the situation of the rule of law in those days.

The rugged geographical terrain and socio-cultural diversity in the face of poor transport and communication linkages ensured that these regimes abided by the local system of rights and practices with minimal or no interference from a central authority. The power of the society to control or direct a cluster of fragmented principalities and govern their village lives was quite strong. After the unification of Nepal the state spread its administrative, military and political power in the periphery both to consolidate its autonomy from the societal forces and sovereignty from external powers. The scope of governance was limited to protecting the country and people, maintaining law and order, collecting internal revenue, promoting entrepot trade and fostering the centripetal forces. But popular and local systems were not trampled upon. The codification of *Dibya Upadesh* of Prithvi Narayan Shaha acted as governing norms of the society and polity. The polity was primitive as a single structure performed several functions. Agriculture production was the major economic preoccupation to sustain the peasant households, landowners, the state and the state class. The palace was the locus of decisional power, while binding rules and enforcing laws were devolved on local functionaries. The devolution of authority to land-owning elite can also be argued to have weakened the power of the state.<sup>22</sup>

Between 1846 to 1949 the Rana oligarchy ruled the country. Rana Prime ministers virtually monopolized all the posts and political power and even neutralized the power of the king. Rana regime ruled by fiat (*hukumi adesh*) and, in the absence of constitutionalism, a system of patrimonialism dominated the entire governance process. Throughout the Rana regime political participation was the exclusive prerogative of the ruling families and upper caste elites of the society while the participation of the majority of the people was confined to their social practices. But, Ranas were also modernizers who initiated administrative, social and economic reforms in the country. They abolished the *Sati Pratha* and slavery, established modern schools and factories, built bridges, roads and electricity and set up the official media. Ranas also codified a written legal code *Muluki Ain* 1854 (amended in 1910) and provided considerable autonomy to grassroots village units in the management of local problems. They did not destroy the social capital for cooperation existing among the Hindu, Buddhist and animistic societies. The promulgation of the Government of Nepal Act 1947 by the Rana regime for the first time conceived the horizontal diffusion of power. Yet, the provisions of this Constitution were never implemented. An anti-Rana movement launched by political forces in the country overthrew the regime and introduced multi-party democracy in the country.

The Interim Constitution of the Kingdom of Nepal 1951 further elaborated the notion of democratic governance. The abolition of the Rana oligarchy in 1950 opened politics to the language

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<sup>22</sup> "The power to administer justice in minor cases other than *Panchakhat* (it is used to denote the crimes of bribery, smuggling, murder, assault resulting in the shedding of blood, and cow slaughter. These crimes were punishable through confiscation of property, banishment or degradation of the caste status, amputation or death and usually the judicial powers were devolved on local functionaries. When lands and villages were granted to individuals under the *rajya*, *birta*, *jagir* systems, the *raja*, *birta*-owner, or *jagirdar* became the beneficiary of such devolution. For most of the cases that would come up in day-to-day life, therefore, the peasant lived under the control of his lord" (Regmi, 1999:41).

of fundamental rights, democratic competition and creation of essential democratic infrastructures. In 1952 the government established the Village Development Board at the center and Village Development and Cooperatives, District Development Boards and Block Advisory Councils throughout the country for the acceleration of development and change. The Constitution of the Kingdom of Nepal 1959 made the government collectively responsible to the people as well as promised to create an egalitarian society through the vertical decentralization of power. Despite these efforts, the decade of fifties marked a high point of political instability in Nepal caused by the ferocity of power struggles among the political leaders, interest groups, and traditional forces. This prompted the king to abolish the parliamentary system in 1960 and introduce a monocratic Panchayat polity under the Constitution of Nepal 1962.

In the Panchayat regime (1962-1990) several conceptual innovations were made toward decentralizing resources and authority. The Decentralization Plan 1965, District Administration Plan 1975, Integrated Panchayat Development Plan 1978, Decentralization Act 1982, and Decentralization Working Procedure Rules 1984 had formulated an extensive framework for decentralized planning and local governance. The country was divided into four-tiered--national, zonal (14), districts (75) and village and town (4,000) Panchayats. Yet, the power sharing between the central institutions of state and lower units was difficult because decentralization meant central control of local units, top-down development and upward accountability. In that sense, decentralization under Panchayat appears to be the hybridization of de-concentration and delegation of administrative power and authorities rather than a true devolution.

The Panchayat's emphasis on state-building was very strong. The contents of this recipe were: state's control on the commanding height of the economy, class coordination, cooperative movements, villageization (Back to the Village National Campaign), urban-rural interaction, agrarian reforms for a mixed economy, Nepalization of nationalism and a determined conception of the "politics of development." In the process, it also fostered a kind of paternalism in industrialization, business, trade and crucial policy matters and prevented the growth of efficiency, competition and entrepreneurship--for the modern engines of economic growth. At the civil society level, a political culture of enforced "choice" and "consensus" prevented innovative practices. As a result, electoral practices largely remained powerless as the Panchayat system wanted to build a "loyal local leadership" capable of implementing centrally geared plans, mobilizing local people for decision-making and development, providing planning and service delivery and strengthening the polity from the base. The need for involving people in macro-politics was felt only after the holding of a referendum and the introduction of adult franchise in 1980. As politics became competitive, the ruling elites had to expand their political base and respond to the social integration and welfare of local groups--women, youth, the poor, Dalits and marginalized sections of society-- beyond paternalism.

Decentralization goals were set by the National Planning Commission (NPC) since the Third Five-Year Plan (1964-69) to create a financial basis for people's participation. The Seventh plan also laid stress on formulation, implementation, maintenance and mobilization of local resources and talents. The Panchayat system had granted the local bodies taxation rights under Panchayat Development and Land Tax. The basic structure of the political economy-- social mobilization through local units and Back to the Village National Campaign, land reforms, modernization of health, education, agricultural, industrial and service sectors, development of transport and communication and the spatial and sectoral differentiation of the planning tradition, management and coordination system-- created by the Panchayat system laid down the socioeconomic base for development in Nepal. It is this base that produced a "critical mass," the ideological springboard of the movement for the restoration of multiparty democracy in Nepal in 1990. The Panchayat regime, in this sense, can be called a soft-authoritarianism in the sense that it did not try to demolish the resiliency of the civil society to aggregate, articulate and communicate public interests.

### **Current Decentralization Drive**

The Constitution of the Kingdom of Nepal 1990 has made powerful provisions for decentralization. First of all, it shifted the power from an all-powerful monarch to the citizens in favor of an open and democratic system of governance, multi-party polity, popular sovereignty, constitutional and human



rights to the people and constitutional monarch. Two "nesting" rules of the Constitution govern the mandate of decentralization in Nepal. First, the Directive Principles and Policies of the State articulates that "conditions suitable to the enjoyment of the fruits of democracy through wider participation of the people in the governance of the country by way of decentralization, and to promote general welfare by making provisions for the protection and promotion of human rights, by maintaining tranquility and order in society" need to be maintained. Second, Article 46(C) stipulates that fifteen members, three from each of the Development Regions, will be elected to the Upper House of Parliament in accordance with law on the basis of the system of single transferable vote by an electoral college consisting of the Chief and Deputy Chief of the Village Development Committee (VDC) and municipality level local authorities and the chief, deputy chief and the members of the District Development Committee (DDC). These two provisions provide the constitutional legitimacy to local self-governance in Nepal.

Decentralization policies appear more pronounced in the Ninth Five-Year Plan (1997-2002). It aimed to strengthen the local units to take the responsibility of formulating and executing local development plans by themselves. This is supposed to be achieved by institutionalizing local government, increasing people's participation in the mobilization and distribution of local resources, social and economic development of geographically disadvantaged areas, improvement, expansion and development of suitable local technology, entitlement of women, indigenous and backward communities of rural areas, enhancing the participation of local people for sustainable development and establishing technological and human development infrastructure in rural areas.

The first elected government promulgated four separate Acts governing the VDC, municipality and DDC including the Local Bodies Elections Act in 1992. Local elections were conducted in 1993. These Acts, along with the Working Procedure Rules 1993 and 1994, are vital instruments of democratic institution-building at the micro level for the dispersal of power, authority and resources and initiating planning from below. An Administrative Reform Commission headed by the Prime Minister in 1991 too suggested reforms in the administrative sector in order to make the bureaucracy people-centered, attuned to the needs of democratic development. Accordingly, it also suggested making the municipality an autonomous unit. The Civil Service Regulations (Twenty-Ninth) Amendment that came into force on November 6, 1992 introduced the notion of "debureaucratization of development." These Acts, however, appeared weak in matching accountability with authority and establishing a mechanism to manage resource conflicts, capacity-building, transparency mechanism, inter and intra-sectoral coordination and linkage building with the private sector, NGOs, the civil society and donor institutions. The elected authorities opposed these Acts, asked for more autonomy in plan formulation and resource use, voiced against the intervention from the ministries and National Planning Commission, demanded the accountability of local secretaries appointed by the government in VDCs, municipalities and DDCs and even criticized intervention from political parties.

On February 13, 1995 the Nepalese government introduced the "Let's Build Our Village Ourselves" program to: accelerate local development through the utilization of locally available labor, resources and institutions without outside intervention; make the local body independent of the central government; promote self-reliance and rural development planning; provide official support in management, technical input and legal reforms; and to carry out capacity building of the VDCs by providing them the authority to utilize 40 percent of the local land revenue. These were supplemented by central level grants of Nepalese Rupees 300,000 per VDC for the year and NRs 5,00,000 the next year. The ability of this program to shift the balance of power in the rural power structure provoked strong resistance from traditional elites. Despite these efforts, steps to create All Party Advisory Committees at the DDC, VDC and municipality levels by the government were rebuked on the ground that it would weaken the autonomy of local self-government, the representation process and would even try to politicize the development course.

The devolution of economic powers to local units was not reversed by the coalition government of the NC, the Rastriya Prajatantra Party (RPP) and the Nepal Sadbhavana Party (NSP) led by premier Sher Bahadur Deuba, because of the popularity of the program. Rather, it continued the program with a different name--Village Development and Self-Reliance Program-- with slogans like "Power to the Village and Development Program through People's Participation." The government also issued the Program Implementation Guidelines to ensure the effective use of grants.

The latter program applied the formula of cost-sharing in development projects. Yet, it gave monitoring and evaluation powers to the DDC, and the authority to stop project implementation if it detects abuse of funds by the VDC. The decentralization of economic and political power became subjected to spoils and patronage with the introduction of the Constituency Development Program (through which an MP got NRs 400,000 in the initial period but now gets NRs one million to spend in his or her constituency at will) and the provision for advisory committees to reconcile party interests.

To unify all these Acts and to prepare a comprehensive framework for local self-governance, Prime Minister Sher Bahadur Deuba appointed a High Level Decentralization Coordination Committee (HLDCC) under his Chairmanship in late 1995. It identified several weaknesses in past practices, such as undefined scope and jurisdiction of local self-governance, overlapping laws, deficiency in institutional culture, lack of political determination, resource scarcity, absence of a mechanism to enforce civic accountability among the elected bodies and government officials, problems in the sustainability of development projects, dearth of planned development processes, flawed elections and organizational technique, etc. Similar problems were identified in the realms of coordination, monitoring and evaluation of development activities. (HMGN, 1996:29-34). Accordingly, a Bill was prepared by HLDCC to be presented in the Parliament. It was replaced in 1997 by the coalition government of UML, RPP and NSP led by Lokendra Bahadur Chand. This coalition government brought an ordinance to amend some laws relating to local bodies and local elections and initiated changes in the power, composition, representation and organizational set up of the LGIs. All these are included in a separate Local Governance Bill passed by the parliament on September 18, 1998. The promulgation of the Local Self-Governance Act (LSGA, 1999 and Rules 1999) thus provides a detailed framework for decentralization and constitutes a basis of good governance at the grassroots level.

There is a widespread political support for decentralization by the Nepalese political parties-- the only question is how far, how fast and by what means. Accordingly, the Nepali Congress Party, CPN -UML and Rastriya Prajatantra Party formed party departments to look after the affairs of local self-governance (Rijal, 2002:4). The Tenth Five Year Plan (2002-2007) purports to build the capacity of local bodies for decentralized governance, participatory development, poverty alleviation and good governance as its long-term policy goals and identified decentralization as one of the "crosscutting themes." The government is also trying to solve the problems of coordination and communication among the stakeholders of decentralization. The Ministry of Local Development established a Joint Coordination Forum for Decentralization (JCFD) in July 2001 involving government agencies, donors, the private sector and the civil society for policy review and policy improvement. The JCFD identified five crucial areas for implementation of decentralization and reforms-- functional and sectoral devolution of power, financial devolution, human resource management, institutional structures and organization and monitoring and policy feedback. On the implementation side, the Decentralization Implementation Monitoring Committee (DIMC) has adopted the Decentralization Implementation Plan (DIP) for the next five years and some crucial reforms to devolve powers at the local level are underway. There is, however, still a need to establish a donors' forum to streamline donors' cooperation in good governance and decentralization.

## **Goals of Decentralization**

The Constitution of the Kingdom of Nepal 1990, several periodic plan documents and Local Self-Government Act (LSGA) 1999 underline the goals of decentralization as achieving a) participation of sovereign people in the governance, b) institutionalization of the process of equitable development, c) capacity building of local bodies to sustain power and responsibility necessary to formulate and carry out plans and programs, d) development of local leadership capable of running local self-governance system and addressing local needs and concerns, e) partnership with civil society, NGOs and consumer groups espousing the democratic attributes of participation, transparency and accountability in decision-making, and f) involvement of the private sector<sup>23</sup> in local self-governance

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<sup>23</sup> The private sector's role in governance is vital as it is the means to providing public services that the government by itself cannot or will not. There is a whole school of thought that believes that the government should not be engaged in providing public services as it is not an efficient way to do so. It believes that only the private sector has the efficiency to carry out the

in the tasks of providing basic services to the people for sustainable development. The reinvention of decentralization policies is desired to achieve a break with the past socioeconomic equilibrium of stagnation and to bridge the credibility gap between policy rhetoric and performance.

All legislative measures ostensibly use the principle of "subsidiarity" in their creation, that is, decisions should be made and administered as close to the people as possible to allow governance rise from the bottom towards the top and make it participatory. Decentralization by itself does not guarantee either self-governance or democracy or even development.<sup>24</sup> Local self-governance requires a sound mechanism for making and enforcing rules, maintaining equitable and rational arrangements and applying sanctions.

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functions through the market forces. Another school of thought believes that only the public sector has the capacity to take needs-based decisions, while the private sector is only motivated by profit. If there is profit in not providing the necessary services, it will not engage itself in doing so.

But this is a futile debate in the case of Nepal whose Constitution itself spells out the need for a mix between the two schools of thought in carrying out economic activities. The only question is about the right mix. And what is the right mix? This needs a little more reflection as it is dictated by circumstances. Generally, in a rural setting, where there is hardly any economic transaction, it is the government that should initiate such activities, as the private sector will not come forward where the market forces are not operating. In urban centers, a more market-oriented set of policies might prove useful in delivering the same goods.

If we look into the Nepalese economic situation deeper, we find that for Nepalese villages, proponents of market economics need not try very hard. Although at the barter or subsistence level, it is the private sector that has already been providing the public function to a great extent. The government's reach there is either inadequate or there is no reach at all. Hence, the call should be for the government to do more, until the private sector is ready to take on the baton to a higher level. And when government authority needs to be used in any village, the best way to do so is through delegation of the powers to the local units of government.

The Tenth Plan Approach Paper emphasizes the importance of the private sector by "increasing its role in advancing the national economy so that, ultimately, it develops the capacity to lead the economy." The paper elaborates saying, "Arrangements will be made to develop synergy between the government and the private sector through complementarity by identifying the areas where that is feasible."

Having established that the role of the private sector is vital in delivering public goods, emphasis needs to be given to the relation between both the sectors. Instead of being in an adversarial relationship with each other, the public and private sectors need to work in concert so that the aim of providing services to the citizen is not hampered. In other words, cooperation and coordination between government and the private sector is a necessity, not an option. The private sector and the businessmen could make it a lot easier in delivering the goods it they are a key component of local decision-making. Also, predictability of rules and rule-making is very important for the business sector to expand and grow.

<sup>24</sup> Morris and Adelman deriving the experience of 23 countries argue that "Favorable impacts of government policies on the structure of economic growth can be expected only where political institutions limit elite control of assets, land institutions spread a surplus over subsistence widely and domestic education and skills are well diffused" (Bardhan, 1999:19).

## Nepalese Political Economy

The term political economy is being used here to describe a set of issues and indicators in which politics and economics are enmeshed in the policy measures undertaken by the government to govern the coherence of people's lives, their institutions, patterns and processes for the growth, development and evolution of the economy. An economy's characteristics can be understood only within the context of a larger whole-- as societal variables embody endogenous and exogenous features in their complexity. The intricate inter-linkages need to be understood while effecting change in any aspect through policy as the impact could reach far and wide. Therefore, the critical challenge for political leaders is not only to facilitate radical changes like structural adjustment of the national economy to suit the regional and global system but also how to reap benefit from the transformation.

Decline in production in both agricultural and industrial sectors, stagnation of non-agricultural fronts and a growing population have caused deficit in Nepalese development. Nepal's perpetual agricultural decline over the years, coupled with the population explosion, has now made it a net importer of food grains. Despite the migration of people from hill to Tarai (plain area of Nepal) and hill to urban nodes in search of jobs, the population pressure in the hills and mountains has not dissipated. While, the stagnation in the agricultural sector has forced the migration of youth to urban areas and abroad, the same process has hindered the dynamization of agricultural development. Over cultivation of fragile land and integration of large chunks of forest cover removed for cultivation in the past have caused the erosion of topsoil, land erosion and declining productivity of farming. Combined with this is the exploitative nature of production relations where poor people subsidize the rich, informal sector subsidize the formal one and delivery of local public goods suffers due to centralist control. Nepalese policy makers did not formulate any viable strategy that took consideration of a landlocked state like Nepal which could specialize and diversify its production base to expand international trade. The decline in industrial production has affected Nepalese trade fatiguing its imports and threatening to jeopardize its balance in foreign exchange. Unless Nepal expands the base of export-promotion, foreign aid alone cannot be a viable mechanism for the stability of Nepal's monetary position.

The archaic thinking and interest of Nepal's political and economic class to perpetuate the status quo to suit their entrenched private interests has impeded the rational development process and, therefore, public policies failed to become people-centric. An increasing reliance on revenue-based and aid-dependent economic policy has affected the production process and undermined capital accumulation for reinvestment. Unless sound national base of production is established to support political parties and other groups of society for contestation and interest representation, democracy will continue to have a narrow base benefiting only the comprador class.

An analysis of economic indicators is essential to provide a cognitive map of Nepal in the context of world development. The physical size of Nepal is 1,47,181 square kilometers while its demographic size, according to the Census of 2001, has reached 23.1 million with a growth rate standing at 2.27 percent. It is a landlocked and least developed country. More than 80 percent of its area is covered by hills, mountains and high Himalayas. Only 20 percent of the land that constitutes valleys and plain areas (Tarai) is good for cultivation. But, mountains and hills contribute to the attraction of tourists, hydropower generation, crop diversification and animal husbandry. If the Tarai contributes the largest share in the government revenue, it is because Nepal's development economics is Tarai-oriented. "Nepalese planning effort indicates a heavy emphasis on the capital region (consumptive investment) and the Tarai (export-oriented) and only residual investment in the hills" (Gurung, 1989: 33).

The average economic growth over the last three decades has been around 4 to 5 percent while for 2001 it stood at 2.5 percent. The high population growth without a commensurate economic expansion, especially in terms of the economy's capacity to create additional employment opportunities, has led people to increasingly rely on agriculture for their livelihood. Yet, the distribution of land and assets is highly skewed. The bottom 40 percent of the agricultural households operate only nine percent of the total agricultural land while the top six percent occupy more than 33 percent. Over 75 percent of the population is engaged in agricultural activities exerting a tremendous pressure on land and the ecology. Low growth rate in the agriculture sector (2.5 percent) has already made Nepal a net importer of food grains. Yet, agriculture has a 40 percent share in the country's GDP. The government's policy to increase agricultural productivity to an annual four percent through the implementation of the 20 year Agricultural Perspective Plan (APP) 1995, has

failed to meet the target so far. The government could not execute the recommendation of the APP to invest in the priority areas-- irrigation, roads, power, technology and fertilizer-- as a bulk of the available resources was diverted to other areas. Poverty cannot be alleviated by the perpetuation of subsistence agriculture. It needs to be modernized and diversified in order to capture its complexity and strengthening forward linkages with industrial, service and informational sector. Although this was realized by planners as far back as in the 1960s, the diversion of farm labourers to other sectors has been unsuccessful.

Inefficient public enterprises caused partly by recruitment of politicians into the governing boards and partly corruption have become critical bottlenecks to sustainable industrial growth. The indigenous investors are also indifferent to "industrial development because this sector is trapped in intractable problems such as inaccessibility of raw materials, poor transportation, inadequate power supply, poor investment and credit facilities, a limited market, lack of trained personnel at all levels and, above all, foreign competition" (Dahal and Inoue, 1994:104). According to the Central Bureau of Statistics (CBS), the non-agricultural sector also declined from a growth rate of 5.6 percent in 2000 to 2.76 percent in 2001. Sector-wise, hydropower, gas and water sectors are expected to register a robust growth of 27 percent by the time the 2001/2002 fiscal year draws to an end. The manufacturing sector is projected to slow down to a 2 percent growth rate, tourism sector 0.40, transport and communications 4.30 percent, and finance and real estate around 4.5 percent. The low growth in the financial sector is due to a continued excess liquidity condition in the banking sector coupled with a sluggish performance of real estate. Similarly, the community and social sector is expected to surge only by 1.2 percent against the 15.02 percent recorded last year.

Official records say that about 42 percent of Nepal's population lives below the poverty line while UN sources reveal the figure to be 51 percent. The magnitude of human poverty is the highest in the mountains followed by the hills and Tarai. The World Food Program estimates that 36 percent of Nepali people consume less than the minimum daily calorie intake requirement. Nepal has one of the lowest ratios of internal revenue generation to GDP, about 12 percent. It has a per capita income of US\$ 220. Unemployment in urban areas is 7.4 percent while in rural areas it is 1.2 percent. Growing poverty and unemployment have caused large-scale outward migration of people looking for jobs-- to India, Gulf countries, East and Southeast Asia, Europe, Australia and the United States.

