

**His Majesty's Government of Nepal**  
**Concept of forward-looking reforms in the State System**

(Concept on forward-looking agenda on the reforms of the state system presented by His Majesty's Government, including HMG's view on the proposal of the Nepal Communist Party (Maoists) on Baisakh 14, 2060 BS (April 27, 2003)

**Background**

1. Gradual and continuous reform in substance, structure and values of the state authority, together with the process of social development, is a natural phenomenon. Historical development and events in the modern Nepal after the unification of the Kingdom is also a testimony to these realities. The latest set of reforms and changes in the process were established by the People's Movement of 2046 BS (1990). Sovereignty vested in the people, constitutional monarchy and multi-party democracy are the fundamental achievements of 2046 BS.

The Constitution of the Kingdom of Nepal was formed in the course of institutionalising the political reforms of 2046 BS. In spite of certain inconsistencies and obstacles in the implementation of some constitutional provisions, the constitution is alive and functional to date as an excellent document in view of the democratic values and norms.

2. After the change of 2046 BS, the state certainly has made important achievements in various areas. However, there has not been expected success in the process of achieving the objective of political, economic and social transformation in accordance with the expectation of the people for change. After the reestablishment of the multiparty democracy in the country, a big wave of hope and expectation had arisen among the people on the possibilities of economic and social progress. There was a belief among the people that the economic and social differences and traditions of exploitation institutionalised for centuries would fade out in the democratic environment and new aspects of progress would be open to indigenous people, ethnic groups and various cultural groups. But, these potentialities could not be converted into reality during the course of new exercise in democracy. A democratic constitution was formed. Structures were ready. General elections were held. But the fruit of democracy could not reach all the people in a manner to induce the desired change in the people's lifestyles in real terms. Though the expectation against the exploitation, discrimination, inequalities and deprivation remaining suffocated in the society for centuries could have an opportunity to be articulated in the democratic environment, these problems could not find appropriate solution. Democracy was nearly confined to formality.

Formation of government through elections, constitutional checks and balances, and socio-economic transformation are mandatory factors for a democracy. These factors are complementary to each other. In the course of our democratic exercise, there could not be coherence and inter-relationship among the electoral democracy, constitutional checks and balances and efforts of socio-economic transformation. As a result, many distortions and anomalies were created.

3. It is well-known that there had been a recurring voicing of the need to introduce broad and forward-looking reforms in the existing constitutional system even from within the constitutional forces for the creation of an environment in which the fruit of democracy could be shared by all the Nepalese people, correcting the mistakes and weaknesses in the process of conducting the business of the state in the past thirteen years.

4. In the meantime, there has also been a fundamental change in the balance of equation between the political forces. There has been a basic change in the structure and balance of political power that had existed in 2046 BS and new political forces have been seen significantly in the national politics.

Given the above background, it is a must to bring about forward-looking changes in the state system in accordance with the popular will. Under the concept of the principle of sovereignty being vested in the people, multiparty electoral democracy, constitutional checks and balances, and forward-looking socio-economic transformation should be the mandatory factors of reforms in the state system.

Accepting the abovementioned realities, an effort has been made to present a summary of framework of reforms in the state system, rather than focussing only on the issues raised by the Maoists.

### **Objectives**

Following should be the objectives of the forward-looking reforms in the existing state system:

- a. Building a political system that can accommodate and ensure participation of all Nepalese people.
- b. Creating equal opportunities for self-development of all Nepalese people,
- c. Developing a political system on the basis of contemporary balance among the political forces.
- d. Creating an egalitarian society bringing an end to all kinds of inequalities, discrimination and exploitation.

### **Mandatory Bases:**

Sovereignty vested in the people, constitutional monarchy, multiparty democracy, and preservation of and promotion of the national integrity and unity shall remain the mandatory bases for the future course of development of the nation state system of Nepal.

