

## DECLARATION OF THE SYMPOSIUM

### Common Understandings

It was perceived that Nepalese peoples' struggle for democracy, continued since before 1950 AD, came to a logical end in the year 1990 with the restoration of multiparty system and constitutional monarchy by the promulgation of the new constitution. The peoples' movement of 1990 was ended with an unwritten agreement between the king and the political parties. However, the political parties failed to institutionalize the peoples' supremacy in the constitution. As a result, although Article 3 of the constitution provided popular sovereignty, that did not materialize accordingly. Instead, it is indisputable that impliedly the King was kept above the people by constitutionally immunizing the king from accountability and by providing privilege to the King that his decisions would not be a matter of review by court. One of the important principles of constitutionalism is that the implication and effectiveness of a constitution lies on the values adopted by it. But the Constitution of 1990 had embodied the following faulty values that have led to the necessity of making new constitution.

1. Consensus governance system was essential in a country like Nepal which has diversity of ethnicity, language, religion, culture, region and race. However, the constitution established a system of governing majority by minority with the introduction of West-Minster model of government based on traditional British practice. This system ultimately established Majority Authoritarianism.
2. Instead of recognizing the plurality and diversity as the core value and basis of national unity, the Constitution of the Kingdom of Nepal 1990 established political monopoly and subordination of handful of elite people. As a result, constitution couldn't enshrine the scheme of equality and upliftment of the socially ostracized and economically, politically, caste wise and spatially deprived huge population.
3. Failing to recognize the economic and social rights including the basic needs of the population such as the rights to food and shelter, right to development, and right to health, particularly right to reproductive health of women as fundamental rights, the Constitution out-rightly denied the right to life of the extremely poor and backward population. The basic spirit of the constitution was thus apparently exclusive, not inclusive. It fully avoided the notion of inclusiveness in democracy, and ultimately this perpetuated the exclusion of the majority of population in economic, social and political process. Consequently, people were divided as ruler and the ruled.
4. The Constitution neglected the need of 'inclusiveness' within the political parties and their accountability towards people. As a result, political parties

disguised themselves as a selfish club of the elite where, selfish, greedy, corrupted, and person with traditional mindset against notion of equality found enough place. The irony is the political parties burdened with the function of institutionalizing democracy, couldn't establish democratic practices within themselves.

5. The structure of the state was constructed unitary and centralized that brought local bodies to a complete control of the center instead of making local governance autonomous. Bureaucracy was made master of representatives elected by the people and a system of governance was institutionalized where male elite class employees and police rule over the people at large.

### **Points of Conceptual Consensus**

Because of all those erroneous provisions, Nepalese state system was kept under the full control of privileged class and bureaucracy which was made by hand full of elite group who were actively engaged on conspiracy against *Dalit*, ethnic group, linguistic minority and women. This on one hand lead country towards the violent conflict and on the other it created the dominance of rich, handful Brahmin and some Newar and Chhetri over political, economic and social development, resulting in the increase of gap of inequality.

People's movement of 2006 was not merely under the agenda of any political party; rather it was the people's revolution against faulty constitutional provisions. Thus, the upcoming constitution shouldn't be made on the mere interest of political parties that is why the process of making of upcoming constitution is called Constituent Assembly. Therefore, we, the participants of this conference, express our commitment that the election of Constituent Assembly should fully ensure the notion of thoughtful inclusion.

Observing the erroneous assumptions made by the previous constitution, the process and structure of constituent assembly could be thought off after the adequate exercise on the content of the constitution. Therefore, the following concepts are presented as points of concurrence.

1. Forthcoming constitution and its fundamental values: Multiparty democratic system, inclusiveness in all the organs and sectors of the state, rights for the local government as well as clear demarcation of central and local government, welfare economic system and elimination of the concepts of feudalistic institutions etc must be adopted as fundamental principles. Therefore, we participants believe that the concept of unconditional constituent assembly is not scientific and pragmatic. The new constitution

should provide the full independence of the individuals and that should be the objective to build new Nepal.

2. The authority to constitute and proclaim the constitution should be given to the constituent assembly as it is the assembly of the people.
3. The forthcoming constitution should, in line with the protection and promotion of socio-economic rights, accept people's basic necessities as fundamental rights.
4. The constitution should provide people with the authority of making their choice in continuing or overthrowing any institution or system by means of final decision-making through referendum.

### **Recommendations to the Government and Political Parties**

We, the participants of the symposium, recommend the following points for the government and the political parties to adopt constituent assembly that constructs constitution with fundamental values as stated above:

- 1) To transform all the rights directed by the House of Representatives as per its resolution and constitute national government as soon as possible with the participation of all the concerned parties including the Maoists.
- 2) Expressing serious concern over the undue delay in constituting national government, monitoring agreement for the purpose of management and control of the Nepal army and Maoists people's army, ceasefire agreement and peace agreement including election code of conduct and respect of fundamental achievement of the constitution; and being aware of the symptoms of some unwanted conspiracy and development against the constituent assembly election, to call all the concerned parties to carry out their responsibility sincerely.
- 3) Realizing the jeopardy of failing to provide outlet of the political disputes by the Interim Constitution without first conducting peace agreement and keeping in view that the peace agreement could only legitimize the Interim Constitution, to immediately declare Interim Constitution reflecting the accord made in the peace agreement.
- 4) To declare Constituent Assembly Election Act according to the provision envisioned in the Interim Constitution.
- 5) To devise provision of proportionate electoral system in the Constituent Assembly Election Act and form a National Advisory Committee entitled "Election Procedure and Election Area Advisory Committee" comprising representatives from different ethnic groups, language, religion, culture,

region, race, gender and political ideology and make detail arrangement and decisions on the related issues as per its advice.

Putting parliament in the inactivated state we call upon all the Seven Party and the Maoist to take major decisions through political conference and implement it accordingly after getting approval of it from the parliament as per the necessity.

### **Participants' Commitments**

For building a national consensus as stated above; we, the participants of the symposium, affirm our personal and organizational commitments as following:

- 1) To establish Constituent Assembly Civic Concern Centers in capital and district headquarters comprised of social workers, teachers, students, workers, representatives of community institutions and others, and promote civic awareness to facilitate the process of Constituent Assembly.
- 2) To generate step-wise public and civic awareness programmes in a community level, without expecting the support of the donors, for meaningful participation of the deprived class people on constituent assembly election.
- 3) To coordinate with, in order to ensure programme effectiveness, other local organizations in the district with similar programmes and activities.
- 4) To conduct all the awareness and sensitization programmes with full neutrality and without bias to any political party and ideology.
- 5) To address all kinds of Citizenship problem prior to the Constituent Assembly election to ensure full public participation.
- 6) To define the term 'inclusion' so as to ensure the meaningful representation of ethnic groups, language, religion, culture, region, gender and race in the Constituent Assembly and establish full ownership of the constitution to the people.

We, the participants attending the symposium, adopt this declaration consensually.