



Viewpoint:  
Dr. Tilak Rawal

Nepal in COP 17: LDC's Rights

Politics: Five Years After CPA

Interview:  
Shailendra Kumar Shrestha



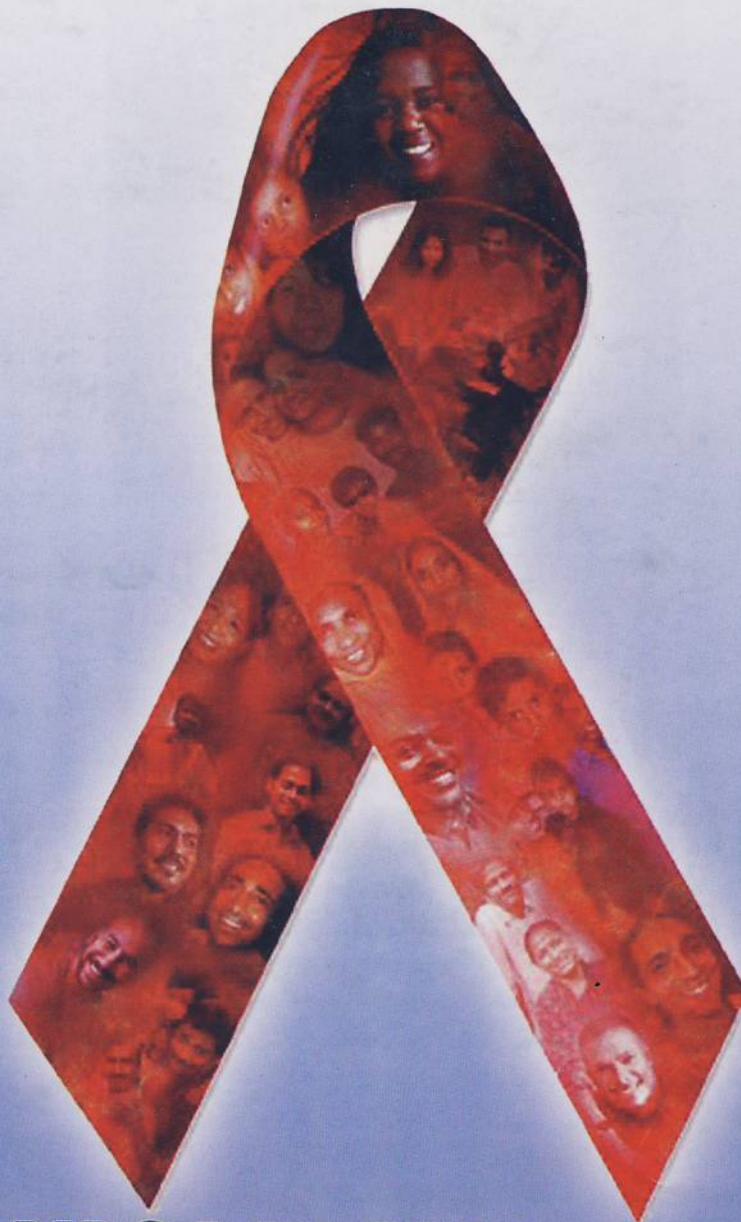
# SPOTLIGHT

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## From The Editor

Five years have already passed since the signing of the Comprehensive Peace Agreement between the government of Nepal and the Maoist Party, but peace is still elusive. Nepal's southern plains are finding no respite from the armed rebels who are threatening the lives of the people. Genuine efforts for reconciliation among communities to end their hostility are still to come forth. One of the positive sides of the recent political developments is that the process of integration has begun and it is heading in the right direction. Despite the agreement on some issues, political parties are yet to agree on the state restructuring. This is going to be a major challenge for the country. As the tenure of the Constituent Assembly will expire on November 30, parties will have to decide its fate soon. We are not pessimists about Nepal's politics and the current trends. Given the history, we want to reiterate that the country has to go a long way before political stability and economic prosperity take a firm hold here.

Despite political instability and frequent changes in the government, Nepal has made enormous progress in stabilizing HIV/AIDS. As the World AIDS Day is being celebrated, we chose to discuss HIV/AIDS as an agenda for this week's lead story. Similarly, Durban's COP 17 is also an important event in the context of Nepal. We have taken a look at Nepal's role as the chair of Least Developed Countries in that meeting.

*Keshab*

Keshab Poudel  
Editor

# NEW SPOTLIGHT FORTNIGHTLY

Vol.: 05 No.-10 Nov. 25 - 2011 (Mangsir 09, 2068)

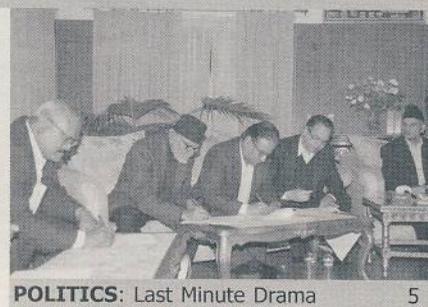


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Office : Kathmandu, Nepal

Printers : Pioneer Offset Printers (P.) Ltd., Dhapasi, Kathmandu. Ph: 4363624

Kathmandu DAO Regd. No. 148/11/063/64, Postal Regd. No. 36/068/069

US Library of Congress Catalogue No. 91-905060, ISSN: 2091-0711 (Print), ISSN: 2091-0754 (Online)

### Norwegian Crown Prince Praised Nepal's Progress in MDGs

Norwegian heir to the throne, Crown Prince Haakon Magnus has praised Nepal for making a remarkable progress in the Millennium Development Goals (MDGs).

"Nepal has been moving quickly in human development," said Prince Haakon, inaugurating a Maternity Services Centre jointly with the UNDP Administrator and former New Zealand Prime Minister Helen Clark in



Norwegian Crown Prince Haakon Magnus (Centre)

Banke's Kamdhi village. He singled out women health volunteers for their role in contributing to the reduction in maternal and child mortality rates. "You have been doing a fantastic job," he told the volunteers.

Describing his Nepal visit as a "treat" for him, Crown Prince Haakon said that he had been looking forward to visiting Nepal for a long time.

Crown Prince Haakon, who is in Nepal on a four-day visit as a UNDP goodwill ambassador, has been working to promote MDGs around the globe.

"There is still a lot to be done, but great achievements also have been

made," said Haakon.

UNDP Administrator Clark, who is also in Nepal on a five-day visit with Haakon, said she was optimistic that Nepal could meet other MDGs as well.

"Nepal is in a very good position economically, sitting between fastest growing economies in the world, India and China," said Clark. "If Nepal achieves peace and constitution, it can make a lot of progress."

Clark also said that signing of the seven-point plan for peace and integration has made her hopeful about the completion of the ongoing constitutional drafting process. "If these things can be achieved, then Nepal can have a clear road ahead for development." Clark is the first UNDP administrator to visit Nepal in 25 years.

but they were always removed without completion of their tenure.

"The government took the action after finding out about their involvement in corruption cases," said the Minister of Women, Children and Social Welfare Council.

### Gandhi Memorial Inter school Competition

Embassy of India organized the Grand Finale of Gandhi Memorial Inter-School Competitions on November 19, 2011 at National Police Academy, Maharajganj. This Finale concluded the Gandhi Memorial Inter-School Competitions that started in April 2011 under which 14 competitive events were conducted by ten reputed schools of the Valley. More than 2000 children of 43 schools participated in 14 competitive events organized by 10 reputed schools of the Valley (list of schools enclosed) under Gandhi Memorial Inter School Competitions and more than 900 children came out to be the prize

winners, which itself narrates the success story of this initiative. On this occasion, Heman Brijwasi, Winner of Sa Re Ga Ma Pa Little Champs 2009, a singing competition aired by Zee TV mesmerized the audience with his melodious voice.

Mahatma Gandhi Inter School Competition was started in the year 2009 with an Inter School Debate Competition organized by Kendriya Vidyalaya in association with the Embassy of India. Indian Assistance For Bhaktapur District

Department of Urban Development and Building Construction, Special Physical and Infrastructure Area Development Project (SPIADP), Kathmandu and Indian Embassy signed a Memorandum of Understanding (MoU) for providing Govt. of India grant assistance of NRs. 1.57 crores for development of Nepal-India Friendship Park in Daxinbarahi area of Dadhikot VDC in Bhaktapur District under Nepal-India.

### Thirteen KOICA Volunteers Arrived in Nepal

Korea International Cooperation Agency (KOICA) has dispatched thirteen new KOICA Volunteers to work in Nepal for two years. They arrived in Katmandu on November 14, 2011 and were welcomed by officials of KOICA Nepal Office at the Tribhuvan International Airport.

### Japan's Assistance for the Project for Prevention and Reduction of Child Labors Valley

The Government of Japan has decided to extend financial assistance of JP●●9,256,159 (approximately USD117,959 or NRS.10,000,000), to Shapla Neer - Citizens' Committee in Japan for Overseas in Japan's Fiscal Year 2011 under the Grant Assistance for Japanese NGO Projects scheme of the Government of Japan. Shapla Neer - Citizens' Committee in Japan for Overseas (Shapla Neer) will implement the Project for the Prevention and Reduction of Child Labor in the Restaurants of the Kathmandu Valley in coordination with the District Education Offices and one local NGO, Child Workers in Nepal Concerned Centre (CWIN-NEPAL).■

### Court Reinstated Social Welfare Council

Following the interim order issued by the Supreme Court, Social Welfare Council found some respite but it is yet to see how it will affect NGOs and INGOs as both organizations have to rely on the Social Welfare Council for the approval of their programs.

Last week, the government dismissed the vice-chairman, member secretary Dr. Chhewang Lama Sherpa and treasurer on the ground that they manipulated the money by endorsing development projects proposed by NGOs and INGOs.

This is not for the first time a minister had dismissed the officials of Social Welfare Council. They were dismissed twice in the past when they had disputes with the Minister of Women, Children and Social Welfare Council.

On previous two occasions, Dr. Chhewang's team was able to get reinstated through the court's orders. The tenure of officials of SWC is four years

## Asian Development Bank Award To Project Teams

Asian Development Bank (ADB) has recognized three projects for their outstanding management work. The projects, which were helping improve the lives of people by providing them safe water supply and sanitation, income-generating opportunities and sustainable urban development, received the ADB's Outstanding Project Management Team Awards for the year.

The winning projects, all of which are supported by ADB, are community Livestock Development Project, Community-based Water Supply and Sanitation Project and Urban and Environment Improvement Project. The winning project teams were presented with the awards by Finance Secretary Krishna Hari Baskota at a special ceremony held in conjunction with ADB's annual Country Portfolio Review workshop.

"These awards recognize the project teams' excellent performance, efficiency in implementation and achievements of targets," said Barry J. Hitchcock, country director, Nepal Resident Mission. "The successful implementation of these projects has significantly contributed toward maximizing ADB's overall contribution to helping reduce poverty in the country, and in supporting efforts to promoting sustainable urban development."

The community Livestock Development project has helped increase per capita income of beneficiary households significantly. It is aimed to reduce the incidence of poverty in rural areas in 48 districts through an intensive livestock program, livestock processing and marketing, and higher-altitude livelihood pilot programs.

The community-based water supply and sanitation sector has helped to increase coverage and provide safe water supply and sanitation to underserved populations in poor and remote areas of mid-western and far-western Nepal. Women, girls, and socially disadvantaged groups have been specifically targeted and encouraged to participate in project training activities and rural water supply and sanitation management.

Likewise, the Urban and Environment Improvement Project (UEIP) is helping to improve the quality of urban life in nine municipalities in Nepal by improving essential infrastructure and services and by strengthening relevant institutions.

*By Debesh Adhikari*

## Investment Bank Holds 25<sup>th</sup> AGM

Nepal Investment Bank Limited (NIBL) has become the first private commercial bank to have a paid-up capital of over NRs 3 billion. The bank revealed the record in its 25th Annual General Meeting after it distributed 25 per cent cash dividends and 25 per cent bonus shares to its shareholders from its last fiscal year's (2010/11) profits.

The bank earned a profit of NRs 1.17 billion in the last fiscal year. NIBL, which started operations with a paid-up capital of NRs 30 million, has now become the bank with the largest paid-up capital in Nepal.

According to the bank's statement, NIBL had one of the largest remittance transfers among commercial banks in Nepal, dispersing around \$ 199 million in 2010-11.

The asset base of the bank stands at NRs. 59.10 billion. NIBL has been serving more than 425,000 customers through

41 branches with 877 staffs along with 67 ATMs across the country. In the past 25 years, the bank has paid NRs 2.45 billion as dividends to its shareholders and NRs 2.79 billion as income tax to the government.

Meanwhile, the bank has also won the Bank of the Year award for Nepal, awarded by the banker magazine of the Financial Times four times in eight years.

## World Bank Country Director Meets Prime Minister

The World Bank Country Director for Nepal and Bangladesh Ms. Ellen Goldstein met Prime Minister Dr. Baburam Bhattarai at his office today.

Ms. Goldstein congratulated Prime Minister Bhattarai on the signing of the Seven Point Agreement between the major political parties on November 1. "We in the international community admire the statesmanship you have demonstrated in working with the other political parties to advance the peace process," said Ms. Goldstein.

Ms. Goldstein said the World Bank stands ready to help Nepal keep the momentum. "We at the World Bank have long held the view that Nepal needs to come to early closure on the outstanding issues of peace and constitution writing in



order to get on a path of accelerated development," she said. "We would like to support you in addressing short-run economic challenges in the areas of fiscal management and the financial sector," she added.

Ms. Goldstein also introduced Ms. Tahseen Sayed, the World Bank's new Country Manager for Nepal, to Prime Minister Bhattarai. While Ms. Goldstein is based in Dhaka, Ms. Sayed will provide leadership to the Bank's day to day operations in Nepal out of the Kathmandu Office starting on January 15, 2012.

## NIB Tied Up with Broadlink

Nepal Investment Bank Limited recently tied up with with Broadlink Network & Communication Pvt. Ltd which will allow NIBL customers to purchase Broadlink's PINs through NIBL eBanking and ATMs. The facility will cover both Wi-Fi service (Broadlink Wi-Fi) and Internet based telephone service (Broadtel) provided by Broadlink.

Similarly, Nepal Investment Bank Limited has also integrated with Radius Communications enabling purchase of calling cards through ATMs and eBanking. Radius Communications has been providing IP Telephony service for the past one year through which international calls can be made at very economic rates ■

# Economy And Politics In Nepal

By DR. TILAK RAWAL



Economic crises have caused political accidents time and again in different countries. After the crisis of 1997 that engulfed ASEAN countries, Suharto, the strongman of Indonesia, was forced out of power by the rioting Indonesians. Recurrence of these kinds of incidents can still be seen. For example, a new coalition government is already installed in Greece, which is believed to save the nation from going bankrupt. Berlusconi of Italy has been hooted out of power by the people there because he could not get the economy out of the mess that it is still in. Nonpoliticians, currently at the helm of affairs, are expected to save the economy there.

Economy has taken precedence over politics in most of the countries because unresolved economic problems are taking a heavy toll on rulers. There are, however, some countries like Nepal where those charged with the responsibility of running the country can afford to let economic problems remain unattended for years and decades. In a country like Nepal, nobody has ever been penalized for his/her failure to correct economic woes because people here are used to live a life deprived of even the basic necessities of life. Supply of things like drinking water and electricity depends on water from the sky and so is the state of annual gross domestic product more than 30 percent share of which is constituted by our rain-fed agriculture. Small wonder, people here turn more towards the almighty than their rulers when faced with problems whose solution is beyond their reach.

From economic standpoint, we have gone below Bangladesh, our South Asian neighbor, and Sub-Saharan Africa, the region often noted all over the world for abject poverty and mismanagement of the economy. It may be noted that our economy grew on average by 3.7 percent during 2000-2009, while Bangladesh and Sub-Saharan Africa each grew by 5.9 percent during the same period. Our agriculture is highly unproductive and not much different is the case with the industrial sector. Data released by multilateral bodies suggest that capital productivity in Nepal is much less than it is in Bangladesh and Sub-Saharan Africa. In the current situation, it is very difficult to attract foreign investment in Nepal and whatever little capital is available is not being used productively. The number of tourists coming to Nepal has increased remarkably in 2011 but there has not been a corresponding increase in income from tourism. Looking at the state of our only international airport, recently ranked one of the eight worst airports in the world, and other

infrastructures, both the number of tourists and income there from is bound to decline in times to come. Nepal will have to assure both multilateral and bilateral investors that Nepal would create a congenial environment for productive utilization of resources from outside. Therefore, many more bilateral investment promotion and protection agreement (BIPPA) such as the one signed with India during our prime minister's recent visit there, will have to be negotiated in an uncontroversial manner with many other resourceful centers. Our economic situation is pathetic by anybody's standard. High level of persistent inflation, huge trade deficit and glaring unemployment situation stand as evidence to this.