### **Fundamental Policies and Principles of forward-looking reforms:**

1. Promoting the national pride and identity of Nepal preserving independence, national unity and territorial integrity of the country, and preventing any divisive tendency in the country,
2. Developing Nepal as a capable and developed nation state, achieving the objective of social upliftment and modernization,
3. Creating equal opportunity for self-development of all the Nepalese people eliminating all kinds of discrimination on the basis of caste, gender, religion, and race,
4. Providing the benefits of the welfare state through the just and equitable system in all walks of national life,
5. Strengthening the national economy adopting open market -oriented economic policies,
6. Developing effective local autonomous governance system increasing the participation and reach of the people in the governance system.

### **Main aspects of the forward-looking changes**

Following shall be the main aspects of the forward-looking changes in the nation state system:

1. In accordance with the values that the people are the decision-makers in the conduct of the business of the state, the sovereignty of the nation should be vested in the people. A system for conducting the business of the state in accordance with the popular will through representatives responsible to the people should be guaranteed. The Constitution should clearly define the procedure of the practice of sovereignty by the people.
2. The role and importance of the Nepalese Monarchy is irreplaceable for the continuity and preservation of the sanctity of the national independence and territorial integrity of the country uniting all Nepalese people comprising of various languages, religions, ethnic groups and cultures. Therefore, the institution of monarchy shall continue to remain as a symbol of Nepalese nationality and national unity. The changes of 2046 BS and the Constitution of the Kingdom of Nepal (2047 BS) have already defined the position and esteem of the monarchy. The system of constitutional monarchy should be developed according to these very norms.
3. The essence of democracy is people's rule. In other words, democracy is the system of conducting the affairs of the state by the people through their representatives. As the political parties established on the basis of various ideologies are the carriers of the popular expectation and will, there is no dispute that the system based on the competitive multi-party democracy is the best system of governance. Therefore:

- a. Multi-party democracy should continue to remain as the backbone of the future state system of Nepal.
  - b. A constitutional guarantee should be put in place for making it impossible to ban the existence and activities of the political parties.
  - c. Appropriate legal bases should be prepared for making the structure, programs and financial sources of the political parties continuously transparent, democratic and respectable.
4. The legitimate source of the conduct of business of the state is popular verdict expressed by people through elections. The past experiences have proved that distortions and anomalies can arise if the elections could not be free and fair. Besides, the wider and more representative the verdict expressed through elections in the parliament, the broader will be the basis of legitimacy of the conduct of the business of state. Therefore:
- a. The esteem, autonomy, jurisdiction and authority of the Election Commission should be strengthened so as to preserve the free and fair the elections.
  - b. In view of the past experiences, a system of neutral caretaker government should be put in place three months before the polls to ensure free and fair elections.
  - c. Except in a few sectors, a system of proportional representation should be introduced in order to the create basis for expression of a broader popular will in a people-oriented manner in major elections.
5. The concept of popularly elected government is the compulsory factor of the democracy. A constitutional provision of vigilance should be maintained in order to prevent difficulties and gaps in the system of governance through the popularly elected representatives. As Prime Minister is the executive chief of the state in the parliamentary system, the prime ministerial system should be strengthened in the reform of the state system giving continuity to the respectability and effectiveness of the office of the Prime Minister.
- The inconsistency and discrepancy seen in the authority of the Prime Minister in issues including the dissolution of the House of Representatives should be resolved. Besides, a provision for appointing Ministers including from outside the parliament should be made in order to improve the effectiveness of the Council of Ministers.
6. Political parties are the carriers of the peoples' feelings and expectations and parliament is the place to reflect that. The parliament is the representative institution of the sovereign people and the people exercise the sovereignty vested in them through the parliament. As the effectiveness of parliament shall ensure the sovereignty of the people, following aspects should be taken care of in the course of making the parliament more effective:
- a. The structure and composition of the upper house should be totally reformed including the representation of persons of high reputations in various walks of life and the representation of the ethnic groups, indigenous people and Dalits in proportion to their population.
  - b. The effectiveness of both the houses should be improved and the system of government becoming responsible towards the parliament should be strengthened.
  - c. The representation of women in at least 25% seats in both houses should be ensured.
7. In order to increase the reach of people in the system of governance and to increase their participation in it, it is essential to strengthen the system of local self-governance. The closer the system of governance is brought to the people, the more the effectiveness of state. Keeping in view of this reality:
- a. The scope and authority of the local bodies should be constitutionally ensured in accordance with the concept of local self-governance.
  - b. There should be a complete revamping of the existing structure, regional divisions and number of the local bodies in view of the ethnic composition, state of development and geographical conditions.

