

Why House Revival?

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A question is often asked as to why and how the revival of the house of representatives (HOR), as demanded by the agitating political parties, will solve the present political crises in Nepal. the answer must be found on the following:

I. The present political crisis arises from tow sources, namely, the Maoist insurgency and the royal takeover. After the royal takeover, the governments lacked legitimacy. The democratic legitimacy to a government can be provided only by a functioning parliament. The parliament elects the Prime Minister and gives him the confidence. The restoration of HOR which was dissolved before completing its term, is the easiest route to create a functioning parliament. With this in place, at least one source of the present crisis will be over. Of course, election can be held to create a new parliament. But until the time the security situation allows to hold free and fair election, the restoration is the most practical way to fulfill the void.

II. The HOR represents the sovereign power of the state. People exercise their sovereignty through their elected representatives. The parliament ensures accountability of the government to the people. In the absence of this institution at present, the king is exercising the sovereign power. The government is made by and accountable to the king. The root cause of the present political crisis of Nepal is precisely this. The king is both the executive and the legislature. He is accountable to no one but to himself. he defends such a position based on his "inherent authority and responsibility" argument. This argument is untenable.

III. The parliament is the only institution which can act as a check to the king's ambition and encroachment on the constitution. The king was able to trample the constitution only in the absence of the HOR. If the HOR had been alive and functioning the king would never have dared to act in a way he did on 4th October and 1st February. This explains why the king instantly and promptly acted on Deuba's recommendation to dissolve the HOR at midnight of 22nd May. This dissolution paved the way for his eventual takeover. The last government led by Deuba had a broader support base, as it included UML and RPP also. But that did not stop the king from sacking the government. This would not have been possible if the HOR had existed.

IV. The constitution has been derailed now in the absence of HOR. Once the HOR is in place, the Constitution starts functioning and there will be no alibi to invoke article 127. The Constitution of the Kingdom of Nepal 1990 does not envisage a situation where there can be a parliamentary hiatus for more than six months. When the election for HOR cannot be held within this period, it is only logical that the previous House be revived until the time a new election is held. this has been the firm opinion of the people who were responsible for drafting the constitution including its chairman Bishwonath Upadhaya. the conventional wisdom is until the time you have a new popular mandate, the previous mandate holds good or acts as a proxy.

V. Some people say that the Maoist crisis was there even when there was a functioning parliament. True, the parliament in itself is no guarantee to solve the Maoist crisis. The Maoist problem is complicated and will take lots of efforts, energy and skill to solve. But the fact remains- in the absence of democratic institutions including a functioning parliament and a legitimate government, the problem would be even more difficult to address. Experience worldwide shows that democratic institutions are the best mechanisms to address the conflict situation. There is no military or autocratic solution to the problem. It is in this context, that the seven agitating parties have come up with the Maoists based on a progressive and inclusive agenda, amend the constitution to provide for the constituent assembly, and hold election for the same under international supervision.

VI. A section of the intelligentsia feels that the HOR revival issue has now become outdated. They say: let us go for the Constituent Assembly directly. That will solve the problem. The Maoist also have the same opinion. By following this route, you agree to reject the present constitution and by implication the legitimacy of the People's Movement of the 1990 which created this Constitution. This will fully establish the legitimacy of the Maoist violence and their 'people's war'. This is precisely what the Maoist want. They have been saying that the 1990 movement was incomplete and therefore their revolution was necessary. By rejecting the present constitution for such a course, there is a sure risk of falling between two stools. This course is risky and could also invite the rightist backlash. The king also may be looking for an opportunity to dismiss the present constitution in favor of something which will further strengthen the monarchical power and position. It is no secret that the two forces which did not like the 1990 constitution were : the monarchists and the radical left represented largely by the present day Maoists. Therefore, even to go for a constituent assembly, the present constitution must act as the stepping stone for the sake of legitimacy.

VII. It is also not clear whether the Maoists are prepared to lay down arms, if their demand for the CA is accepted. There must be full commitment to the violence-free liberal multiparty democracy and the arms must be renounced for good. This will have to be negotiated with the Maoists by a legitimate and representative government accountable to the people.

VII. Development activities in the rural areas have come to a standstill in the absence of elected representatives and democratic institutions. Once the HOR is revived, the popular pressure will reactivate and even enliven them to address popular grievances.