It would be, however, foolish to blame

**From economic standpoint, we have gone below Bangladesh, our South Asian neighbor, and Sub-Saharan Africa, the region often noted all over the world for abject poverty and mismanagement of the economy.**

the less-than-three-month-old current dispensation led by Dr. Bhattarai for not correcting these imbalances. Nobody before him paid attention to these problems and no agreement, generally concluded prior to government formation, did ever pay any attention to these problems. This government is, therefore, pretty safe from this stand point.

On the political front also the current dispensation does not look that precariously placed. Notwithstanding criticism on the jumbo cabinet, the largest ever the country has seen since the rehabilitation of multi party democracy in 1990, and government's decision recommending amnesty to Maoist lawmaker Dhungel, convicted of murder by the Supreme Court, peace related work seems to be making some headway. Despite continuing opposition from the Baidya-led faction of the Maoist party, work related to integration and rehabilitation of Maoist combatants seems to be moving ahead. Regrouping of combatants has begun in the midst of opposition by Baidya and commanders loyal to him. Maoist chairperson Prachanda seems genuinely serious this time to conclude the peace process and prepare the new constitution. He even went to Bardiya, a stronghold of Maoists in mid-west Terai, to facilitate return of land forcibly taken away by the Maoists from the genuine owners. However, in the face of Baidya faction's

determination to thwart land return, it is difficult to say how much fruit his new initiative would bear.

Of the few major issues left unresolved so far, the issue of state restructuring looks most complicated, more controversial and complex than the twin issues of the system of governance and the electoral system. On this, parties had indulged themselves in a game of one step forward and two steps backward. It may be recalled that the Madhesh-based parties decided to do away with the state restructuring commission, provided in the Interim Constitution, in the four point deal signed by them prior to the government formation, which was further reinforced by the seven-point deal signed also by NC and UML parties, in addition to those in government. The government-tabled bill to substitute the commission by an experts' panel through the eleventh amendment to the constitution, however, had to be withdrawn in the face of strong objection to the bill from Baidya faction and indigenous caucus. The major parties, showing great flexibility, signed a two-point deal agreeing to constitute the State Restructuring Commission, which is clearly mentioned in Article 138 of the Interim Constitution. Parties have also succeeded in forming an eight-member Restructuring Commission, albeit without a chairperson, to submit its report based on identity and capability in two months. If the eight nominees of the major parties carry on their work in the best interest of the nation, Nepalis would definitely thank them and the concerned parties. People are waiting for the result and they want it at the soonest possible time. Indeed, the fate of the current dispensation depends on the progress made on the political front. What appears as a setback to some as a result of withdrawal of government-sponsored bill may turn out to be a blessing in disguise for Bhattarai who could continue to lead the government even beyond 30<sup>th</sup> November, the day current tenure of the CA expires. It is likely to get extended by six more months the same day.

To conclude, despite diminishing popularity, Bhattarai will not lose his job because of the inability to handle economic problems but his failure to clear the political impasse will definitely cost him his job. Hope the commission does its work as expected, keeping the party united does not remain the biggest challenge for Prachanda and the row between Koirala and Deuba of NC does not accentuate.

*(Dr. Rawal is CA member and former governor)*



## POLITICS

# Last Minute Drama

*Suspense over the further extension of the tenure of the constituent assembly promises is less likely end until the last minute*

By A CORRESPONDENT

When the big three parties and the Madhesi Morcha struck a seven-point deal early this month to push the stalled peace process forward, what could have been an eighth point was dropped at the last minute.

As the month neared its end the “eighth point” is in danger. There is an air of uncertainty over the informal understanding of the four signatories. It had to do with yet another extension of the constituent assembly.

The informal understanding was to give another six months to the constitution-making body. Accordingly, the government registered a constitution-amendment bill in the parliament last Friday to extend the CA’s term by six months.

Prime minister Baburam Bhattarai appears confident of pushing through the bill. He says, all major parties will come on board to ensure the two-thirds vote required to pass the bill.

While the ruling coalition partner Madhesi Morcha’s leader and the deputy prime minister Bijay Kumar Gachchhadar has gone public to throw his weight behind Bhattarai, the major opposition parties have spoken out against the bill — after remaining silent for two days.

The UML Chairman, Jhala Nath Khanal, ruled out the extension of the CA unless the prime minister resigned.

A day later, Nepali Congress president Sushil Koirala spoke out. He was not as blunt as Khanal, but the message he wanted to give was clear.

Koirala said, the Nepali Congress has not decided yet to support the CA

extension move and expressed surprise at the whip reportedly issued by the chief whip Laxman Ghimire to vote for the move. He instead demanded that the Nepali Congress be allowed to head the new government after November 30 when the CA’s extended tenure expires. He appeared to suggest that the CA’s extension can be supported only if his party was guaranteed to lead the new government.

Prime minister Bhattarai, on his part, has been boasting of “national” as well as “international” support in his continuation in office until the “peace process and the constitution-making is completed”.

Amidst these claims and the counterclaims, a key “international” personality is scheduled to arrive in Kathmandu three days before the expiry of the CA.

The man is none other than finance minister of India, Pranab Mukherjee, who has been “in charge of the Nepal affairs” over the past few years.

Ostensibly to sign a double-taxation agreement the former foreign minister of Nepal’s most influential and on many occasions decisive neighbour is scheduled to hold political talks with all key political actors of Nepal including the president, the prime minister, the top leaders of all major parties during a 12-hour stay in Kathmandu.

The CA extension drama is sure to drag till then irrespective of the claims and the counter-claims of the domestic actors.

It was not for nothing that the opposition parties pleaded ignorance about the informal understanding on extending the CA. Although the case is pending at the supreme court too and that its ruling can also influence the course of events, but those in the know say, the picture will be clear only after Mukherjee’s visit.

That is, the CA’s further extension will hang in balance till the last minute. So does the political future of the country. Agreement or disagreement among the domestic actors is sure to take a back seat as a last-minute drama plays out in the Nepali political theatre — one more time. ■

# Coming Next: President Vs Premier

- By YUBARAJ GHIMIRE



The day Baburam Bhattarai took the oath of office as the prime minister, many in Shital Niwas saw Chief Justice Khilaraj Regmi in an awful mood. He told every high and mighty there not to undermine the Supreme Court, and not to expect it to bail out the wrongdoers. No one knew the context, but Chief Justice Regmi and his bench had delivered a vague judgment just a day earlier on the extension of the tenure of the Constituent Assembly. The judgment was silent on when the count-down for the 'six-month limit' for CA extension, which a full bench led by him had allowed earlier, began, if it was followed by a state of emergency declared in the country, something that has not happened during any tenure extension of the CA in the past.

Inder Malhotra, India's noted political commentator wrote recently after a weeklong stay in Kathmandu, that the six months' additional tenure of the House beyond November 30, 2011 will be that 'six months'. Constitutional explanations, including from the Supreme Court, have to stipulate when the actual count-down begins. In the absence of that, four major political groupings will always invoke the Doctrine of Necessity that the SC judgment of August held valid, and keep extending the

deadline each time the House fails to deliver the new constitution. The Supreme Court has, once again, before it a similar petition as the government is all set to inject fresh life to a House that has outlived its normal tenure, and stands discredited in the eyes of the people. But what has not yet been deciphered is the real cause and provocation behind Chief Justice Regmi's outburst in Shital Niwas that day. Still, one hopes, the clarification and explanation of the judgment must come from authentic quarters, and in an authentic manner, than having to depend on some media commentators writing about it.

While SC judgments, comments, and notices are not debated critically given the respect the institution commands in democracy, they at times generate controversy while touching on certain sensitive issues. The SC notice to President Ram Baran Yadav and Prime Minister Baburam Bhattarai in the infamous Balakrishna Dhungel amnesty case potentially opens a fresh row. President Yadav perhaps does not feel too comfortable in the puzzle created by the cabinet decision asking him to pardon and write off the life term awarded to Maoist leader and legislator Balakrishna Dhungel. The Supreme Court, even before the president took any stand on

the case, has asked him to appear before the bench. The President's real woes begin from there.

He had undoubtedly expressed his reservation when Prime Minister Bhattarai approached him in advance with the warning that he would be recommending for the amnesty to Dhungel. Yadav asked him to go into pros and cons of the case, and take a wise step. But Bhattarai overruled the President's suggestion and finally recommended that Dhungel be pardoned. Now that the Supreme Court has dragged the President, he is under compulsion to respond. And given the rigid public stance that the Prime Minister has taken, and the pressure from human rights groups and his own feelings, it might trigger a rift between the President and the Prime Minister.



President Dr. Yadav (Left), PM Dr. Bhattarai

The Prime Minister has already overruled the President. And if the two decide to go different ways legally and politically, then it becomes a 'President Vs Prime Minister' war in the Supreme Court. In that case, the Attorney General, the highest legal advisor to the government, will naturally go against the President. Mukti Pradhan is not only a Maoist cadre and party activist, but also a nominee of Bhattarai. But a situation in which the Attorney General or his office will be pleading against the President is unthinkable, although we had him pleading against Information Minister Jaya Prakash Gupta in the Supreme Court recently. Pradhan, in fact, had accompanied the Prime Minister to the President almost a week before the cabinet decided to recommend granting amnesty to Dhungel, waiving the punishment he was awarded for murder by the Supreme Court. Pradhan argued that such a withdrawal was in the interest of the peace process, and that there was nothing wrong in doing so politically and legally. He was, however, not harsh as Bhattarai who implied that those who were opposing the amnesty were the ones in the business of 'dollar farming'.

But the subsequent SC notice has landed the President in a bigger crisis, although it provided a brief reprieve to the Prime Minister, who had come under harsh criticism from other political parties and the human rights groups, save some individuals, whose silence on the issue was certainly mysterious. Interestingly, prior to its summoning the President, the Supreme Court chose not to ask the government about the efforts made or not made, and the reason there of, towards arresting Dhungel and confiscating his property as ordered by the Supreme Court nearly a year ago.

If the legal battle ensues, the Attorney General will defend the government and the Prime Minister, leaving the President to fend for himself. Will the government allow the President to hire his own set of lawyers? Will it provide the necessary legal fees to the President? And more importantly, will the court settle, once and for all, if the President is supposed to be signing on the dotted lines, not raising any question on cases like Dhungel's? What are the hitches before the Constituent Assembly and the legislature in terminating the membership of a murder convict?

There are instances when the President and the Prime Minister have differed on political issues and their legality at times. And there are also instances of legal battles having been fought between the legislature and the executive, but a President vs Cabinet (read Prime Minister) in the court in Nepal will be a new thing. Initially, the President may simply say he is yet to apply his mind in the case and therefore needs more time, or he will endorse it, or he will reject it. Theoretically speaking, he can also challenge the court jurisdiction in issuing such a notice to the head of the state. But is there any way he can get out of this whole controversy?

The current controversy also involves the issue of 'culpability' of the President either way: whether he endorses the cabinet decision or refuses to go with it. The Interim constitution does not incorporate the 'King can do no wrong' spirit, and gives enough leeway to the President to exercise his conscience and judgment, according to constitutional lawyer Kumar Regmi.

"He has a duty and responsibility to uphold law and constitution as well. Pardoning somebody who has murdered a citizen will be a crime of equal measure on the part of the President," Regmi told *The Reporter*.

The only time that the confrontation between the President and the Prime Minister came into the fore was when Yadav, backed by 18 political parties, overruled then Prime Minister Prachanda's decision to sack General Rookmangud Katawal as the army chief on May 3, 2009. Prachanda resigned, and the President had his way on the issue. But will history be repeated this time? ■

## Comprehensive Peace Agreement Five Years After

*Five years after the signing of the Comprehensive Peace Agreement, political parties are yet to fulfill their commitments*

By A CORRESPONDENT

Pratikchhya, a Maoist commander of Shaktikhor cantonment, had to wait for five long years to choose between joining the army and going for rehabilitation in the society. She finally chose a rehabilitation package. A mother of a three-month boy, Pratikchhya sees rehabilitation as her best option.

Settlement of the issue of Maoist combatants was one of the major components of the Comprehensive Peace Agreement signed between the government and Maoists in November 21, 2007. After a long delay, the process of reintegration

has begun. Due to uncertainties in the packages, an overwhelming number of Maoist combatants preferred integration in security forces.

In the last one week, a majority of combatants expressed their willingness to join the army rather than go for a rehabilitation package.

"Because of the uncertainty over the rehabilitation package, a large number of combatants chose to go for reintegration in security forces," said Balananda Sharma, chairman of the committee overseeing the management of combatants.

While there is a kind of jubilation among combatants in the camps after the beginning of the reintegration process, despair and pain show up in life in the society. Even after five years of signing the agreement, the government is yet to pass the Truth and Reconciliation Bill, which is necessary to heal the wounds of the decade long

violent conflict.

More than 15,000 people lost their lives in the violent conflict and thousands of others got injured. The country has also seen a massive devastation of state's property worth millions of rupees.

Although political parties are not tired of highlighting the importance of peace in the national context, formally,

they seemed to have forgotten to get down to real business. Along with integration, UCPN-Maoist leader Prachanda and Nepali Congress general secretary Krishna Prasad



Late GP Koirala (Center) with Prachanda *File Photo*

Sitaula joined a program to hand over the confiscated property to their rightful owners. But hitches showed up. While time will tell how the peace process will move from this point, another major task before the nation, the constitution writing, is fraught with problems as well.

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## 'An Ideologue Has To Follow Party Whip'

By CHITRA BAHADUR K.C.



There is no country in the world where a political party bows down before the members of its party workers. If somebody is elected on the basis of the party's ideology, he or she should abide by the whip of the party. Without any political whip, the party turns into a disordered house of a bunch of anarchists. We have been saying for a long time that CPN-UML and UCPN-Maoist are not political parties but just clubs or bunches of political actors. This proved recently when the government was forced to withdraw the whip by the Janajati caucus of the party. In a parliamentary democracy, this is very unusual. So far as my personal observation is concerned, I am not surprised to see these kinds of scenes.

We have been opposing federalism on the ground that it will split the country on the basis of caste, ethnicity and language. This was what we saw in the Legislature Parliament last week. The country's three major parties bowed down in front of the Janajati caucus. This will repeat again in Nepal. This is just a beginning. There is no doubt that a person can hold his private opinion but he cannot express it when it comes to the collective question of the political party.

Our party is not against the devolution of power to the people. We believe that this can be done by strengthening the local bodies by giving them more authority and power so that they can fulfill the aspirations of the people. It is unfortunate that some of our leaders are trying to create another unit to centralize power in the name of state restructuring.

Federalism is not a subject that the political parties of this country had tried to enforce. Federalism will not succeed in this nation under any circumstances. Federalism will fail in this nation. The people are already living in a state of terror. They are not able to express themselves due to threats and fears. The decision to head for a federal structure was taken in a dark room and only later informed in the CA. The Nepali people had not adopted the agenda of federalism during the uprising in 1950, 1989, 2005-06.

The ethnic federalism issue was raised in such a nation with ethnic people in minority, to form ethnic states and provide rights to the ethnic people. Federal structure was brought calling for ethnic rights to natural resources. The game to increase friction between the ethnic groups living in harmony has been played since earlier times. Some leaders of the political parties calling for federalism feel that federalism is not right. When Nepal adopts a federal structure, its identity and existence will be in peril. There are many reasons for this, including economic and political situations. The nation's nationality and integrity will not exist.

*(Chitra Bahadur K.C. is a Nepalese politician. He is the chairman of the Rastriya Jana Morcha.)*

## 'Defying Whip For Identity Is No Wrong'

By DR. MANGAL SIDDHI MANANDHAR



The issue of state restructuring has been sorted out after the State Restructuring Committee of the Constituent Assembly submitted its report. It is up to the CA now whether to accept the report or reject it. I don't understand the rationale behind constituting an experts' committee at this juncture. We know that there is a conspiracy going on against federalism. This is the reason we have threatened to violate the whip. I am not only a member of CPN-UML but also a member of a particular community, which gives me my identity. As a member of Janajati caucus, I have the responsibility to protect the interests of our caucus. There is nothing wrong to defy the whip if it is against my will and identity.

