

A lie would have no sense unless
the truth were felt dangerous.
— Alfred Adler —



Truly secular

President Ram Baran Yadav is in a dilemma over whether or not to continue the age-old tradition of dispensing *tika* to the general public during Dashain. Past kings carried on the sacred tradition of putting a dab of red paste on the foreheads of well-wishers who came to receive their blessings. Now that the country has gone secular, it would be unwise to continue the practice which would give credence to the belief that the king was an incarnation of Lord Bishnu. On the day of *tika*, there should be no procession of people marching to the gate of Shital Niwas to receive *tika* and blessings from the president.

Successive Shah kings practiced the system of giving and receiving *tika* as if they were the saviour of the country and people. Various cultural experts, including the Ministry of Sports, Culture and Education, have urged that new Nepal should end such customs. They are unanimous in their view that preserving such a tradition would only bolster feudal practices. As far back as 1958, the first democratically elected prime minister, B. P. Koirala, had tried to end the custom of receiving *tika* from the king. His protest created quite a stir, but he did not succeed in eliminating the tradition. The present debate surrounding *tika* is a result of a legislative flaw. There is no definition of the roles, rights and limitations of the president in the Interim Constitution. And since Dr. Yadav is the first president, he will be setting a precedent. Therefore, he faces a moral dilemma on whether or not to put the sacred dab.

The constitution does not require the president to observe any religious or cultural rituals, including putting *tika* on the 10th day of Dashain. But doing away with such an ancient practice is not an easy task, as religious ceremonies are deeply ingrained in Nepali society. Take, for instance, the recent Indra Jatra uproar. When the government slashed state funds routinely provided to make ritual animal sacrifices at Hanuman Dhoka, the Newar people who have been practicing the tradition for centuries were offended. They took to the streets denouncing the government move. Sources close to President Yadav say he is afraid that stopping *tika* may likewise offend the sentiments of the people. However, he must be tactful to make the people understand that the feudal practice of giving and receiving *tika* has no place in new Nepal. Putting a formal end to the custom of *tika* would also make Nepal truly secular -- a country where Eid-ul-Fitr and Christmas hold as much significance as Dashain and Tihar.

POST PLATFORM By GAURAV BHATTARAI

Agnishikha

His writings are all about those who
wrestled against every form of oppression.

These days when any relatives visit my grandmother and after the talk happens to revolve around the topic of untimely demise of senior journalist and litterateur Agnishikha, she is found admiring his simplicity. Our house is among the few ones that have received the opportunity to share intimate relationship with Agnishikha.

Possibly my grandmother has understood his plain, humble and uncomplicated nature. However, her words of commiseration fail to describe about his contribution to Nepali literature. If she had been aware that his writings were dedicated to people like her who have transformed the world through their ideas, struggle and sacrifices, she would take no less time to read aloud some lines from *Rosa Harulae Rojeko Jevaan, Aamaharu bhanchha ma chhan, Aamaharu kalkarkhana ma chhan, Aamaharu shreejanako sansar ma chhan...* For granny, his words are also simple and clear as his nature. Depicting characters as Rosa Luxemburg, Helen Keller, and Anne Frank, this book exemplifies women's struggle for universal suffrage, worker's rights, socialism and other progressive causes.

Those childhood hours now revisit my mind when a book isolated (perhaps concealed) from the bookshelf was revealed before my eyes. The cover page is bedecked with the picture of a man's countenance: sharp eyes,

thick beard, and a round cap where only one star shines. Above the outlandish figure, a complex name rests. With no difficulty, I had falsely assumed that, the picture is of the same person who possesses the complex name.

It is obvious for the book like *Badhsala Biruddha* to remain concealed during the *Panchayat* for the book raises voice against injustices, tyranny and totalitarianism. The figure, now I am familiar with, is of Che Guevara and the complex name that leaves meaning for me now is Agnishikha. In this way, Agnishikha introduced himself to me.

I can easily pronounce his name now. Without any trouble, I can read him. His uses of simple and explicit sentences are intended to convey radical ideas against mendacity, lawlessness, dominance and brutality. The book *Asthapunja* defends his strong belief in democracy, freedom, equality and law. His writings are all about those who wrestled against every form of oppression to make this world a better place to live in. From Pete Seeger to Nelson Mandela, Pablo Picasso to Yasser Arafat, he let us know most of the historical figures who have struggled for the preservation of human rights in different approaches.

Agnishikha was always aware of the relationship that an author shares with his readers. His writings are evidence to the fact that he has always been motivated by the same correlation.

Lessons from global financial crisis

There are reasons to be concerned about the exposure of commercial banks and finance companies to equity and real estate market.