Foreign aid plays a crucial role in Nepal's development. Sixty-five percent of its development expenditure comes from foreign aid. A fundamental effect of this dependency is that the government is losing its sovereignty in the design, direction, and administration and financing of the fundamental aspects of development and governance policies. About 30 percent of the regular expenditure goes for debt servicing deepening misery and ruling out investments necessary for economic growth and social justice. According to the Foreign Aid Coordination Division, Ministry of Finance, foreign aid commitment by different donors to Nepal for 2001/2002 reached Rs 15.37 billion, up from only Rs 4.3 billion over the same period the previous year. Of the total foreign aid, the grant component is equivalent to Rs 12.69 billion and loans worth Rs 1.7 billion. On a project-wise basis, Melamchi Water Supply Project attracted the biggest amount of aid, worth Rs 5.53 billion. Similarly, Reduced Fertility and Protected Health Project received a grant assistance worth Rs 4.48 billion whereas the Banepa-Sindhuli road project received a grant from the Japanese government worth Rs 2.05 billion for the year. Country-wise, the USA stood to be the largest donor extending an assistance worth Rs 5.9 billion for three different projects. The effects of this situation were nothing new for Nepal: "economic development continued to be externally-oriented and aid agencies had to establish their own infrastructures in order to initiate programs. The difficult and slow process of institution-building induced some agencies to go for projects that demanded least in terms of local involvement" (Gurung, 1989:70).

Nepal ranked 129th among the 162 countries included in the Human Development Index of 2001. The adult literacy rate is about 40 percent and for women the figure is less than 30 percent. Life expectancy of Nepalese is 58.1 years. Infant mortality rate is around 75 per thousand births. The economic policies pursued so far has created a "development gap"<sup>25</sup> of enormous proportions, a gap,

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<sup>25</sup> "Sixty-nine percent of the landholdings are less than one hectare in size and 88 percent are below two hectares. Disparities in the productive assets (particularly land), income earning opportunities and access to decision-making have significantly influenced income distribution. The bottom 20 percent of households receive only 3.7 percent of the national income while the

which is widening every year between rural and urban areas, across the geographic regions, social classes and castes. The unequal internal development of the country is mainly attributed to wrong development policies. The Ninth Five-Year Plan (1997-2002) adopted poverty reduction as its primary objective. In the Tenth Five-Year Plan (2002-2006) the government presented a comprehensive "Reform Agenda for Poverty Reduction"<sup>26</sup> at the Nepal Development Forum which again lays stress on poverty reduction. The government strategy visualizes a two-pronged approach: stimulating a high level of economic growth through a deregulated economic system and a liberalized trade regime, where the private sector plays the leading role, while ensuring distributional equity through pro-poor growth policies and distribution of gains from the overall economic growth where the market presence is not strong (NPC, 2002: 11). The NPC approach paper for the Tenth Plan additionally targets the social sector and infrastructure development, good governance and targeted poverty alleviation programmes.

The exports of 12 months that cut across 2001-02 reached \$0.8 billion. With around 4 to 5 percent GDP growth rate on average and a stable macroeconomic environment (2 percent inflation, comfortable foreign currency reserves to finance imports for at least 11 months and a not-so-bad fiscal side) the Nepalese economy may look fundamentally sound. But there are signs of structural crisis: caused by labor unrest, the Maoist insurgency, and a declining performance of the agriculture, industrial and tourism sectors. Investments are dwindling—both private and public. It is investments that hold immense sway over the future tempo of economic growth. The environment for Foreign Direct Investment (FDI) is not at all encouraging. Most of the prospective foreign investors are holding up their investment plans or have scrapped it altogether citing worsening security situation in the country. Due to red-tapism, Nepal has been slow in adopting new technology and new practical ways of doing things, in spite of the legislative changes that have come about.

The bureaucracy is ill-suited even to clear investment approvals and duty drawbacks-- a facility for exporters-- within the timeframe stipulated by the Foreign Investment and Technology Transfer Act. Rigid labor laws, even compared to the neighboring countries, are emerging as another obstacle in the nation's endeavor to attract FDI. The tourism sector, which has about four percent share in the GDP, also declined due to global and national terrorism, the Royal Palace massacre and industrial strikes. In October 2001, the number of tourists entering Nepal fell by 14 percent from a year earlier. The September 2001 terrorist attack in America badly affected Nepalese exports of hand-woven woolen carpets, ready-made garments and cashmere shawls, which represent over 80 percent of the country's exports. Customs and internal revenue collection fell well below the target of 60.25 billion and there is a shortfall of 6.5 billion rupees in foreign assistance due to the economic downturn in the US and Europe. About 25 to 30 percent of the total development budget of 2001/2002 is to be reallocated to meet the operational costs of the military to combat the Maoist's people's war.

According to the Garment Industry Association of Nepal, about 95 percent of the ready made garment industries have been closed with 50,000 employees laid off from their jobs. The number of jobs provided by the industry has also gone down from an earlier figure of 200,000 to 50,000 now. This has been attributed to the unfavorable international market, regional competition and domestic political instability. Small and cottage industries are also plagued by the crisis. At least 60 percent of the nearly 127,500 cottage and small industries registered until 1999-2000 are now in dire straits. According to the Federation of Nepalese Cottage and Small Industries (FNCSI), although this sector has only 18 percent of the total industrial investment, it provides 67 percent of the total employment (offered by industries) and has 80 percent share in the total industrial output. The downward slide of 'dhaka' and 'pashmina' production has discouraged entrepreneurs. In the mid-term review of 2001/2002 fiscal year's budget, the government appeared very much concerned over the fast

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top 10 percent claim a share of nearly 50 percent. There is also a marked variation in the spatial distribution of income" (NESAC, 1998:14).

<sup>26</sup> Nepal's initiative of the reform agenda is attuned to the World Bank's Comprehensive Development Framework (CDF) of mid-1990 complemented by Poverty Reduction Strategy Papers (PRSPs) and Agenda 21 agreement of the Rio Summit 1992 that articulated National Strategies for Sustainable Development (NSSDs). These global policy documents aimed to integrate poverty and environmental policies into a coherent growth-oriented macro-economic framework. Accordingly, lending of foreign aid has been conditionalized on the premise that development programs should be based on the requirements articulated by the poor themselves, the government should bear a high degree of ownership of the program, the principles and motivation of aid should depend on rights-based approaches, the development program should entitle the poor, entry points and sequences for development intervention should be identified, and policy should be strictly implemented.

increment in its regular expenditure. And, the government has very little control over regular expenses- such as wage bill, pensions, security expenses, debt services, etc.

Britain's Department for International Development (DFID), a major donor agency in Nepal's privatization efforts, warned the government that it would withdraw its assistance from the project if the government failed to show a clear commitment to the privatization process. In 1997, while negotiating technical assistance with the DFID, the government had identified a list of seven PEs as potential candidates for privatization by the end of 2001. However, only the National Tea and Development Board—has been privatized. The World Bank in its Country Strategy Paper prepared for 1999-2001 tied the Bank's lending to the fulfillment of a condition that called for the privatization of at least 7 PEs including the Royal Nepal Airlines Corporation and Nepal Telecommunication Corporation. DFID's move has come at a time when Nepal is preparing to enter into a Poverty Reduction and Growth Facility (PRGF), an IMF sponsored reform program. During the last eight years, 16 PEs have been sold into private hands and the remaining over three dozen continue to fare hopelessly in their business. The average return of PEs on their capital investment is just 0.55 percent.

On February 24, 2001 the government initiated steps to privatize the state-owned Hetauda Textile Industry, the country's largest textile industry, which it had closed down. The industries in the pipeline for privatization include: Janakpur Cigarette Factory, Lumbini Sugar Industry, Hetaunda Cement and Birgunj Sugar Factory. The entire privatization program started with the Nepali Congress government assuming office in 1992. Privatization had started with three-Chinese government aided industries. All were running in profit at the time of privatization. Hetaunda Textiles is the fourth Chinese-aided industry to be privatized. The government has closed the industry before privatization. The twelve years of multi-party governance indicates that as major political forces are poised to protect their own interests, the governing elite has been unable to move the country either in the trajectory of a greater economic growth or toward greater equity in income. A sustained governmental instability and the crisis of governance are the result.

## Institutional Framework of Local Self-Governance

The state has provided an institutional framework and coordinating principles intended to minimize the distrust of impersonal relations and maximize the rules of the game governing public and private lives. Institutions are complex sets of structured rules, norms and structures created to provide incentives and options to govern human interactions. Institutional configurations are rooted in particular historical settings and can not be explained in terms of aggregating individual rationalities. Defined legally, their system of rules are nested with each other and that they function in a predictable, perceptible and non-arbitrary manner. In this sense "institutions include any form of constraint that human beings devise to structure human interactions" (North, 1990:3). Institutions matter and "that the associated incentives structures substantially influence economic performance" (Bardhan, 1999:1). The recent discourse on the economics of institutions has evolved four approaches. These approaches see institutions "as systems of property rights laid down by law, moral conventions or norms, types of contract, and authority relations" (Lal, 1999:2).

Institutional rules "are being relied upon, in this perspective, as self-reproductive, self-enforcing, path-dependent and self-perpetuating, and no body is expected to distort them or interfere with their expected operation. They are self-enforcing like conventions or self-correcting through a system of checks and balances" (Offe, 1999: 65). Are the local governing institutions of Nepal fully attuned to this institutional culture and capable of accomplishing the goals of decentralization? Are these institutions clearly defined and viable enough to set the rules of the game to make them converge with the expectations of the various actors at the local level? Nepal has 3,913 Village Development Committees (VDCs), 58 municipalities and 75 DDCs. The VDC is the lowest tier of government. A VDC<sup>27</sup> is constituted as the executive arm of the Village Council. It is divided into nine wards. A municipality, meanwhile, is divided into a minimum of nine wards but the number of wards could increase depending on the size, strength, population and coverage of the municipality. Municipalities<sup>28</sup> are parallel to VDCs in structure and activities except, of course, the former must have a population of at least twenty-thousand, five million rupees in annual income and be able to offer minimal urban facilities such as education, hospital, roads, drinking water, electricity and communication. The second tier is the district. Each district is divided into a minimum of 9 to a maximum of 17 Ilakas (areas).

Each Ward of the VDC or municipality has a Ward Committee (WC) made up of five popularly elected members, including one woman and one Ward Chairman. VDCs are divided into A, B, C categories depending on their population size, geographical diversity, transportation, communications, education and health facilities. Similarly, municipalities are also divided into three categories-- Municipal Corporation<sup>29</sup> (Kathmandu), Sub-Municipal Corporation<sup>30</sup> (Lalitpur, Biratnagar and Pokhara) and municipalities according to the stages of their development and facilities. WC, VDC, municipal committees and DDC<sup>31</sup> govern the local public affairs. VDC chairperson, vice-chairperson, ward members and six nominated members representing women,

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<sup>27</sup> The VDC consists of a chairman and a vice-chairman, nine Ward chairmen and two members including one woman nominated by the VDC from among the members of the village council.

<sup>28</sup> In the case of mountains and hilly areas, a municipality requires a population of at least 10 thousand and a minimum annual income of half a million rupees.

<sup>29</sup> A Municipal Corporation must have a population of three hundred thousand, four hundred million rupees annual income and urban facilities such as electricity, drinking water, communications, pitched roads and accessory roads, good health services, infrastructure for sports, facilities for higher education and at least one university. It must also have already existed as a Sub-municipal corporation before graduating to municipal corporation.

<sup>30</sup> Sub-Municipal Corporation must have a population of one hundred thousand, one hundred million rupees annual income, and facilities for electricity, drinking water, communications, pitched main roads of the town, higher education, health services good infrastructure for national and international sports, public gardens and city halls. It should have already existed as a municipality before that.

<sup>31</sup> DDC can be classified on the basis of geographical diversity and transportation, communications, education and health facilities.



social workers, socially and economically disadvantaged castes, ethnic groups and those from the indigenous/ Dalit community constitute the Village Council (VC).<sup>32</sup>

The Municipality Council (MC) has a similar procedure and structure, but the number of nominated members can stretch up to twenty persons. The tenure for locally elected and nominated persons is five years. VDC and municipality meetings take place at least once in a month. The meeting is called by the chairman or in his/her absence by the vice-chairman (mayor or deputy mayor in the case of the municipality). Village and Municipality Councils that meet twice a year are mandated to approve or suggest or question the plans, policies, personnel, programs, budgets and reforms. Decisions are taken on the basis of the simple majority formula.

Each district has a District Development Committee (DDC) and District Council (DC).<sup>33</sup> The DC meets once a year. It is composed of all the VDC chairpersons and vice-chairpersons, Mayors and Deputy Mayors of municipalities of the district, DDC chairperson and vice-chairperson and members, the district Members of Parliament (MP) from both the Houses and six persons nominated by the DC from among women, social workers and disadvantaged groups who do not have representation in the DC. The Local Self-Governance Act (LSGA) provides provisions for an Advisory Committee,<sup>34</sup> sectoral committees and an audit committee in each layer to facilitate their functions as well as to establish and strengthen the financial integrity system. The chairperson, vice-chairpersons, mayors, deputy mayors, ward chairpersons and members are directly elected. These elected officials constitute the electoral college for the election of their respective Ilaka members as well as district president and vice-president. The Ministry of Local Development (MLD) appoints lower level office secretaries for local governance units while it deposes professional staff and experts such as engineers, accountants, planners, agricultural development experts to the DDCs. Based on their own need and internal resources, these units can also recruit additional staff to handle their problems. Capacity building of local bodies, especially in areas of their institutional management, planning, resource mobilization, information, human resource development and innovation, is essential.

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<sup>32</sup> The functions, duties and rights of the VC are: a) to approve the budget, plan and program prepared by the VDC, b) to approve proposals to raise tax, revenue, levy, excise duties, etc proposed by the VDC, c) to approve proposals regarding the procurement of loan and transfer or sale of fixed assets proposed by the VDC, d) to discuss the account report prepared by the account committee and provide instructions to the VDC to settle the unsettled accounts, e) to grant permission to VDC proposals regarding recruitment of personnel, salary, and other facilities as per the need, although the costs have to be borne by the VDC's internal source, f) to provide necessary instructions to the VDC upon the evaluation of its administrative works, g) to carry out evaluation of development activities within the domain of the VDC and provide necessary instructions, h) to approve the bylaws of VDCs and I) and perform other function as required.

<sup>33</sup> The functions, duties and powers of the DC are to: a) pass budgets, plans and program submitted by the DDC, b) adopt resolutions relating to taxes, charges, fees, tariff, loans or borrowings and internal resources submitted by the DDC, c) evaluate district plans and give necessary instructions, d) discuss audit reports and give necessary instructions, e) approve the district program, f) approve the by-laws of the DDC, g) evaluate the administrative function and give necessary directions, h) grant approval on the remuneration, number of positions, allowances and other facilities proposed by the DDC, I) decide on sale and disposal, transfer and hire of DDC property, and j) delegate some of the powers conferred on it to the DDC.

<sup>34</sup> To assist the local governance the VDC and municipality can constitute an advisory committee consisting of three to nine persons from among social workers, intellectuals and persons having technological knowledge and skills to render assistance in its functions.

## Donors' Cooperation in Decentralization & Good Governance

The heavy dependence of Nepal on foreign aid for its development goals has made donors an important actor in the country's overall governance. A number of Nepal's international development aid partners are seeking to use decentralization strategies to promote local development processes. More so, if we consider that in Nepal, various international organizations are involved in policy input, capacity building, advocacy, linkage building, planning, service delivery, partnership development and adoption of innovation at both micro and macro-levels of governance. In other words, Nepal's local self-government has become an intrinsic part of the international regime. Kaufmann, Kraay and Zoido-Lobaton define "governance broadly as the traditions and institutions by which authority in a country is exercised. This includes the process by which governments are selected, monitored and replaced, the capacity of the government to effectively formulate and implement sound policies, and the respect of citizens and the state for the institutions that govern economic and social interactions among them" (1999:1).

But, the donors have been concentrating on different aspects of governance often coded in the idiom of their political ideologies. Some of them are assisting directly in the implementation of decentralization schemes while others have been playing a supportive role from the periphery. The World Bank and the Asian Development Bank, two major development partners of Nepal, advocate efficiency and accountability of public institutions and service. Their programs seem rather to be oriented towards improving the climate for business, financial management, public enterprise efficiency, civil service reforms, infrastructure development, environment and resource management and women and development in general than focussing solely on local government. Both the Banks have identified reforms in financial and fiscal development, public sector management, poverty alleviation, promotion of predictability and the rule of law, investment in infrastructure, and the protection of the freedom of press and human rights. The World Bank defines governance as the way in which power is exercised by a political regime in the management of a country's economic and social resources for development. Governance, in this sense, also involves the capacity of governments to design, formulate and implement policies and discharge functions (1994:xiv). The Department for International Development (DFID), another important development partner, is involved in an "enabling the state" program to promote a virtuous state-- a state with a strong pro-poor governance. DFID has also been contributing to strengthen democratic polity, macro-economic stability, strategic policy framework, service delivery, access to justice, national security, rule of law, and transparency and accountability mechanism of the polity. It also assists in the creation of a strong private sector and civil society which are able to articulate the needs and aspirations of the people (DFID, 2001).

The United Nations Development Program (UNDP), on the other hand, is directly involved in promoting decentralization through participatory methods. Under its Participatory District Development Program (PDDP) and Local Governance Program (LGP) it attempts to help Nepal in local institution-building, human rights, good governance, gender equality and sustainable human development<sup>35</sup>. The UNDP supports the Ministry of Local Development, National Planning Commission, District Development Committees, and Village Development Committees in their capacity building to promote decentralized participatory development. Social mobilization, empowerment of community organizations and multi-sectoral grassroots development are its key strategies for alleviating poverty and achieving self-reliance.

Recently, a group of eight European donor countries including the Norwegian government, British government and Swiss government, under the aegis of the United Nations Development Program (UNDP) jointly set up a Trust for Peace and Development (TPD) aiming at reducing violence and promoting peace and development in Nepal. Beneficiaries will be those affected by the Maoist insurgency, particularly the disadvantaged groups, women and youth. It aims to create awareness in the society and advocate for peace and development. Similarly, since April 25, 2000 the United Nations Capital Development

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<sup>35</sup> The UN had constituted a working group on the *right to development* in 1993 that catalogued effective measures to "eliminate obstacles to the implementation and realization of the Declaration on the Right to Development and recommend ways and means towards the realization of the right to development by all states" (Baehr et al: 1994,4).

Fund (UNCDF) created the Local Development Fund (LDF) to strengthen local governance structures. It "encourages private initiatives through credit systems conceived to aid the poorest people, equips local space with infrastructure and social services and contributes to the emergence of bottom-up development based on good management of the environment through a kind of program known as eco-development" (UNCDF, 1997:2).

The Danish International Development Assistance (DANIDA) is another big donor involved in electoral reforms, local self-government, trade union development, and training of public and police officials on human rights, good governance and decentralization in Nepal. Under the Danish Support to Local Authorities in Nepal programs, DANIDA has extended cooperation in decentralization policy reforms while Decentralization Advisory Support Unit (DASU) is involved in policy reform, capacity development and strengthening of local government institutions including NGOs and civil society. In addition, it has also extended its cooperation to state institutions, such as the parliament secretariat and the judiciary, state-society linkage institutions, such as the Election Commission and civil society organizations, especially media, trade unions, women and disadvantaged groups- particularly the Association of District Development Committee of Nepal (ADDCN) (Poudyal, 2001). DANIDA continues to extend its support to the Ministry of Local Development (MLD) and Local Development Training Academy (LDTA).

The German Society for Technical Cooperation (GTZ) is basically involved in supporting participatory community development programs, construction of green roads, urban development through local efforts, environment and natural resource management, small farmers' cooperatives, self-help organizations at grassroots, etc.<sup>36</sup> Moreover, aside from supporting the decentralization process, all the regional rural development projects undertaken by GTZ have very strong "social capital formation" focus aiming at breaking the micro-process of poverty reduction. Promotion and strengthening of self-help organizations, awareness building, enhancing local participation and resource mobilization, social reforms, skill development, introduction of appropriate income enhancing technologies together with measures to improve access of the poor to institutional credit and support to establish basic community infrastructure are the major areas of program interventions" (Kievelitz et al, 1998:28). The main purpose of Urban Development through Local Efforts (UDLE) is to increase the capacity of municipalities to plan and manage urban development. It also contributed to Town Development Fund, supported the MLD and the Ministry of Physical Planning and Works to prepare municipality act and helped in the management of solid waste, the abolition of octroi and initiation of administrative reforms.

The general policy documents of United States Agency for International Development (USAID) focus on the promotion of sustained economic development, increasing democratic participation, protection of human rights, legitimate government behavior, and the augmentation of fundamental human values, such as the civilian control of military, protection of minority rights, political tolerance, peaceful resolution of conflicts, civic education, etc. (USAID: 1991,13) The Country Strategic Plan of USAID for Nepal for the Fiscal Year 2001-2005 aims to improve the impact of its assistance by a) focusing on critical improvements in governance of key resources (water, other natural resources and human resources including health and human rights); b) strengthening essential policy, institutional and decision-making mechanism; c) targeting assistance to a few key sectors of manageable interest (health, hydropower, democracy and natural resources); d) leveraging assistance through coordination and collaboration with other donors; and e) closely aligning USAID/Nepal programs with the overall United States Government and USAID regional and global initiatives" (USAID,2000:xv).

The Embassy of Finland has created a local fund for "Democracy, Good Governance and Human Rights" to foster the democratic process, promote good governance in the public institutions, including local authorities and civil societies, promote and secure social and gender equality and human rights and alleviate poverty for a more equitable and sustainable development of the country. Decentralization of decision making is one of the key elements of the Local Fund. All these efforts, including the ones carried out by other official development regimes such as the Swiss Agency for Development and Cooperation (SDC), Norwegian Agency for Development Cooperation (NORAD),

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<sup>36</sup> The recipient country of official German development cooperation has to meet five main criteria: rule of law, human rights, political participation, a market-friendly economic order and development-orientation of state action. (Heinz:1994,32).

Netherlands Development Organizations (SNV), and INGOs like Care Nepal, Action Aid-Nepal, Friedrich-Ebert-Stiftung (FES) in Nepal are directed towards generating local knowledge, modernizing state institutions, creating and developing pro-decentralization societal forces to a critical level until they are capable of applying enough pressure for reforms and redefine state-society relationships for good governance. Some of the donors have taken up the agenda of governance and attached them to the efficiency of aid projects and participatory development while others have found a tension between the two approaches: They want downsizing of the government, on the one hand, and at the same time call for a more powerful government- adequately powerful to face up to well-organized pressure groups in the society, which are looking for a greater share in decision-making.

Good governance is corruption free government based on the rule of law and is efficient in public sector management. Ironically, a greater involvement of donors in policy regimes and program implementation has not improved the situation either in the governance of aid or in the control of graft, corruption and arbitrary use of authority. In developing countries, the agenda of governance is, therefore, often associated with the notions of devolving power, authority and resources. The problem of building democratic government is not solved by concentrating political and economic power at the center but rather by decentralizing and devolving it to the local level for the organization of self-governance. The emerging thinking is: decentralization promotes democracy and development and they are preconditions to good governance. In many modernizing societies, the political system fails to meet this condition because traditional authority always fears the loss of power, authority and institutions once it allows the power to go out of its control. Therefore, the big question is: How can decentralization be conceptualized and situated for the promotion of local self-governance? Furthermore, how are sectoral and general interests mediated for good governance? How are the organization, integration and communication needs of the society and the authority of the state realized to capture the synergy for a stable national community?