State restructuring remains a contentious issue as political leaders having a unitary attitude and an affinity with centralization are always against federalism and the question of state restructuring. This time also they attempted to block the process of state restructuring by proposing to constitute an experts' committee. Since the federal provinces are to be

formed on the basis of identity and viability, the issue of ethnic identity would certainly come up in the process of federalization of the country. There is nothing wrong with this. Our proposal to set up 14 provinces is very rational and viable. We have made every efforts to carve the country by balancing ethnic, geographic and economic



CA Building

aspects. Nepal is a country of janjatis and ethnic communities. If we deny this, restructuring will remain only on paper. Janjatis want to see establishment of their rights.

Although the Janajati caucus is against any kind of commission or experts' committee to oversee the report of the State Restructuring Committee, we supported the move of the parties to set up the Commission on the ground that it will not override the committee's suggestions. According to the Interim Constitution and CA Working Procedures, only the CA has the final say on the report of the State Restructuring Committee's report. By amending the constitution, this government cannot impose any super body to nullify the report prepared by the State Restructuring Committee.

The country opted for federalism to end political and economic discrimination and for appropriate political representation and identity. I think the committee's proposal of 14 federal states is based on the historical and geographical continuity. Frankly speaking, the commission can never encroach upon the jurisdiction of the sovereign committee, which is also a mini-CA. I don't think there is going to be any problem on any issue as delimitation has been carried out and technical assistance will be needed while demarcating federal units.

As the government is setting up of the State Restructuring Commission, its mandate needs to be limited just to read the report and it should not have any rights to decide new things or amend the issues.

*(Manandhar is CA Member)*

## SUPREME COURT

## Retrospective Verdict

*Nepal's Supreme Court issued a verdict excluding corruption cases from being nullified on grounds of ex-post-facto laws*

By KESHAB POUDEL

A division bench of Chief Justice Khil Raj Regmi and Justice Kalyan Shrestha nullified the decision of the Special Court which had, on grounds that ex-post facto laws were not applicable, dismissed the corruption charges against two former police chiefs Moti Lal Bohara and Achyut Krishna Kharel.

The two senior-most judges said that in corruption cases, the rule of retrospectation did not apply and directed the Special Court to initiate hearings on the ex-police chiefs from the initial phase.

The court's decision has sent a wave of debates in the legal sector. This is not the first case when Nepal's Supreme Court supported retrospective laws. Former chief justice Ram Prasad Shrestha even publicly declared that he sent former minister Chiranjibi Wagle to prison not citing the law but on his dream or dialogue with the god.

"Ex-post facto laws are against natural rights and no one can prescribe these," said former attorney general Sushil Panta. "This is equally unjust both in civil as well as criminal cases."

Many say right does not justify the doing that is wrong. However, this is not true in Nepal's context.



Chief Justice Regmi (Left) Justice Shrestha

Article 25 of the American Declaration of the Rights and Duties of Man provides in part that "[n]o person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law."

The right to be tried in accordance to "pre-existing law" is reiterated in article 26.

Similarly, most European states, and all European Union states, are bound by the European Convention on Human Rights. Article 7 of the convention mirrors the language of both paragraphs of Article 15 of the International Covenant on Political and Civil Rights, with the exception that it does not include that a subsequent lighter penalty must apply.

In the United Kingdom, ex-post facto laws are frowned upon, but are permitted by virtue of the doctrine of parliamentary sovereignty. Historically, all acts of Parliament before 1793 were ex-post facto legislations, in as much as their date of

effect was the first day of the session in which they were passed.

Retrospective criminal laws are prohibited by Article 7 of the European Convention on Human Rights, to which the United Kingdom is a signatory, but several noted legal authorities have stated their opinion that parliamentary sovereignty takes priority even over this.

Article 24 (4) on Rights regarding justice of Interim Constitution 2006 says no person shall be punished for an act which was not punishable by law when the act was committed, and no person shall be subjected to a punishment greater than that prescribed by the law in force at the time of the offence.

However, the Supreme Court bench headed by two senior judges even rejected the constitutional provisions showing the court, which failed to clean itself on many scandals, entered the areas crossing its constitutional limit.

Laws should never be considered as applying to cases which arose previously to their passage, unless the legislature has clearly declared such to be their intention. Ex Post Facto Laws are regulations that are created "after the fact".

These laws are created to convict a person of a crime, even though what they did was not considered illegal at the time. It calls for a law to be created which will criminalize an act after it has already occurred to allow for a higher level of punishment for the people who have charges brought against them or to ensure that an individual or group will be convicted of a crime. When these laws are created, a person is allowed to be punished for an action that had been legal at the time.

However, Nepal's Supreme Court opens a new legal course by allowing to take action on the basis of retrospective laws. ■

### AIN: Remembering Peace

Organized by Peace Working Group of Association of International NGOs in Nepal to mark the National Peace Day, a film Sakhi depicted the growing sense of reconciliation as well as the fragile situation in the rural parts of Nepal. Based on the healing story of two girls whose fathers were killed by the opposite sides of Maoists and security forces, the film depicted how the situation in a village of Banke district, where people still see each other suspiciously, was difficult. Directed by AIN's communication officer Mohan Rai, the film highlighted the problems faced by the rural people.

Although the government agencies and political parties seem to be busy in political games, AIN remembered the 21 historic days by bringing people of various INGOs working in Nepal in the areas of peace.

"This is a good program as it reminded me of the importance of peace," said Sadhuram Khadka, joint secretary of Ministry of Peace and Reconstruction. "The government is ready to work with INGOs working in Nepal to bring peace."

Welcoming the guests, AIN SC Peace Representative and Country Coordinator of International Alert Rebecca Crozier highlighted the importance of the day.



Handled by Reshma Shrestha, Anil Shahi and his team performed the peace song.

Kaajal Pradhan, Peace Coordinator of AIN and partnership manager of Restless Development, said this day is a landmark in the history of Nepal.

# “APF Will Handle Any Disaster”

SHAILENDRA KUMAR SHRESTHA

Chief of the Armed Police Force SHAILENDRA KUMAR SHRESTHA is known for his skills and training capabilities. He has worked in the force for more than a decade since he joined it from Nepal Army. Shrestha spoke to KESHAB POUDEL on various issues related to disaster management and APF's capabilities. Excerpts from a half-an-hour interview:

**As you know Nepal is one of the most vulnerable countries in terms of disasters, particularly the earthquake, how capable are the Armed Police personnel in times of major earthquakes or disasters?**

Well, given Nepal's fragile geography and its location between Asia's two tectonic plates, the country is vulnerable and it is the primary duty of the Armed Police Force to launch rescue, search and rehabilitation work in any kind of natural disasters. Along with maintaining law and order, Armed Police Force has also been focusing its attention in the areas of disaster management. Despite the limited resources, we have already turned our organization towards the management of natural disasters.

**What is the level of preparedness?**

This country is vulnerable to earthquake and other natural disasters. It is a disaster prone country. Thus, the level of preparedness needs to be enhanced. What I can say is that we are capable enough to meet a certain level of preparedness. Since we are legally mandated to carry out rescue and search in times of disaster, it is natural for us to enhance our capability.

**Do you have any special plan to mobilize the local people?**

We need to work with local people at the time of major disasters like earthquakes, floods, landslides and fires. Community participation is essential to successfully carry out rescue and search operations.

**How much has the system changed compared to the past?**

In the past, we used to work on traditional basis. We used to call various agencies whenever there was a major disaster. Most of the time, we followed the traditional practices. Now the situation has changed as we are now dealing disasters with appropriate methods, including trained manpower and equipments.

**What is the method of the Armed Police Force?**

So far as the method of the Armed Police Force is concerned, we are making efforts to deal disasters by employing appropriate methods with trained manpower. Thanks to our training and upgradation of level of knowledge, personnel working in the Armed Police Force are able to carry out rescue and rehabilitation works effectively and professionally.

**How did you improve the level of capability?**

We are holding training to make our rescue, rehabilitation and search operation effective. The trainings also enhance the

capability of our force. In one word, we are trying to institutionalize these efforts. We have already formulated five years planning to enhance the capabilities and efficiency of our personnel.

**Do you have any training centers?**

The Armed Police has established a Disaster Management Training Center in Kurintar temporarily. We are requesting the Home Ministry to make it permanent. We want to add disaster management and preparedness as a part of our training.

**How trained are your manpower?**

Till now we have already trained 156 personnel, including officers and non-officers. Following the completion of training, they are now capable to handle disasters and conduct the training for their colleagues. As we need to train more manpower, this process will continue.

**Is this short or long term planning or strategy?**

This is a five year strategic planning. The five years' planning includes training expert manpower at central level and district level. These experts, who get training at central level, can also be used to conduct the training program at various other levels later and they are capable to handle the rescue and search operation at the time of crisis. After training these manpower, we will conduct a series of training to train manpower from various parts of the country. After providing them training, we will send them to regional level and later to the district level.

**What is the focus of the Armed Police Force now?**

Our focus is now to train the officers and non-officers at the regional level. Following the completion of regional level training, we will launch training for district level where Armed Police Force has battalion, border and outposts. APF's Regional Training Center will provide training to district level and outposts. Within five years, all our personnel will have basic knowledge about disaster management including rescue, rehabilitation and search.

**How about the equipment?**

Of course, we don't have big equipments and APF has to rely on the Army. Since taking charge as the chief of Armed Police Force, I have been paying my attention to equip APF with basic goods and things necessary for disaster management at the time of emergency. We need rubber boats, karabiners, ropes and other basic equipments. With our request, the Ministry of Home Affairs has agreed to equip us.

**At a time when the organization like APF does not have even basic equipments for emergency rescue and rehabilitation, how would you handle a fire in tall buildings?**

Of course, we don't have any fire brigade to control the flame in case there is fire in over six stories building. We desperately need equipments to meet the modern apartments

of the valley. Of course, we lack fire brigade to reach there but we have trained police personnel who climb through ropes. It is said that Kathmandu Metropolis and other municipalities have already ordered fire brigade with a capacity to cope with such disasters.

**Let's assume, there is a flame in a 10-storied new apartment, how would you respond now?**

As I have mentioned, we can use ropes to climb the houses to rescue people and control the flame. Our trained manpower have already been deployed to support fire fighters of the valley's fire brigades. They have been supporting them.

**Which are the priority areas of your training?**

Along with rescue and rescue components, we have first aid component in our training. Others include conducting search in collapsed structures, search and rescue training (CSSR) and flood rescue, and fire fighting training. We are also conducting the dead body management. We are also conducting the training on how to search and rescue people at the time of major quake. Our thrust is to enhance the capabilities in disaster management and institutionalize it. We have already started the work as a stepping stone. We are utilizing the minimum level of resources to achieve a maximum gain.

**As Kathmandu valley is vulnerable to earth quake and experts are predicting that it will face a major earthquake any time, how well is the Armed Police Force placed to face it?**

I am proud to say that armed police based in the valley is aware about such a possibility. They have plans and programs to reach the places in case of major earthquake. We have already developed standard operating procedures. In such a major quake situation, we will mobilize optimum level of our personnel in rescue and search operations.

**Again, where do you get the equipment?**

Frankly speaking, we don't have big equipment. We are now trying to understand disaster conceptually. After completing this phase, we will go for equipment. We are taking very seriously the warning issued by experts about the major quake.

**How can you clear debris, let's say, in Ason and Indrachwok without equipment?**

Our survey showed that the residents living in Ason and Indrachwok areas cannot be in a position to help each other in case of a big quake as it will destroy the houses and obstruct the road. The highway and airport will be blocked, the communication facilities and electricity will be cut off. As our organization works under the guidance of the government, we don't need to worry about resources.

**What is the level of coordination?**

We have a very good coordination among various security agencies in maintaining law and order situation as well as at the time of disasters. Our total strength is about 34,000 and we have provided necessary training to them in handling rescue and rehabilitation. I can proudly say that we can deploy all our human resources at the time of disasters in five years.



**Now on human rights, how do you look at their violation?**

There is zero tolerance on human rights violation. We are committed to protection of human rights. With the support from UN Human Rights and National Human Rights Commission, we have developed a booklet which was distributed widely. We have already internalized the human rights issues and it is a part of our training. We use minimum level of force in any demonstration.

Nepal's law and order situation is drastically improved now. After taking over the charge of chief of Armed Police, I have introduced a numbers of reforms program to make our organization capable.

**How drastically improved is the law and order situation?**

It is people like you to feel about the law and order situation. As a chief of Armed Police Force, what I can see is the improvement in overall law and order situation. There is a good coordination among all the security agencies. Compared to last years, the incidents of highway robberies and other such crimes have drastically declined.

**Have you launched any special operation?**

With the operation of Highway Immediate Response Vehicles (HIRV), the number of criminal incidents along the east-west high way was drastically reduced. We have deployed HIRV in more than 60 places along the highway. Along with armed vehicles, we also have ambulances. In case of accidents, our ambulances also provide primary treatment as well as take the injured up to hospitals. Since the launching of the operation on August 18, our team has already rescued the injured. As soon as they received the call, our HIRV team reached the spot. This makes highway driving safer. This was mobilized by operation department. After the beginning of the operation, the incidents related to loots came to an end.



# Will Rahul Blossoms Through Phulpur?

By ABIJIT SHARMA

As India's largest and politically most crucial state Uttar Pradesh (UP) gears up for its 2012 assembly elections, a new leader in the making is buckling up to take the centre-stage in Indian politics.

Congress general secretary Rahul Gandhi kick started his party's election campaign earlier this month from Phulpur town. Amid posters and banners depicting his large pictures, the Amethi MP slammed the ruling Mayawati government for 'misgovernance, corruption and moving the state backwards'. He said, "a hope will arise for the UP only if they vote for a change".

Apparently, the 41-year-old's decision to launch the campaign from Phulpur is quite interesting and holds vital significance: it was from this very constituency that his great grandfather Jawaharlal Nehru was elected to the parliament in the first *Lok Sabha* elections.

This is however not the first time the junior Gandhi has hinted at assuming a greater role in the party and the government. The media has since long been projecting him as the new face of Congress and the future prime minister. And they aren't saying so without any reason. Last August when Congress president Sonia Gandhi left for the US for medical treatment, Rahul was handed the responsibility of looking after the Congress affairs along with four other senior party members; a sign that clearly showed how the young Gandhi was being groomed.

Senior leaders within the party have also visualized him as the next party supremo. All India Congress Committee (AICC) general secretary and one of Gandhi's mentors, Digvijay Singh, has constantly egged him to take more important roles. "He should now take care of us," he recently said. Another member Janardan Dwivedi commenting on rumors of Rahul being made party secretary in a matter of few weeks said that it was just a mere speculation. But he was quick to add: "His role will go on increasing in the natural course. All Congressmen want that".

Some political analysts speculate that Rahul is the most likely candidate of prime minister from the Congress party in the 2014 elections. One reason for this prediction is because of the manner in which he has been slowly climbing the ladder. He got in charge of the National Students Union of India (NSUI), the Congress's student wing and the Indian Youth Congress in 2007, very similar to how his father and former prime minister Rajiv Gandhi had risen to the top. On the other hand, going by the political developments, opposition BJP's most likely contender seems to be Narendra Modi, the present chief minister of Gujarat. And although it would be very early to say anything, if in case both the speculations do come true, the junior Gandhi will definitely have a huge edge over Modi, who is embroiled in numerous controversies.

The tech-savvy leader, often spotted in clubs and parties, is also a hit among the youth. Youngsters, who are frustrated and disillusioned with the present leaders, see in him hope for the future. His recent stints like going to tribal villages, dining with the poor have earned him accolades among the youth, although some have dubbed it a mere publicity stunt. Says Tanvi Agarwal, a Delhi University student, "he definitely has the personality as well as a genuine vigour and dedication". A DU alumnus himself, Rahul is making an effort to connect to the Young India. He has picked up a few burning issues. He has been vocal about the Mahatma Gandhi



Rahul Gandhi

National Rural Employment Guarantee Act (MGNREGA), land acquisition and the tribal rights – to name some of the important issues he recently took up. Earlier in May this year, Rahul made visits to Bhatta Parsaul village in UP to show camaraderie with the agitating farmers who had been subjected to police brutality. He was also lauded for rejecting a position in the cabinet in 2009 during the UPA's second tenure.