By SANTOSH POKHAREL

Nov. 10, 2006 stands out as one of the memorable dates in the history of Nepali banking. On this date, throngs of people besieged Nepal Bangladesh Bank (NB Bank) to withdraw their hard earned money after newspaper reports a day earlier suggested that Rs. 13 billion in deposits was in jeopardy due to its reckless and inappropriate practices. Between Nov. 10 and 12, panicked customers took out more than Rs. 3 billion. The run on the bank ended on Nov. 12 when Nepal Rastra Bank (NRB) decided to take over its management.

Fast forward two years to the present and the global banking system is witnessing an unprecedented credit crunch and banks all over the world are fighting for survival. On Wall Street, a number of major investment banks and commercial bank holding companies have gone bankrupt. Household names like Bear Stearns, Lehman Brothers and Wachovia have all succumbed to one of the most massive and contagious financial crises in decades. Across the Atlantic, the story is the same. Week after week of bank bailouts and failures in Belgium, the UK and France. Though there hasn't been any reports of banks going belly up or being rescued in Asia, it would be naïve to assume that this won't have any consequences in this part of the world.

Reports coming out of India suggest that anxious customers have started to take out their money from ICICI Bank - one of the leading Indian banks - despite reassurances from Indian Finance Minister P. Chidambaram.

With a global liquidity crunch and probably more bank failures to follow, there is widespread economic uncertainty; and experts are predicting a prolonged period of negative economic growth. Stock markets all over the world have seen significant sell offs for the last few weeks, and major indices like the Dow Jones Industrial Average (DJIA), Nikkei and S&P 500 have recently seen a lot of volatility - an indication of market uncertainty and risk. To sum it up, the global financial system has come close to a screeching halt. Credit has dried up everywhere; and confidence, the cornerstone of the

credit market, is in scarce supply as big banks continue to bite the dust. In the heart of all this lies the complex world of financial derivatives, credit default swaps (CDS) and other arcane financial instruments.

Though Nepali banks don't have any direct exposure to these financial instruments, important lessons can be learnt from unfolding global events. A few days ago, NRB announced its new "cautious" monetary policy for the upcoming fiscal year with special emphasis on tackling inflation. In its report, NRB has also expressed concern over the real estate and stock market bubble. The Nepal Stock Exchange (NEPSE) -- the country's sole second-



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ary stock market -- has seen significant recent growth with an exponential rise in public participation.

The growth in the equity market is good for the overall development of the economy. However, speculative growth where the "fundamentals" of the underlying market are not sound creates a market bubble. There are no economic or financial statistics that supports the current boom in equity and real estate. Considering the growth rate of 2-3 percent for the last five years, a few significant national-level investment projects and a wounded economy staggering out of a decade-long conflict, it's hard to argue against the premise that the current share and land markets are a bubble.

All of this has coincided with the increased exposure of commercial banks and finance companies to equity and real estate. Responding to the public's interest in stocks and real estate, these financial institutions have been providing easy loans to people wishing to invest in them. This has helped to inflate share and land prices and create a market bubble.

Bubbles inevitably lead to bust.

Economists have argued that decade long housing bubbles in the United States, Europe and Australia is the primary reason for the current financial crisis and credit crunch. In the United States, easy access to housing loans and historical level of low lending rate led to an unprecedented real-estate boom. People with sub-par credit ratings and without any stable source of income easily walked away from bank with mortgage to buy a house. These sub-prime mortgages were then combined with other mortgages and sold to investors as Mortgage Backed Securities (MBS). Everyone was happy because everything was booming for a while.

much of a choice but to provide loans for investment in equity and real-estate market.

Anticipating higher returns, people without any background in investment or any professional guidance are taking out loans to invest in these markets. Because of increasing competition, financial institutions are providing loans without proper credit and income check. All of these factors have helped to inflate stock and real-estate prices. However, when the bubble finally busts either in equity or real estate market, there will be an immediate impact on the balance sheet position of these financial institutions.

The onus lies with the NRB to ensure proper health of our banking sector. First, there should be adequate regulatory framework to ensure that bank's asset base is sound and not inflated. Unless other areas of investment emerge, these financial institutions will continue to provide loans for investment in real-estate and equity market. The NRB must have an effective monitoring and regulating mechanism whereby it can identify potential trouble in the assets base of these institutions. The recent global financial crisis is testament of how easily and rapidly asset value can deteriorate.

Second, the NRB should address the important issue of conflict of interests when these financial institutions provide loans for investment in stock market. The majority of stocks traded in the NEPSE are those of financial institutions and these same institutions are providing loans to investors to purchase their own stocks. Third, the NRB must bring out safeguard mechanism to avoid a potential bank run, when the market crashes in the future and asset value of these institutions evaporate.