## The Paradox of Decentralization in Nepal

One contemporary paradox of Nepalese politics has been that the dis-empowerment of the state-- erosion of its stability, sovereignty, authority, autonomy and embeddedness-- did not correspondingly contribute to the empowerment of the local bodies, the civil society, market institutions and stimulate the overall development goal set in the Directive Principles and Policies of the State. The other critical paradox is that without a strong central government backed by visionary leadership, devolution of power is not possible. But, a strong government with weak democratic credentials will, of necessity, centralize power, resource and authority. Nepal's case is additionally problematic as its state, market and civil society institutions are heavily dependent on external resources for their survival and development. The government is thus facing enormous pressure exerted by globalization from above for faster decisions, by localization from below for the closeness of governance (subsidiarity), and by horizontal market forces for the accessibility of resource, environment, technology and innovation. It is therefore proved that erosion of central control is not decentralization. This in no way reduces the importance of decentralization.

Unmediated by Constitutional norms and in the absence of a buffer to protect the poor and powerless, the adoption of markets as a vehicle for economic growth in Nepal has produced growing poverty, inequality, social polarization and political instability. Without the strong cultural component of a modern state, such as robust formal institutions of authority, rule of law and public rationale of government action, the politics of decentralization seem only to tinker with the symptoms of Nepal's development problems. Development in Nepal has been held up by a centralist government<sup>37</sup> and, therefore, requires a focus on rebuilding the nation in a new way, a way that is expected to promote an efficient state with a widespread and enduring social project of efficient local development. A democratic state is expected to handle public resources with respect and a sense of responsibility and produce a greater amount of human welfare than one not.

Decentralization of power tempers authoritarian rule and makes the wielders of power more accountable for their actions. Devolving ownership, responsibility and decision-making authority to the grassroots level helps ensure the participation of the less empowered and less fortunate section of the population in the planning, execution, and monitoring of social and economic development. Decentralization can also improve the efficiency and responsiveness of development actors by bringing decision-making and implementation closer to the people. The idea of giving responsibility to the locals, however, should not take away from the salience of the role of state. It should lead to a reapportioning of role and responsibility of central level authority to align with a broader national and democratic mandate, which is to promote governance goals— security, rule of law, voice and participation, and public welfare. By implication, central government has a greater responsibility to the people than local bodies— elected, officially induced or voluntary constituted— to elicit people's participation. This greater responsibility must be matched by certain strengths, which can ensure the Constitutional vision of the “sovereignty of people,” making a poor person no less sovereign than the most powerful.

To make the sovereignty of Nepalese people operational, the commitments set in the Directive Principles and Policies of the State must steer the rest of the Constitutional provisions to govern the public and private life of citizens organized under the state, the market and civil society. One way to make people's sovereignty operational is scaling up of local representation, especially drawing in more from women and marginal sections of the society. The adoption of positive discrimination or affirmative action favoring women has already allowed the election of about 40,000 women representatives at the local level, indicating a lessening of the monopoly of patriarchal politics. Such measures ensure movement in the right direction. But involvement in formal political organization is not enough. Improvement must be made in the participation of people in consumer associations and voluntary organizations. The formation of national-level DDC, VDC and

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<sup>37</sup> In the name of government, Nepal has the Prime Minister, ministers, secretaries and other functionaries, but they don't act as a cohesive instrument of people's power for collective action whether to protect the weak against the strong embedded in the social contract or solve the problems of the society. Factionalism and fissiparous tendencies have created a vacuum of power in the central government causing deficit in its political will and authority to make public policies implementable.

municipality federations has fostered a virtuous circle for both social capital formation and engagement of its members in policy regime and collective action. Another way is strengthening the bargaining power of local people through solidarity and civic engagements. The multiple and somewhat successful protests by the Federation of Community Forestry Users Groups in Nepal (FECOFUN) in Kathmandu some time ago indicates the power of associations to defend zealously their members' interests and overcome centrally constructed constraints. A high level of civic engagement in the governance process in wards, villages, cities, Ilakas, electoral constituencies and districts not only empowers people but also generates a high level of social cohesion and, consequently, greater interest in voluntary cooperation for the promotion of public good.

The Plan documents and LSGA appear favorably disposed toward creating enabling rules for executing decentralization responsibilities, including tax collection, dispute settlement among social actors and the management of common property resources. Having legal standing, the LSGA also allows local government institutions to enter into productive relationships with line agencies as well as with NGOs, civil society, private sector and solidarity organizations like those of women, Dalits, human rights, environmental and indigenous groups aspiring to sharing resources, remove barriers to power devolution, and induce social change. Rapid growth of NGOs, civil society and issue-based people's institutions has provided new tools and resources for forging connections. It has also offered a scope for speedy dissemination of information and innovation as well as crafting of *generalized reciprocity*, which are essential for reducing transaction costs. Now the state is not the sole controller of people's actions and a means for social renewal in Nepal. Still, a sound framework is needed to remove structural and cultural barriers so that the state, market and civil society can be mutually embedded in the life of local society and foster the organization, cooperation and integration system of local governance.

A deeply rooted patrimonial political culture and patronage-based development practice in Nepal has often made the protection of public interest a highly contested terrain. A patrimonial culture places the government as a giver and the people as a receiver of development benefits, not the claimants of Constitutional rights and duties. It does not treat people as co-producers of development but only consumers. When the national resources and budget known as "common pool resources," and laws and regulation become a property of a faction ridden government, their distribution becomes a highly private and partisan matter. In such a situation, those who do not belong to the government and those whom it does not serve disown "government". The tendency of powerful ministers to transfer resources in their home constituencies rather than where it is most needed not only makes decentralization dysfunctional but also intensifies the irrationality in the use of power. This culture has fostered an upward accountability rather than downward, distorted the effects of public policy on development and turned the people and their institutions virtually powerless in terms of applying an instrument of collective action. This is what decentralization purports to eradicate. But when decentralization measures are undermined by other simultaneous measures, the old traditions and legacies complicate the basis for rational use of power even further. A burning example is the constituency development fund that was set up immediately after funds were allocated to the VDCs. When such parallel countermeasures are set up to cancel out the gains made in decentralization, little can be expected out of the commitments that a government makes in any area of good governance, thus furthering the crisis of confidence it already faces.

A power-based political culture that subverts the purpose of governance "to protect weak against strong" creates a "closed caste" system for the elite status quo and prevents the continuous and steady changes in society towards progress and modernity. How can the poor and the powerless people exercise their sovereignty when they are grievously exposed to the mercies of relatively centralized political parties and their leaders? When the donors' regime and governmental system are based on the logic of centralism how can decentralized bodies elicit the participation of poorer sections of the society by stimulating them to exercise influence in decision-making and maintaining democratic control?

After three decades of flirtation with statism by the Panchayat system, the post-movement regimes have gone just the opposite way-- dismantling political control on the economy, privatizing many industries and liberalizing trade and commerce. Economic decentralization and denationalization were expected to foster improved accountability, curb corruption and restrain centrifugal tendencies by accommodating local interests and concerns. Centrally planned

development was considered an antidote to building a better society. A decentralized development that presupposes the local practical knowledge possessed by the people-on-the-spot was considered important for making plans and programs contextual. Any plan imposed by either the center or outside expert without consultation with the stakeholders was considered antithetical to local needs, initiatives and creativity. The concept of local ownership was paraded assuming that the benefits of projects should be distributed among the various economic groups and thus would the accountability arising from the benefits be enforced. But where has it all taken us?

The successive failure of each national plan to meet its intended goal of lifting the income of the lowest economic groups indicates that the economic growth strategy— sectoral progress, privatization and structural adjustment— has tended to legitimize a greater inequality, regressive taxes and subsidies to higher income groups. The impact of the failure is so huge that it has undermined the very prospect for decentralization. It has rather increased the costs for the majority of the poor to participate in the economic growth process. As a result, the need for alternative thinking has emerged strongly— the need for local self-governance to counter these retro-movements by policies.

## Policy Options for Decentralization

As the old cold-war aid rationality of supporting strong states against communism declined, the new principles of the Washington consensus<sup>38</sup> came into place in the international aid regime. The situation has left the poor countries with no policy option but to adjust to the conditionalities of global capital markets.<sup>39</sup> This consensus has provoked an important issue regarding the questions of “ownership” of policy-making and strategy and matters of development choice. Countries like Nepal do not have the leeway to exercise their right to development and organize their economic and political life according to the interests and priorities of their people, i.e. democratically.

The false harmony created by liberalization policies and the strategy of disciplining deficit countries with “structural adjustment” continue to weaken the prospect of a development contract between capital and labor in many developing countries. It has thus prevented a new balance between economic competitiveness and social justice envisaged by the Constitution of the Kingdom of Nepal from being achieved. Harsh conditionalities have often conspired against the natural emergence of entrepreneurs, and the policy of deregulation has damaged many small-scale enterprises—which in the past had facilitated the decentralized participation of people in economic democracy and provided reasonable access to productive assets and a means of work.

International cooperation is one critical element in defining the terrain of discourse on matters of social, political and economic policy. The support of donors is now being aimed at providing opportunities for expanded participation of the poor in the state, the market and civil society. But there is neither policy coherence nor concertation of action to execute policies. Nor are there real efforts to minimize exacerbation of unequal power structures at the local levels. There is also a dilemma: while people’s elected representatives and bureaucrats often use their position for gain of self, family, community or ethnic groups, the donors’ preference for devolution of state service to private groups, NGOs and the civil society has rendered the elected government ineffective. Many of them have entered into an anti-state discourse and have distorted policy outcomes in favor of the rich, well-connected, or better organized interest groups. To make matters worse, Nepalese planners share the assumption of donors that bureaucratic problems of government create barriers to people’s participation in development. Without accounting for the actual size of the Nepalese state, they parrot the argument that state maximalism restricts human freedom, suppresses local perspective with its own, reduces private initiative, and fosters dependency. Apparently, they have done so to bring about a paradigm shift in policy making. In reality, however, the attack on the state when it was the weakest and most vulnerable has made the existence of the planners themselves dubious. The result is that the ideology of decentralized development in Nepal has been based on the market as the main tool for transforming the society and the economy, while the state is considered unresponsive and too invasive.

The justification for the market’s role, provided by the government itself, was the government’s own failure in executing appropriate development policies. As if to prove their point, economic growth has not been paralleled by a rise in the quality of life of the majority of people in Nepal. The media have often reported that the government manufactures statistics of economic growth to suit the donors’ orientation to the free market system. Left in the backwaters, the problems of greater income inequality, poverty, social disintegration and alienation accompany any economic growth in Nepal. For the majority of Nepalese, lack of income has effectively denied them the

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<sup>38</sup> The term Washington Consensus has been used to describe "an extreme and dogmatic commitment to the belief that markets can handle everything," says economist John Williamson. Ten propositions he outlines for policy reforms under Washington Consensus are: a) fiscal discipline, b) a redirection of public expenditure priorities toward fields offering both high economic returns and the potential to improve income distribution, such as primary health care, primary education and infrastructure, c) tax reforms (to lower marginal rates and broaden the tax base), d) interest rate liberalization, e) a competitive exchange rate, f) trade liberalization, g) liberalization of FDI inflows, h) privatization, I) deregulation (in the sense of abolishing barriers to entry and exit), and j) secure property rights (1999:2-3).

<sup>39</sup> The Washington Consensus was anticipated to facilitate the movement of savings from developed to developing countries, lowering the costs of borrowing, reducing risk through new financial instruments and increasing the economic growth. But critics points out that a decade of experiments with it has produced opposite results: "the evidence is that the distribution of income, wealth and political power has worsened" (Faux,2000:3).



democratic choice, freedom in political and economic life and deprived their institutions of coherent powers for setting and enforcing pro-decentralization public policies.

The National Development Council (NDC) and the National Planning Commission (NPC), two main bodies responsible for the formulation of plans and programs, define the national space for the planning exercise. It is in this space the federations of local authorities often negotiate with the government on policy matters and provide feedback on policy reforms. There is also the representation of local authorities' federations in Local Government Finance Commission (LGFC) and Decentralization Implementation Monitoring Committee (DIMC). In the Priority Reform Actions of Government, underlined in the Nepal Development Forum 2002, the Ministry of Finance involves major stakeholders of the society including the representatives of local authorities and donors on policy dialogue to establish their "ownership" over public policies. Ownership opens new possibilities for greater participation, democratic control and a very different *esprit de corps* and meaning at vocation. But there appears to be less substance than form in these exercises. It is no secret today that the weaknesses of the executive authority in Nepal, the poverty of homegrown ideas and heavy reliance on donors for financing development has made the government prone to donors' influence in formulating public policies and setting priorities.

The democratic authority of the government and the bureaucracy remain crippled, thereby weakening the ability of the state to work in the public interest. The Nepalese state has failed to assert itself over the donors' interests. And the latter are doling out aid as, when, and where they like, not necessarily where it is most needed. The problem is not with the donors, who have come to rescue Nepal from its dire economic situation, but with the government that cannot properly coordinate aid and monitor its accountability and effectiveness. There is thus a kind of aid anarchy. Especially, the special interest groups of the society enmeshed in the donors' purse have rendered dysfunctional the role of aid in promoting pro-poor policies, policies which would have had positive effects on bridging the social and economic gaps.

There is also the need for effective execution of development programmes, like disbursement, which forces aid money to be funneled in schemes that do not contribute much to decentralization. For example, the donors and the government find their interests coinciding in coordinating and collaborating with sectoral line agencies of the ministries under the authority of DDCs. This has rendered the enforcement of local accountability difficult, more so because DDCs do not have a popular electoral base, nor a system of recall. A cause for concern lies in the polarization of relationships among the tiers of governance and a lack of clear definition of authority and responsibilities of political, governmental, elected and economic elites, thus breeding a perpetual tension between centralization and decentralization.

A number of donors are focusing more on "institutions" and "processes" of decentralization than on initiative, access and service delivery. The institutions and processes thus created come to possess a life of their own. As they are imposed upon elected bodies, they constrain the choices of people's representatives. It is, therefore, creating an elite sub-culture in the Nepalese society, aided by the educational and economic systems. This has weakened the rationality of the bottom-up participatory planning process that reflects a balance between local and national interests. Such a balance would also provide the poor greater ownership in planning and execution of development, ensure equity in the distribution of development products and empower people to develop access to the institutional resources of the state, the market and the civil society. The bureaucratization of donor-driven programs has failed to perceive the diversity of life forms and their disparate needs. Decentralization programs have thus strengthened the local power elites who are accountable only to their respective donor constituencies and political parties, rather than the people who are most in need of development. This is why after fifty years of development cooperation a critic calls Nepal's development a "failed one" (Panday, 1999). The various poverty alleviation, social mobilization and expert-driven development strategies have failed to capture the potential synergy arising out of the complex interaction among the foreign aid regime, the state, the private sector and voluntary associations.

The rhetoric of social mobilization, paraded since the Back to Village National Campaign of the Panchayat days, has neither been able to bridge the ideological gulf between the elite and the masses, nor change the existing social asymmetries of class and caste to make public policies secular and operational. For example, social mobilization for economic self-reliance among communities has

only evidenced a shift from people's dependence on local moneylenders to dependence on donors. The only difference between the two is: local moneylenders are physically, socially and mentally embedded in local life and, to great a extent, have to be accountable for their actions, whereas externally injected social mobilizers are not intimately linked with communities or local public agencies nor bear the burden of accountability for their actions. In the prevailing politics-- in the context of a growing scarcity of basic needs, increased democratic awareness and heightened aspirations-- social mobilization without adequate resource transfers carries a real risk of intensified and radical pressure.

Critics blame the distributive coalitions created by social mobilization activities of outside agencies as having rewarded the organized at the cost of non-organized people and having deleteriously affected the self-confidence and self-respect of the poor. The paternalistic judgement of people by social mobilizers as children-like, ignorant and illiterate in need of social mobilization and group formation is based on the ideology and interests of powerful interest groups of the society. This approach inhibits the public expression of preferences and consensual processes between the rich and the poor, and discourages local initiative and innovation. Decisions made thorough consensual means have greater chance of sustainability and success. The growing number of NGOs, civil society and consumer groups in Nepal indicates the propensity of the Nepalese to come together to address the problems of collective action. Genuine people's institutions do exist, but the majority of these NGOs are in Kathmandu, thus likely to be donor-driven.

The criticism is that many donor-driven projects are creating dependency instead of self-help, *swabalamban*, and continue to weaken the indigenous capacity to carry out development programs and engage in autonomous collective action. Unless the bureaucracies of the bilateral and multilateral agencies are sufficiently reformed, in terms of constituting a mechanism for fair recruitment, professionalism, promotion of their officials and establishing transparent aid disbursement "processes", aid would serve exactly the opposite of its stated purpose of serving the wellbeing of poor.

Many donors are locked into a patron-client network with their own consultancy firms, NGOs and civil society groups with whom they exercise their "consultation process" in framing their Country Assistance Strategy and also in the design and planning of projects at the local level. Peoples' representatives, however, reveal that those consultation processes are expert-based, in-house and, therefore, they do not have much trust because they are context-insensitive and hardly contribute to uphold standards either in policy formulation or implementation. What one sees, therefore, is a very narrow intellectual debate among experts who share the "same development paradigm" and bypass those that they do not understand. And, mostly, the local context is hard to understand. When their viewpoints are taken in, they only play the role of "advisors" rather than that of accelerators of development. Moreover, they do not act as checks and balances crucial to reform public policies. This is undermining the capacity of locally elected bodies, an instrument of collective action of the people, to promote local interests and meet the needs of local communities. To make development aid more effective, it must go directly to the people through their representative institutions, i.e. the VDCs, municipalities and wards. Only then can decentralization beef up people's participation in wealth- producing activities and contribute to social democratization. The donors should provide a mechanism for beneficiaries to monitor the manner in which donor resources are used.

## Preconditions for Local Self-Governance in Nepal

Thus far, we have discussed decentralization in detail in its various aspects. However, the main objective of decentralization is to promote local self governance. The effectiveness of local self-governance bodies and their viability depend on some preconditions which will be discussed in this chapter. Those preconditions include autonomy of their functioning, representativeness of the local setting, people's participation, adequate financial resources, transparency and accountability, participatory planning, human resource development processes, public service infrastructure, the required civic space and conflict resolution mechanisms.

### AUTONOMY

Nepal is a unitary state with memberships in multiple international regimes. Any analysis about the autonomy of local self-governance cannot be insulated from international factors and forces. Certain powers devolved to the decentralized local bodies do not make the state weak, rather it increases the participation, efficiency, equity, accountability and responsiveness of non-central governance institutions and communities. But, the autonomy of local self-governance requires certain limits on the powers of central government. And, again, local processes cannot be de-linked from the national space. The central functions regarding the local is quite clear here. They relate more to an enabling duty than to carry out interventionist execution of power.

The principle of autonomy can only be pursued under a liberal democratic state in which the central government, in a linear fashion, allows the self-management of local bodies which are accountable to the people and makes them capable of pursuing public interests. If local bodies are to be free and equal in the determination of the conditions of their affairs and enjoy equal rights and obligations, they must be financially viable, politically stable and technically competent. "Autonomy connotes the capacity of human beings to reason self-consciously, to be self-reflective and to be self-determining. It involves the ability to deliberate, judge, choose and act upon different possible courses of action in private as well as public life" (Held, 1987:270). LSGA on local government institutions specify their autonomy as "perpetually succeeding self-governing organized entities with separate seal, enjoying the right to acquire, use, dispose and sell off movable and immovable property and, like an individual, sue and be sued in its own name in the court."

Local self-governance in Nepal came at a time when the state was squeezing itself through an economic crisis and structural adjustment policies. A devolution of expanded responsibilities at such a time meant that the local units were left without the requisite authority and resources. Even then they were more concerned about autonomy than anything else. Local government federations, that represent the coalition of interests and are united for collective action, have argued for the application of "subsidiarity" in decision-making and favor an autonomous self-governance involving devolution.<sup>40</sup> It seems to reflect that horizontal, locally-controlled organizations are instrumental in

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<sup>40</sup> ADDCN has identified a number acts that contravene the LSGA 1999 and submitted a draft proposal to the Prime Minister, Speaker of Lower House of Parliament, Chairman of Upper House and Local Development Minister for amendment. They are: **Local Administration Act 2028** which has granted coordinating authority and control of all development related district offices, protection of public property of the districts, authority to validate relatives and the use of public places to Chief District Officer (CDO). LSGA provides that they should come under the DDC. **Education Act 2028** has mandated that a village or municipality has to take consent from the District Committee to establish pre-primary schools. The new LSGA provision empowers the VDC and municipality to establish such schools but they should inform the DDC and District Education Office. The new amendment includes the constitution of such education committee under the DDC president by involving other local authorities and officials-- at the VDC and Municipality level such education committee should be constituted under the chairmanship of the mayor or VDC president including the involvement of a guardian. The dissolution of any school should be done with the consent of the local committee. **Amendment in the Act of 2033 regarding Birth, Death and Registration of Personal Matters**: The new act has empowered the VDC and municipalities to do all these things. Other amendments relate to **Forest Act 2049, Hydropower Act 2049, Electricity Act 2049, Film (Production, Exhibition and Distribution) Act 2028, Sports Development Act 2048, Consumer Protection Act 2054, Statistics Act 2015, Public Road Act 2031, Land Revenue Act 2034, Land and Jalashaya Protection Act 2039, Mine and Minerals Act 2042, Transportation System Act 2049, Construction Company Act 2055, Environment Protection Act 2055, Veterinary Service Act 2055, Pashu Badhshala and Meat Examination Act 2055, Judicial Administration Act 2028, Natural Calamity Act 2039, Waste Disposal (Management and Resource Mobilization) Act 2044.**

stocking interpersonal trust and social capital because of the proximity of people and their familiarity with each other and, consequently, better able to cooperate in development efforts.