For now, the young Gandhi's attention is clearly focused towards UP, where his party has fared poorly in recent years. He aims to bring back the party's sheen in the state for now. But for tomorrow, he seems to be aiming big. ■

सञ्चारमाध्यमले निष्पक्ष भई  
जनतालाई सकारात्मक  
उत्प्रेरणा दिने खालको  
तथ्यपूर्ण सूचना र जानकारी  
दिने खालका सामग्री सम्प्रेषण  
गर्नुपर्दछ ।



नेपाल सरकार  
सूचना तथा सञ्चार मन्त्रालय  
सूचना विभाग

## 2011 WORLD AIDS DAY: Getting To Zero

# How Nepal could Achieve It?

As Nepal is celebrating the World AIDS Day 2011 with the slogan of Getting to Zero in new infection, discrimination and aids related deaths, the challenge is to manage resources to achieve the target

By KESHAB POUDEL

Jagat Shrestha, a resident of Kakarbhitta, an IDU and HIV positive, started to use new needles. "I don't want to infect other colleagues. This is the reason we use a separate needle for each individual," said Jagat.

As awareness grows due to the campaigns of various non-governmental organizations along with groups living with HIV, the situation has drastically changed. Even local NGOs are supplying safe needles for individuals.

Resident of Atariya village of Kailali district of far western region, Sarala Chaudhari (name changed), 22, a commercial sex worker is encouraging her clients to use condom for safe sex. "No condom and no sex," said Sarala, whose clients are mostly the truck drivers. Although the number of commercial sex workers like Sarala is still few, the awareness level among commercial sex workers about possibility of HIV infections through unsafe sex is definitely increasing.

With the resources provided by various INGOs and the government, free distribution of needles and condoms has increased in the areas like Kakarbhitta and towns like Attariya. "The only problem is the police now. Police put us behind the bars in case we carry condoms," said Sarala.

The situation with the IDUs is also similar. "Carrying a couple of needles is always a possible way to go to prison."

Nepal is described as having a "concentrated" HIV/AIDS epidemic, with by far the highest prevalence rates among high risk groups (or Most At Risk Populations, MARPs) such as labor migrants, injecting drug users (IDUs), men who have sex with men (MSM), female sex workers (FSW) and their clients. Labor migrants currently account for about 30% of all HIV

infections as a significant proportion of their population has unprotected sex with multiple partners while abroad (most commonly in India).

NCASC reported total HIV infection as of 17 September, 2011, was Male 11,964, Female 6,571 and total 18,535. The cases reported in the month of September is 139.

As more resources are available to support HIV and AIDs programs, they have brought about positive results. Even Accham district of Far Western Region has seen some impacts following the launching of various intervention and prevention programs targeting the migrant workers and their families.

In the far western region, the government hospitals and health centers failed to carry out intervention programs. According to a study, most interventions for prevention for the most at risk populations Female Sex Workers (FSW), Injecting Drug Users (IDUs) and Males who have sex with Males (MSM) are not implemented by the government NCASC or HIV AIDS and STI Control Board (HSCB) but through some strong INGOs.

"I would like to request all Nepal's development partners and other stakeholders, who had always been with NCASC in bringing NCASC to this point of achievements, to join hands to build more strong collaboration and partnership for greater achievements with available resources in responding to the HIV epidemic in Nepal effectively," Dr. Ramesh Kumar Kharel, Director of National Centre for AIDS and STD Control (NCASC), said.

"Since its establishment, NCASC has focused its activities in increasing service coverage to reach Most-At-Risk-Population(MARP) of the country, minimize transmission of HIV and

provide treatment, care and support services to the people living with HIV who are in need. Despite many challenges, NCASC has gained enough momentum in managing HIV services to the people of the country and has also obtained necessary support from the government counterparts, civil societies, external donor partners and UN agencies," said Dr. Kharel.

Had the flow of resources been coordinated better, the prevention and intervention programs would have become more effective. As there is no strong and effective system to coordinate and harmonise the inflow of resources aimed at prevention amongst Most at Risk Population, there are always disparities in distribution of funds in terms of regions.

"Nepal's problem is not inadequate resources but the problem is with the management. There is a grant of USAID, the World Bank and Global Fund. The problem is the management and coordination," said HIV expert Mahesh Sharma.

Looking at the recent trends, Nepal needs to go a long way to meet MDGs. Nepal's other challenge is now to reduce the duplication of the programs and use the available funds for maximization of results. Experts argue there is a need of a strong mechanism for tracking resources to ensure the continuity of ongoing program in order to clearly reflect the coverage of donor supported programs and the duration of their support.

The major sources for HIV response in Nepal are public, bilateral, multilateral and private/INGOs. According to a study, eight key sources provide the majority of funds for the HIV response in Nepal. A total of US dollars 20.5 million were spent in 2009 and USD

19.1 million obligated for fiscal year 2010.

Among the major donors, Global Funds constitutes the major source of funding which provided 31.3 percent of funds for HIV response for fiscal year 2009, followed by DfID (30.9) and USAID (26.8).

The theme for this year's World AIDS Day celebration is "Getting to Zero - Zero New HIV Infections, Zero Discrimination and Zero AIDS Related Deaths." This will only be achieved by using the available resources in a coordinated manner as well as mobilizing them to reach the targeted population.

The theme was announced on 9 September 2011 in Cape Town, South Africa. This theme is backed by the United Nations "Getting to Zero" campaign and runs until 2015. It builds on last year's successful World AIDS Day "Light for Rights" initiative encompassing a range of vital issues identified by key affected populations.

The overall WAD concept/overarching theme for the next four years will be "Getting to Zero" (till 2015) with the understanding that different groups and regions will focus on a zero which is most relevant to them.

The World AIDS Campaign adoption of "Zero AIDS-Related Deaths" is its World AIDS Day focus for 2011 under the overarching theme of "Getting to Zero".

"Nepal therefore needs to decide if it will also adopt Zero AIDS-Related Deaths as its World AIDS Day focus for 2011 or if it will focus instead on Zero New Infections or Zero Discrimination or all three zeros."

#### Game Changer

A new report by the Joint United Nations Programme on HIV/AIDS (UNAIDS), shows that 2011 was a game changing year for the AIDS response with unprecedented progress in science, political leadership and results. The report also shows that new HIV infections and AIDS-related deaths have fallen to the lowest levels since the peak of the epidemic. New HIV infections were reduced by 21% since 1997, and deaths from AIDS-related illnesses decreased by 21% since 2005.

"Even in a very difficult financial crisis, countries are delivering results in the AIDS response," said Michel Sidibé, Executive Director of UNAIDS. "We have seen a massive scale up in access to HIV treatment which has had a dramatic effect on the lives of people everywhere."



## HIV/AIDS

# The Far West Story

*Despite government efforts, migrant workers continue to bring HIV infections in Achham district of the far western region*

By UMID BAGCHUND  
reporting from Achham

Urmila (name changed), 28, a resident of Oli Gaun of Achham district, lost her husband four years ago. Rawal, a mother of two children, is infected by HIV. A *dalit*, Urmila has to face all kinds of discriminations in the village. Out of 3,504 people, there are 1,514 (43%) males, and 1,990 (57%) females.

Urmila of Oli Gaun is not the only woman suffering that plight. A large number of women, particularly poor *dalits*, are the worst affected by HIV infections.

Despite several efforts of the government and non-governmental organizations, migrant workers continue to bring HIV infection and transmit it to their spouses. According to a recent report, 120 people have already died in Achham due to AIDS.

Little progress has been made in the isolated communalities in the remote areas as most of the uneducated people migrate to urban areas and Indian cities for greater economic and employment prospects leaving married women home. When these migrants return, most of them bring HIV to their wives. Women living with HIV of *dalit* community begin to face double discriminations.

As husband dies, the Women Living with HIV have to bear all kinds of

economic burdens in the household. They have to go from house to house to seek support from all to save their children.

With the Human Development Index of Achham District at 0.325 and ranking of 69 among 75 districts of Nepal, Gender Development Index (GDI) of Achham is 0.275, which one of the lowest of Nepal.

The biggest problems and issues of *dalit*, minority, women and youths are their ignorance and unawareness. The illiteracy rates for male are at 36.9% and for female at 83.8%, for *dalit* (untouchable castes) 68.5% and for other ethnic and indigenous people at 54.8%. *Dalits* are treated as worse and excluded & discriminated from every social aspect. The stigma of HIV adds their burden further.

According to Achham District Development Committee, poverty is rampant in Achham district, 75.1% people have income of less than Rs. 5,000 per year; 12.5% have income at Rs. 5,000-Rs. 10,000 per year. Therefore, population below the poverty line is about 75%. Likewise, 18.21% population of Achham migrate to India as unskilled labor.

A large number of widows, whose

husbands died due to AIDS, have been living under a severe financial crunch. "Accham's poor people who left for India to make a little amount of money end their life with HIV infection," said Yogendra Oli of Bayalpata Village Development Committee.

At a time when Nepal is celebrating the World AIDS Day with the global slogan with Zero infections, the far western region is yet to see such a zeal. The current indication is that a large number of people here die due to AIDS.

Health officials in the district argue that they don't have enough resources to start the programs. According to District AIDS Coordination Committee of Accham, there are 359 people living with HIV and most of them are migrant workers. The committee said HIV has already spread in all 75 villages of the district.

According to Regional Health Directorate of Far Western Region, the region is not getting enough resources to deal with HIV. "Some 10 percent of total population of Nepal lives in far west, there are highest number of HIV infected people," said HIV section chief Dayakrishna Panta. "We don't have enough budgets to carry out the work," Panta said. According to a recent report, epidemiological region-wise analysis shows that the large amounts of funds were allocated for the highway district, 45 percent in 2009 and 53 percent in 2010 and followed by Kathmandu valley with 35 percent in 2009 and 25 percent in 2010. Far-western hills were receiving 10 percent of funds allocated for the districts.

There are 2 ART centers here. Five ART centers are in other eight districts. There are 26 VCT centers in district level hospitals. Seven VCT centers are run by non-governmental organizations. According to the report, 2,036 people living with HIV were taking ART in 2010 and now 4,610 people living with HIV are taking ART.

Although the world community is celebrating the World AIDS Day with the slogan of making HIV Zero, it will take huge resources as well as an awareness campaign to reach the message to Achham. If the far western region should have zero HIV, the high level of poverty should go away before real results come out.

## HIV/AIDS

# Alarm Rings In East

*Due to a low level of awareness, people in Jhapa are seeing high incidences of HIV infection*

UMA KANTA KHANAL in Jhapa

**D**espite a huge spending of resources, the programs to prevent and control HIV and AIDS in the eastern parts of Nepal have proved insufficient as the number of HIV among

IDU cases continues to rise here.

The number of people with HIV and AIDS is likely to go up if more effective programs are not held in the rural parts of Jhapa, Sunsari and Morang.

Sex workers in Jhapa are more vulnerable as only a few people know about safe sex. On the recently celebrated condom day, the organisations working in the HIV and AIDS field were distributing condoms free of cost in Birtamode, Jhapa.

People didn't pick up the condoms, which are used for safe sex.

They just looked in the box and went away. Nobody touched the box until the organisers started to fill air in it.

The thought of the people have not been changed although they know condoms are the weapons to defend HIV and AIDS and other sexually transmitted infections.

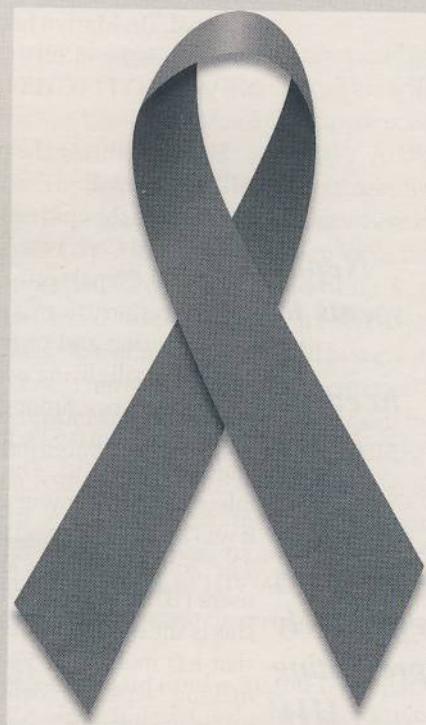
People feel shy talking about the use of condoms.

The trend of transmission of HIV and AIDS through unsafe sex is going up, according to the organisations working in this field.

It is estimated that more than seventy thousand people have HIV and AIDS in Nepal.

The medical officers say the proper use of condoms doesn't allow HIV and AIDS to get transmitted from one person to another.

Dr. B. P. Kharel, a gynecologist said, "But the campaign of this sort is not enough in the rural areas."



People who have gone out of the country for employment have plenty of chances to get HIV and AIDS, particularly from northeast India where the HIV is alarmingly high.

The rural men and women go to India and other countries and get involved in unsafe sex.

The Nepalese women are often sold to the brothels of India. Most women come back after getting HIV and AIDS.

Bhakti Sitoula, who runs a rehabilitation centre for people living with HIV and AIDS said, "The rural people should be aware about this."

He emphasizes that schools and colleges should run related courses.

Investments in HIV prevention programs as a whole have not been adequate or efficiently allocated. HIV prevention investments comprise about 22% of all AIDS-related spending in low and middle income countries. Medical officer of Mechi Zonal Hospital complained that they didn't have enough budgets in the recent years.

# Nepal's Epidemic Characterized Still As "Concentrated"

- DR. MARLYN F. BORROMEIO

"Dr. Marlyn F. Borromeo is the UNAIDS Country Coordinator and has been working in Nepal for the past 4 years" Visited many parts of Nepal, Dr. Marlyn has contributed a lot to raise the issue of HIV/ AIDS. She spoke to NEW SPOTLIGHT on various issues. Excerpts:

**How do you see the present state of HIV/AIDS in Nepal?**

*Nepal seems to be heeding in the right direction towards effectively preventing HIV infection and providing treatment and care to Nepalis living with HIV.*

Based on the epidemiological figures from the National Center for AIDS and STD Control (NCASC), Nepal seems to be heeding in the right direction towards effectively preventing HIV infection and providing treatment and care to Nepalis living with HIV. The national HIV prevalence among adults is gradually decreasing from 0.52% in 2003, 0.49% in 2007 and 0.33% in 2011. The 2011 estimated HIV infection stands now at around 55,600; in 2007 it was about 69,000 and in 2009 around 65,000. The 2010 prevalence among injecting drug users (IDU) is about 6% in Kathmandu, and this is the only subset of the population now that has more than 5% HIV prevalence rate making Nepal's epidemic characterized still as "concentrated". Over 5,000 Nepalis are receiving anti retroviral treatment, with the drugs that treat (but not cure) AIDS. Of course data are never perfect and as the HIV epidemic and its response mature, we continue to improve our tools and methodologies. But still, the signs are good. However, Nepal should not rest on its laurel and be complacent. These gains are so fragile, as we've seen in other countries. Nepal has to continue intensifying its prevention and continuum of treatment and care services to really get to zero new infection, zero AIDS-related death and zero discrimination. While intensifying services, a supportive environment for effective program implementation has to be in place. Hence, there is an urgent need also to review and pass the draft HIV bill. Only when all these (program, policies, resources, enabling environment) are in place and is being implemented effectively can Nepal reach its Millennium Development Goals particularly Goal 6 target 7.

People living with HIV have been complaining that their voices are not heard much in the process of preparing national programs. How do you look at it?



At the national level, mainly here in Kathmandu, men and women living with HIV are represented in various decision-making forums such as the Global Country Coordinating Mechanism (CCM), HIV/AIDS and STD Control Board (HSCB), the previous UNDP Project Management Board, the Coalition of AIDS NGO in Nepal (CANN). During the preparation of Global Fund HIV Proposals, lately Round 10- they have provided substantial inputs. So in that sense, their voices and their inputs are not neglected. But there are still some legitimate issues that need to be deliberated upon and addressed accordingly. For example, the social security of single (widow) women and children infected and affected by HIV remains unaddressed. Most single women whose husbands have died of AIDS are ejected from their home by their in-laws leaving them not only penniless but homeless. These compound their daily struggle of living with HIV and taking care of children who are also infected and/or affected by HIV.

**How do you see the recent trend of containing HIV? Can Nepal sustain it?**

30 years in the epidemic, we now have vast scientific evidences, ground experiences from myriad of settings in the world, and good practice documentations that- unlike in the past, HIV is now universally preventable and AIDS could now be treated. In 2006, the global aim was to prevent new HIV infections and provide continuum of treatment, care and support services to those in need. This year at the June 2011 General Assembly High Level meeting on AIDS in New York, Member States including Nepal, committed to support global initiatives towards "ending AIDS". So the trend is clear. Can it be sustained in Nepal? My answer is: Why not? If effective

programs are continued, intensified and funded; if sound policies will be implemented; and if a supportive and enabling environment will be in place- no doubt Nepal can sustain it.