- c. Taking into account the economic potentials, populations and geographical conditions, new structures should be created in accordance with the local governance in the regional levels.
- 8. As the popular verdict is the main basis of the conduct of the business of the state and people are the main source of power, a provision should be kept for taking referendum by the decision of the parliament on policy issues of national importance from the people.
- 9. It is the responsibility of the state to create opportunities for every Nepalese for the self-development in the democratic environment. For that:
  - a. The pluralistic society should be strengthened preserving and promoting all religions, ethnic groups, communities, languages and their beliefs. The local bodies should be given the option to use the national languages as their second working language.
  - b. A constitutional guarantee should be provided for the freedom of expression and organization according to one's faith and beliefs in an unhindered manner.
  - c. A situation should be created for the implementation of the rule of law with full commitment in all aspects of national life.
  - d. A guarantee shall be ensured for not compromising the human rights, fundamental rights and humanitarian values even in difficult circumstances.
- 10. It is not possible to easily end the situation of ethnic and gender discrimination, exploitation and inequalities prevailing in the Nepalese society for centuries. The treatment of an extraordinary problem can only be found in extraordinary remedies. Therefore:
  - a. For a certain period of time a system of reservation for the indigenous, ethnic and Dalit people in the representative institutions, education, health, administrative services and other employment sectors should be provided until they reach the national average on the basis of Human Development Index.
  - b. In order to remove all kinds of discrimination against women, at least 25% of seats in all representative institutions should be reserved for women, and special reservation for them should be constitutionally ensured in education, health, administration and other employment sectors.
  - c. An appropriate constitutional provision should be made for the lasting resolution of the problem of citizenship.
- 11. Democracy cannot succeed without economic development and prosperity. Therefore, in the process of achieving economic development:
  - a. The state should adopt a policy of free and liberal market-oriented economy in order to create an environment for equal opportunity for each Nepali to benefit from the fruit of economic development in the democratic environment, and to discourage monopolistic tendencies.
  - b. In order to end the dual ownership on the land and to make available land to the landless and marginal farmers and to increase the productivity of the land, a people-oriented land reforms should be implemented.
  - c. The state should ensure the raising of the living standard of the people living under the poverty line on a time-bound basis and should fulfil their basic needs such as education, water supply, health and housing and provide social security for all.
  - d. In order to end the regional disparity in development, the concept of equitable and balanced regional development should be practically implemented.
- 12. Separation of power and checks and balances are important characteristics of the modern state system. Taking these principles as basis:
  - a. The effectiveness of the related state organs should be improved through clear delineation of the authority and scope of the various organs of the State.
  - b. Timely reforms should be made to improve the effectiveness of the judiciary.

- c. Role of the parliament should be established in the appointments for the constitutional bodies and a definite policy and standard should be developed for such appointments. The appointment procedure should be made transparent.
  - d. The constitutional bodies should be given greater autonomy and authority.
13. Promotion of the ultimate national interest should be the guiding principle of the foreign policy of Nepal. The objective of the foreign policy should be to strengthen friendly relations with all countries of the world and to gradually institutionalise Nepal's aspiration for peace, while remaining committed to the principles of Non-alignment, Panchsheel and the United Nations Charter.

#### **Consensus on Economic and Social Issues:**

Apart from the issues mentioned above, His Majesty's Government has no disagreement in principle regarding most of the social and economic issues presented by the Nepal Communist Party (Maoists), which may be useful guidelines for the future governments.

#### **Method and process for implementation of the Consensus:**

The main objective of talks is to arrive at a consensus on the objectives, policies and works of reforms and to decide the method and process of implementation. As it will be easier to arrive at a consensus on the method and process after a consensus is reached on the issue of reforms, it will be appropriate to concentrate the discussion on the issue of reforms. The method and process of reforms proposed by His Majesty's Government shall be implemented in the following stages:

Step A. Creating consensus between the government and the rebel side through negotiations on the objectives, policies and programs of reforms.