The impersonality of local bodies in goods and service delivery can only be achieved when its autonomy is no longer compromised by either central control or captured by local elites. In practice there are three limitations to autonomy. First, the principles of autonomy involve three basic rights-- distinct identity, ability to enter into contract and acquire, use and dispose its property. New institutional economic theorists argue that a precondition for development is a minimum legal and contractual structure and a set of well-defined and enforced property rights. Seen in this light, one can argue that the local government institutions have certain powers to make bylaws, raise revenue, carry out spending, recruit staff and adjudicate local disputes on a limited scale. But their autonomy is weakened by the fragmentation of local authorities on partisan lines causing a systematic erosion of the institutional dependence and centralized nature of services in a number of areas.<sup>41</sup> There are cases where central government and some donors have created parallel and counter local structures thus shifting demand functions of people upward rather than downward. Many of the ministries and central level departments have not established decentralized cells or sectoral units to devolve service function to local level. At the district level, there are parallel structures of the government like the Chief District Officer's (CDO) office, revenue, police, custom offices etc that undermine the autonomy of the DDC. Second, the local bodies as junior partners have to work under the legal, administrative, financial and operational framework defined by HMG, thus taking national policies and priorities into account. Third, the social, economic and political environment of local bodies is still hierarchical in which weaker ones are not likely to use its authority for bargaining with the DDC and ministry and feed itself with the process of change. After all, it is the capacity of different groups in social mobilization and coordination that largely determine both collective action and institutional change. Fourth, their reliance on grants, loans or subsidy from the government, INGOs, NGOs and private groups in solving their problems has fostered a culture of paternalism and dependency. The human and financial resources of local bodies do not match with the tasks devolved to them.

The dominance of centralized planning continues to force local leaders to conform to the plans and programs made by central institutions, while local government federations are struggling for more autonomy, participation and ownership in planning and policy initiatives. These federations increasingly blame the central government and the National Planning Commission (NPC) for ignoring their plans and programs based on local needs and priorities; stripping their power of managing community forestry, water resources, etc. by respective national acts and the authority of district offices thereby increasing a trend toward centralization. The Municipality Association of Nepal (MuAN) has suggested that the HMG revise a number of acts-- relating to transport and construction, health, education, sports, housing and physical planning, irrigation, soil erosion and

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<sup>41</sup> In order to reduce the burden on the center, the third meeting of the Decentralization Implementation and Monitoring Committee (DIMC), under the Chairmanship of premier Sher B. Deuba, on January 8, 2002 decided to grant local bodies full autonomy in the planning and implementation in areas covering agriculture extension and livestock services, postal services, primary education, primary health care and infrastructure development works beginning from the Tenth five-year plan period (1992-1997). The center will only work as a facilitator and giver of necessary finance and other assistance. The concerned ministries shall provide necessary budgets, responsibilities and technical manpower to carry out the programs. The center would provide guidelines to the local bodies to realize national objectives and follow regular monitoring and evaluation works.

The decisions of the first DIMC (*Chaitra* 15, 2057 BS) meeting that took place a year earlier were very significant to strengthen the autonomy of local bodies. The meeting endorsed the acting procedures of DIMC and agreed to submit the DIMC report to the Development Committee of the Lower House of Parliament, prepare a schedule to the systematic implementation of coordination and cooperation of decentralized units with ministries and concerned agencies as per the goals, principle and policies of LSGA. It also agreed to carefully study and carry out stepwise implementation of the report of "Local Body Financial Commission 2057" in coordination with local bodies. Other agreements include the formulation and implementation of the process and procedure for the establishment of various subject-related departments, accelerating the process of study to constitute a local service commission, proposing an amendment bill regarding the amendment of all acts that contravene with LSGA 1999 in the forthcoming parliamentary session. The meeting also agreed to have the different ministries immediately classify and fix the programs to be run by village, municipality and districts and adopt a decentralized system of evaluation (monitoring is done by DIMC), provide necessary support in the formulation of annual and periodic plan of the local bodies by all concerned parties by granting them the necessary program, information and technical support. A study was to be conducted for the revaluation of the organizational structure and number of local bodies and then submit a report to HMG, a report was to be prepared on the various problems of the implementation of LSGA 1999 with suggestions, orientation and training programs were to be held for local authorities and officials for capacity building including all those newly elected. It was also agreed that while formulating the bill regarding the amendment of all acts contravening with LSGA 1999 it should also contain the subject matter of amendments. (Local Democracy, 2001:15).

river control, hydroelectricity, local development, forest and environment, labor, culture, land management and reform, industry and taxation— especially those that are not favorable to strengthen the autonomy of local self-governance. Moreover, local bodies have become a victim of the fluctuation of central policies with every alteration of government and have become unable to expand the rights to local communities.

Political elites, intermediaries and middlemen from the interest groups of society and political parties have dominated local institutions. They form a patron-client framework and, therefore, local authorities' energies have been absorbed in tackling the incessant maneuvers of these patrons. A patron-client order centers on power personality. The patron controls resources vital to the welfare of clients and dependents. The needy are thus ignored on the basis of pre-existing power structure, status relationship and traditional forms of allegiance. As patron-client networks are based on individually negotiated relations of dependency, they inhibit the democratic participation of citizens in public affairs and the logic of collective action goes thwarted. Local bodies do have local vision, understand the local situation, and can craft strategy derived from practical knowledge and experience to run local affairs. But, their not-well-undefined relations with political parties and interest groups and the compulsion to singlemindedly seek their interests have often created distributive conflicts and undermined their autonomy. Given authority and autonomy, local self-government can create incentives and flexibility for the people at the local level to use the immense amount of dispersed knowledge about the actual situation and act in a rational manner.

Similarly, local bodies also face a constant tension between their needs for autonomy in solving their problems and their dependence on the state agencies for their essential functions. The vertical nature of communication through centrally appointed local officials, political bosses and centrally rooted development agencies are not conducive to the autonomy of local bodies. It is in this kind of situation that the enabling role of the centre comes in handy. Wherever the problem of "capture" of local government by elites is apparent, some kind of central distribution of equitable resources to disadvantaged groups and communities needs to be carried out. Such enabling interventions need to be guided by ground reality, for example, central measures to end pre-existing inequalities. "Autonomous local development also leads to a great deal of regional inequality, particularly because of differences in prior resource endowments and institutions" (Bradhan, 1998:194). In Nepal, strong top-down management practices, centralized planning and budgeting trends, particularly among the line agencies, but a lack of coordination among them, have been a hindrance to autonomy. In addition, there is opposition of technical line ministries to the establishment of sectoral units under the aegis of DDCs. These make poor recipe for autonomy and the integration of development activities.

Too much power to subnational interests could put the national interests at odds with them, while too strong a central authority will stifle local initiatives and the political openness that decentralization ought to impart. When authority is in excess of what the local unit needs or if it is not enough for the people to make decisions on their everyday life, there is bound to be conflict between the center and the local unit making the life of the people more miserable than otherwise. A good example of conflict between the national and local governments was published in a journal in January 2000.<sup>42</sup> Newmont Mining Corp. was facing the prospect of the closure of its Minahasa gold mine in Indonesia from a legal wrangling between the central and local authorities over the operation of the mine. The local government was demanding a tax for excavation, which it viewed as mining. The government's position was that no tax is owed for the removal of overburden, because it is not used commercially or sold. The Minahasa situation was the result of a review of Indonesian laws on mining to include decentralization in the operation of mines. The provincial government was naturally tempted to "flex its newly-obtained political muscle", by seeking to generate local revenue from the operation.

The Indonesian case is clearly one that will be sorted out only after clarity in the delineation of authority between local and central authority is achieved. Although most villages in Nepal do not suffer from this kind of central-local disputes due to lack of significant resource exploitation initiatives at the local level, some problems of that nature has surfaced from time to time. Dhunche VDC in the north of Kathmandu is facing a problem due to the Langtang National Park in which the

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<sup>42</sup> *The Mining Journal*, "Minahasa Legal Threat", January 28, 2000, p. 62.

village is located. The central government manages the park, but the locals have been bearing the brunt of having a park so close to human settlement. Arrangements are there to let the villagers use the park for their benefit in a controlled manner, but there exists no mechanism to keep the people safe from the wild animals roaming in their backyard. Livestock have been taken away and even people have been mauled or even killed on a regular basis. The park is a national resource that needs protection, but there needs to be a solution to the problems being faced by the villagers.

In demarcating clear boundaries between the central and local units, there is a need to look at the political aspect as well. In a multiparty democracy, political parties exercise considerable power over what goes on not only at the national level but in the local governments as well. Parties, where democratic methods of electing leaderships are rarely carried out, provide a lethal constituent in the decentralization mix. More so in countries like Nepal, where most activities are carried out for political expediency rather than for any other cause. There have been cases where even judicial cases are politically solved. And, if parties are not decentralized, centralization does not disappear with legal models on how powers of the executive should be devolved. This significant power on the part of political parties will ensure that central level political leaders will ultimately hijack authority, not the central government, not even the local. In the absence of decentralization of the party machine, even local leaders are selected by central leaders.

In other words, drawing the line of authority between the local and central governments is just one step towards decentralization. Equally, if not more, important is the decentralization of the party structures, with similar legal models being applied. One can extend the argument to include others working at the local government, like decentralization of big non-governmental organizations that also wield considerable amount of power at the local level.

## **REPRESENTATIVENESS**

Decentralization can foster political stability and economic development--if transfers of resources and responsibilities are carefully coordinated and intergovernmental relationships are clearly defined. The stability comes from the representativeness of the nature of overall governance. A study of India points out that decentralization in the context of low representativeness of diverse people and "pre-existing inequality is of limited benefit to the poor" (Bardhan, 1996: 154). Since there are various regions with their own unique circumstances, and since the local units of governance have to deal with their own agenda, the sort of interaction that occurs between the local and central units makes the national government not only representative but also stable. Stability arises from the inclusiveness of the system which, instead of marginalising the majority, provides people at the grassroots a greater voice on decisions pertaining to their own lives and greater devolution. The space for dissidence is thus postponed and a sense of responsibility among the people is reinforced. The buildup of political resentment can be a powerful political force and a potent factor of instability where proportional representation are hard put to meet the political needs of the common people. A study points out that only five women were elected at the DDC level in the local elections of 1997 out of a total of 823, not any one from either ethnic groups or lower caste people. The high caste members constitute 59 percent of the DDC members. Elections for the VDCs and municipalities, however do embrace a wider distribution of ethnicity and caste. Of the 116 mayors and deputy mayors, none is a woman. Here too Brahmins, Chhetris and Newars occupy 59 percent of the positions. Only eleven persons from the untouchable group are now mayors and deputy mayors (NESAC: 1998:145). The same tendency trails a pattern in the bureaucracy and the committees of political parties. High power with low representativeness produces the irrationality of power and a slow devolution process.

By its very nature the Nepalese society warrants representativeness in any public undertaking. Whether one looks at it geographically, economic class-wise, or ethnic diversity-wise, the population is one composed of many minorities. Hence, the notion of security can take a multifaceted dimension. So, whenever there is any sort of intervention carried out in the name of public choice, it is certain to break the fragile traditional equilibrium, which may not have served every section as desired but has provided the stability and harmony in the society for ages. And since a break from the past has long-term implications for the society, every component needs to be given a say in why or how they want to abandon the status quo and provide proportionate benefits even to those who have less resources, unorganized, powerless and poor. Since the marginalised groups- women, the

poor, the downtrodden and the neglected sections of the society- have a tendency to be relegated to the backwaters of policymaking, it falls on the incumbent policymakers and implementors to see that no one is left out. This is *the right of representativeness* inherent in a diverse society that establishes a strong causal relation between representativeness and governance performance. Political stability is the imperative that drives politicians and policy makers towards seeking representativeness. This is what democracy is all about.

Decentralization alone can bring about democracy of sorts. Even if there is no popular democracy in a country, the diversity of needs of the local units bring some sort of democracy in national governance because of the compromises and concessions they will have to make for the national cause. Naturally, if this is buttressed by popular democracy it would be the ideal situation. But even if popular democracy does not exist in such a circumstance, the need to accommodate the aspirations of the local units does foster an environment where autocracy is impossible. In other words, where rules are clearly defined and responsibilities delineated accordingly, decentralization ultimately leads to democracy. And, perhaps, apart from international pressure to democratize, this is the best way to go for democracy if a country is suffering from the excesses of an autocratic leadership.

Suppose there is popular democracy but no proper decentralization, would there still be democratic governance? Obviously not, as the local aspirations would never be fulfilled and the national governance institutions would be centered around power politics rather than doing anything to fulfill the subnational demands. Instead, the intense power politics just breeds instability tearing apart every fabric that binds the nation-state together. Decentralization in today's context, therefore, makes sense as the whole world is on the democratization path. "Twenty-five years ago, only one-third of the world's countries held competitive elections. Today, 60 percent do. Governments are also decentralizing--shifting responsibilities and resources to subnational units of government. Both measures provide a means of maintaining political stability and conceding political power within a formal, rule-bound decision-making system."<sup>43</sup>

For sound governance, the political system must acquire legitimacy. Since multiparty democracy prevails, it is paramount that timely and free and fair elections are held. However, respondents in a survey<sup>44</sup> have shown that there is not much difference between the partyless elections and the multiparty ones. This is an alarming situation, given the Constitutional parameters, had it been so in the election of the central level executive. But the village level elections are not about who holds the executive powers at the central level. It is about representing the people at the village level. Since this was the case during the partyless system also, the lack of difference in village level elections should not be a matter for worry from the political viewpoint. A greater worry should be the representativeness of the system and the kind of public services that the VDCs provide.

The Constitution has widened the base of franchise by lowering the voting age from 21 to 18 years, increased the number of representatives in the parliament from 135 to 265 and expanded the representation of women and social groups in the parliament and local bodies. The LSGA expands the base of people's participation in local governance by a) mandating the election of at least one woman<sup>45</sup> in the ward committee and b) nomination of six from among the persons of social workers and backward communities including the nomination of one woman in the village council by the VDC chairperson. This applies to the municipality, DDC and District Council as well. This act has not only widened the social base of representation by adding multiple voices but also offered prospects for the social change of hitherto subordinate castes, classes and gender in the society

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<sup>43</sup> William Dillinger and Marianne Fay, "From Centralized to Decentralized Governance" *Finance & Development*, December 1, 1999 SECTION: Vol. 36, No. 4, p. 19.

<sup>44</sup> GDS, *Good Governance: A Study of Decentralization in Nepal*; GDS; December 2000.

<sup>45</sup> Gender studies have discovered that there is a connection between private property, the patriarchal family and the origins of female oppression. While the promulgation of the Constitution of the Kingdom of Nepal 1990 ensured at least five percent representation of women in the lower house of parliament the formulation of LSGA strengthened women's participation in local governance through several mechanisms: election of 20 percent women at VDC and municipality ward levels, nomination of one woman in each local council, involvement of at least 30 percent women in each consumer committee, a system of enhancing income and skill-oriented development program to women, and involvement of women in mediators' committee for conflict resolution and peace process. Their representation in DDC is highly skewed. So does their representation in civil service sectors.

through their own conception of reality and organization, their critical understanding of the situation and defining their own course of action in the public sphere.

William Dillinger and Marianne Fay argue that apart from political stability decentralization also has implications for developmental goals- to improve the efficiency and responsiveness of the public sector by bringing decision making closer to citizens. The challenge is how to accommodate underlying political pressures so that the developmental potential of decentralization can be realized and the risks minimized.

## PEOPLE'S PARTICIPATION

The determination of the common good is secured through the medium of people's participation within the state and non-state institutions. Active participation means "greater access, influence and control of the political system" (Patterson, 1999:196). The deepening of citizenship participation beyond vote produces a greater level of social mobility and equality in the domain of social opportunities. People's participation in governance and development represents an articulate admission of people's power, their ability to be involved in decision making and willingness to accept the payoffs of such acquisition of power. The capacity of individuals for collaborating with the secondary and intermediary associations is largely provided by the primary institution of family and community.

People's participation basically involves three aspects: first, creating space for popular power and re-composition of their knowledge about the working of democratic rights, resources, authority and power and their access to them. The second aspect requires involving the people in decision-making, planning, direction, implementation, control, monitoring and evaluation of development projects that affect them. And the third aspect involves developing the access of people to *participatory resources*, such as information, skills, technology, socio-economic and cultural resources and the distribution of income and assets; *authority resources* such as the bureaucracy, policy and the armed forces; and *resources for voice* such as the media, academia, civic organizations and pressure groups in order to enhance the quality and quantity of participation. The core values of people's participation are: liberty, equity, equality and justice.

According to the UN Development Report, the priority concern for a strategy to promote people's participation involve: a) increasing public expenditure on human development priorities, b) dismantling market barriers, c) improving democratic governance, and d) strengthening the elements of a civil society, such as people's organizations, NGOs and a free press (UNDP, 1993: 21). Are local government rules of Nepal conducive to these parameters?

The LSGA espouses the case for strengthening local self-governance by *maximizing people's participation in the process of governance* by way of decentralization; *institutionalizing the process of development* by enhancing the participation of all the people in bringing out equity in development; institutional development of local bodies to exercise power and authority in formulating and implementing plans and build local leadership capable of taking decisions affecting the everyday lives and needs of the people. The Act thus takes people's participation both as a means as well as an end of the well-being of the people as stakeholders of governance and development. Realizing the importance of people's participation for the "ownership" of projects and "empowerment," the NPC has prepared a manual for periodic district development planning and is mustering the support of local authorities in the attainment of the poverty alleviation<sup>46</sup> goal of the Tenth Five-Year Plan (2002-2007).

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<sup>46</sup> The imperative for poverty alleviation in a poor country like Nepal is not only a decentralization imperative but cuts across all policies, whether political, economic, social or any other public sector undertaking. This makes the life of the decentralization expert easier as there is already a great amount of literature available on the subject. And, there is no doubt about the importance of decentralization in poverty alleviation efforts. The Tenth Plan Approach Paper stresses poverty alleviation programmes. Empowerment of those living below the poverty line for their competitiveness and income generating activities and employment opportunities, including basic needs fulfillment and minimum social security, for the villagers and backward people. Targeted programmes, training and vocational education, campaigns for national development volunteers etc. have been taken as the means to alleviate poverty. What is of significance, from the decentralization viewpoint, is that the paper also promises monitoring and evaluation functions for the local government units.

Some of the recently initiated programs like old age pensions are a good beginning. The welfare program has its impact on poverty alleviation. Although the amounts are meager at the moment, the gesture points to the need for the inclusion



The Ninth Five-Year Plan upholds the "empowerment of local bodies" attuned to decentralization and hopes to make administrative units efficient, people-oriented and productive by means of involving the government, NGOs, the private sector, the civil society, consumer groups and local bodies in social mobilization to enlist the marginalized, deprived and disadvantaged groups in the development process. Active participation of people in local governance is a means by which people enter into the political system, either through *affno manchhe* (own person), or through interest groups, political parties, legislature, administrative bodies or even the civil society. People's participation implies "instrumental behavior" because they calculate the cost and benefit of participation in terms of their rational self-interest.

Although the LSGA expects the contribution of political parties in local governance and development, development experts have found that "the political utility of parties and associations in relation to the empowerment of peasants, the attached workers, the informal wage workers and the poor and marginalized has largely begun to be seriously questioned. In addition, for the large majority, the developmental outputs of the constitution and the parliamentary system have been puny, if not downright negative" (Mishra, 2000:4). The efficacy of people's participation in other areas is yet to be empirically verified.

In a system of hierarchical social, economic and political processes the key considerations of people's participation are: enhancing a sense of political efficacy, relating themselves to several institutions of governance, shaping policy decisions, developing capacities to enforce their claims, getting benefits and developing interest and stakes in governance and development processes. A critic claims that in a "village society where there are economic as well as cultural contradictions, the word "people" becomes useless unless local institutions are able to resolve the prevailing class and cultural stratification in a politically conscious manner. It is only then that a base is created for people's participation in terms of implementing and enforcing collective decisions as well as the sharing of the benefits" (Lohani, 1980:96).

Local bodies are the institutional channels of introducing, thinking, bargaining, pressuring, resisting and control between the local primary groups and national governance. As transmission belts, they hold an intrinsic stimulus for people's participation owing to their easy access compared to relatively far off central principal secretariat, Singh Durbar, which is generally apathetic to the local needs and concerns of the people. Political participation in voting in national and local elections has certainly increased (above 60 percent) but it is not a major index of empowerment, because the social, economic and political order is not compatible with it. The right to people's participation should accompany freedom- liberation from bondage (bonded labor system was abolished in Nepal

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of a greater number of old age people. The popularity of the program has pushed political parties to initiate their own brands of poverty alleviation programs, albeit to gain some political capital, rather than done with a genuine wish to alleviate poverty. In a country like Nepal, where conventional wisdom says that electoral politics is nothing but buying votes, poverty would otherwise have been an asset for the politicians. The fact that a turnaround has been made is therefore a major development in the political sphere. Another reason for the political interest in fighting poverty is the emphasis put by multilateral and bilateral donors as a precondition to assistance. Whatever the reasons, the fact that there is growing political interest in poverty alleviation programs is a sign that politics is going in the right direction.

At the moment the programs have only been initiated and it may yet take some time to get concrete results, and its relationship with decentralization may taken even longer to materialize. There are criticisms already that even these programs are being partisanized by the rival political parties, but the positive aspect of it all is that rivalry is happening for the right cause. In any case, political parties and the government itself are not the only actors in the poverty alleviation scene. NGOs may constitute the largest sector involved in fighting poverty. Since most of them have been involved through the participatory approaches there is a net gain for the decentralization drive, as such approaches not only help the people through programs but at the same time make them aware of the need to participate. And since this is going on on a massive scale, one can safely conclude that in the field of poverty alleviation, the non-governmental sector is clearly in the lead. The government, which has only recently realized the need to include poverty alleviation as the overall objective of its plans, in spite of the fact that over half the population lives in abject poverty, follow on the footsteps of the NGOs. It needs to expand its state-support programmes to include those forced to remain out of the economic mainstream, not just the elderly. Better still, if appropriate income-generating programmes can be initiated, the need for hand-outs would surely diminish.

Without a reasonable degree of economic prosperity, civic culture is likely to erode, just like a proper political culture has in the dearth of national policies and programmes to institutionalize democratic norms. In the absence of civic culture, it is hard to imagine how public policy can be formulated, let alone the impossibility of creating a mechanism to implement it. Therefore, it is necessary to reinforce people's faith and stake in the civic culture. And decentralization is the way to keep people alert to the possibilities and opportunities coming their way for a better life. Only then will people see the benefit of taking their chance in the future. There is no doubt that a national plan and targets on poverty alleviation are vital, but for their execution, the local units should be the vehicle. Support with information, technology and expertise from the center is the prerequisite.

only in 2000), entitlement to property rights for women<sup>47</sup> and social opportunities<sup>48</sup> for Dalits, backward, the poor and marginalized people. Planners and policy makers have also realized the contribution of women in the attainment of general development goals and the importance of their equitable participation.

In a hierarchical society like Nepal, however, barriers to people's participation spring from the webs of power woven by *affno manchhe* (cronyism), economic feudalism, social caste and patron-client networks of political parties, the paternalistic planning process and monopolization of power and wealth by a few families. This is the reason "when social relations become political, social points of reference are contested, threatened, or challenged" (Warren, 1999:312).