**As new medicines are coming up against HIV, do you believe that it will be cured?**

We can continue to hope that soon, one day, a cure to AIDS will be discovered.

In the early 90's when I was managing AIDS patients in Manila, it was far from my thought that one day scientists will discover treatment. People were dying of opportunistic infections such as TB, pneumonia or gastro intestinal problems. And we were helpless. There was nothing we can do particularly if their CD4 count went down to less than 200 cells per cubic millimeter (mm<sup>3</sup>) already. It's so painful to see them dying in our hands, and not being able to do anything anymore. But that is history now. Today, even if we know that HIV infection is very complex and the pathogenesis leading to AIDS is still not fully understood, we have seen how the quality of life of people receiving ARVs had improved tremendously and changed dramatically. When you see a patient who is almost dying before taking ARV, and see the same patient after taking ARV- fully conscious, coherent, ambulatory and talking to you face-to-face, it's just incredible! Of course, like other medicines, it also has some adverse reactions and some people couldn't tolerate it.

**Nepal's recent results showed that the number of HIV among IDU and sex workers decline, what is the status of migrant workers particularly in the far western region of Nepal?**

As I said, the methodologies and tools we are using in estimating HIV infections continue to be refined as the quality of our data improves. So aside from just looking at a single absolute number at a given time, it is important to look at the trend over years, and the qualitative factors that affect the spread of HIV. Now based on the reports from NCASC, the HIV prevalence among female sex workers in Kathmandu is almost plateauing at 2% in 2004, 1.4% in 2006, 2.2% in 2008 and 2% in 2010. For IDU, the decline had been dramatic and I understand NCASC is keeping a sharp eye on this and is trying to analyze it.

In the 2010 HIV infection estimates released by NCASC, almost 28% are male labor migrants, and indeed, this is very alarming. There are however, ongoing prevention, treatment, care and support programs for migrant workers in the Far West. In addressing HIV in the context of migration, one needs to carefully look at the whole spectrum of migration process: from pre-departure phase, transit, at the host or destination country, to the re-integration phase upon their return to their communities. Intervention at these phases varies. Researches have shown that high-risk practices to HIV and other sexually transmitted infections for that matter, often happens at the host country. And this is understandably so, since that time they are away from their family, lonely, with friends/peers and have extra money to buy services. So more aggressive programs at the host countries need to be implemented in close

collaboration with authorities of the said host countries.

In the UN, we have developed an initiative on "HIV and Migration" and we are now discussing this with our counterpart in India. Hopefully, we can finalize this joint initiative soon and mobilize the needed resources so it could kick-start immediately.

**What does Nepal's country strategy paper needs to address?**

Nepal is now preparing the next National Strategic Plan (NSP) on HIV/AIDS for the next 5 years, 2011-2016. This will be informed by the review of the past NSP and the experiences gained and lessons learned, from some other HIV/AIDS initiatives in the country. The HIV response should strategically address where the current epidemic is, and anticipate where it is deemed to be going. Shortly, it should continue to focus on targeted intervention particularly for IDUs and other key affected population. If we could lower the prevalence of IDU to less than 5% in the next couple of years, that would be a great achievement and Nepal will move out from a "concentrated" epidemic category. Prevention of new infections, treatment to all, and provision of continuum of care and support should be the mainstay of the next NSP. It should likewise address issues surrounding access to quality services, including human rights, law and gender and mechanism to coordinate and harmonize a multisectoral response to HIV/AIDS. Also, the national monitoring and evaluation system on HIV/AIDS has to be fully functional.

**What is the level of budget and fund available to Nepal?**

According to the "Resource Inflow for the HIV and AIDS Program in Nepal, 2010" released by the HIV/AIDS and STI Control Board (HSCB), in 2009 a total of \$ 20.5 million was spent for HIV/AIDS program and in 2010, around \$ 19.1 million was obligated.

**UNAIDS has been playing crucial role supporting Nepal to cope with HIV. How is your organization supporting Nepal?**

UNAIDS is an innovative venture of the United Nations, bringing together the efforts and resources of the UNAIDS Secretariat and the 10 Cosponsors, namely, UNHCR, UNICEF, WFP, UNDP, UNFPA, UNODC, ILO, UNESCO, WHO and the World Bank. In Nepal, aside from the 10 cosponsors, FAO, IOM and UNWomen are also part of the UN Joint Team on AIDS. Our mandate is to support countries achieve its global commitments to zero new HIV infection, zero AIDS-related death and zero discrimination against people infected and affected by HIV. To carry this out, we have an agreed UNAIDS Division of Labor that clearly stipulates what specific thematic area of the HIV/AIDS response each agency will be responsible with, based on each agency's mandate and comparative advantage. This is our accountability framework.

In Nepal, we will be developing a Joint UN Program of Support on HIV/AIDS that is envisaged to be the UN's single document articulating our collective support to the country's National Strategic Plan on HIV/AIDS 2011-2016. ■

# 'HIV/AIDS Programs Focused On Most-At-Risk People'

RAJENDRA MAHATO

Minister for Population and Health RAJENDRA MAHATO is one of the known politicians with capacity to work. After taking the charge of the Ministry of Population and Health, minister Mahato, a leader of Madhesh based party- Nepal Sadbhavana Party- has already started to clean up the health sector institutions, including the country's old Bir Hospital. As Nepal is celebrating the world HIV/AIDS day, minister Mahato spoke to KESHAB POUDEL on government policies on HIV/AIDS. Excerpts:

**What is the strategy of the government on HIV/AIDS in the context of celebrating the World AIDS day?**

As this year's World AIDS Day slogan 'Getting to Zero - Zero New HIV Infections. Zero Discrimination and Zero AIDS Related Deaths,' the government is directing all its programs towards these goals. Our national policy and program is guided by National Policy on AIDS and STD 2011. We will activate the National AIDS Council, National HIV/AIDS and STI Control Board and National Center for AIDS and STD Control (NCASC).

**What are your special efforts?**

Our effort is to ensure universal access to quality treatment, diagnostics, care and support services for infected, affected and vulnerable groups in Nepal within a context of a comprehensive response to HIV and AIDS.

**What about the resources?**

Of course, there is always a scarcity of resources in the health sector. So far as the funding for HIV/AIDS is concerned, we have good money. We have already spent a lot of resources to increase national capacity to provide quality diagnostic, treatment and care services, increase availability of appropriate and differentiated care and support services to infected, affected and vulnerable population. One of the positive sides is that we have increased involvement of private sectors, civil societies, communities and family for treatment, care and support to the infected and vulnerable groups.

**What about the state of funding?**

We don't have problems with funding. Nepal's development partners, particularly UNAIDS, has been playing a very important role in supporting the government agencies to enhance their capabilities. We have also received funds from Global Fund and other multilateral and bilateral agencies. There is the need to have certain coordinated approach to use the resources to get optimum results. These approaches will be continued by the government through financial support from the Pool Fund partners, Global Fund for AIDS Tuberculosis and Malaria (GFATM), USAID and other donors.

**What are the challenges?**

Despite success, increased access to quality treatment, diagnostics, care and support for ART, STI and OLS Stigma and discrimination reduction are some challenges. Community and Home Based Care, Pediatric Care (Including Orphan and vulnerable children), Impact Mitigation Program are others. Yet other challenges include prevention and clinical management of HIV/AIDS related illnesses and expansion of Antiretroviral therapies Management of HIV related co-infections.

**How serious is the government about HIV/AIDS epidemic?**

One of the achievements of our HIV/AIDS program is that we are able to stabilize the HIV. As you know, Nepal is described as having a "concentrated" HIV/AIDS epidemic, with by far the highest prevalence rates among high risk groups (or Most At Risk Populations, MARPs) such as labor migrants, injecting drug users (IDUs), men who have sex with men (MSM), female sex workers (FSW) and their clients. Labor migrants currently account for about 30% of all HIV infections as a significant proportion of their population has unprotected sex with multiple partners while abroad in (most commonly to India).

**What is the government doing for the future?**

As agreed by the world leaders, who gathered in New York for the 2011 United Nations High Level Meeting on AIDS, we are working to develop a strategy as expressed in Global Plan to gain significant strides towards eliminating new HIV infections among children by 2015 and keeping their mothers alive. Preventing new HIV infections among children in Nepal is very important as that saves lives and prevents the infection to the children.

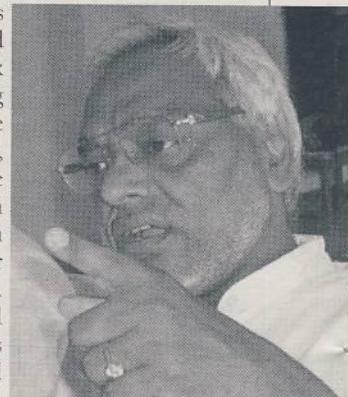
**What is the state of pregnant women?**

Providing pregnant women living with HIV with antiretroviral prevention and treatment is very important as it will reduce the risk of a child being born with the virus. We can only achieve a generation free of HIV and AIDS by focusing our efforts on the mothers and children at greatest risk and in greatest need. We need to focus on a series of specific policy and programmatic measures which ensure that all pregnant women living with HIV have access to HIV prevention and treatment services and that new HIV infections among children are eliminated by 2015.

**What is the state of HIV now?**

HIV and AIDS epidemic has evolved from

low and now it is concentrated among High Risk Groups, injecting drug users, female sex workers, clients of female sex workers, men who have sex with men and labor migrants. Heterosexual transmission is dominant. Total HIV infection



reported as of 17 September, 2011 was 18,535 with 11,964 males and 6,571 females. The recently released Integrated Biological and Behavioral Surveillance (IBBS) surveys 2011 also indicate that the targeted intervention approaches among most-at-risk populations, designed by the Government of Nepal, are successful in preventing HIV and STI infections and contribute to achieving overall success of the HIV and AIDS response in the country.

**Do you have any special plan for the future?**

In collaboration with all stakeholders, NCASC is committed to further strengthening the national HIV response and extending services to those not yet reached so that these positive results can be sustained and improved. We are also stressing to take the leadership by district health managers in the fight against HIV and AIDS so as to achieve the Millennium Development Goals (MDG-6) by 2010.

**It is said that frequent political interventions is causing problems in dealing with HIV. How do you look at this?**

I don't think there is frequent political intervention. The transfers are made as per the requirement of departments. The ministry has given full authority to NCASC for coordinating and managing HIV/AIDS epidemic and STI control in the country.

**Where is the government focusing its attention now?**

The government is focusing its activities in increasing service coverage to reach Most-At-Risk-Population (MARP) of the country, minimize transmission of HIV and provide treatment, care and support services to the people living with HIV who are in need. Nepal has gained enough momentum in managing HIV services to the people of the country. The government alone cannot achieve such a big target. It needs support from civil society, Nepal's donor partners and private sector also.

# “Hoteliers’ Congress Great Opportunity”

MADHAVOMSHRESTHA

Executive Director of the Hotel Association of Nepal MADHAV OM SHRESTHA is a well known person. He has served as the executive director of HAN for over one and a half decade. Shrestha spoke to NEW SPOTLIGHT on various issues regarding the state of hotel business in Nepal. Excerpts:

**What is the importance of the World Congress of International Hotel and Restaurant Associations?**

At a time when Nepal is celebrating Nepal Tourism Year 2011, hosting an event like the World Congress of International Hotel and Restaurant Associations is very significant. This is the second time Nepal is hosting the World Congress. We hosted the first in the 1980s. Although we were continuously bidding to host the congress for the last three years, the organizers selected Nepal for this year.

**How is hosting the Congress is significant?**

As Nepal is promoting Nepal Tourism Year with an aim to bring a million tourists in 2011, one of the aims of the Congress is also to promote tourism. Thus, it has a very significant role in sending the message in the present context. This is also a great opportunity for us to sell Nepal to the international tourism market as many top tourism entrepreneurs are also coming to take part in the Congress.

**What other advantages will Nepal have from this?**

For instance, some of the participants are the owners of world's renowned chain hoteliers. The conference will give them a chance to see the overall scenario of the hotel business in Nepal. They may find Nepal as a place for investment.

**How many countries will take part in the Congress?**

Many countries have shown interest to take part in the congress. We are expecting the participation of 30 to 40 countries. If you see the quality of participants, they are mostly senior hoteliers.

**How possible is it to increase the participation?**

Had the air fare and accommodation been cheaper, the participation would have gone much higher. The cost of air tickets in Nepal is very high and there is

a very limited connection to several destinations. These are hindrances in the way to increasing the number of participation.

**How do you evaluate Nepal Tourism Year 2011?**

Given Nepal's present situation, it has been a grand success. We have been able to bring nearly a million tourists. It is itself a great achievement. This also sets a new precedent showing a successful model for public private partnership. Despite lack of aircraft with the national flag carrier and the political instability, arrival of tourists has been significant. Had Nepal Airline had its own carriers along with political stability in the country, the arrival would have gone much higher.

**What do you think is the reason behind the increase in the number tourists?**

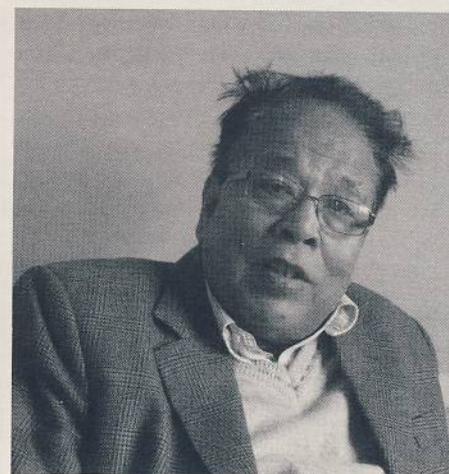
One of the major things was the decline in the number of bandhs or general strikes. As a mountainous country, Nepal has enough places that can lure the tourists and Nepal does not need to market its places. The Himalayan peaks as well as the religious and cultural sites of Nepal are well renowned. If we can guarantee the law and order, and provide adequate connecting flights, Nepal has a lot of advantages to sell its tourism potential.

**It is reported that all the star hotels are packed now. Is that true?**

Due to increasing number of arrivals of tourists, it is very difficult to book hotels. There are 10,000 rooms available in the valley out of 28,000 rooms available in the country. Due to conflict and uncertain political scenario, no one has invested in the hotel sector. Even some of the star hotels like Narayani, Sherpa, Kathmandu Hotel, Woodlands and a number of other small hotels are shut down due to the trade union labor problems. The recent results of lack of hotel rooms are the result of labor strike and uncertain political situation. Had labor law protected the interest of hoteliers and the political situation been normal, Nepal's situation would have been much different.

**What needs to be done to bring more tourists in Nepal?**

The recent experiences have shown



that Nepalese do not have to do anything to lure tourists. If political parties and other organizations denounce the general strike, the country will see a lot of tourists.

**How do you see the state of tourism sector in general and hotel sector in particular?**

Well. Some hotels were shut down during the time of conflict. Some even shut down due to labor problems. Hotel Blue Star, Hotel Kathmandu, Narayani Hotel, Woodland Hotel, and Sherpa Hotels are some examples. Some hotels like Durbar Hotel used to shut down from time to time as it had a little impact. Nobody knows when hotels will shut down. Small hotels are even run in rented buildings.

**How do you see situation ?**

Despite all the difficulties, the partnership between the government and private sector has brought a lot of changes. We need to appreciate them. During the Nepal Tourism Year, we have achieved a lot. Although the budget allocated for the Nepal Tourism Year is yet to be spent, we have made a lot of progress. Even the budget allocated for the promotion of tourism is lapsed and a huge portion of budget reportedly spent on other purposes. Even the promotion budget allocated for the tourism year is yet to be spent. The new minister has said that the Nepal Tourism Year Program will not remain for the year 2011 but it will continue for another five years, giving assurance to tourism entrepreneurs that the budget will be utilized. ■

# The Youth Held Back

BY ADITI ARYAL



When we are young we are blinded to believe in what the elders around us do. As we learn to identify with those similar to us, we tend to again see things in their light. Even as playful school kids, we hate the late comer and the school bully for we can by then see what is 'good' and 'correct' in terms of those who guide us. This phase passes too, and we turn into adolescents, struggling to carve our own identities.

However, it is this stage when we try to fit into a world run by adults, but are still treated as children. It is also the time when we are filled with dynamism and fervour, but kept back by cultural restraints, conventional etiquettes, and ceiling high expectations. It is the time for one to be passionate about something and try their hardest to achieve it. Sadly, this is the time when a struggling identity seeker gasps for freedom. Freedom not just to do or say what they want, but freedom to think the way their same age people do.