In the Nepali banking context, there are reasons to be concerned about the exposure of commercial banks and finance companies to equity and real estate market. Because of lack of investment opportunities in other sector, financial institutions have been pouring money in real estate and equity market. While unprecedented remittance inflow has helped sustain the deposit mobilization growth even in the light of growing number of these financial institutions, there aren't enough areas for investment outlays to support the growing deposit base. Hence financial institutions don't have

Bench, Bar, Corruption and Justice

Taking material benefits is not the only
form of corruption. Delaying justice is also
equally fatal to the afflicted



By DR KHAGENDRA N SHARMA

The recent rift between the Bench and the Bar [Supreme Court and Bar Association of Nepal] was a war of ego. The ego on any side of a dispute happens to be superficial and short-lived, and it has to end at some point of a continuum of mutual understanding. But the understanding did not solve the issue. The apparent issue was occurrences of corruption in the dispensation of justice. The understanding had to be reached because the case of corruption is not one sided. What was unapparent was that it is justice which is always made a captive. Nobody ever fights to keep justice alive.

Bar Chairman Bishwa Kant Mainali had stated in the context of a discussion that the judges should not take their position as "a license for corruption." He had not charged a particular judge or court, but had raised his finger at the prevalence of a public notion that the judges are not free from the culpability of being influenced by material benefit; this is usually meant by corruption. But the entire body of the Supreme Court (SC) became so inflamed that it unanimously decided to impose a ban on Mainali to work as an advocate for six months. This might be considered a mild punishment because the SC has been armored with the weapon of 'Dignity of Court' with which the Bench has been intimidating conscientious citizens like civil rights fighters, journalists and political leaders, and putting them behind bars.

The Bench could have put Mainali under detention for his audacity to implicate the entire class of the judges - so sacrosanct and pious in the concept! But it is a pity that not a single judge has been held in public esteem for maintaining that sacrosanctity.

In various democratic countries, there is the custom of nominating a jury from among conscientious citizens to make a public evaluation of cases on the basis of which the judge makes his judgment. Such a jury has the opportunity of evaluating the case from various angles. The jury usually makes a consensus decision. Individual jurists may carry varying views initially, but the views are discussed collectively and a consensus is arrived at in the final version.

In Nepal, the court makes the decision on the basis of the legal arguments made by advocates. There is, therefore, a free space to manipulate the case on the basis of the legal expertise of the advocate without a room for a social or societal input. So, the verdict is broadly subjective.

Now what is corruption? On the face value we take the case of cash or material benefit the decision-maker gets from the client. In this aspect, the material or cash comes from "the other side" who makes a benefit him/herself from such sacrifice because if the decision is not influenced, s/he will lose much more. This has a highly adverse impact on "the other side" of the conflict. This is usually the right side, because it cannot afford to influence materially. Thus, the right side is wronged because of the corrupt prac-

ice of the decision-maker. The decision-maker, in this case a judge, did not only make one subject suffer, but also killed the very sanctity of saving the truth and stopping the untruth. That is the demise of justice. Senior advocates also kill justice by demanding such a high price for their professional support which the wronged party cannot afford to pay.

Taking material benefits is not the only form of corruption. Delaying justice is also equally fatal to the afflicted. Many people have to attend the 'dates' in a court throughout their life. Many people languish in prison for want of a decision by court and suffer imprisonment for a crime which they never committed. Many people are forced to admit faults or crimes they did not commit. The police become the crudest perpetrator of such extraction of false admission of crime. Forged witnesses are concocted to prove a false case. This is usually done at the behest of the police, but this is easily condoned by the courts. Usually, such practices are carried to prove the efficacy of the authority of the local administration, the police or the courts to show that they are capable of creating tangible impact on the public. Along with the suffering of the innocent, such practices result in the drastic loss of public faith in the system of justice. This is the most intangible form of corruption.

Corruption is a class function where the high or middle class is the beneficiary because of its being in position of influence. The benefit of the wrong decision on the basis of the material

influence goes to the material provider who also happens to belong to the high or middle class. The victim is always the lower or the lowest class, because it does not have the wherewithal to influence the decision-maker. Corruption does not occur in the judiciary alone. Corruption in judiciary alone is not responsible for putting Nepal in the 121st rank of corrupt nations. And inside the judiciary also, the judge is not the only corrupt element. Usually, the material influence passes through the pleaders or the advocates who have the direct access to the client. As the advocate cannot make the decision him/herself, the judge is practically, but clandestinely, involved. The judge cannot make the decision without the cooperation of the advocate. So, the involvement of the advocate is imminent. Thus the occasional attempt to alienate one from the other as in the recent tussle between the Bench and the Bar is a purposive dramatization of the false denial of such a cooperation that goes on forever. The Bar cannot remain clean by throwing mud at the Bench.

The Bench and the Bar are mutually dependent on each other. Judgment cannot be done without the cooperation of either of them. Judgment is based on the manipulation of facts or evidences to conform to a given pattern of legal procedure. But justice is not the same as judgment. Justice is the tracing out of the truth and the validation of that truth through a proper judgment. In Nepal, the manipulators belong to the elite class and they create the semblance of truth by inventing or concocting half-truth, like false witnesses, character assassinations and tampering of evidences. Why else could famous drug peddlers or ministers accused of corruption be absolved and left scot-free with suspicious verdicts of the judge?