Theorists of social capital believe that "strong kinship ties were actually found to hinder strong civic traditions and to block the generalization of social trust" (Cohen, 1999:240). In such an environment, how can the weaker sections of the society participate in governance and relate to the strong in problem solving contexts? In a feudal political culture when social group perceives the other to be inferior, how can rationality of negotiation proceed? How can the crafting of new rules become innovative when social capital is consumed by conflicts and the change to empower the disadvantaged is postponed? People's participation has been severely constrained by growing poverty, inequality, dependency, isolation and social contradiction and gender biases. Other barriers-- existence of a number of archaic laws and low level of social consciousness among the citizens-- offer minimum support for the devolution of power.

Given the agrarian nature of the elite support base, participation over local development resources is, therefore, largely controlled by better off sections of the society, mostly feudals, technocrats, bureaucrats and party leaders. They tend to professionalize, rationalize and bureaucratize development without acknowledging indigenous vision, knowledge, resources, institutions, art and a pluralistic space of the nation. This way they consume up most of the social capital and spiritual energies of the people. Political power in Nepal has been largely reduced to "social structural determinism," which has left the Dalits, the poor and indigenous people into a permanent underclass to be governed by an "unwritten code" of the society than the written constitutional principles. Development, especially participatory development, has thus become a fundamental problem for many districts of the Far-Western region, such as Humla, Jumla, Mugu, etc which are condemned to remain in the backwater of technological transformation and modern education, production, marketing, employment and communications.

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<sup>47</sup> The House of Representative also passed the 11th Amendment to the *Muluki Ain* (Civil Code) on October 9, 2001 which purports to grant a semblance of property rights to daughters. The Bill legalized abortion under certain cases, which was completely prohibited earlier. The existing laws say that women have to be 35 years old and remain unmarried until that point they are entitled to paternal property. But, once married, the property has to be returned. After the amendment comes into effect, women will be able to get their share once they become adult. They do not have to wait until they reach 35. The provision on abortion as prescribed in the Bills enables women to abort a 12 weeks pregnancy with their husband's consent. In rape related pregnancy cases or incest, a pregnancy of up to 18 weeks may be terminated. In cases where pregnancy poses danger to the physical and mental health of mothers or if medical reports prove that fetuses are damaged leading to the birth of a disabled child, abortion is permitted at any time with the consent of the pregnant woman. However, if in case anyone is found testing the sex of the foetus with the intention of aborting, they could face three to six months of prison sentence and if abortion is carried out on the basis of sex of the foetus then the punishment is added to an additional year. This is meant to discourage the discriminatory practice in the society that gives preference to the male child over the female.

Likewise, on November 9, the government constituted a high-level commission under the coordination of the secretary of the Judicial Council to present a draft report on the existing discriminatory laws against women. The eight-member commission will first review the discriminatory laws against women, make a draft report suggesting proper reforms on such laws and annul all discriminatory laws against women as guaranteed by the Constitution of Nepal, and the UN Convention on the Elimination of All Kinds of Discriminatory Law against Women (CEDAW) of which Nepal is a party.

<sup>48</sup> Premier Sher B. Deuba on August 16, announced sweeping structural reforms by introducing land reforms in order to give land to the landless and ensure judicial distribution in the land system, provide equal property rights to women and abolish the system of untouchability in the country. On August 31 the government registered a Bill on land reform in the parliament secretariat and withdrew the earlier ban on all land transactions. The Land Reforms (Fifth Amendment) Bill was passed on October 12 that put a ceiling on lands. The Prime minister also said that the government would take action against those who prevented anyone entering into religious sites and performing religious activities on the basis of caste. Declaring the practice of untouchability as a social crime, he promised to introduce a new Bill in parliament to eliminate such religious discrimination and untouchability. The Prime Minister also said that a high level commission for the development of the oppressed class would be constituted. The government would make sincere efforts to create a mechanism to ensure free and fair election in consultation with all political parties.

Political choices mean just ritualized adjustments of the people if economic frameworks remain fragile and vulnerable. Because equity in the distribution of financial resources is key to a vigorous popular participation in development and, in turn, the consent of the people provide legitimacy to the governance. New social movements of women, dalits, indigenous and bonded laborers go beyond the issue of distribution to a concern with a new way of life-- a concern that marks a shift from the politics of representation to a politics of self-presence.

## FINANCIAL RESOURCES

A viable base for resources is a must to sustain local governments in their varied endeavours. Since most of the units of local self-governance lie in the rural areas, and most of the people are involved in farming one way or the other, common sense dictates that increased agriculture productivity be made the basis for revenues. But common sense does not run the Nepalese political economy. Most of Nepal's vast agricultural sector remains outside the market system and, therefore, has remained a dumping ground for resources that do not find a place in the tiny domain occupied by the market forces. Interventions to inject market efficiency into agriculture have either remained ineffective or non-commensurate with the problems at hand. Marketable commodities like cash crops have been promoted by the government in pocket areas, from time to time. But even after decades since farmers were lured into producing them, they have found that their products cannot be sold profitably. Whether it is apples from Mustang or Jumla or *junar* oranges from Sindhuli, have not benefited the farmers. Somehow the market infrastructure has been slow in coming. Even after decades of running horticultural programmes in the hills and mountains, the farm products cannot be transported or stored profitably as such facilities are next to non-existent. Meanwhile, imported apples and oranges continue to flood the Nepalese markets.

The non-marketization or low marketization of agriculture has not meant that it is isolated from the market completely. On the contrary, it has been condemned to remain at the receiving end of the vagaries of the global economic system. Globalisation of the market forces means that they do reach the Nepalese agriculture through linkages in the labour market or economic policies. Unemployed labour usually lands in the agriculture sector putting more pressure on the low wages already prevalent there. Pricing of the farm products is fixed according to the international prices set by a largely subsidized global agricultural market. But Nepal does not take part in the subsidy competition that takes place among developed and developing countries, partly because it cannot afford to and partly because of macro-economic adjustment programmes it has been undergoing. The result is a unique circumstance where the prices are low and the unsubsidized costs of production high in countries like Nepal. For many, agriculture is a means of survival or subsistence, not a choice offered by the market. The low wages prevalent in the agriculture sector has been producing exploitations of untold proportions bringing in queer social problems to haunt the political scene in the unlikeliest of moments. The *kamaiya* (bonded labour) system, or the contract system called bonded labour in contemporary parlance, is one such product of exploitation. Low wage workers like the *kamaiyas* have been condemned to work for life for the landowner in many instances because they never earn enough to pay off their debts.

The economic way out of the *kamaiya* exploitation would be to raise the wages of the agricultural workers. But, as already mentioned, landowners are in no position to raise the wages of the labourers as the pricing of the crops, largely determined by subsidized global prices, would not allow them to do so. Since the less developed countries cannot compete in providing agricultural subsidies to their farmers, the reduction in the resultant prices reduces only the amount of profit a farmer can make in least developed countries. The prices cover the production costs only if labour costs are kept down. And those working in the agricultural sector are forced to accept low pay with hardly any other benefits. Even in the best of landowner-labour arrangements there is little available to satisfy the labourer. Add to this a bit of loan-sharking here and a bit of other components of an exploitative socio-politico-economic atmosphere and you have a pathetic case. This inextricably complicated problem had no solution from the economic viewpoint until reforms in the global agricultural architecture was carried out. Realizing this complexity, perhaps, social activists organized political campaigns "to free them from bondage", albeit with the assistance of international donors.

This is why agriculture remains a potent political constituency for anyone to exploit, including local bodies. In spite of the priority of the past fifty years of planned development going to agriculture, it still remains the breeding ground for poverty as most of the people depend on farming in the absence of other economic opportunities. The government does not seem to be able to bring the sector from the stagnancy, no matter how many plans it makes. On the other hand, demand for land along with the population growth has always been on the ascendancy. A proper economic plan would have created other economic opportunities to lessen the burden on agriculture so that the sector too could be developed for better productivity, just like development theorists have prescribed. But since the economic scenario as a whole has never been so promising, the dependence on agriculture has not been reduced to make a dent on the age-old stagnancy prevalent in the sector.

The dilemma of redistribution of income in a stagnant economic situation can be avoided if politics is geared towards redistribution of assets itself. And, politicians have always found it easier to call for lowering of landholdings rather than seek ways out of agricultural dependency. And, the government, too, for lack of viable alternatives, has complied with them. The only problem is that land redistribution appears to be a perpetual programme that never ends, with each political party calling for more and more. The sector is mired in such crisis today that production and productivity are not seen as a problem in the agricultural sector. Rather, it is ownership of land that everyone appears to be dilly-dallying with.

Any development intervention for decentralization requires a restructuring of the factors of production (land-capital-labor relationship) for better use in the process of producing goods and services. "A necessary condition for development of any kind is decentralized distribution of production factors to all, making everybody a potential participant in some production, not only in consumption" (Galtung, 1996:178). The central problem of the political economy highlighted in Nepal is that "there is little correspondence between the stated objectives of the plan and the realized results," (Pant, 1991:1) a clear lack of unity (praxis) between theory and practice of development. Despite efforts to modernize agriculture and industry the rural power structure is still characterized by substantial inequality in land ownership, production and distribution. There are *rich peasants* with surplus land and capital but they do not want to lease their land for productivity increase or commercial farming to sharecroppers for the fear of forfeiting their ownership. This has inhibited the growth and diversification of Nepalese agriculture. There are *middle class peasants* having adequate land for a livelihood but not enough surplus for investment in productive activities or converting those savings into productive capital. There are *lower class peasants* who stand between capital and labor and maintain their livelihood partly working in their small plot of land and partly working for others on a wage basis or acting as migrant workers. And there are *landless peasants* and workers called *Sukumbasis* whose daily survival depends on wage labor within the country and abroad. The growing number of these asset-less people is a true testament to the failure of Nepalese development efforts.

A large segment of the population belongs to the lower class and landless peasants, workers and artisan class called Dalits who bring non-farm income and remittances<sup>49</sup> from work elsewhere to the national and local economy (Seddon, 1999:4). In the past, various land reform measures helped to reduce the ceiling on landholdings<sup>50</sup> and distribution of surplus land to the landless and poor prevented the lower class and landless peasants to slip into being *Sukumbasis* and thereby provided an important solution for poverty alleviation (Yadav, 1999:9). But the central question is, for how long can one depend on land redistribution packages as a means of escape from problems that are a result of the inability to meet the challenges of economic mal-development? After all, there is a

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<sup>49</sup> "The economic and social effects of remittances from abroad are substantial. Like it or not, there are undoubtedly social costs involved in the departure of young and usually male family members for relatively longer periods away from home, both for those who go and for those who remain at home. Remittances, whether from domestic or foreign source, have also the potential to contribute positively to rural transformation and may even have a vital role in promoting agricultural change" (Seddon, 1999:4).

<sup>50</sup> *Land Reforms (Fifth Amendment) Bill* was passed on October 12, 2001 amidst boycott from the RPP and Nepal Sadbhavana Party. Both the parties criticized the ruling party's "highhandedness, banking on its majority." While the left opposition argued that "It is better to have some ceiling on the land holdings as proposed by the bill than not have any." According to the new arrangement the ceiling is 11 *Bighas* in Tarai, and 25 and 70 *Ropanis* per family in inner Tarai or Kathmandu valley and hills respectively.

political price to be paid for such a strategy. And, it is always the weak and the poor that end up paying it. How?

The prevailing economic hierarchy, combined with the caste and patronage system, is factored into the political question of power and authority and has continued to serve as coordinators of the divergent classes of society. Economic and political equality reinforces each other. The rich and the middle class farmers determine the market, credits and technology and, in collaboration with their urban counterpart, also define the articulation of the common good. As the tax laws have been systematically evaded and manipulated to build wealth at the top, local communities are increasingly losing their ability to stabilize their public economies. This has increased financial dualism in the country where "certain favored groups have access to loanable funds at concessional rates from different financial institutions while others and possibly more deserving have to borrow in the informal market at high rates" (Banskota, 1990:23). Obviously, modern societies are not built on a simple model of dualism-- rural and urban economies. There are various intermediary regimes of social rights, obligations and transactions that cross-cut the public sphere. And, when problems occur, they take as many dimensions.

If land is entrenched in political problems of such a massive scale and complexity, what could be the alternate base for local revenues? Not much is left to exploit that is left outside agriculture in the Nepalese rural sector, no matter what the revenue system. And, as we have already seen, the agriculture sector rather needs support rather than exploitation. And taxable transactions are few and far between. Whatever economic transactions take place are either limited to petty vending or in the fragmentation of landholdings, not viable areas of taxation. Nepal's political economy is characterized by the predominance of landless workers, petty bourgeoisie and petty commodity producers or traders. The steady trend of land fragmentation due to increase in family size has led to the disintegration of peasantry and pushing the majority of those standing between the capital and labor to the margins.

On the other hand, the liabilities of governance are on the increase. HMG's policy of economic deregulation, market penetration and monetization is continuously eroding even the clan and community-based local social capital. This is pushing a large number of people from traditional systems that sustained them to a new system that is not yet capable to take them in. There is no welfare system in place to take in the people displaced from their traditional community based social systems. The Nepalese social capital had been quite useful in keeping social transactions going until the market started to engulf it. With no choice, people enter into wage labor and, consequently, depend on it to meet survival needs or migrate for similar purposes. With a large number of people pushed to the margins, the resultant social differentiation and social disintegration causes unrest and crisis in production and distribution of goods and services. Efficient local public service requires "economies of scale", which is not possible in most underdeveloped areas. Welfare provisions vary from one municipality to another, one DDC to another and there are no policy steps undertaken yet on this aspect to correct this "institutionalized dis-equilibrium."

Such complexities in the socio-economic sphere do make the revenue base a fragile one. And, all this has a direct bearing on local governance. The LSGA Acts and Local Institutions (Financial Administration) Regulation 1999 state that local self-governance units can mobilize resources from different sources: HMG grants, internal resources and loans, grants, etc taken from various funding agencies and organizations including banks, INGOs, NGOs and private individuals. The Acts make it mandatory for the DDC, VDC and municipality to get prior HMG approval for receiving any foreign aid. Each VDC gets half a million rupees annual grant from HMG. As a rule, seventy percent of local self-governance funds should come from their own sources. In practice, however, a majority of VDCs, especially of hills and mountains, can mobilize less than 10 percent only. For municipalities, the central government abolished an autonomous but crude form of taxation, called octroi, and introduced the Local Development Tax which it pools on a nationwide scale and disburses the amount among them. Those municipalities earning less than 10 million rupees are also entitled to obtain grant assistance from the government.

The central government shares with local government bodies revenues from land registration and land taxes, hydroelectricity, tourism fee, forest, petroleum products, sale of sand, gravel and

boulder, fallen timber, etc. DDCs<sup>51</sup> are entitled to collect taxes from the *infrastructure* handed to them by the government such as roads, trails, bridges, irrigation system, etc, from the *stock of resources* such as ponds, sand, gravel, scrap wool, bone, turpentine, scrap materials etc. and *service charges* from rest houses, libraries, meeting halls and local development fees, and license renewal and recommendation fees for rafting, boating and fishing. Municipalities are allowed to make revenue from land, house and property tax, rent tax, occupation tax, vehicle tax, integrated property tax, commercial and video tax. They can equally generate income from parking and publicity fees and service fees from drinking water facility, electricity, sewerage, public telephone, waste disposal, guesthouses, etc.

VDCs can collect taxes from houses, land, markets, shops, vehicles, entertainment, rent, publicity, occupation, commercial video and tax on the use of natural resources. They can collect revenues through fees and service charges from sanitation, sewerage, tourist entry, park and entertainment and from recommendation fees. It is estimated that internal sources of DDCs make up 10 percent of their total financial sources, in the case of municipalities it is above 50 percent while in the case of VDCs it is about 25 percent. The Draft Paper for National Development Forum 2002 points out that more than 90 percent of VDCs, 40 percent of municipalities and 25 percent DDCs are entirely dependent on government grant for meeting the honorarium of elected officials and basic administrative expenses. Due to a poor financial resource base, many local bodies have not been able to maintain the minimum administrative expenses through their internal resources. A Local Authorities Fiscal Commission has been constituted to advise the government on local fiscal matters and strengthen the viability of local self-governance. Given the resource constraints, the local bodies have to operate with a concept of what Herbert Simon calls, "bounded rationality," implying that elected authorities have to make rational choices from among a small menu of options, to solve their governance problems.

The existing local structure of power, inequalities in wealth, resource, affluence and privileges among the VDCs, DDCs and municipalities give the development process a systematic bias against the least developed ones causing further income disparities. Without the mobilization of adequate revenue and income-generating activities, decentralization becomes self-defeating at best and destabilizing at worst. Local units have some authority in taxation in land, vehicle and service charges, marking of natural resources, forest products and other locally available goods and services. But, the land tax based on the productivity of land, property tax, tax on public utilities, local contracts etc can generate considerable amount of revenue in the plains, Tarai, valleys and hill areas only. The municipalities and sub-municipalities are economically well off and enjoy relative autonomy while the newly created twenty-two municipalities do not have adequate urban characteristics. For example, one newly created municipality of Khandbari, Chainpur, is not different from a good VDC. It does not even have roads or drainage. In this context, "the decentralization of taxes and expenditures works against the decentralization of activities and is likely to lead to a concentration of growth in a few urban locations" (Prud'homme,1995:204). In order to correct this, each ward of these twenty-two municipalities is provided with additional annual grants for their development activities.

Most of the municipalities are better off than VDCs owing to their industrial, commercial, banking, market and monetary activities and local taxation rights while most hill VDCs face scarcity of resources and are, therefore, dependent on the DDC for grants, plans and budget approvals. To improve the situation, a massive reform process needs to be initiated not only in the development sector, but in the private sector as well. For that, financial reform is a must, a reform that takes banks to rural areas to kick-start economic transactions there.

Nepal has 15 commercial banks, 19 development banks, 34 cooperatives with limited banking activities and 49 financial companies. These financial institutions are helping to expand the scope for market transactions only in the safe areas where there are least possibilities for violent

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<sup>51</sup> The fund of the DDC consists of a) amounts received from HMG, b) amounts received from taxes, fees, duties and tariffs, c) twenty-five percent of the land revenue collected by the VDC and municipality, d) money obtained from the sale, rent, fare, interest of movable and immovable properties, or other goods of the DDC, e) donations, gifts, grants or assistance obtained from any person or organization, f) money obtained from any foreign government or international organization, g) money earned from revenue allocation and fines and penalties, h) money earned from income generating program operated by the DDC, I) amounts of loans and borrowings taken by the DDC from any bank or any other organization, j) money obtained from other sources.

conflicts, or where the presence of the state is very strong. The needy areas are thus excluded from banking transactions. Even those bank branches set up at government behest decades back have folded their operations and returned to urban centers because of the Maoist insurgency. Banks have started fostering secondary networks of social capital, but in a very limited way. But their narrow capital base, huge dispersion rate between lending and deposit and heavy concentration of financial institutions in the urban areas make both financial reforms and decentralization very difficult.

Through the spread of knowledge, information and technology, market penetration is facilitating exchange and economic growth only in the dynamic sector of the economy and helping to enhance the institutional capabilities of the private sector. These banks and cooperatives are also facilitating some forms of infrastructure for rural-urban inter-linkages. But, still, in Nepal "economic growth rates are generally higher in urban areas. Innovations, increasing division of labor combined with "economies of scale" provided by urban areas are the engines of economic growth" (Gyawali et al 1993:3). Have they contributed to rural development? Not really much. Because there is no productive investment of the rural social surplus. Urban areas of Nepal are only appropriating all the social surpluses, such as the elite (change agents), commodities, capital and labor to feed itself.

Some fortunate VDCs and DDCs have Rural Self-reliance Schemes launched by HMG to mobilize savings from the poor people in rural areas and to invest in productive activities. Others, where ministers and MPs are articulate, have INGOs, NGOs, Participatory District Development Programs, Local Governance Program, Deprived Sector Credit (DSC), Production Credit for Rural Women, Grameen Bikas Banks, Banking With the Poor, Small Farmers Development Program, etc. These banks and programs are meant to provide micro credit facilities to the poorest people without collateral in order to generate income and employment activities, provide banking services to the disadvantaged groups at their doorsteps, liberate them from the exploitation of local money lenders and mobilize local labor, capital, talent and development resources. Still others have sectoral programs, such as literacy, education, manpower development, indigenous people's development, rural infrastructure building, poverty alleviation and integrated development. A majority of these programs are constituency oriented, not evenly spatially balanced and, additionally, suffer from patronage politics, loss of loans, lack of management, poor motivation among animators and over-politicization with all the potential to polarize development processes. Grabbing of additional resources depends very much on peddling the influence and bargaining capacity of local authorities.

The vision that decentralization serves as an instrument to reconstruct social justice and consolidate economic development has been notably reflected in some programs. For example, HMG has identified 25 districts as backward and remote where it has initiated an alternative arrangement called the Remote Area Development Program under which it is moderately providing human development training, drinking water, irrigation, suspension bridges, non-metalled roads and electrification. Fiscal disparities among the geographic regions have recently become a potential source of conflict. In order to make the development process just and balanced, central government grants should be adequately allocated to support the development of remote and backward regions where a majority of people are struggling for mere survival and establish the process of collective choice-- so that better off parts are not bent on grabbing the largest chunk of scarce resources. Similarly, the government has also initiated a Disadvantaged Groups Development Policy to provide benefits to the untouchable sections of the society called the Dalits, an Indigenous People Development Policy formulated in the late 1990s to address human deprivation, Praja Development Program to uplift the Chepang community and Western Tarai Poverty Alleviation Program in view of the underdevelopment of the western parts of the Kingdom.

Centrally targeted programs like these are especially important for advancing the interests of the more vulnerable sections of the society and bringing them into the very center of the policy making and development process. The central challenge for Nepalese policy makers is to confront social power posed by societal complexities and asymmetries and their attendant effects on the composition of political power and authority. The efficacy of recently constituted Poverty Alleviation Fund at the national level and Local Development Trust Funds at the district level can be proved only if it redistributes income from richer areas to poorer ones and increase the impact of national policies designed to correct regional, social, gender and economic inequities. One positive aspect of the shift in public spending from the center to lower units is, however, the increased horizontal incentives for people's participation in poverty reduction programs. This is also attracting local leaders to organize

the poor politically to demand social welfare and access to credit, technology, skill-improvement, market opportunities and equity. This has brought the state's vital role back-- reestablishment of banks, markets, services, service delivery and other minimal requirements to provide authority for local governance in the villages. The state is likely to remain doling out resources to the rural areas through the DDC arteries for an indefinite period.

It goes without saying that a clear legal framework is necessary to enforce tax and other decisions. This takes local decisions away from ad hocism into the realm of institutionalization. Judicial, administrative and development functions of the locality or community need to be clearly defined at the same time for the institutionalized financial structure to be of any use. Formalization of only partial functions will aggravate the problem of mismanagement rather than solve them.