While we grow into fresh youngsters, we see how what we think conflicts with what we have always been taught. Nonetheless, we recognize how similar it is with those who are growing with us. We then turn into the same bully or the late comer we despised years ago, and the irony is it does not matter anymore. Not even a bit!

This means as we grow, so do our thoughts. They change over time and we no longer think the same as we did years back, be it on wearing skimpy clothes or that neighbourhood guy with an eyebrow piercing. This is where it contrasts with what elders around us think. Elders look in us the mannerisms they spent years imparting into us. When interacting with us, they always tend to forget the difference of years. This is why our conversations end with banging doors and hurling things across the room.

When the younger generation people opine, they are asked to lay back and repeat all that which has been carried on for ages. They are held back by the murkiness of what their elders have been taught. Just because your daughter adores Lady Gaga does not mean she will

turn out to be like her. Likewise with your son who fancies wrestling. In this age, where everything can be seen as rungs of opportunity, youngsters are asked to do what is conventional and prosaic, affected by our commonplace perspectives.

While I talk about youngsters and their freedom, I definitely do not suggest breaking of family norms. It is very well understood that each family has their own principles which guide the actions of the members. But what I try to suggest is that the norms could be flexible over generations. And, communication is very

that, they do for being understood. Like the cliché goes, this is a very vulnerable age. Like the hackney does, the indomitable responsible adults try to control most of it. The young then have no freedom at all. A child grows not into an adolescent, but into an individual who entirely does not belong to his generation. Believe me when I say this, it is an utter mismatch of emotions, leading to total misplacement of self.

So, do we say that the energy the youth possess should be directed into creating a happy world tomorrow or



Youth in Politics

important, as much as it is to know where to draw the line of flexibility. This would not only let the young explore panoramas of their pick, but give them a sense of satisfaction if they find what they want with their own experience. This, as I would put it, is very much better than imposing commands, and thrusting them into directions which do not match their destinations.

While the youth crave for appreciation and recognition, more than

should it be submerged under what has always been happening? Do we want history to repeat or to take a new course? In this so-called competitive world, do we want parents to exert constant pressure on children, compromising their entire youth? Or, do we let the children learn from mistakes they themselves make? At this stage, we cannot be specific as to what should be done. But we categorically need to question ourselves if the youth is really fading. *(Aditi is an A Level Student)*

**Global Coverage**

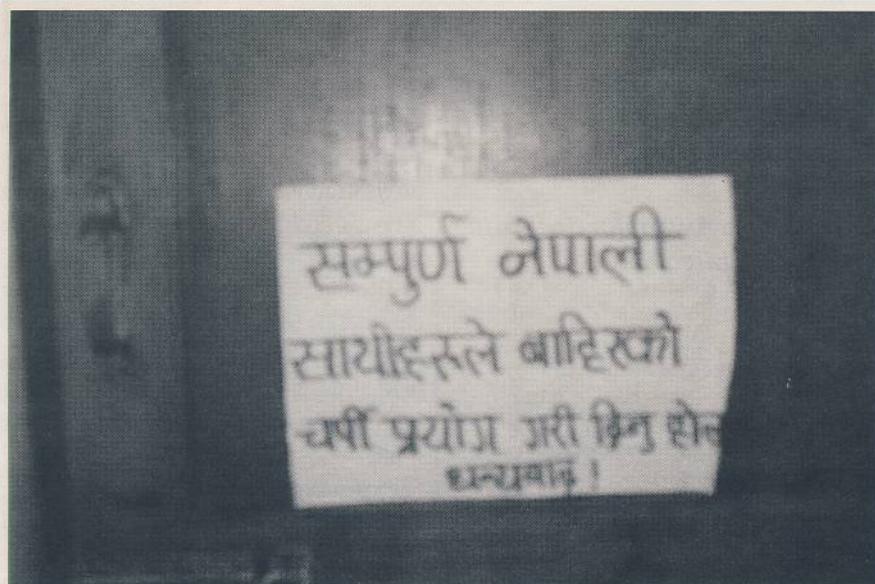
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## Nepali Pan Commercially discriminated

By ALOK TUMBAHANGPHEY

**A**s a Nepali, I had always dreamt of trekking to Everest Base Camp and seeing the old “mother of the skies” up close and personal. The only deterrent was the cost involved, for I had heard rumors of the trek being “commercially discriminating” against Nepalis. But, the practice of charging Nepali and foreigners differently is common so I dismissed these as simply rumors. However what I saw in Naamche, not only left me appalled at the discrimination fellow citizens faced, but also made me wonder whether the tourism industry which was supposed to benefit all, was actually doing so.

It is no big secret that foreigners are charged differently and above Nepalis for any service in Nepal. Whether its taxi driver fleecing foreigners fresh out of the tarmac or hotels offering different rates for domestic and foreign tourists, different charges are a common practice in Nepal. While there is no doubt that foreigners with higher income have higher spending capacity, and perhaps it is characteristic of capitalism to give

priority to those who can pay, but no one seems to be giving enough thought to the discrimination suffered by others.

My fears turned ghastly true, in a hotel in Naamche. As a part of a group that included 21 *bideshi* trekkers, four Sherpa guides, one Nepali trekking leader and myself, headed to Everest Base Camp, I was able to witness firsthand the negative and positive “commercially motivated” discriminations faced by Nepalis in Nepal.

“We have rooms for the foreigners but none for Nepalis,” said the manager of the hotel we had booked in Naamche, rather obnoxiously, when the Nepali trekking group leader and yours truly went to inquire about our bookings. Fortunately, our veteran trekking guide knew the hotel owner personally and managed to get him to talk to his manager to give us “Nepalis” rooms along with our “foreign” guests. Talking to the porters in our group, I realized that they were being accommodated elsewhere. Never before and nowhere else in Nepal had I as a Nepali citizen, felt more ostracized than here in the lap of Everest.

But the shock and awe did not end

there. Looking around for the men’s room I followed the universal sign and came upon a door that to my utter disbelief and discontent had a notice in Nepali that read, “All Nepali friends, please use the outside toilet. Thank You”. Anywhere else in the modern world such a sign discriminating fellow citizens would have been burnt.

Yes, my fellow Nepali citizens who work in the trekking industry as guides, porters, kitchen staff and others cannot pay in crisp dollar bills like our foreign guests, and they might not have learnt the bathroom etiquettes that modernized Nepali hoteliers think all westerners have, but they are still Nepalis. If the tourism entrepreneurs are really serious about developing the industry here, they should be training those Nepalis involved in the tourism industry how to better present themselves, not putting up discriminating signs that reeks of racism. And that too in an industry that is supposed to be promoting hospitality.

Getting out of Naamche, along the trail to base camp, however, I soon realized that not all hoteliers and lodge owners were discriminating. The tea house and lodge owners beyond the competitive and bigger markets of Naamche or Lukla, were in fact even more hospitable to Nepalis than they were to foreigners. Nepali guides are welcomed as old friends even if you were a first timer, called to the kitchen served meat and drinks, allowed free charging of cell and camera batteries, and even given some snacks for the way. They might have to sleep in the dining halls for lack of rooms, but they are not asked to use different toilets. Capitalism and its entrapments are understandable, but if those promoting tourism really want to ensure Nepal’s tourism industry gets a good name, they should be investing more in the backbone of the industry, the guides, porters, kitchen staff, and even the yak, jokyo, mule, or donkey herder, and not discriminating against them as though they are second class citizens.

As the media made headlines of trekkers stranded in Lukla last week, I wondered what the Nepali guides were doing. Unsurprisingly so, not one media asked any of the Nepali guides, porters, and others about how they were doing. ■

DR. NIELS GUTSHOW

# Worthy Work

*Dr. Gutshow, a German citizen, received Fukuoka Award for dedicating his entire life for preserving Nepal's ancient architecture*

By A CORRESPONDENT

**W**here a person works matters more than where he is born. Although Dr. Niels Gutschow was born in Germany, he spent all his productive life promoting and preserving Nepal's architecture.

Renowned German archeologist Dr. Gutschow, a professor at Heidelberg University, received the Fukuoka Prize 2011 at a special function at Patan Durbar Square in recognition for his work.

The function was organized by Fukuoka Award Committee, with support from Kathmandu Valley Preservation Trust and Embassy of Japan in Nepal, and the amount of the prize is equivalent to Rs. 2.5 million.

"As an architectural historian and conservator, Dr. Niels Gutschow has made a remarkable contribution to the conservation and revival of historical buildings. In particular, he has developed conservation programs for ancient and religious buildings, including neglected religious sacred sites and buildings which are on the verge of collapse in Nepal, India, Pakistan, thus greatly stimulating progress in conservation theories and techniques, and having a practical influence on conservation practices across Asia and in Japan," said Dr. Fujihara Keiyo, a professor of Kyusyu University and vice chair of arts and culture selection committee while reading out the prize citation for Dr. Niels Gutschow.

Although Dr. Gutschow was born in Germany, his contribution in preserving Nepal's historical site is highly important. "In Nepal, there are many

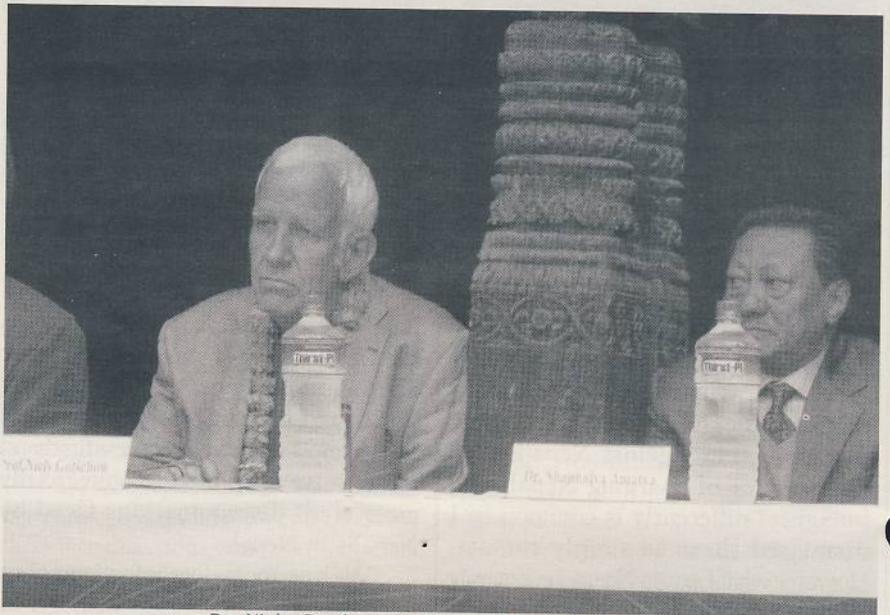
historical and architectural works made of bricks and wood. These construction materials are peculiar to the historical buildings in Asia. Dr. Gutschow has shed a light on the historical value and significance of those buildings through his research focusing on the characteristics of those unique materials and the history of the construction methods, thus established the most

Welcoming the guests, chairman of Kathmandu Valley Preservation Trust Dr. Safalya Amatya said that honoring Dr. Niels Gutschow is an honor to Nepal's preservation efforts. "Gutschow has made an enormous contribution in preserving Nepal's architecture. He is one of the most deserving for this," said Amatya.

Dr. Gutschow came to Nepal just after completing his university education forty years ago. The architecture and artisans of Bhaktapur attracted him so much that he finally made Bhaktapur as his next home.

Speaking at the program, Dr. Gutschow said this award has recognized his preservation efforts. This is not only his success but the success of all Nepalese artists and artisans who were involved in this novel task.

Earlier, Nepali scholar Dr. Ram Dayal Rakesh secured Fukuoka Prize in 2004



Dr. Niels Gutschow (Left) Dr. Shaphalya Amatya

suitable technological solution to the architectural conservation in Nepal," said Dr. Keiyo.

Kunio Takahashi, Ambassador of Japan to Nepal, expressed his happiness to take part in such an important program. "Nepal is a naturally and culturally beautiful country and I am happy to be a part of the program which is organized to recognize a person dedicated to preserve the architecture of Nepal," said Japanese ambassador Takahashi.

in folk culture studies. The award winners include Bangladesh's noble laureate Mohammad Yunus in 2001, and Zhang Yimou, film director from China.

Established in 1990 to honor outstanding achievements by individuals or groups/organizations in preserving and creating unique and diverse cultures of Asia, the aim of the award is to foster and increase awareness of the value of Asian cultures as well as to establish framework within which Asians can learn from and share with each other. ■

## Durban Climate Talks

## High Hopes On Nepal

*As Nepal leads the Least Developed Countries in the coming Durban Climate Talks, its role will assume an international focus*

By KESHAB POUDEL

Despite its participation in all the previous COPs, the COP 17 is going to be different for Nepal as it has to raise the issues faced by the Least Developed Countries as well as projecting the issues faced by the mountain countries.

At a time when there are wide differences between developed and developing countries like G77+ China and Least Developed Countries over the issue of funding for mitigation as well as the funding for adaptation, Nepal's effective leadership will be sought by all.

The negotiations to find a global solution to the problems of climate change, primarily under the umbrella of the United Nations Framework Convention on Climate Change (UNFCCC) process, have yielded little. The last two annual sessions (called Conferences of the Parties, or COPs) agreed on vague generalities but essentially postponed resolving disputed details. Even the biggest boosters of the process hold out little hope for concrete achievements at the next COP in Durban,

South Africa, which will begin in late November.

The 1997 Kyoto Protocol, rejected by the United States, put flesh on the UNFCCC's bones. Annex I countries — industrialized countries that were OECD members in 1992, plus former Soviet bloc economies in transition — agreed to emissions reduction targets. Developing countries (non-Annex I nations) — China and India, for example — were held to more limited obligations. And all were allowed to meet their targets in any way they wanted.

In 2009, COP might have been a chance to start anew. For the first time, a climate conference attracted world leaders, who were able to conclude an accord to hold global temperature within two degrees Celsius and create a system of voluntary reduction pledges in COP 2009.

## Question Is How Do We Get Funds?

PURUSHOTTAM GHIMIRE

PURUSHOTTAM GHIMIRE, joint secretary at the National Planning Commission, is a focal point of UNDESA+ Rio 20. Ghimire, who took part in previous four Conventions of Parties (COP) of United Nations Framework Convention on Climate Change (UNFCCC), spoke to NEW SPOTLIGHT on various issues regarding forthcoming Durban Meeting of UNFCCC. Excerpts:

How do you look at the 17 UNFCCC meet going to be held in Durban, South Africa?

Nepal has been participating in the UNFCCC meet since 1995 but there were no records about Nepal's participation and stands up to COP 13, which was held in Bali in 2007. I started to take part in UNFCCC Conference of Party since Bali, which was known for its Bali Action Plan in the context of implementation of UNFCCC resolution. Bali Action Plan focuses basically on four pillars that include mitigation, adaptation, financing and capacity building and transfer of technology. Nepal signed the declaration on 12 June 1992 and ratified it on 2 May 1994. Similarly, Nepal entered into force in 31 July 1994. The COP 13 was also important as it approved the long term cooperation action and the debate is going on regarding various important issues. The COP 14 which was held in Poznan discussed the issues raised in Bali Action Plan. It was only after the COP 15 which was held in Denmark's capital Copenhagen the issue

of Climate Change came into public limelight. Nepal too had got the headline by organizing the cabinet meeting at the Kalapathar above 5,000 meters in Everest region. Nepal's prime minister Madhav Kumar Nepal led the big delegation of 84 members in the summit.

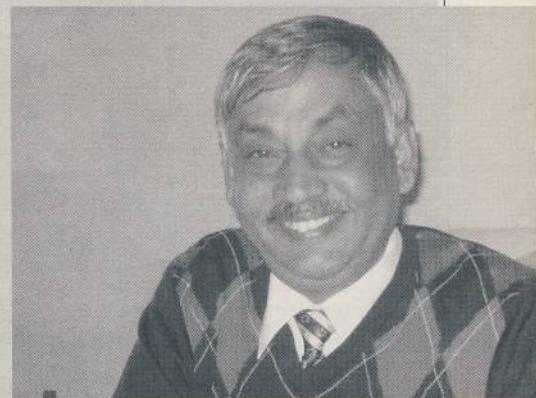
Why is Durban summit important for us?

The forthcoming Durban Summit is important for Nepal as Nepal is chair of the LDCs group. Definitely, our UN ambassador will lead the team. I would like to see we request annex 1 countries to provide necessary fund for adaptation, and technology.