Step B. Organizing a Round-Table Conference with the participation including of the political parties in order to establish the agreement reached as the document of national consensus.

Step C. Formation of an interim electoral government including the rebel side as well.

Step D. Holding of the election to the House of Representatives.

Step E. Amending the constitution in accordance with the document of national consensus.

#### **Objectives achievable from within the Constitution:**

After studying and analysing the proposals and agenda presented by the NCP (Maoists) the subjects mentioned in the proposals seem to be achievable through the amendment and rewriting of the Constitution of the Kingdom of Nepal (2047 BS). However, His Majesty's Government is ready to discuss all the subjects and alternatives with an open heart.

HMG believes that broader understanding can be reached during the process of negotiations on all aspects outlined in the preliminary concept papers presented by both sides examining the merits and demerits of the issues.

#### **Revisions of the concept:**

The issues mentioned in this concept paper on the forward-looking reforms presented by HMG can be revised, clarified and readjusted on the basis of mutual understanding.

#### **Ongoing Implementation:**

As several issues agreed by the two can be implemented through the executive decision of the government, it will be appropriate to gradually implement such agreements by the government simultaneously.

#### **Agenda Setting and Negotiation Process:**

1. Considering the seriousness and sensitivity of the situation and the need to quickly resolve the existing uncertainty and confusion, HMG is of the view that the peace negotiations should be concluded as soon as possible.
2. On the basis of this concept paper presented by HMG and the proposal and agenda presented by the NCP (Maoists), the subject and agenda of the negotiations should be

prepared in mutual agreement. The meetings for negotiations should be taken forward concentrating on the pre-determined agenda.

3. The discussions should be started giving priority to the political agenda as well as social, economic and humanitarian subjects. Especially, it is essential to give high priority to the works related to the rehabilitation of the victim and displaced people during the “people’s war”.

#### **Provision for handing over the arms**

HMG is fully convinced that a solution to the problem can be sought through peace negotiations if both sides are fully committed to make sincere efforts. In order to create an environment for the implementation of the outcome of the negotiations during the course of bringing the negotiations to conclusion, the issue of handing over of the arms and ammunitions lying with the Maoist side should be one of the important items of the agenda of the negotiations.

#### **Rehabilitation of victims and Reconstruction of Infrastructure:**

HMG is of the view that a high priority should be given to the works related to the rehabilitation of the people displaced, disabled, and victimized for various reasons during the “people’s war”. The reconstruction of the damaged infrastructure because of the people’s war should also be included in the agenda of the talks.

#### **Issues to be addressed for the success of negotiations:**

Realizing that the tendency of imposing one’s own perception and strategic interests against the other in the name of “ground reality” can create difficult situation in the negotiations, HMG believes that it will be appropriate not to indulge in that kind of dispute. Instead, it is essential that both sides should be engaged in creating the environment of mutual trust and confidence, which is a compulsory factor for the success of negotiations. In this regard, HMG wants to draw attention to the following subjects:

- a. Both sides should sincerely implement and observe the agreed Code of Conduct to manage the ceasefire.
- b. The Monitoring Committee established to monitor the Code of Conduct should be activated immediately. In case any dispute is seen in the implementation of the Code of Conduct, the responsibility for resolving that should be given to the Monitoring Committee.
- c. In case of any dispute or difficulty in the implementation of the Code of Conduct, efforts should be made to resolve the issue through mutual consultations before making it an issue of public debate.
- d. An environment should be created for the unhindered activities of the political parties and that of the government in all parts of the country.

#### **Commitment not to break the ceasefire:**

Realizing the fact that the nation will have to bear a big loss and the serious impact it will have on the very essence of democracy and nationality if there is a relapse of the situation of killings, violence and terror in the country due to the end of ceasefire, both sides should make sincere efforts to seek resolution through peaceful negotiations. His Majesty’s Government proposed that a commitment should be made from both sides for not breaking the ceasefire and for giving continuity to the negotiations under any circumstances, respecting the desire of the Nepalese people for peace.

Shrawan 32, 2060 BS

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