The mode of economic institutionalization should follow the contours of local needs and the local resources. Education and health should follow the local demographic and geographic patterns. This will allow people and regions to follow education paths that are most suited to their own environments. Producing graduates that have no use in the locality and who have to migrate to cities to get jobs defeats the process of decentralization. Similarly, health services should gear themselves towards the using proven local treatment methods wherever possible. Such a strategy helps retain resources in the locality rather than draining them. This is not to say that the local should build a protectionist barrier against anything central, only that the trade-off between the central and the local should be beneficial for the process of decentralization and the local people. For example there is a clear advantage of preventing brain drain from the VDCs towards the cities. Tax on people working outside or abroad helps to some extent. The central idea is that retention of a young and dynamic population at the VDCs is a distinct advantage for legislating social transformation.

Proper study of the risk areas of the economies are also necessary for the available resources to be put into effective use. Has the resource map identified deficit areas like poor zones, lack of able manpower, disaster prone sectors, weak redistribution policies etc.? Alternative development strategies need to be devised so that the deficit areas do not remain neglected for long. Landlessness, average land holding and other records of assets of the people are vital aspects of local statistics that help shape a good public policy in general, and economic policy in particular.

## **TRANSPARENCY AND ACCOUNTABILITY**

After the readmission of the state's legitimate role, scholars of local government have started to lay stress on the mechanism that ensures responsibility and accountability on the part of elected and appointed authorities. Democracy helps development through "the accountability mechanisms it installs for limiting abuses of executive power, and provides a system of periodic punishments for undesirable government interventions in the economy and rewards for desirable interventions" (Bardhan,1997:13). In Nepal, however, local bodies do not directly derive legal authority from the Constitution. They derive delegated authority under statutory law. This means local bodies have a dual accountability-- *upward* to the line agencies, concerned departments and ministries of the central government and *downward* to the people who elect them. They have also to be accountable to *horizontal institutions*, such as NGOs, the civil society and donors who provide funding, technical and material support, philosophy and project executing mechanisms. Decentralized development and governance, meanwhile, centers on downward accountability because it broadens the scope of people's participation and enhances the responsiveness of local authorities. An effective mechanism that ensures accountability is the warning sign to authorities of the consequences of their decisions and actions which they have to satisfactorily explain to their constituencies. Any devolution of power should carry with it a requirement to report on how that power is exercised. This means that elected or appointed authorities must be able to demonstrate that they have used the available powers and authority properly. How and in what ways might local authorities be made transparent and accountable?

There are five mechanisms in practice to establish the accountability and transparency of local bodies. First, providing justification for any activity undertaken by authorities, institutions and trusted individuals to local legislative bodies such as councils and committees, as well as conducting extensive open debate and decisions in public meetings. Second, making the planning and projects as participatory as possible and increasing popular control over what the local bodies have done or left



undone. Third, publishing and disseminating the budget and financial matters, including the account committee report, to the public through the media. Fourth, involving community organizations and consumer groups in local planning and service delivery. And finally, facilitating creative participation of the opposition, the media and the civil society institutions in political communication, civic education and development processes. Elected authorities are also required to make the statement of their property public. "Accountability is also about the mechanisms through which counter powers are exercised by those subjects to actors holding decentralized power" (Agrawal and Ribot, 2000:5).

Constitutional provisions in Nepal do envisage an accountable public sector. Article 16 of the Constitution mentions, "Every citizen shall have the right to demand and receive information on any matter of public importance." Any denial of access to information is a violation of the fundamental right of a citizen and can be contested under this Article of the Constitution. The Supreme Court of Nepal, under Article 88 (2) of the Constitution, holds extraordinary powers to enforce this *right to information* in order to make decision-making as transparent as possible. There are also legal provisions that have a bearing on accountability with regard to decentralization. The Decentralization Implementation Monitoring Committee (DIMC) under the chairmanship of the Prime Minister is a product of the LSGA, which has a provision that requires it to report its findings to the relevant parliamentary committee twice a year. How can MPs, and DDC, municipality and VDC authorities<sup>52</sup> be made accountable in terms of their performance, goals and the use of public resources and authority? Similarly, how can CDOs and centrally appointed secretaries be made accountable to local bodies? Decentralization transfers power not only from central to local government, but also from central to local governmental officials—like secretaries.<sup>53</sup> In order to make decentralization functional, the local secretaries must be accountable to elected representatives and these representatives should be accountable to the people, despite their nomination by central authorities. In spite of the provisions on public disclosure of property by elected members, regular auditing of expenditure by an audit committee and monitoring of local governance affairs by a monitoring committee, they have yet to be enforced sincerely. In other words, the accountability mechanism and financial integrity of the local body-politik are yet to work.

In Nepal, where most of the people reside in thinly distributed, remote and isolated villages and small towns, development projects controlled from Kathmandu by governmental officials are often unsuitable technologically and environmentally, as they are far separated from or insensitive to local people's needs and concerns. Even DDC authorities do not have a popular base because they are indirectly elected by people's representatives. Therefore, they are not as sensitive to the consequences of their actions as are the VDC and municipal authorities who are directly elected. This is the reason many development projects, intended to become a channel of organization to help the poor, have become a victim of middlemen and contractors. Such projects have been criticized for encouraging widespread dependence of the local bodies on the state. To make matters worse, the projects are not well managed. Examples abound, in hill areas and underdeveloped parts, of serious problems of absenteeism of state-funded government officials, agriculture extension workers, health

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<sup>52</sup> VDC roles involve agriculture development, drinking water, construction and transport, education and sports, irrigation, soil erosion, river control, physical infrastructure, health service, forest and environment, language and culture, tourism and cottage industry, etc. The roles of municipalities are further expanded to cover matters regarding urban governance and development. DDC roles involve areas such as agriculture development, rural drinking water and habitation development, hydropower development, works and transport, land reform and land management, development of women and helpless people, forest and environment, education and sports, wages for labor and abolition of child labor, irrigation, prevention of soil erosion and river control, development of library, information and communications, development of language and culture, cottage industry, health services, tourism, etc.

<sup>53</sup> The secretaries of local bodies have to work under the direction of the Chairman (mayor in the case of municipality and president in the case of DDC). The functions, duties and powers of the VDC secretary are to: a) implement the approved VDC program; b) maintain the accounts of expenditure incurred on the construction works and to have them cleared; c) keep up to date records of the projects being carried out and completed within the VDC area; d) maintain the accounts of income and expenditure of the VDC; e) make expenditures for the execution of the decisions subject to the limit of the budget approved for this purpose by the VDC; f) have the accounts of the VDC audited, to get the clearance of irregularities of accounts, and to have recovery under the prevailing law of the irregular amount of expenditure, if such amount is required to be recovered; g) maintain the records of movable and immovable properties and properties in-kind of the VDC; h) be present at Village Council and the meetings of the VDC, to minute the decisions, to take the custody of minute books and to authenticate the decisions; i) take custody of the case files of the cases filed in the VDC; j) keep the records of the population of the VDC up to date by registering birth, death, and other personal events; k) have administrative control of the employees under the VDC; and l) perform such other functions as are prescribed under the prevailing law.

assistants, teachers, doctors, engineers and others. The local people can do nothing to correct the anomaly as they do not have the institutional means of making them accountable.

In the case of MPs, neither political parties which have a history of fission and fusion, nor local bodies which are too weak to establish a link between authority and accountability, control their actions. Wayward MPs could be threatened with election time consequences, but both central level politics and electioneering and electoral processes are centered around other issues, other than accountability to the people. This is proved by cases of re-election of known corrupt officials over relatively honest ones. Such a system poses barriers to collective action and increases coordination and transaction costs. Even the nomination of advisory bodies at VDCs and municipalities--consisting of representatives from NGOs, intellectuals, government officials, social workers and women-- confine local governance to the principle of delegation of authority, rather than devolution. Conceived as a legislative part of local self-governance, the Advisory Council is not representative, nor really functional with clear power, authority and responsibility. Owing to the lack of a strong check and balance system, the transparency and accountability mechanism associated with local governance processes has failed to keep abuse of resources, power and authority under control.

Policy initiatives of the District Council spring from the DDC where HMG exercises inordinate power and control through the Local Development Officer (LDO) and Chief District Officer (CDO). The DDC Act specifies that the Local Development Ministry "shall execute, supervise, monitor and coordinate" the development program of the district formulated by the District Development Project Coordination Committee.<sup>54</sup> Such control over the process of decision making enforces an upward accountability and disables the local authorities. Additionally, the organization process of coordination and control among central government and ministries, DDCs, constituencies, Ilakas, municipalities and VDCs, are not well defined. All the layers concerned share many decentralization policies they embody and are locked in a pattern of strategic interdependence. Therefore, the staff posted in the districts are not accountable to elected officials. When local bodies become executors of the central government's will, how can they work for the transformation of the society for the benefit of a heterogeneous population caught in hierarchies? They have to be more responsive to local needs than just being driven by central level politics. How are the conflicts emerging in these layers resolved and governance arrangements made for them? The answer is simple: HMG must make better trade-offs required between citizens preference and the transaction costs associated with organizing and operating these layered units.

In some cases, HMG seems pro-active in promoting participatory planning that allows people to define their own needs, priorities, opportunities or constraints. The scope of local governance, especially at the DDC level, has been strengthened in local development activities by the use of rational planning-- taking into account the potential of the plan and considerations regarding the environment, women, backward sections and children-- for an increase in productivity, income and employment through prioritization in the selection of projects and their transparency. Still, there are aspects that appear reactive. For example, it leaves the role of the CDO vague-- whether he or she is a development agent, promoter of law and order, controller of people's representatives or coordinator of all district offices. And, central ministries and departments control plans, programs and projects that fall clearly under VDC and municipality.

In the area of plan execution, local bodies can recruit or hire the required personnel specified in the projects. They can also constitute a Monitoring and Supervision Committee under the chairperson or local MP. Members of the committee consist of the DDC president, one member of the DDC, to be nominated by the chairperson, and concerned officials of the district. The committee can hold regular meetings with the participation of donors, NGOs and the private sector, undertake studies on the operation of completed projects as well as their beneficiaries, outcome, productivity,

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<sup>54</sup> The panel has the DDC president and vice-president as chairperson and vice-chairperson respectively, the LDO as member-secretary, the office heads of the district and the coordinator of the plan formulation committee as members. The Act specifies the involvement of MPs, CDO and regional representatives of the NPC. This committee, after deciding the nature and type of projects, sends them to the DDC for approval. The concerned ministry makes the final recommendation.

employment opportunities and environment impact assessment. These assessment reports have to be submitted to the District Council and the parliament for review.<sup>55</sup>

The roots of corruption lie in fuzzy rules and regulations that leave too much at the discretion of officials. A tradition that pins too much on position rather than meritocracy adds fuel to the corruption fire. Because it is in such an environment that officials look to the higher authority for anything they do rather than being accountable to who they are supposed to serve. And when corruption starts going unpunished, a vicious cycle sets in requiring external intervention to eradicate it from public life. Therefore, a strong, impartial and committed institutional set-up to handle abuse of authority is a precondition for fair administration.

To keep corruption away from local government, accountability of public office should be localised. It is the locals that can keep an eye on how the public officials are behaving as their actions directly affect them. The above sections have discussed what happens when there is a lack of clarity in rules. Similarly, another section discusses the need to keep private interests of officials and their public interests apart. Therefore, it would be pertinent to ask: Can the local assembly monitor the use and abuse of authority at the local level? Are local assembly and representative interests in conflict with the people's interest? Is there any provision for citizens' oversight bodies? Should local bodies be more politically controlled or should they be professionally run? And there are many such questions the answers to which gives a clear picture about any VDC's propensity to be mired in corruption. Some of the points that need emphasizing include:

- ← Regular and timely efficiency reports of workers at VDC level service providing agencies, like agricultural extension workers, school management committees or health workers.
- ← Creation of partnership among different actors and networking of social groups. An environment for independent media to flourish in the country as a whole can help in instilling or buttressing accountability everywhere. A wall magazine, FM community radio stations or even TV stations have been seen to be operating well in some localities of Nepal.
- ← Participatory planning, transparent decision making and coordination.
- ← Property declaration by VDC officials. This needs to be followed by steps to avoid conflicts of interest of representatives. In awarding contracts or if they have an interest in particular property or business venture, the public interest has the tendency to get jeopardized. Such a situation should not arise.
- ← Guarantee of sufficient independent financial resources.
- ← Corruption control authorities should remain outside political control, and
- ← Information transparency and easy access to public.

An environment that promotes entrepreneurship and innovation leads to meritocracy and helps overcome barriers created by the hierarchical traditions found in most villages. Innovation is a constant catalytic agent for change, hence needs to be kept alive through an appropriate institutional incentive structure. Additionally, success stories need to be rewarded and replicated and non-performing ones punished through budgetary allocations. The village can develop an reward and punishment system in the public works it contracts out to get things done on a timely basis and to maintain the quality in the works. In fact, the reward and punishment system can be enforced at the national level- recognizing the best village through rewards. This could boost village development, even though the party system at the village level could come in the way as partisanship comes before any other merit in such a system. But nothing can stop the cross fertilization of ideas among VDCs. If the centre is committed to creating an environment that facilitates the replication of the good works initiated in some VDCs in the rest of the country.

Local elections need to be largely non-partisan. When partisanship pervades local politics, usually it is the government party that has better access to sources of funding. This constrains policy entrepreneurship in local government. Thus, even VDCs remain susceptible to manipulation and control by the center. The representatives thus owe their allegiance to the center rather than the locality. Similarly, a situation of confrontation could prevail gridlocking all local activities if the party in power at the center happens to be the rival of the party in power at the local unit. Similarly, the bureaucracy should be a neutral partner in development. A civil service where politics heavily

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<sup>55</sup> The political parties and local bodies which control public power, the social organizations and the media have not established the kind of relationship which would help the people identify themselves with the state and its institutions and instill in them a feeling that they are fully represented in the power from which authority is exercised.

influences decision making only aggravates the local partisanship that prevails. Partisanship at the local level makes it easy for opponents of any positive policy to obstruct it.

When partisanship does not hamper local politics the kind of village governance being exercised is more comprehensive for the average villager who is rather concerned with the services he or she is supposed to receive. This in turn determines the kind of persons people want to elect. Decentralization would work better if greater financial devolution accompanied clearer prioritization of functions appropriate for the VDCs. It should be obligatory for VDCs to report their work to the village assembly regularly, at least twice a year. But mere reporting is not adequate for good governance at the local level. The village assembly has to be vested with enough power to dismiss wayward VDCs and hold elections for new members. Here, accountability rests at the local level, very near to the people who can thus be constantly energised to keep things going the way they want to. People can demand accountability if they are vested with the powers to do so. But institutional mechanisms like appointing external auditors to look into the accounts keeps officials on their toes. Audits provide one of the most important forms of accountability. A system of external auditors increases the transparency of administration. These auditors are neutral with respect to various local interests.

## **PARTICIPATORY LOCAL PLANNING PROCESS**

Planning is a tool to enhance the quality of policy decisions in improving the living standards of the people. An efficient and rational planning seeks to achieve coherence between policy objectives and policy tools. The culture of central planning during the Panchayat era suffered from state-led bureaucratic homogeneity, lack of ingenuity,<sup>56</sup> and an absence of incentives to adjust and innovate. For over a decade under multi-party dispensation, it has suffered from market-driven standardization, rationality, order and a set of incoherences between policy objectives, policy instruments and resources. Both the approaches ignored the use of practical local knowledge and expertise existing in dispersed forms in the villages of Nepal in planning exercises. Both increasingly relied on "the power of dominant knowledge" derived from the West, took knowledge in "culturally neutral" and "free of power" terms and conceived development "as an imposition of global knowledge in which there was little room for negotiation" (Escobar, 1997:4). The main consequence of the "imposition was that it radically devalued local knowledge and autonomy, and this specialized knowledge,<sup>57</sup> backed by state authority, changed the balance of power between the locality and the state" (Scott, 1996:18) and, consequently, produced a crisis of development<sup>58</sup>.

The LSGA and its regulations, therefore, shift the knowledge frontiers to stipulate a participatory bottom-up planning process to realize the use of knowledge every individual producer knows and acts to grasp development goals<sup>59</sup> through the mechanism of social capital, new public economy and public goods. Local governance thus subsumes not only local government but also non-state, non-governmental and market actors within the realm of participatory planning that is embedded in a competitive public economy-- a public economy because of its internal process of collective choice.

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<sup>56</sup> Noted Nepalese planner Harka Gurung writes, "The greatest weakness was evident in the area of problem of identification. The urban-based Nepalese officials were less conversant with the realities of their own country. This lack of intimacy with local problems went to the extent that foreigners after a brief visit could consider themselves authorities on Nepalese problems to be quoted, in due course, by native officials" (Gurung, 1989:71).

<sup>58</sup> Do the Constitutional provisions or other legislative measures promote the use of state authority in such a manner? Obviously, not. In fact, the crisis of governance the nation is facing today has been the result of the increasing rift between the use of state power and the purport of Constitutional provisions, the nation's geostrategic location and the legacy of Nepal's long history.

<sup>59</sup> Escobar argues, "I propose to speak of development as a historically singular experience, the creation of a domain of thought and action, by analyzing the characteristics and interrelations of the three axes that define it: the forms of knowledge that refer to it and through which it comes into being and is elaborated into objects, concepts, theories, and the like; the system of power that regulates its practice; and the forms of subjectivity fostered by this discourse, those through which people come to recognize themselves as developed or underdeveloped. The ensemble of forms found along these axes constitutes development as a discursive formation, giving rise to an efficient apparatus that systematically relates forms of knowledge and techniques of power" (1995: 10).

Local bodies are collective decision-making institutions. Participatory development affirms the hypothesis that knowledge is essentially a "social construction" and that people have the ability to think, acquire and utilize the local knowledge, skills, resources and cooperation to define their own priorities, make decisions and thereby produce the desired change. As a result, many INGOs, NGOs, donor agencies and local authorities started to use participatory planning, Participatory Rural Appraisal (PRA) and Participatory Poverty Assessment (PPA) as research and development tools to enlist and consult local people and communities in the decision-making regarding social mobilization, poverty alleviation, natural resource management and sustainable development.

Continuous participation of people in the culture of planning provides them the necessary social consciousness to seek and sustain the spirit of scientific inquiry to solve the problems of the society. Decentralized participatory planning envisages a coherence in the capacity building of the central policymaking body-- the National Planning Commission,<sup>60</sup> capacity building of DDCs and social mobilization of village communities to bring them into the mainstream of development. Participatory planning is especially designed to form Community Organizations (CO) at the local level, mobilize their savings and invest them for launching common programs. Accordingly, the data and information collected at the district level is processed into a computerized GIS Model and used as inputs for policy planning. Critics, however, reveal a number of inconsistencies in this program. For example, in the way participatory planning is devised, the central authority treats local bodies as mere implementing agencies with no power of self-governance. They are rather relegated to conceiving development as a project rather than a permanent process. This ignores feedback from elected authorities and the cheap loan facility has the potential to put the poor peasants in a debt trap (Poudyal, 2000:2-3; 2001: 67). Such planning, may be well designed by national and international consultants, but does not bear the potential of sustainability or relevance.

A regular updating of village needs is necessary which provides the basis for periodical annual village level plans. This is much easier if a prepared village profile exists. What are the demands of the locals from VDCs- schools, health posts, land for settlement, rules for using public resources like fishing, agricultural inputs like fertilizers and seeds etc.?

Village level database and GIS, charts, maps and records, household and settlement level data, demographics, land use, service, infrastructure, transport facilities, education, social characteristics like migration, local markets, natural disasters, natural resources catalog, database of individual technical and managerial skills, available voluntary labor, local construction materials, privately held tools and equipment, realistic estimation of available cash etc. facilitate local level planning without much external assistance, although help may be necessary to develop such a database.

There are a number of tasks in sequence in a planning process-- from need identification, priority setting, explanation of context, feasibility studies, information sharing, collective discussion of options, cost handling, assessment of results and monitoring to evaluation. A VDC can formulate periodic<sup>61</sup> and annual plans on the basis of following considerations: production-oriented low cost projects, poverty alleviation projects, projects that promote people's participation, projects that use local means, resource and skills, projects directly benefiting poor, women and backward classes and children, projects that can protect and promote natural environment and its regenerative capacity as well as those that revitalize indigenous cultural resources. Yet, the local body has to put up with certain conditionalities, e.g. each VDC should take guidelines from the DDC and consult NGOs, INGOs, and consumer's committees as well as carry the burden of instructions of the National Planning Commission and the DDC. The planning process has to adjust with the overall necessities implicit in periodic plans. Based on these considerations, a VDC first prepares a resource map,

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<sup>60</sup> A development expert argues that the NPC "should involve itself in planning the national economy rather than evaluating fiscal performance that carries little weight for both program monitoring and to fine-tune the policy measures" (Pant, 1991:12).

<sup>61</sup> In formulating periodic plans, the following components have to be included: a) geographical, economic and natural heritages of the village and present uses, b) possibilities of production in various sectors on account of comparative cost benefit, c) areas comprising backward castes, tribes and poor people and various development works done or required to be done in such areas, d) income generating and skills-oriented development works for women and children, e) description of the completed projects under various subjects and sectors and provision on the operation and maintenance, f) various sectoral short-term and long-term development works on the basis of development possibility and pollution controlling works, and g) plans on human resources development in various subject areas to be formulated by the local people themselves.

undertakes the feasibility study of the project and then selects the projects for implementation with the help of NGOs and consumer groups. Similar conditions are applied to municipalities.

In the case of the DDC, the LSGA stipulates that it must formulate participatory "periodical" and "annual" development plan for the district. Before plan formulation, the DDC has to estimate the costs borne by itself, grants from HMG, grants obtained from sectoral ministries and cooperation received from other sources. The DDC also has to prepare the resource map of the district, conduct a feasibility study, fix priority and finally select the project. The plan should be finalized in consultation with the service center, Sectoral Plan Formulation Committee, the Integrated Plan Formulation Committee, the DDC and the District Council. In the formulation of periodic plans, these components must be incorporated: a) geographical, economic and natural heritages of the district and their uses; b) possibilities of production in various sectors on account of comparative cost benefit; c) areas comprising backward castes, tribes and poorer people and various development works done or required to be done in such areas; d) income-generating and skills-oriented development works for the women and children; e) description of the completed projects under various sectors and provision on the operation and maintenance; f) various sectoral short-term and long-term development works on the basis of development possibility; and g) plans of human resource development in various sectors to be formulated by the local people themselves. While formulating the annual plan, the DDC has to take into account: a) directives of the NPC and concerned ministry on national development policy; b) district level policies and goals set on the basis of national goal and policy; c) overall necessities indicated by periodic plans; and d) plans received from the Village Councils and the Municipal Council. On the basis of plans, HMG and the NPC provide financial grants and the implementation part goes with the concerned local bodies depending on their jurisdiction.