As you know, most of the countries which took part in the Cancun Summit were happy after its completion because most of the demands of the least developed countries are accepted there like Green Climate Change Fund, Technology Transfer. From Cancun to Durban, there is the need to build a foundation for the achievement we have made. Second important aspect is going to the future of the Kyoto Protocol. After 2012, if the Kyoto Protocol will not be continued what would happen on the responsibility of Annex 1 countries. If you see the UNFCCC convention, it has clearly mentioned the responsibility of developed and developing countries. They have to act up to their capacity.

What would be the possible outcomes of Durban?

The major outcome of Durban will be



to continue the Kyoto Protocol for the commitment of Annex 1 countries to continue. We need a legally binding document from Annex 1 countries and the problem is that Annex 1 countries are denying the legally binding document. There is no clarity about the green house gases and the funding is also not clear. Least developed countries and developing countries are in desperate need of funds. Some countries are talking about bilateral and others about multilateral funds. They have already allocated a fund but they are not available for the least developed countries. My question is: where is the fund and how do we get it?

We are facing the difficulties to acquire the fund. Implementation of green climate change should be the agenda and the fund is distributed according to the needs. Some of the countries are getting more funds and others are not getting them. ■

## 'One Voice For Durban'

-KRISHNA GYAWALI

As the Conference of Parties 17 on United Nations Convention on Climate Change is going to be held in Durban, South Africa, Nepal is leading a delegation to take part in the conference. Environment secretary KRISHNA GYAWALI spoke to NEW SPOTLIGHT on various issues in that context. Excerpts:

**What is there for the least developed countries like Nepal in COP 17?**

COP 17 has several agendas. For Nepal and the Least Developed Countries like Nepal, the agenda which is going to matter is adaptation and mitigation. In mitigation, we will see the extension of Kyoto protocol. The Kyoto Protocol will expire in 2012 December. The first commitment period will conclude by then. The protocol was adopted in 1997 and was effective from 2005. Seven years were in the first commitment period. Then what next? An interim order or continuation? This is very important for a country like Nepal and least developed countries. Our stand is 1.5 degrees Celsius, but the developed countries want less than 2 degrees Celsius. The Annex 1 countries are also flexible in temperature. In a recent meeting in Dhaka on climate vulnerabilities, the participant countries stressed the need to stick to 1.5 degrees Celsius. Least Developed Countries, and G 77+ China have been demanding the temperature at 1.5 degrees Celsius as a global temperature. By 2070 how much pollution needs to be reduced. There is the need to reduce the pollution by 50 and 55

The COP in Durban this fall will have to consider the future of the Kyoto Protocol, which by its own terms ends its "first commitment period" in 2012. It is also tasked with filling in the missing details from the previous rounds of negotiations and reconsidering the differentiation between Annex I and non-Annex I countries. And it must do all of this — as in any negotiation under UN auspices — under ground rules where any single nation might block the will of all the others.

The UNFCCC was opened for signature on May 9, 1992, after an Intergovernmental Negotiating Committee produced the text of the Framework Convention as a report following its meeting in New York from April 30 to May 9, 1992. It entered into

percent. The rate of reduction is also important. Developed countries or Annex 1 countries are demanding that the grouping like Brazil, India China and South Africa and Argentina also need mitigation. Nepal's contribution is negligible in mitigation as its contribution is 0.025 only. BRICS countries are trying to deviate from it. The role of LDCs is very important this time as the challenges before LDCs is to bring Annex 1 countries and G77+ China together.

**As many groups are going to Durban from Nepal, how do you plan to ensure coordination among them?**

We are trying to intensify in country consultation. We held at least a couple of such consultations. What I am trying to do is at least to make common stand among the government delegation. We cannot control those who are going in the observer status and but we can make certain status as party status. There must be a common stand from official delegates. The official delegates include some officials of INGOs like WWF, and Climate Change Network. We will hold a major consultative meeting under the chairmanship of the minister for environment. We are also planning to form a forum for consultative meeting. We are developing some mechanism for allocation of responsibility, sharing feedbacks and reporting.

**What about renewable energy program?**

We can link renewable energy program with mitigation and there are five components under PPCR. This is 86

million dollar concessional credit project. We have just 0.2 service charge. Out of five components two are related to Ministry of Forest and one component is related to the Department of Hydrology and Meteorology on climate related hazard. Another project is under our ministry which is related to how to mainstream the climate. Other is related to private sector and agriculture. All the components in the projects are in the process of take off. We have completed NAPA and cost with 325 plus but we are yet to have enough funds.



force on March 21, 1994. As of May 2011, UNFCCC has 194 parties. One of its first tasks was to establish national greenhouse gas inventories of greenhouse gas (GHG) emissions and removals, which were used to create the 1990 benchmark levels for accession of Annex I countries to the Kyoto Protocol and for the commitment of those countries to GHG reductions. Updated inventories must be regularly submitted by Annex I countries. The parties to the convention have met annually from 1995 in Conferences of the Parties (COP) to assess progress in dealing with climate change. In 1997, the Kyoto Protocol was concluded and it established legally binding obligations for developed countries to reduce their greenhouse gas emissions.

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**What about LAPA?**

Now we are working how to turn the National Adaptation Plan into Local Adaptation Plan of Action (LAPA) which has already been approved by Climate Change Council. Nepal Climate Change Support Program is part of the program which the government is implementing in 13 districts of mid-western and far-western region.

**Conferences of the Parties**

The first few meetings of the Conference of Parties were held in Berlin in 1995, Geneva in 1996, Kyoto in 1997, Buenos Aires in 1998, Bonn in 1999, The Hague in 2000, and Bonn Germany in 2001. The meetings took place in 2002 in New Delhi, India, and in 2003 in Milan, Italy. Buenos Aires, Nairobi of Kenya, Bali Indonesia, Poznan, and Poland hosted the meetings before the 2009 Copenhagen Denmark, and 2010 Cancun Mexico meets.

The United Nations Framework Convention on Climate Change (UNFCCC) was opened for signature at the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro (known by its popular title, the Earth Summit). On

## 'Nepal's Presence Will Be Visible'

- DR. DINESH CHANDRA DEVKOTA

Former vice chairman of National Planning Commission Dr. DINESH CHANDRA DEVKOTA has been actively taking part in Nepal's development sector. Dr. Devkota has also been actively taking part in the issues related to climate change at the policy level. As Nepal is going to take part in COP17 in Durban of South Africa, Dr. Devkota spoke to NEW SPOTLIGHT on various issues related to climate change and development. Excerpts:

**What is there to look up to in COP17?**

Instead of asking what is there for Nepal in COP17, I see the COP 17 as a process. Frankly speaking, Nepal's visible presence in COP has been seen just after COP 15. Although Nepal has been taking part in COPs from 1 to 14, they went unnoticed. Only after success of Jaandolan II, people have started to take part in all the activities more openly. This is the result of the current growing awareness on COP. The awareness level at bureaucracy and political level has grown as much. The issue of COP became a public agenda as the debates scale down to the civil society and NGOs level. The tradition to discuss and debate on climate change falls to grass roots. Thus, there is intense debate and discussions on climate change related issue, particularly COP. Although the Copenhagen accord is not a legally binding accord, Nepal has made association with the accord with three conditions. The conditions are: easy access to finance, enough finance and temperature level at 1.5.

**What issue does Nepal need to raise there?**

In COP 17, Nepal needs to raise the issue within the limitations of these three conditions. We also need to support the move to extend the tenure for Bali Action Plan of Action which is going to expire this year. We need to stress for easy access to transfer of technology and enhancement of Nepal's capabilities. How can we enhance technology? We have to stress for enough finance and easy access to finance. There should not be any conditions in accessing the funds.

June 12, 1992, 154 nations signed the UNFCCC, that upon ratification committed signatories' governments to a voluntary "non-binding aim" to reduce atmospheric concentrations of greenhouse gases with the goal of "preventing dangerous anthropogenic interference with Earth's climate system."

We have to stress for the fund on which Nepal has easy access as well as the fund should be allocated through a system under which Nepal is able to spend.

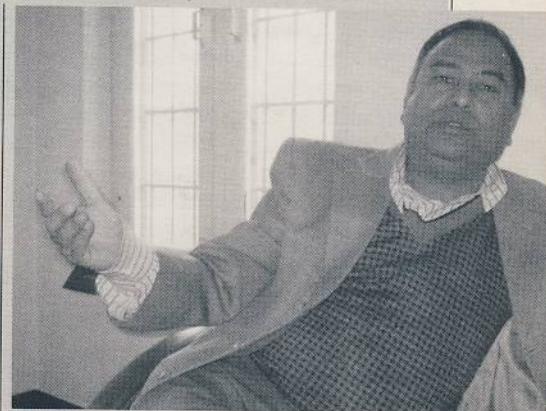
Although Nepal is one of the most vulnerable countries in terms of climate change, it is yet to get adequate funds to implement programs. In this context, what role should Nepal have?

We need to request for more funds in the international arena. There are 48 LDC countries. Nepal started preparing NAPA document just three years ago when many LDCs had already handed it over. Similarly, we did have climate change policy, PPCR, vulnerability assessment and scale up renewal energy fund. Nepal needs to strongly raise the issues faced by LDCs. As a citizen of Nepal, what I can say is that Nepal needs to enhance its technical and other capabilities, otherwise we cannot justify international scientific community about our position. This is a major challenge. We have to have a strong argument to defend our stand that Nepal should stick on 1.5 degree Celsius. For this, we need to have data base to show the world community how snow will melt in case of rise of 1.5 degree Celsius temperature. We have to develop modeling about the loss of water in our rivers. We need to hit where we need support for capacity building.

**At a time when the country's farmers have been paying up to 17 percent interest rates to get the bank loans, some civil society organizations have been opposing the concessional climate loan with mere 0.5 interest rate. How do you look at this?**

For instance, there was a hue and cry in pre-consultative meeting about the funding issue. Many raised the slogan: no loan to climate change. The slogan sounds good as it is bad to have loan. If the government cannot take loan, it is good to make arrangements for our private sector to move to take a long with just 0.5 percent interest rate per annum. If we cannot take the loan, there are many countries like Ghana, Bangladesh and other LDCs which have already expressed

Nepal has been participating in UNFCCC meets since 1995 but there were no records about Nepal's participation and stands up to COP 13 which was held in Bali in 2007. Nepalese officials started taking part in UNFCCC Conference of Party since Bali which was known for its Bali Action Plan in the context of implementation of UNFCCC



willingness for it. The state can decide whether the government wants it or not. First of all, we have to calculate how much Nepal has to bear in interests and other things. We need to decide such issues on the basis of reason and evidence, not on the basis of sentiment. You cannot develop the country by breaking the bar in Ratnapark.

**It is said that Nepal's civil society often objects to such moves without doing a detailed homework on the matter. How do you look at this?**

'No loan to climate change' is a good slogan to read. At a time when Nepal government is borrowing the money from international agencies by paying much higher interest rate for the development projects, we must calculate pros and cons of the climate loan before taking any decision. We have to consult even the private sector about this fund. I am not defending the loan but my argument is that we have to decide the matter following intense study. In a country where farmers have been paying up to 15 percent per annum interest rate, the interest rate of 0.5 percent is much lesser. Since we are not a banker, we cannot say advantage and disadvantage about it. Thus, we have to invite private sector to see it. Instead of analyzing it professionally, we just take political agenda for loan. In a country, with frequent changes of government, the important thing is continuity in the process. Why don't we ask cooperatives to take this concessional loan, if they can handle it? ■

resolution. Bali Action Plan focuses basically on four pillars that include mitigation, adaptation, financing and capacity building and transfer of technology.

Nepal signed the declaration on 12 June 1992 and ratified it in 2 May 1994 while bringing it into force in 31 July 1994. ■

## Bill made to establish proposed Penal Code (Punishment Determination and Execution), 2067

### 1. Introduction

Every political community or state must accept a punishment system although it is a complicated issue. This is an essential pre-condition for any organized political community to evolve into a state. A state will not be able to fulfill its responsibilities and continue itself without legal/official punishment systems. It is a controversial issue that must be settled politically. Punishment is therefore a global characteristic of a state. As punishment itself is a response or a result it is associated with the definition of crime. With the evolution of the state, it is established principle that the state is the only authority to exercise punishment and that no other than the state has legal rights to exercise it. Definition of crime, its nature, punishment decision process and options, regular and timely correction and amendment of different sectors, modern concepts, and global standards are being developed slowly. Due to the advent of new principles such as democratic values, rule of law, human rights and individual development which are taken as global standards, it is bound to affect any democratic state's punishment system and policy. It is also the same for Nepal.

As the new constitution of the country is currently being formed and the state has accepted various international laws and responsibilities related to human rights, the "Penal Code Amendment and Correction Taskforce" coordinated by Honourable Justice of the Supreme Court Kalyan Shrestha, has prepared drafts that have recommended amendments and corrections in the various penal systems and policies such as the Crime Code 2067, Criminal Offense Code, 2067, Criminal Offense (Punishment Determination and Execution) Act, 2067 and presented it to the Legislative Assembly which is currently reviewing it.

An attempt to codify penal codes in Nepal

Attempts to unify, codify, correct and amend the different penal codes and punishment systems of Nepal have been made on various occasions. These can be summarized as follows: Nepal Punishment Bill 2012, Penal Code and the Penal Process Code 2034, Penal Code

prepared by the Commission formed on 2019/2/19, 2030, Criminal Act Code 2034. Suggestions on these were prepared separately and published in the Nepal Gazette. The third attempt was made in the form of the Penal Code and Criminal Activity Code 2058/59. The currently proposed penal code is the fourth attempt.

Major parts of the proposed Penal Code (Punishment Determination and Execution) Bill

The proposed bill for the Penal Code (Punishment Determination and Execution) Act, 2067, is a new concept to accept Nepal's crime and punishment system. Before this there were no special laws or systems in place to determine punishment and execution. This bill (with the preamble) was proposed as it was deemed important to establish proper punishment determination system for criminal offences. The Bill has taken into account general principles related to punishment, provisions related to fines, jail term, alternative options and compensation provisions. The special characteristics are as follows:

6.1 Definition: For the implementation of the proposed act terms such as: offender, law, probation officer, probation and parole board, social worker, have been clearly defined.

6.2 Implementation of the Act: The Act shall only be implemented in cases of offences where the court has to decide punishment and its implementation. It cannot be implemented in cases of contempt of court, in cases where the Legislative Assembly has taken action, and in cases where it is written that the provisions in the Act may not be applicable. The Act can only be used in implementing punishments imparted as per the judicial model where a certain law has provisioned for a certain fixed jail term, fine or punishment for a certain offence.

6.3 Provision for separate hearing: It has provisioned for a separate hearing while determining punishments for an offender and is not applicable for offences where the offender is jailed for three years or has to pay a fine of Rs 30,000/-. When providing separate hearings for such offences unless the hearing judge dies, is retired, or is unable to fulfill his/her responsibility due to

serious illnesses, the same judge has to sit through the hearing and determine the punishment.

Provisions included in the Bill that need to be amended or corrected:

There can be no debate that the Penal Code (Punishment Determination and Execution) Act, 2067, which is coming as a special act to determine punishments for offences, has a special importance. However the Act should only come into effect when it is able to adequately address and include acceptable principles and exercises in its use. The final draft of the bill already tabled in the Legislative Assembly is seen to be incomplete. There are still places for improvements. Although there are always provisions for timely corrections and amendments in the law, bringing the law into affect when the spirit of the preamble and acceptable values itself are in opposition might be controversial. The necessary corrections in the bill have therefore been summarized as follows:

Name of the Act: The name of the proposed bill is "Penal Code (Punishment Determination and Execution) Act, 2067". The name itself does not represent the Act and is incorrect. It would be advisable to name the act as "Punishment Determination and Implementation in Criminal Offences Act, 2067". As the Act is related to determining punishments and its implementation it is not necessary to put them in brackets and instead keep it open.

Definition: Although terms defined in the Definition section have been correctly defined some terms such as "criminal offence", "punishment determination", "execution of punishment" must also be defined. This will reduce possible complications during its implementation. Likewise the terms defined under Article 15(2) "abominable offences" and "grave offences" must be kept under Article 2.

General Principles Related to Punishment: Under this all the objectives of punishment have been kept inside objectives of offence. Concepts of punishment perspective and correction perspective when dispensing punishment which have evolved radically must be included. Corrective aspects of

punishment must be prioritized when dispensing punishments so that the offender has an opportunity to improve and rehabilitate in society. If there is no visible possibility of the offender improving or correcting, there should be provisions under Punishment Determination Objective (Article 13) to identify, segregate from society, and discourage such offenders.