The plan should be aimed at balancing the development investment pattern among the various needs. Too ambitious a project not only suffers from unsustainability, but also remains undone in most cases. That is why matching project with local capacity is essential. If the project does match village capacity, even free labor is available if resources are hard to put together. More importantly, if projects match village needs and takes account of local capacity, they become not only relevant but also sustainable.

## **HUMAN RESOURCES DEVELOPMENT**

Political decentralization appears to be the only focus of decentralization measures thus far. Laws and rules are basically designed to provide "power" to the people. But the constituents of that power remain in the backwaters so far. Expertise has been thought to be the burden of the centre- whether it is administrative expertise (VDC secretaries) or sectoral experts like engineers or health specialists. Although many decentralization experts have vouched for the centre to abdicate from assigning experts to the village and called for the empowerment of the villages themselves to do their own hiring and firing, the idea seems far-fetched at the moment. Given the paucity of expert manpower at the central level itself, what with the hiring of experts from abroad when expertise is needed, the only way out of the dilemma is to have a proper manpower policy at the centre itself, in the first instance. This should not be confused with centralization tendencies.

Moreover, we have already discussed the "enabling" role of the centre earlier, as opposed to hands-on involvement, in the local governance processes. This enabling role can be put to good use in training personnel needed by the nation. From that pool of expertise, the local governments can then draw the expertise they want. Therefore, the power to hire and fire comes at the secondary stage of decentralization.

The plans of VDCs should reveal the future manpower needs of the VDC which can be transferred to the National Planning Secretariat which would in turn develop its national manpower map and then transfer it to the universities and training institutions. The central government's role is crucial in getting the right graduates finish training at the right time so that local government units would not suffer any setback in the implementation of their plan. Mere demanding more powers is not enough when the means to use them are not available. Likewise, one should not also forget the

problems in managing and coordinating the various institutions and programs<sup>62</sup> involved in human resource development and establishing their complementarities as per local priorities for virtuous cycle in governance and development.

## **PUBLIC SERVICES**

One of the symptoms of failure of governance is delivery of poor quality services by the public sector. The overriding concern of villagers is access to basic services such as health, education, social welfare provisions, water and sanitation, communication and ecological resources. This is especially true when it comes to crucial agricultural inputs that should not only be delivered to villagers, but delivered in time for it to be used. Since over 80 per cent Nepalese, and almost the total of rural Nepal, depend on agriculture, the scale of the problem can be imagined. But this complaint about lack of public services does not actually apply directly to the VDC, since it is the central government that has been providing agricultural inputs. And the whole process was marred by corruption. The delay, inefficiency and irregularities in the supply did lead the government to scrap the subsidies and hand over the delivery to the private sector. But this has not solved the problem. Even, the inefficiency in supply was removed but at a very high cost. As a result villagers, can hardly afford the market rates of fertilizers and other inputs as agricultural prices are still artificially kept low. Retreat of the state followed the withdrawal of markets and other transactions, information and exchanges causing a drain of the local social capital.

A proper solution to the inefficiency problem could be the handing over the responsibility of supplying fertilizers to the VDCs themselves. Since the VDCs have a small area of jurisdiction, the amount of subsidies apportioned by the government could have been judiciously used to raise productivity. The village councils would not dare mire themselves in irregularities as they would have to face the wrath of the farmers directly. This is in contrast to central level decisions done in cozy and insulated environments where irregularities only have an academic value. Another aspect of providing services is access. Accessibility of even the available basic services like education and health is limited by lack of infrastructure like roads. And where infrastructure is developed to a certain degree, the problem is income of the villagers, which is not adequate to give them their share of services. As we will see later that the private sector will be needed to give the public sector a hand in providing the services. The poverty stricken majority in the villages need some sort of program to raise their income levels to fund basic service provision and set a tangible standard in service delivery. The efficacy of a set of "service delivery directives" issued by the government in 1999 is yet to be seen. These directives required government offices to:

- ← make the delivery of public services fast, smooth and friction-free;
- ← improve the implementation of development projects;
- ← translate the concept of good governance into practice;
- ← devolve government power and functions to the people; and
- ← replace the corrupt and inefficient work culture in government offices with a customer service outlook (DFID, 2001:38).

## **CIVIC SPACE**

A vital component of public life is the civic space that has been ignored by many conventional intervention programmes designed for villages. It is only in the latter part of the 90s that civic space began to attract attention as an area worthy of academic, political and policy interest. Not only are policies affected, but the customs, traditions and social life of a community are also affected by the prevalent civic space that people have been enjoying. It has therefore been realized that the state is an

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<sup>62</sup> Some of those decentralized programmes involve: Participatory Management Development for the Basic and Primary Education Programme, Village Partnership Programme, Scholarship Programme for Orphans and Disadvantaged Children, Women's Development Project, Technical Education and Vocational Training Development, Nursing Education/Auxiliary Health Instructor, Skill and Knowhow at the Local Level, Local Development Training (conducted by LDTA), Decentralization and Local Self-Governance, Primary health Care, NGO/CBO Advisory Project Design, Youth Development, NGO-Business Partnership, WECS Institutional Development Project relating to water and energy, etc.

essential prerequisite for any civil society, but is no substitute to it. Past programmes have trampled on the traditional civic space of communities to such an extent that it is being realized only now that the deteriorating public life is nothing but the impact of the neglect of the existing civic space. The tradition of importing alien culture along with policies designed and modeled elsewhere has done its damage. If policies affecting village life can be made at the village level and implemented by the village people, just what a proper decentralization envisages, there is no doubt that a new, more open and flexible civic space would start developing according to the needs, priority and vision of the villagers.

The state can lay the groundwork for a system, but it is the political culture- an offshoot of the existing civic space- that determines how the system is used to serve the people. Political culture helps to determine what sort of leadership will emerge. The prevailing political culture in Nepal has been blamed for all the mal-governance that is taking place. The culture that is permeating every fabric of today's politics is entrenched in personal interest of powerful interest groups of the society. Even public policy is determined by how much profit there is for the particular policy maker. As a result, there is hardly any difference between the public interest at large and the private interest of some particular individual or group of individuals.

Hence, the civic space needs to be made conducive to attracting capable leaders with skills of political compromise to mediate in these testing environments. Mere laying down rules of behavior on paper is not enough and does not guarantee the legitimacy of leadership, trust, cooperation and collective action. Multipartyism alone does not guarantee representativeness of a system, it needs to be cultivated by everyone and every section concerned. And the diverse groups can voice their concern only when the environment is conducive for them to do so. In other words, it requires the consolidation of democratic gains and institutionalization of democratic elements such as representativeness. For such complex tasks, all the stakeholders in national public life, including political parties, the government, the NGO sector and the donor community must home in on a firm commitment to make democracy truly enjoyable by the people at the grassroots level without any discrimination and beef up the social base of politics.

### *NGOs, Civil Society and Self-Help Organizations*

Local level organizations do have a role in the change of balance of power in favour of the people and many local bodies have to deal with them directly in the execution of local governance tasks. There is a high level of interaction among the local government and other non-government bodies. This reflects the dispersion of power at the local level, even if decentralization is not effectively carried out to empower the local units. In addition to this, the local organizations themselves, such as NGOs, have their own central authority to deal with. In sum, local governance is woven in a complex web of power and authority, which has to be recognized. In fact, it has become imperative to accommodate the growing organizational activities and aspirations at the local level in the governance process. So thinkers of development and governance have started to include these non-state actors in the governance process by virtue of their ability to bring about positive changes in the lives of the people. Nepalese plans and programmes have also started acknowledging the roles that these organizations can play to supplement their efforts. And, legal provisions have come into existence to promote their role in development.

By expanding the role of NGOs, the civil society, self-help organizations, cooperatives and user's group, the LSGA seems to have crossed the "great divide between the market and the state or between government and civil society," to overcome the "conceptual trap arising from overly rigid disciplinary walls surrounding the study of human institutions" (Ostrom, 1999: 346). The presence of these institutions has not only made local governance poly-centric in nature but also legitimized the prospects for "co-production"<sup>63</sup> of goods and services by the people through a combination of different "complementary" and "interdependent" local institutional mechanisms thus enabling socially legitimate collective action. The various divisions of service productions demand coordination, complimentary action and social embeddedness among varying layers, steps and scales. Effective states "deliver rule-governed environments which strengthen and increase the efficiency of local

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<sup>63</sup> "Co-production implies that citizens can play an active role in producing public goods and services of consequence to them" (Ostrom, 1999:347).



organizations and institutions" (Evans, 1996: 180). An articulation of contending perspectives on development projects and the definition of an overall perspective of development began to be expressed in Nepal Development Forum since 2000, in which a deliberative public, called the civil society, was asked to provide inputs on social, economic and political policies of the government. The NPC has also involved the representatives of local government federations in the formulation of the Tenth Five-Year Plan to address their constant appeal for visibility, engagement and justice as well as to open up the flow of feedback from below.

The importance of participation cannot be underestimated in a democratic culture. In a democracy, continuous participation of people is achieved not through the state institutions from above but through intermediary "third sector" institutions from below. Participation can develop new forms of collective action, both to inspire democratic disposition of fundamental rights and then to sustain this disposition against erosion. "An autonomous basis in civil society, a basis independent of public administration and private market relations, is a precondition for civic self-determination" (Habermas, 1997: 268). A society needs freely formed associations, organizations and networks between the family and the state, if it is to encourage its well-being and accomplish overall development.<sup>64</sup> Societal self-organization does indeed provide critical support for scaling up of social capital into the state, facilitate market penetration as well as install new forms of relations between the state and organized society for the establishment of a broad based civic culture. In Nepal, there are no specific rules to govern civil societies and they, therefore, operate under a diffused legal framework. This has posed problems in coordinating and monitoring their activities. But, their roles in the formation of "public opinion," building access of people to the state and market institutions, controlling social ills such as domestic violence, alcoholism, etc and expanding the sphere of public education cannot be underestimated.

The freedom of the civil society, NGOs and self-help groups thus limits the state's power in the sense that it does not monopolize society's powers to self-organize and threaten the autonomy of the public life of citizens. For local self-governance, the global concept of civil society is meaningful because it evokes, extends and legitimizes local potentials, leadership, knowledge, rights and resources. Especially for women, Dalits and minorities, these societies and groups have become aspirational shorthand for the implementation of ideas of democracy, human rights, equality, equity, participation and empowerment. What makes them useful is that they offer political opportunities for associational life and seek to communicate and facilitate the values of liberty, equality and solidarity associated with citizenship beyond the mundane domain of politics. This is what makes power accountable to those affected by its exercise.

The LSGA encourages the formation of NGOs to buttress the civil society<sup>65</sup> with the approval of VDCs and municipalities and involve them in local development projects. They can help a) "identify, formulate, approve, execute, supervise, maintain, repair and evaluate" those projects; b) NGOs have to operate the projects through their own resources or resources obtained through DDCs, VDCs or municipalities; c) they have to submit a full description of the project to the concerned local bodies; d) they have to execute projects in coordination with the concerned local bodies; and e) the local bodies can also implement programs through NGOs. The concerned VDC or municipality makes the final appraisal of the projects. The DDC can provide technical support for the projects and the VDC or municipality has to abide by the instruction of the NPC, HMG and the DDC while formulating and executing plans and programs. There are separate provisions for effective coordination among the DDC, the government and the NGOs.<sup>66</sup> According to the Social Welfare

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<sup>64</sup> Critics maintain that in Nepal the state has forged an alliance with the market forces. This is the reason there is a growing dichotomy between the majority of citizens who live below the poverty line and the state and between civil society and the markets. A real check and balance and power separation among the state, the market and civil society is essential to keep these institutions in balance and capture their synergies for the common good.

<sup>65</sup> There are nine types of civil society organizations in Nepal. They are: economic society of industrial and business communities, social and cultural associations of social groups, educational and informational institutions like the media, academia and the research community, promotive and protective interest groups of rights-based organizations, relief and development associations involved in community welfare, advocacy groups of women, Dalits and indigenous communities, civic groups of political educators, public trusts created by philanthropic people for the promotion of common good and private philanthropic associations (Dahal, 2001:37-38).

<sup>66</sup> a) in the formulation of the integrated district development plan a meeting is held between the government and officials of NGOs providing different goods and services within the district and coordination is maintained between their annual development plans; and b) the DDC can invite concerned officials for coordination meetings to avoid duplication in

Council, until 2001, there were 106 INGOs and 13,050 NGOs registered with the Council. A number of civil society organizations are registered with different ministries and departments of the government. INGOs, NGOs and other civil society organizations increasingly emphasize the role of intermediary institutions, voluntary associations and various forms of bargaining in shaping and institutionalizing people's power for collective action. Their procedural flexibility and integrated approach in functioning have enhanced efficacy in: a) enlarging the consciousness of the rural people, especially Dalits, women, the poor and disadvantaged sections of the society, b) social mobilization for the identification and execution of small-scale projects, c) organizing consumers' committees to facilitate service demands and delivery, d) accomplishing the programs in a cost-effective manner both in terms of time, personnel and finance, and e) building local capacity for local self-governance.

Critics, however, point out that the work of the majority of civil society organizations, NGOs and INGOs in Nepal are located in urban areas, Kathmandu in particular, and are controlled by ex-bureaucrats, politicians and the elite. This extension of the state sector into the civil society robs it of its independence and the checks and balance function that it is so widely hailed for. As a result, their plans are not well adapted to national and local priorities nor are resources involved in productive use. Of course, these non-state institutions also suffer from the same complexes the state institutions suffer. Resources are rather captured by development brokers and favored clients, thus pushing the people into dependency, debt trap and loss of authority. Even policy making prerogatives of people's representatives thus get denuded.

The ability of NGOs and rights-based civil society organizations to function is essentially determined by foreign aid. Critics, therefore, suggest that either the Social Welfare Council or the Foreign Aid Division of the Ministry of Finance coordinate, monitor and evaluate INGO and NGO activities in Nepal through a One Window Policy. Proponents of NGO and civil society organizations point to two practical limitations on their functioning in Nepal: first, the Chief District Officer (CDO) retains inordinate powers over their registration, renewal and abrogation; and the Social Welfare Act 1992 makes it mandatory for every NGO to register with the Social Welfare Council, which also controls the flow of INGO funds to NGOs and coordinates them in planning, implementation, supervision, monitoring and evaluation of development programs. At the district level, the burden of coordination lies with the DDC. Do these conditions help NGOs to really take the issues of popular needs, priorities and concerns? Alternatively, are the policies, leadership and operation of NGOs and civil society organizations in Nepalese hands? Can both sets of organizations share a development vision embedded in the needs, resources, experiences and aspirations of the local people? These questions require a separate study.

Besides NGOs, there are approximately 6,000 *Sajha* Societies (cooperatives) formed by the people for the promotion of their diverse individual and collective rights, interests and choices to facilitate the public life of the society. Fifteen hundred of them are carrying out financial activities. Sixteen NGOs have also got license from the government to act as financial mediators. They are helping poor farmers to buy livestock, farm tools and inputs and pushing income generating activities for their benefit. Nepal also has a rich experience of running self-help groups at the level of different communities. For example, *Guthi* (religious and social organization) among the *Newars*, *Dhikuti* (rotating credit associations) among the *Thakalis*, *Dhukuti* or *Dhikuti* (self-help saving and credit bank) among *Bahun*s, *Chhetris* and *Newars*, *Rodi* (socio-cultural associations) among the *Gurungs*, *Bheja* (social, economic and political organizations) among the *Magars* are some living examples of popular indigenous self-help organizations involved in the accumulation of social capital, leadership and keeping a history of communal cooperation alive. Marwaris and Sahu (Sudi, Teli, Kanu and Kalwar) have also developed cooperative relations among their relatives and friends to expand their trust for business transactions, mutual support and investments.

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investments in the service sector, to maintain complementary coordination among the organizations making the investment, and to follow a method of maximizing benefits to the inhabitants of the district. In the execution of projects, all NGOs have to coordinate with the DDC. The DDC can also implement a project through NGOs. NGOs have to maintain and update the accounts of their financial transactions, they have to submit their account report to the DDC and the body implementing the project. The DDC gets their accounts properly audited and the NGOs, after the release of the project, can take necessary charges from the consumers receiving the service for the repair, maintenance and operation of the project.

As these transactions are governed by community based moral sanctions they prevent deviant behavior, free-riding tendencies and defection and, consequently, promote trustworthy behavior among the participants. There is a potential to revitalize and expand these and other self-help organizations to make a substantial contribution to poverty alleviation, employment generation and social integration (Bhattachan and Ojha, 1997:37; Seibel and Shrestha, 1988). One weakness of these self-help groups is that they remain encapsulated within particular community, inward-looking in their economic exchange and have not achieved economies of scale to secure the necessary complexity required by modern forms of generalized trust. Generalized trust requires secondary group linkages beyond kin and lineage groups.

There also exists a myriad of national and local level civil society organizations of people entering into a collective form of identification and social movements. They aim to construct a "we," a chain of equivalence among their demands so as to articulate them through the principle of democratic equivalence (Mouffe, 2000:155). For example, Federation of Community Forestry Users Groups in Nepal (FECOFUN), Irrigation Federation, Association of District Development Committees of Nepal (ADDCN), National Association of VDCs in Nepal (NAVIN), Municipality Association of Nepal (MuAN) and a number of civil societies in the form of media, community organizations, human rights groups, trade unions, women's organizations, Federation of Indigenous Peoples and Nationalities, National Federation of Disabled People of Nepal, Dalit NGO Federation, local clubs, public libraries, literary societies. These organizations have been bowling together and expanding the space for collective action in the areas of grassroots development, communication, network building and protecting the citizens from arbitrary decisions of the government.

Intermediary institutions like civil society organizations, self-help groups, NGOs and cooperatives are a precondition of participatory democracy. Their promotion helps prevent the ongoing decline of local economies characterized by poverty, inequality, unemployment, weakening social services, emigration of youths to cities and abroad and social alienation. The greater their involvement among development actors, the less the cost of development processes. The Nepalese state has yet to foster genuine civil societies that demonstrate the following: a high level of internal democracy, voluntary formation, a nature of movement that is mass oriented rather than elite, and organization that takes place from below to favour exchanges and coordination of productive finance and social policies. The need to shape a vibrant civil society that can curtail the capacity of the government to undermine local checks and balances of power is yet to be fulfilled in Nepal. Only then can decentralization be nudged in the right direction.

### *Consumers' Group*

How are economic interests of local peoples organized? What are the mechanisms of producing public goods and services so that all the people in the local space benefit from it, and not just members of an organization? Nepal has tested the viability of organizations that can articulate the community's interests in the consumption of some goods and services. They are called consumers' groups. Such groups have not only been able to make people withstand the pressures of the market forces, but also use the market to their own advantage. More importantly, ecological sustainability, poverty alleviation and even social integration have been aided by the formation of these groups. These considerations have for long remained trampled by the market forces. In fact, in today's Nepal, they have perhaps proved to be the only successful story of grassroots development. Consumers' groups have been able to change the balance of power in the communities' favour like no other single scheme or programme has. Hence, it has serious implications in local governance. What are the institutional incentives to run consumers' groups?

The idea of setting up a consumers' group is based on the notion of a "development contract". The contract defines the actors, processes, terms and conditions, estimation of costs (labor, physical and social), types of contribution from each actor and standards, sources to bear the costs, beneficiaries, time tables, project maintenance and operational modalities of the project.<sup>67</sup> The LSGA

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<sup>67</sup> A development contract can be entered into by HMG, the DDC, the municipality or the VDC, NGO, foreign donor agencies, consumer's committee, and others. They establish procedures for owner's accountability, negotiations and contract signatures. The contractual approach puts each development partner on an "equal footing" in contrast to the Nepalese tradition

provides a framework for the establishment of consumers' committees at the VDC, municipality and DDC levels to implement and manage development projects. A consumers' group can be formed from amongst the direct beneficiaries of the project. These local bodies can a) carry out projects through consumer committees, b) training can be provided to those committees for the operation of projects, c) these committees can collect service charges from the consumers who benefit from the project, d) the raised amount can be used for the repair, maintenance and protection of the project, and e) the consumers' committees have to update the details of the income and expenditure which should be submitted to the concerned VDC, municipality or DDC. Local bodies coordinate the cooperation of these groups and committees.

The possibility for collective action in a community, or development synergy, can be determined by the incentives for "cooperation" and disincentives to "free riders." Community forestry, management of irrigation systems, construction of roads and running of cooperatives by the people have become successful experiences in Nepal because of shared interests of the groups as well as present and future payoffs. Especially in a homogenous community, individuals who refuse to cooperate may suffer damage to their personality, lose solidarity and future opportunities for trust, mutuality, reciprocity and beneficial exchanges. Keeping a commons is cardinal to sustaining common property resources and also the community economy. People of Nepal have enormous experience- traditional knowledge and information, initiative and ingenuity in the management and maintenance of "local commons," such as common land, irrigation facilities, community forestry, community pastures, fisheries, public water spouts and other forms of public property. "Rules of inheritance, access, use and disposal determine the differential allocation of the commons among community members" (Gudeman, 1996:212).

In Bhangaha VDC of Mahottari District, for example, the irrigation system is traditionally owned, run and maintained by the contribution of labor, money, coordination and communication support by the beneficiaries of six villages whose population is socially heterogeneous. If a dam is constructed in Bhutaha River by the villagers of Sidhpur, the beneficiaries of Bhangaha, Sitapur, Sakari, Bakhari and Singyahi villages pay rent for its construction, maintenance, coordination and communication support. The contribution is based on the size of lands irrigated. Those who steal water at night (free rider) or those who defect from contribution but get their land irrigated have to face penalties in cash or kind. The beneficiaries thus reflect a fundamental understanding of the common project they create and pursue rational actions and expectations on how to solve problems collectively as well as manage their interdependence. Beneficiaries of the project have since decades created a network of civic engagements and reciprocal obligation by indigenous means. The continuity of this "tradition" has reduced the potential for conflict in common projects and proved that arrangement of common pool resources "can result in efficient use, equitable allocation and sustainable conservation" (Agrawal, 2001:1650). In Ramnagar ward of Bhangaha VDC, the products of community forestry have been used for supporting a primary school and welfare activities related to village development. The norms of cooperation provide local leadership to undertake mutually beneficial efforts among the stakeholders.