Contradiction to the provision of penal code: Article 44 of the code provisions for upto six months imprisonment for offenders above 10 years of age and below 14, for those between 14-16 half the punishment handed to adults, and for those between 16-18 one third the punishment handed to adults. However Article 16 (2) of the bill states that unless children commit abominable offences, grave offences, or repeated offences, children cannot be handed jail terms. The law contradicts itself in cases where a girl child who has committed offences liable to earn her three years jail term, she is only liable to get six months jail term unless the offence is abominable or grave. The provision in Article 44 that specifies the jail term for those offenders who cannot pay fine also contradicts with the system. As the proposed bill will determine the process it should not enter into the substantive laws. If substantive laws need to be changed it should be appropriated in the penal code.

There should be unanimity between the penal code and this act.

Provisions related to compensation: Article 48 of the Penal Code provisions for the court to order the indicted offender to immediately compensate the victim or dependent, however there are also provisions for the offender later cleared of charges to claim back the compensation paid. Even if this bill has not spoken about it, as the given provision is inappropriate, the provision must be amended to have the state fulfill the compensations for the defendee who has been cleared off the charges, taking the responsibility of being unable to safeguard the victims rights to itself.

Provisions for monitoring: As per Article 24 of the proposed Act, when suspending jail term and giving a standing order, ordering residential stay, or sending the offender for social service, there is no provision determining who shall recommend and who shall monitor. Likewise there are no provisions or systems for officials or agencies to monitor those who have been freed on rehabilitation grounds (Article 24),

those on parole freed after completing two third of their jail term. There should therefore be provisions enabling the creation of an agency to ensure that the objectives behind freeing them are met, there is regular monitoring and supervision and a regular report is prepared and submitted to the freeing authority.

Meaningless prohibitions should be removed: Although it seems as though the proposed Act has taken punishment as the last option in principle it is clear that the Act considers jail as the first option. However this does not depend on the offence or the jail term but the offender. The Act has not been able to understand or accept this very important aspect of punishment dispensation.

Should not include subjects to be provided for by Substantive Laws:

Article 15 (2) (b) of the proposed Act provisions for double punishment of the last offence for repeat offenders while in subsection (c) of the same act provisions for one third extra punishment of the offence for those who are in a government office, public or organized association or organization and misuse their authority or official power. As only the Penal Code can provide for punishments, additional provisions related to punishment must be included in the same code.

Lack of victims participation in hearing: Victims participation has not been given space in the punishment determination hearing. Victims participation is important in determining punishment for the offender and should be included in the Act. This will enable the victims assistance in determining punishment to the offender.

Significance of departing from A.B. 188 : The laws currently provisioned by A.B. 188 are special provisions of Nepal's judicial system. This provision and its use can be criticized in many places. However it is not necessary to depart from the principles accepted by this provision. Considering the lack of capable human resources in the judiciary, in many of the cases where excellent decisions have been made, when recommendations are made to reduce punishment through the final decision of the Supreme Court, this provision has been seen to be used mostly in cases where a newborn child has been murdered by its mother, in cases where the principle arguments have not been used for general defence,

and because no research has shown that it is time for the Nepali legal system to depart from this, its significance has not been established.

### Conclusion

Punishments must be metted out to the offender and not the offence. Only the punishment determination process can establish a qualitatively and quantitatively appropriate punishment. The individualization of punishment must be accepted as an important aspect of punishment determination in the criminal law system. Individualization of punishment means to assign the punishment as per the grievousness of the offence rather than the offender. This main principle of punishment determination is not clearly reflected in the preamble. All offenders jailed for more than three years may not have the capacity to correct themselves whereas those jailed for more than that period may correct themselves and become good citizens. Therefore jail term served should not be used as the only basis for determining punishment. In cases where there is no other option than jail term, and cases where the jail term is less than three years, a radicle hearing of the punishment must be accepted.

If the above mentioned points are included in the appropriate manner it will bear good results.

This research has been conducted by Prof. Dr. Ranjitbhakta Pradhanang and Shreprakash Upreti for the Nepal Constitution Foundation and finalised with the input of women, indigenous communities, Madhesi, youth and pressure groups from other communities. The Foundation is grateful to Dr. Bal Bahadur Mukhiya, Sanj Lama, Lava Kumar Mainali, Rameshraj Pradhan, Dr. BK Raya, Dr. Shankar Kumar Shrestha, Advocate Surendra Kumar Mahato, Ganesh Bhattarai, Kiran Gupta, Anita Joshi, Gopi Biswakarma, Gyanendra Prasad Adhikary, Nirmala Shakya, Nirmala Poudel, Dilip Kumar Khawas, Yuvaraj Rayamajhi, BB Rai, Phurpa Tamang, Abhishek Adhikari and Dr. Bipin Adhikari.

*This research has been conducted with the help of The Asia Foundation. However the opinions expressed here are solely of the writers themselves and do not represent the views of The Asia Foundation.*

# “JanaiKhatira” Aka Herpes Zoster

-By BUDDHA BASNYAT, MD



Herpes Zoster, which is commonly known as shingles in English, has a more descriptive and apt Nepali name, “JanaiKhatira”. “Janai” is the sacred thread worn by Brahmins and Chettris and the skin rashes (“khatira”) often follow the distribution of the thread



around the chest and back (picture). In many instances regarding diseases, Nepali names are very apt. For example, Nepalis call typhoid fever “myadhejoro” because the fever without antibiotics usually lasts for 3 weeks. This time frame can also help doctors distinguish typhoid fever from other illnesses. But back to JanaiKathira—

With the “Janai” in mind, it should be easy for Nepali medical students to make this diagnosis when they see this kind of skin lesion in their patient. In medical examination, these lesions in

patients are shown and you have to make a “spot” diagnosis. This can always be challenging under the glare of the strict examiner, but this “khatira” is so common that it is important to make the diagnosis so that we can then help the patient properly. “JanaiKhatira” should not be mixed up with “JanaiPurnima” the annual Vedic festival of the sacred thread when among other celebrations, Nepalis rapidly climb up to Gosainkudna for a holy dip in the lake at 4300 m and risk altitude sickness. Clearly both, the “Purnima” and “Khatira”, have to be taken seriously. Today we will deal with the “Khatira”.

These skin lesions caused by the herpes zoster virus are painful, and it is the same virus that causes chickenpox. A person who has had chickenpox is at risk because the virus which lies dormant in the nerve can reactivate later in life. Although herpes zoster can occur at any age, this problem is more common among people 50 years of age or older. Usually it starts with painful itchy rash with blisters. It can appear on the trunk or the face and is usually on one side of the body and lasts for 2 to 4 weeks. Many times before the rash is seen, there is intense pain at the site where the lesions will show up, but before the lesions show

up there will be a period of confusion as to what is going on. So proper examination is required and a proper history taking skills are important in the diagnosis of JanaiKhatira.

The main complication of herpes zoster is the pain that follows after the rash has subsided. The pain is called post herpetic neuralgia. There is severe skin sensitivity described as burning and sharp pain or itchiness in the area where the rash appeared. Importantly the pain can be so severe that it can disrupt sleep and make everyday activities difficult to perform. Sometimes shingles may also cause ear pain and vision loss.

There are oral antiviral drugs locally available in Nepal like acyclovir, which may reduce the duration of pain and accelerate the healing of the rash. Early treatment may also help avoid complications. But can this painful, common problem be prevented?

Yes, but not in South Asia because of the unavailability of this expensive vaccine. In an “ideal” world everyone > 60 years is recommended this vaccine. In Nepal we try to make a proper diagnosis and administer effective drugs. When what is ideal is not practical, what is practical has to be adequate. ■

## ISRAELI MEDICAL CLOWNING

# Not A Joke

Although it has been closed down now, National Construction Company Nepal (NCCN), nobody denies, made a lot of contribution in Nepal’s transformation. Israel had supported the establishment of the NCCN, thanks to which, Nepal reached the present state in the development of construction industry. Nepalese construction industries learned skills and technologies from NCCN.

Similarly, Israel is the pioneering country which supported in developing training facilities for the Royal Nepalese Army personnel, especially in parachuting. Sprinkle irrigation has brought a drastic change in the agriculture production in Nepal.

Through MASHAV Scholarship Program, 1300 Nepali experts have been trained in Israel in the field of agriculture, education, community development, environment, health, and management. MASHAV also organizes training programs in Nepal where Israeli experts are trainers.

Since the establishment of diplomatic relations between Nepal and Israel, Nepal has gained experiences and insights from Israel in areas covering agriculture to construction.

The latest support to Nepal in medical clowning is another landmark in the relations between the two countries.

“The fun begins with games and understanding the children. It is rightly said that ‘When in Rome, do as Romans do’. To work with children, one has to act like children and try to understand them,” this is how David Barashi, popularly known as DHUS among his small friends, started sharing his experience as a Medical Clown.

Barashi, the Medical Clown from University of Haifa, Israel, was in Nepal to share his experiences and expose the selected medical professionals (that includes doctors, nurses and lecturers) in the clowning activity in the hospital that helps to bridge the gap between the practitioners and the patients.

Medical Clown is one of the Israel Embassy’s three projects dedicated to the children for the year 2011. Dedicating the month of November and December for the

liveliness of the childhood, the Embassy of Israel together with Dhulikhel Hospital, Kathmandu University Hospital, organized

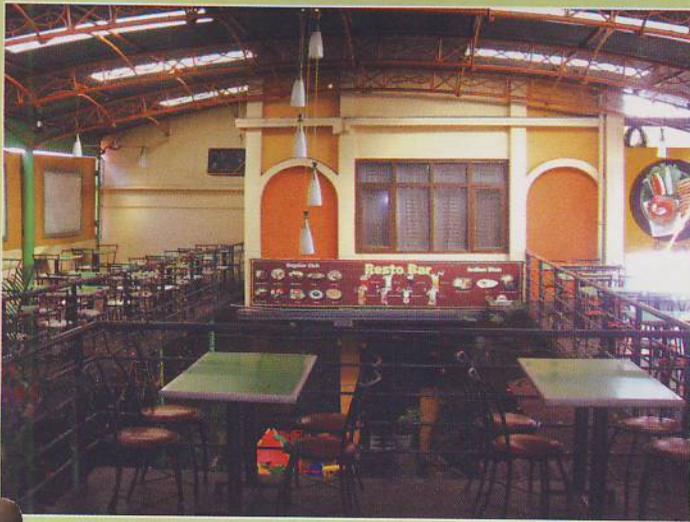
“Training on Medical Clown” focusing on children at Dhulikhel Hospital from 16-21 November 2011, coinciding with the Universal Children’s Day on November 20.

A total of 30 trainees were trained during the 5-day workshop. The trainees were given basic idea on how to provide relief to the children in trauma or going through a tough time and establish a relationship between caregiver and the patient in a humorous way. The main goal of introducing Medical Clown in Nepal is to spread the knowledge of the term ‘Medical Clown’ itself. The workshop would be fruitful in easing the children in going through surgery and other medications.

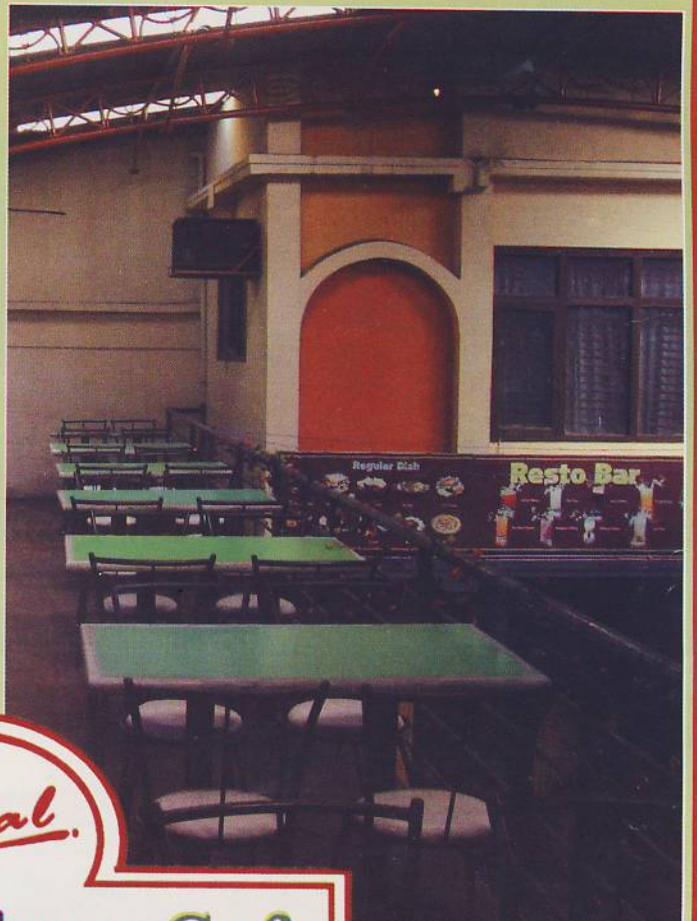


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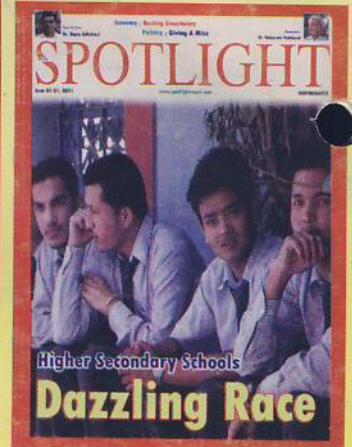
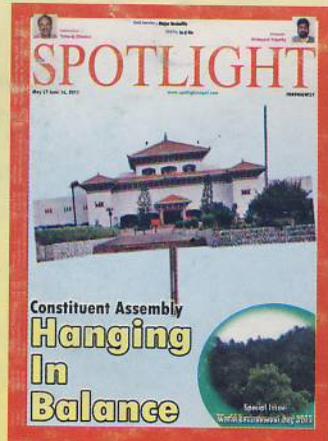
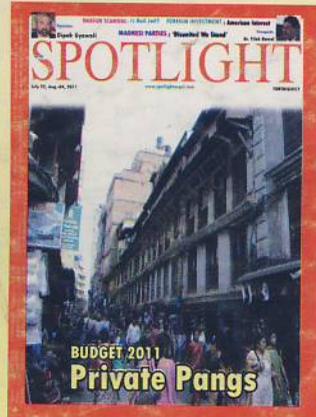
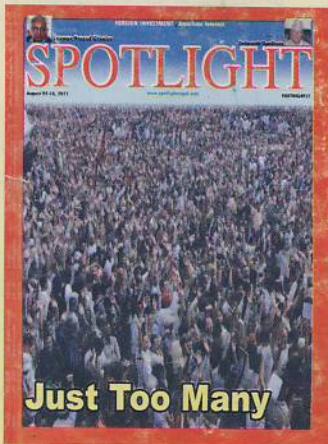
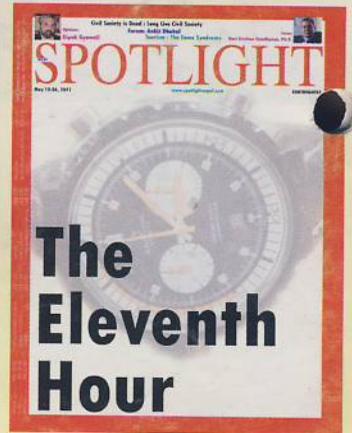
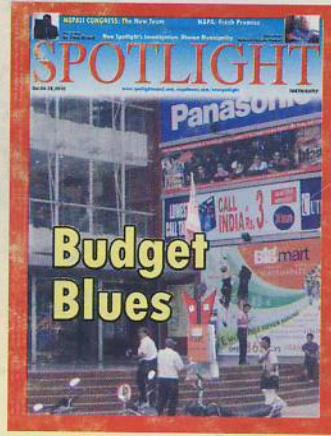
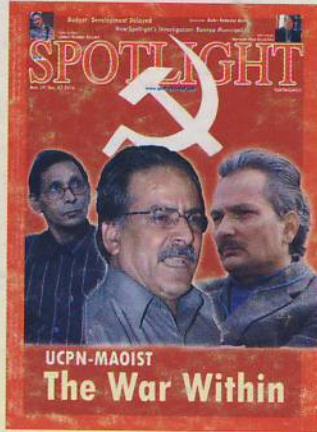
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