In another study of 18 forest user groups in Nepal, researchers have discovered, "Heterogeneity is not a predictor of the level of collective activity. Rather, heterogeneity is a challenge that can be overcome by good institutional design when the interests of those controlling collective-choice mechanisms are benefited by investing time and effort to craft better rules" (Varughese and Ostrom, 2001, 747). By changing the rules, developing locational proximity, expanding or reducing the group size, setting organizational or management rules and devising incentive and disincentive mechanisms in consumer groups people can reduce conflicts and produce the benefits of cooperation. The essence of cooperation is to foster participatory politics whereby groups and associations can erode the existing legitimacy and create the desired but mutually acceptable rules of co-operation. Sharing and exchange of resources thus becomes possible in the consumer groups among the poor, the wage workers and the powerless having similar status and modes of subsistence but dissimilar social backgrounds.

What are the hurdles to participation? An evaluation of consumer committees of fifteen districts of different topographical regions reveals that although 75 percent of the VDC projects are

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of vertical ties in which the "givers of funds," such as central government or donors are regarded as super-ordinates and the receiver "the people" have to lie low as a consumer of development.

implemented by consumer committees, they are not "functioning well and they are found to be lacking managerial capacity. The main problems identified were: delays in the approval of projects, selection of projects without cost estimation, selection of projects on the rationality of serving bulk of population rather than economic viability, inadequate fund release, funds not released in time and delays in the purchase of construction materials (Suwal, 1998:5). Obviously, participation alone is not enough. A will to use the participatory process to execute sustainable tasks efficiently for the benefit of the community is equally important.

There are several other studies, which point out that in a number of cases, the consumer or users' groups are dominated by the better-off sections of the society, and thus largely set to promote their sectoral interests rather than general interests of the local communities. As a result, many consumer groups have exacerbated the situation for the Dalit and poor communities, for example, by denying them access to common pool resources and even depriving them of their previous access to local forest resources. This suggests that, in practice, the actual rules of the game for consumer groups are increasingly inconsistent with the sharing of services. Differential treatment for different people in service sharing is an indication that the bulk of consumer groups are not promoting participation and are not running democratically. In that case, local authorities should seek newer types of solution to the problems of equity. Since local politics is just an extension of what goes on in the particular society, such change may not be immediately possible. It, then, makes better sense to begin by organizing the poor, Dalits and the marginalized so that enough voice can be mustered to demand participation in wealth creation and distribution.

## **ADJUDICATION AND CONFLICT RESOLUTION**

A conflict is a situation in which some people pursue mutually exclusive interests, values and identities at the cost of others. This makes conflict a ubiquitous phenomenon in human life. In a democracy, competition among a myriad of political parties and interest groups for political power, authority and resources is governed by constitutional rules of the game and there are other institutional resources to handle deviant behavior by those in public life and settle the conflicts by peaceful means. Political life is characterized more by contestation, disharmony, competition and conflict than by coherence and harmony of interests and ideologies. At the same time, politics is also signified by the amount of collective action applied to manage the conflicts of interest, value and identity among the people. The central driving force of self-interest generates conflicts over public policies and divergent conceptions of public goods in the society. In a democratic society, the ultimate mediator is the power to vote, because rational self-interests motivate citizens to vote those who represent their interests to public posts. In this sense political relationships are considered "those social relationships characterized by conflicts over goods in the face of pressure to associate for collective action, where at least one party to the conflict seeks collectively binding decisions and seeks to sanction decisions by means of power" (Warren,1999:311).

Local governance requires the ability to "make and *enforce rules* for organizing the local public economy, establishing an institutional framework within which patterns of provisions and production emerge from the choices of local citizens and officials. The governance process includes the *resolution of conflict* among participants, as well as the maintenance of agreeable and equitable arrangements" (Oakerson, 1999:18-19).

Given the polycentric and multi-layered structures and the heterogeneity of actors and aspirational politics at the national level, causing destabilization of traditional social structures, the success of local bodies in solving conflicts depends on how steering and regulative rules are applied to remove constraints to their goal realization. This includes the application of sanction to boundary violations. In multi-ethnic societies with different levels of development, rational "conflict management may need to structure interest representation in society, co-opting and controlling unruly elements, monitoring and containing demands so that they do not get out of hand" (Bardhan,1997:10). Well-defined rules of cooperation are crucial to avoid the prisoner's dilemma--a non-cooperative situation in which actors' choices are independent and agreements and promises cannot be enforced. "Intermediaries can ...mitigate the undesired aspects of conflicts by mediation, thus facilitating communication and providing face-saving options" (Kriedberg, 1996: 125). The LSGA offers some judicial power to local bodies for rule adjudication and mediation through the

medium of representation, pleas and arguments before an arbitration tribunal. In addition to this are the indigenous practices of settling conflicts in Nepal by not entering directly into formally organized state-centered domain of politics. They all have their own limitations, as "polycentric governance refers to the dispersal of problem-solving competence among indigenous communities, though within appropriate evolutionary constraints" (Shivakumar, 1999:17).

There has been a long tradition in rural areas whereby people in dispute either go to village elders, schoolteachers, or even involve locally respected persons to deliberate and decide their cases on the basis of culture, customs and local practices. Depending on the case, the conflict resolution process involves the imposition of the will and judgements of village elders and developing better communication among the conflicting parties, improved coordination of their actions, partisan mutual adjustment and improved interpersonal relations among them on an incremental basis. Socially resolved conflicts carry better commitment on the part of disputed parties to implement collective decisions. Only in a depersonalized situation (market exchange, laws, contracts, and explicit rules) do people consult elected village authorities and police stations for discussion, conflict resolution and reconciliation for a solution to their problems. The deliberation and meetings involve the affected people and ordinary citizens of the villages. If conflicts are political in nature (structural, manifest and latent), people call for an all-party meeting to deliberate with other participants and resolve the conflicts through the application of knowledge, experience, contestation and reason.

These processes that govern the villagers' decision-making offer better solution than the layered power structure of the police, the administration and the courts, because all participants to the conflicts have equal opportunities to offer useful suggestions and to think about alternative solutions. "A conflict solution can be defined as a new formation that is acceptable to all actors and sustainable by the actors" (Galtung, 1996:88). For the sustainability of the solution, argues Galtung, it "has to be endogenous," being rooted in the formation of the conflict itself.<sup>68</sup> On the fairness of elections, ethnic issues, protection of the local commons and neighborhood security, all-party meetings have provided a setting for consultations to ease tensions and even act as a channel through which political leaders have offered their good offices to manage and settle conflicts. Due to hyper politicization, polarization and the decline in trust in local authorities and institutions, there is a growing tendency among the people to resort to district or appellate courts or even the Supreme Court for conflict resolution.

The LSGA provides room for the VDC or municipality to take up and settle some minor cases<sup>69</sup> through the formation of an Arbitration Board consisting of three persons, as agreed upon between the parties to a case, from among the persons enlisted in the list of arbitrators.<sup>70</sup> In case the conflicting parties do not agree with this arrangement, then, they can provide the names of two persons who are already enlisted in the list of arbitrators to the VDC. The VDC adds a third name and makes one of them the chairperson of the arbitration board to hear and settle the cases. In the process of decision-making, the arbitrators negotiate with each contesting party and settle the case. The VDC can penalize and punish the culprit with a specified and moderate amount of fine. The dissatisfied party has the right to appeal to the District Court within thirty-five days of the hearing of the decision. What happens if a resolution cannot be reached on the basis of existing rules? The LSGA provides authority to the VDC, municipality and the DDC to make bylaws within a framework of rules.

Many economically underprivileged people of Nepal especially of rural areas are caught in disputes-- property disputes, (partitioning of family property), land-boundary disputes among neighbors, tenancy rights (dual land-ownership system), feudal exploitation, creditor-debtor relations, women's property, waste management, resource sharing, theft, looting, murder, rape,

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<sup>68</sup> "If outside parties (some times called mediators) use carrots and sticks, paying the parties for accepting and punishing them then there is no real acceptability or sustainability, unless one assumes that the 'mediators' are parts of the conflict formation, not outside, and certainly not 'above' " (Galtung, 1996:88).

<sup>69</sup> Those cases include: border and boundary of land, canals, dams ditches or allocation of water and encroachment on roads or way-outs, compensation for damage of crops, forced labor, paupers, missing and findings of quadrupeds (species), construction of houses, hidden and unclaimed properties, deposits, expenses for fooding and clothing according to status, use of river bank and security of property, killing of cow, pasture land, grass, fuel and woods, entering other's houses forcefully, and other cases.

<sup>70</sup> The VDC prepares a list of arbitrators from among the local persons, including social workers, women and members of the backward class.

trafficking of women and children, etc-- causing a lot of trouble for social harmony. These people need legal aid (advice, counseling, litigation services, defender at the tribunal) for the defense and protection of their rights and access to the justice system. In this context, enabling local bodies to innovate alternative means of dispute resolution deserves special significance. At the moment, some NGOs and social organizations are involved in the rehabilitation of the victims of injustice.

The effective implementation of judicial powers by the local bodies requires legal and practical knowledge among local authorities, arbitration groups, consumer groups and those involved in local governance and development process so that when conflict occurs at the micro level, governance arrangements are applied to specific cases and conflicting parties are stimulated to reach compromise and negotiated settlements. While at the macro-political level, civil society and human rights organizations should be strengthened to work with conflict resolution so that the seeds of conflict do not trickle up the vertical chain of social and political spheres. "Inclusive state institutions and conflict-management mechanisms need to be encouraged and supported for a cohesive society to thrive" (Colletta and Cullen, 2000:50) at the local level.

Another aspect of conflict management is to root out the potential areas of conflict themselves. This lessens the burden on the conflict resolution mechanism. Prevention is better than cure and it is far less costlier than actually having to resolve conflicts after they have occurred. There are many ways through which conflicts can be minimized. Beginning from the political sphere, political campaigning should be bound by codes to prevent inflammatory and disintegrationist approaches to make a political point. Sometimes the Constitution or even the legal system may not be able to prevent such campaigning taking the wrong direction. Some form of understanding among the political actors is a must to maintain social harmony. Next comes the lack of clarity in the administrative and legal mechanisms which do create misunderstanding and conflict. When two different sets of people follow two different sets of laws from their own sectoral perspective, conflict arises. Critics have cited a lot of conflicting laws with regard to decentralization. Harmonized laws minimize the risks of conflict.

In the economic sphere, taxation can be a prime area of conflict, especially when it does not follow the income landscape of the community and when it dissuades transactions rather than facilitating them. Ecological destruction has been found to be another reason for conflict as costs and benefits are not well distributed by the market forces and some sort of legal arrangements may be necessary to make the polluters pay and the victims of ecological imbalance compensated. Religious tolerance, ethnic harmony and community life should not be victimized by any development or political project for conflict to remain underground.

## Conclusion

### Constitution as a Foundation for Good Governance

The transcendence of the Constitution in every sphere of national life is the primary goal of good governance. Democratic political processes maintain intrinsic links between the principles of political action defined in the Constitution and those of personal conduct of actors in realizing the governance objectives. The constitutionalization of the behavior of the state, the market and the civil society, in this sense, can capture a synergy of governance. It underlines the vision that defines the job of all those actors and provides playing fields and rules. The rule of law should not command precisely the outcomes that the powerful are comfortable with, otherwise the notion of political community built on a common agreement on law and a desire for mutual advantages between the rulers and the ruled suffers.

There is a dilemma in constitutionalization, however. First, the Nepalese state is heavily dependent on foreign aid for its development while the market and the civil society are deeply penetrated by the international system making them forge solidarity more with the outside forces than with the native citizens. As the Constitution becomes weak in domesticating the circulation of political power, it naturally causes societal denationalization. "The most significant impact of societal denationalization is on the capacity of the nation state to achieve governance goals, since effective governance depends upon the spatial congruence of political regulations with socially integrated areas" (Zurn, 1999: 10). How the emerging transnational constellation of national forces can be adjusted to the imperative of constitutional control is a big caveat here.

Second, the uneven level of support by the various political parties to the Constitution has made it a highly "contested terrain." The multiple social, economic and political identities competing for power, therefore, do not follow the constitutional rules of the game that encourage responsibility, ownership and empowerment. Disharmonious socialization of party cadres and citizens on rival constitutional visions has consequently posed internal challenges to the integrity of the state and its polity. Formal rules, informal norms and enforcement mechanisms shape institutional performance. It means that all the social actors should act according to the constitutional vision, norms, values and institutions. In a democracy where people are sovereign, it is the rule of law that glues the citizens to public order and civic virtues. It is equally essential to bring the country to law and order and make it capable of rendering services to a community that will fight for the people's rights and interests. Law and order is fundamental to the nation's future. But, it would be "unfair to enforce the law unless it was part of a larger economic security program along social democratic lines" (Epps, 200: 1).<sup>71</sup>

In Nepal there are some difficulties, however, in the realm of realizing the three classic public goods – namely peace and security, law and order and basic needs. Public order in Nepal has decreased due to the steady breakdown of democratic rule. In a multi-ethnic state like Nepal, uncontrolled social mobilization of a mass burdened by poverty continues to generate vicious political struggles among a myriad of interest and ideological groups for power and booty that overwhelm the fragile democratic institutions and processes. As citizens become more conscious of their identity, they demand political participation and seek recognition of their civil rights from the state. The question is whether the ruling Nepali Congress Party (NC) and a number of opposition political parties and civic forces will respect the limits that the country's fledgling constitutional democracy sets on the power of the Nepalese state.

Historical experience unveils that partisan politics and crisis of governance are born twins. Rulers must distinguish their role in the party they represent and the government they serve for the collective interests of citizens. Nepalese often lack clarity of ideological divides that set the ground for legitimate clashes among multi-party contestants in a parliamentary system. This means there is a need for mass political awareness. Adding to the confusion is the behaviour of parties themselves that see it fit to oppose everything the government does while in the opposition and do the same

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<sup>71</sup> Ronald Dworkin argues, "It is wrong in principle for the state to deny people the right to work on terms they are willing to accept, in order to improve the economic situation of workers generally, unless it provides unemployment compensation or other relief...sufficient to make their circumstances plausibly as good as they would be if people held a job under the outlawed terms." Quoted in (Epps, 2001,1).



things once they come to power. In other words, the actors themselves need to be well versed in the Constitutional rules of the game, before the Nepalese realize the benefits of multiparty politics. In any case, national integration does not emerge from a consensus of the interests and ideologies of political parties, but from the normative practices citizens generate to order their life in a new politics involving freedom, justice, solidarity, quality of civic life and enhanced participation.

### **Pursuit of Political Institutionalization**

Institutions are the carriers of experience. They thus hold the leaders accountable to their past and future. Institutionalization of roles and responsibilities of organizations and actors provides consistency in decision-making, predictability in their behavior and accountability in performance. It is a process by which organizations and procedures are governed according to the laws of the land rather than personal whims of leaders. Institutions are expected to establish autonomy, coherence and consistency and complexity in public functioning.

Unfortunately, in Nepal, post-feudal institutions associated with the state do not seem sufficiently secular or functional. The neo-liberal economic policies of the government to "downsize" the state and growing unaccountable political activism of many rights-based organizations have threatened to cause a full-blown collapse of public institutions and services due to their increasing politicization and polarization making it very difficult to identify shared interests. Policy failure in Nepal has emerged out of the contradictory models of operation of various political parties and their diverse socialization designs. These parties have found solace often in deeply politicized crisis discourses thus engulfing the autonomy of elected government. Elected government is the most effective instrument of people's power in the public pursuit of common good. It is constrained only by democratic accountability.

Over the past decade, however, the capacity of modern public institutions has been severely retrenched by the combined effects of a corrupt leadership, political and economic deregulation of internal markets, reduction of the role of the state in the economy and the emerging social and economic crises. The destruction of the economic institutions of the state and the foundering of a peaceful cultural life have continued to postpone the Constitutional dream of ordinary citizens to create open societies for liberty, social justice and peace. The state capacity--the ability to formulate and execute public policies – has remained weak and, consequently, it has not been able to overcome the domination of workers, consumers and citizens. In order to achieve social justice and peace, poorer regions must grow faster than the national average and economically weaker citizens must have a larger share in the prosperity so that races to the bottom are prevented and the growing gap between the nation's poorest and the richest can somewhat be closed. This means that grassroots governance institutions need to be strengthened sufficiently not only to check the resource drain from their constituencies but also be made effective in utilizing them for their own benefit. In other words, the existing terms of trade between the local and the central will have to be beneficial for the communities in the rural periphery just as much or even more than the center.

### **Decentralization To Break the web of Power**

A centralized government imposing initiatives from above cannot solve Nepal's problem of development. What one sees in Nepal's decentralization is that central elites are seeking to extend control over the political, economic and social lives of Nepalese people and turning some state activities to their own advantage. The lack of commensurate resources and non-implementation of sound public policies limit the effectiveness of many of the economic and political reform initiatives undertaken from above. The promise of democratic reforms has been further stymied by the inability of the polity to punish the corrupt and wrongdoers.

The political obstacles faced by decentralization are more difficult to change, as they are rooted in the predominantly patrimonial mode of state structure and political culture. It is enmeshed with institutionalized and dominant state interests and patron-client relations between party leaders and specific interest groups of society. This holds equally true for many cases of donor-consultancy, NGOs and civil society relationships. Patron-client relationships are typically oriented towards the status quo and cannot provide the critical feedback on either policy improvement and innovation or greater transparency and accountability or even effect economic transformation. The three priority

areas for immediate action—a framework for implementing decentralization to achieve poverty alleviation, development of a viable fiscal system at the local level and coordination among donor agencies—identified recently by the peer review report of decentralization by six donor agencies (Joint HMGN-Donor Review, 2001:22-23) only reinvented the already obvious problems of decentralization and, therefore, failed to illuminate persistent ills that continue to plague the political economy of decentralization in Nepal.

The first priority for the Nepalese government is to create a central level neutral institution of local federations and independent experts to build consensus on major development issues and to avoid *policy weakness, policy instability and policy reversals*. The second is establishment of effective institutions of political authority at the level of the state, polity and the government before social democratization, market reforms and power devolution can take place. The pulling of the collective strengths of the state, the market and civil society through an effective coordination mechanism is essential to make the power of the center effective and responsive. Constitutionalization of these forces including establishing a system of effective checks and balances and power separation is equally important to foster the democratic attributes of rule of law, transparency, accountability and equity. Only then can governance accomplish the needed virtuous circle (synergy) for development.

In a globalized context, mere separation of power and checks and balances among the legislative, executive and judiciary branches of government makes little sense if there is an absence of similar mechanism among the three vectors of governance-- the state, the market and civil society. The third, is to break the web of power by allowing democratic competition, strengthening of the representation process through a reform in the electoral system-- from the winner-takes-all to what Peter Evans calls creating the "embedded state,"--a state that interlocks its hard institutions with the soft social capital of society. The fourth is dismantling the institutionalized patronage system known as the Constituency Development Fund, where the coupling of executive power with legislative largesse continues to undermine the constitutional separation of powers and checks and balances, as well as any prospect of genuine leadership development from the bottom up.

There are political programs run politically by non-poor persons. These programs have fostered patronage politics to create jobs or other benefits to their followers (clients) in a selective way with the sole purpose to increase their votes while completely disregarding elected bodies, legal rules and performance criteria. Patronage politics,<sup>72</sup> where public funds are allocated not according to public needs, subordinates citizens' rights to equal opportunities to client's benefits and undermines the fiscal accountability of the government. Patronage politics would in the end undermine the local government's ability to govern. As per the demand of local authorities,<sup>73</sup> these programs should be subordinated to locally elected bodies. The fifth challenge is correcting the extreme urban bias and priority given to the non-agriculture sector by central planners. The sixth challenge is to halt the steady retreat of the state from society, especially banks, police posts, schools, development projects and cooperatives, which has left a power vacuum increasingly filled by extra-constitutional forces. A society will be "more likely to cohere if people are socialized to have diverse wants with respect to private goods and similar wants with respect to collective goods"<sup>74</sup> (Olson, Jr. 1972:151). A sound supervision, monitoring, measurement, enforcement and evaluation system of development performance of local bodies is equally central to enforce their accountability to the people.

That a bulk of VDCs do not have secretaries reflects the dilapidated condition of local governance in Nepal. To come out of it, development of *real* incentives for those working in remote and underdeveloped areas and disincentives for corruption and personal benefit are needed. The culture of impunity existing in the country needs to be replaced pulled down. Lack of adequate

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<sup>72</sup> Patronage-based methods of distribution have proved inefficient in terms of "economic rationality," for their underlying motive was to make people mere tools to sustain political power by means of expanding the political constituency rather than trigger development potential.

<sup>73</sup> For example, BP with the Poor, Janajagriti, Ganesh Man Peace Campaign and some programs run by private foundations with the support of state money.

<sup>74</sup> Olson makes a distinction between collective and non-collective (or, as they are more often, but less precisely called, public and private) goods. To him a "collective good can be described as a good such as non-purchasers cannot feasibly be excluded from its consumption, such as defense, justice, clean air, etc. Non-collective or private goods are by contrast goods that non-purchasers can be kept from consuming. Examples are, buying bread or other personal use materials. Public good cannot be realized unless both the private sector and the government deal with the issues of a public nature.

technical personnel, resources and inadequate institutionalization of local governance are the critical bottlenecks affecting the viability of decentralized governance. The creation of competing structures by donors and the government at the local level and their subtle politicization have often demotivated and disorganized the already existing elected bodies and created winners and losers. Decentralized self-governance, therefore, requires the freeing up of all stakeholders to participate in development-- a development that sets the conditions necessary for emancipated forms of livelihood for a diverse people.

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## **Implementing Decentralization of Power in Nepal**

- ← **How to Enhance Local Autonomy** (24 national level acts regarding health, administration, primary education, forestry, planning, Local level election, electricity, hydropower use, roads, statistics, mine and mineral act, consumer protection act, environment, transportation, construction, environment protection, judicial administration, waste disposal, etc are affecting the local bodies' autonomy in the governance and development)
- ← **How to increase the Financial Viability local bodies?** (Areas to be identified for transparency, accountability and auditing system to beef up the financial integrity system).
- ← **How to overcome the barriers to people's participation and achieve the problems of collective action?**
- ← **How to augment the Capacity (human resource, social capital, physical and technical abilities)**
- ← **Problem of vertical coordination** among the center, line agencies, District Development Committees, electoral constituencies, Ilakas, Municipalities, Village Development Committees and wards.
- ← **Problem of horizontal coordination** among elected bodies, NGOs, Civil societies, Consumer groups, centrally appointed government officials and donors
- ← **Partnership between public and private sector.**
- ← **Local Level Planning system** (coherence between goals and performance), equity, ecological, regional, gender and minority consideration.
- ← **Adjudication and conflict resolution system,**
- ← **Problems of Implementation and Monitoring of decentralization.**
- ← **How political parties can help decentralized development by increasing the level of participation but without polarizing development?**
- ← **How excessively fragmented sectoral programs on poverty alleviation at the local levels can be concerted, coordinated and made focused?** (For example, BP with the Poor, Janajagriti, Banking with the poor, Rural self-reliance, swablamban, micro-credits, small farmers development, social mobilization, dalit upliftment and disadvantaged groups, etc).