

Comparative Study on Democracy and Election

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1. Meaning and Definition of Democracy

The word 'democracy' is a term that comes from Greek and it is made up with two other words demos = People and kratein = to govern, to rule. "Democracy" can then be literally translated by the following terms: Government of the people or Government of the Majority. Democracy, as a state form, is to be distinguished from monarchy, aristocracy and dictatorship. The most common definition of democracy is the government of the people by the people and for the people. To put it another way we can say that a government comes from the people; it is exercised by the people, and for the purpose of the people's own interests.¹ Dicey defined democracy as a form of government in which the governing body is a comparatively large section of the entire society.²

Finer observed, "the primary meaning of democracy is government which is derived from public opinion and is accountable to it."³ C.F. Strong defines democracy to mean "that form of government in which the ruling power of the state is legally vested not in particular class or classes but in the members of the community as a whole."⁴ According to J.S. Mill, democracy is a form of government in which the whole people, or some numerous portions of

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¹ P. K. MOHANTY, COMPARATIVE GOVERNMENT AND POLITICS (1st ed.), Wisdom Press, New Delhi. 73, (2013).

² A.V. DICEY, LAW AND OPINION IN ENGLAND (1st ed.). Macmillan & Co. London. 50. (1961).

³ S.E. FINER, COMPARATIVE GOVERNMENT (1st ed.). The Penguin Press, Allen Lane, 63. (1970).

⁴ C.F. STRONG, MODERN POLITICAL CONSTITUTIONS (1st ed.), ELBS. London, 172. (1970).

them exercise the governing power through deputies periodically elected by themselves.⁵ A more elaborative and descriptive definition of democracy is given by Abraham Lincoln (often quoted) as “democracy is the government of the people, for the people and by the people.”

There are four important elements of representative democracy. One of them is the ‘equal political rights’ to influence the political process. Equal political rights included eligibility to vote, the right to vote, the right to contest election, and the right to public offices.⁶ Democracy is more than just a procedure for electing officials. It is a way of life and a set of traditions and institutions. The process by which parties and candidates come to appear on the ballot is fundamental to democracy inasmuch as it determines what choices will be presented to the electorate. There is a broad agreement about the three defining principles of democracy: (i) participation, (ii) accountability; and (iii) rule of law. When every citizen is in a position to (a) participate in the management of public affairs, (b) when everyone has the right to access information on governance activities and (c) when everyone has the capacity to petition and seek redressal through neutral administrative or judicial mechanisms, then the pace of development will increase.⁷

Democracy is a form of governance system constantly getting refined and developed by searching for various alternatives on the forward looking path of reform and development. Instead of what is being done at present for letting democracy evolve in accordance with its ideals it looks necessary to try to keep on pursuing open thinking and undertaking original experiments as to what type of possibilities can emerge till long for healthy democracy and best interest of the people.⁸ Democracy evolves through a long process of experiments, observations, innovations and self correction because even well-thought-out democratic structures created to promote accountability and participation are only blunt instruments and cannot ensure absolute safeguards for freedom of expression and choice.⁹ Ancient and medieval Nepal had also witnessed other forms of rule like monarchy, autocracy,

⁵ ANAND BALLABH KAFALTIYA (Dr.), DEMOCRACY AND ELECTION LAW (1st ed.), Deep and Deep Publications Pvt. Ltd. New Delhi, 14. (2003).

⁶ *Ibid.* 97.

⁷ S. Y. QURAISHI, AN UNDOCUMENTED WONDER THE MAKING OF THE GREAT INDIAN ELECTION (1st ed.). Rupa Publications India Pvt. Ltd. New Delhi, 394. (2014)

⁸ *Bikash Lakai Khadka et al. v. Office of the Priminister and Council of Ministers et al.* Some Decisions of the Supreme Court of Nepal 2014 Vol. VI 5 2014 Decision No. 9069. Kathmandu: Supreme Court Nepal. 378.

⁹ *Ibid* 22.

aristocracy and oligarchy. However, Nepal was not new to the concept of democracy as there is credible evidence that it existed in the country in various forms as early as fifth century B.C, almost at the same time when ancient Athens practiced it. In small communities, villages and tribal societies, participation in decision-making through discussions was the normal practice in Nepal which sociologists now call 'primitive democracy'.

Like other modern democratic countries of the world, Nepal has also adopted a constitutional democracy. The sovereign people of Nepal being committed to socialism based on democratic norms and values including the people's competitive multiparty democratic system of governance, civil liberties, fundamental rights, human rights, adult franchise, periodic elections, full freedom of the press and independent, impartial and competent judiciary.¹⁰

The Constitution of Nepal proclaims the country as a sovereign socialism oriented secular democratic republican state.¹¹ The concept of democracy as visualized by the Constitution of Nepal presupposes the representation of the people in Federal the House of Representations, State Assemblies and Local bodies elections adopting different models of electoral systems by the method of election. In a sovereign democratic republic, which Nepal, is, as declared by the Constitution of Nepal. Election is an important process as it is the method by which the people choose and select those in whose hands they give the reins of governance and administration. Sovereignty implies that the state has no superior and entire or absolute power is vested within itself. A republic is where a government gets its power and authority from the people. With the people being the sole deciders of the composition of the government, the election process takes on a very important and responsible role.

2. Values and Aim of Democracy

The democratic values play an important role for promoting successful conduct of election and processing democracy. The rule of law is an important instrument of the democratic values. Free and fair election is itself forming an important democratic value. The executive should be responsible to legislature since the legislature is the embodiment of people and their representatives. The civil liberties are playing important roles to protect the interest of people while preserving democratic values. Elections can serve

¹⁰ THE CONSTITUTION OF NEPAL, *Preamble*, (2015)

¹¹ *Ibid*, Art. 4(1).

more purposes for the state than merely the democratic one of allowing the mass of people to help in the selection of leaders and policies. Elections were invented to make democracy possible, but once invented, they turned out to have further uses.¹² Democracy signifies rule of the people.

Democratic elections are equitable when each citizen who can use his/her right to vote has at his/her disposal a vote and when either his/her origin nor his/her sex, language, incomes or possessions, job or social stratus/class, sexual identity, training, religion or political convictions have an influence of whatever kind on the assessment of the value of his/her vote.¹³ Elections are the arena of prime and most intense political activity in the country. In a parliamentary democracy, elections to the parliament and state legislatures in the constituent states decide the fate of national and the state governments respectively. As the sovereign people are the sole determining force in a nation's polity, free and secret casting of ballots and their impartial counting makes elections more democratic in true sense.¹⁴

3. Democracy and Election

The history of democracy is linked with the history of election.¹⁵ In a democracy, the will of the people must prevail and an election is accepted as political process of bringing about a change in government which renders it a matter of high political significance. A bad electoral system can distort the people's will and destroy their faith and commitment to democracy. Electors are a cornerstone of democracy. They empower people to participate in the selection of their political representatives. Protecting and promoting the integrity of elections is therefore a top policy priority.

In democratic elections, there must be no way of knowing for which political party or for which particular candidate a citizen has voted. They are then secrete, when each citizen can put his ballot in an envelope, without having been either watched over or influenced, in the secrecy of the polling both and when he/she is also able, in the same way, to put his/her envelope inside the ballot box afterwards. Democratic elections are, therefore, public and

¹² PROF. W. PHILIPS SHIVELY, *POWER AND CHOICE: AN INTRODUCTION TO POLITICAL SCIENCE* (9th ed.), MC Graw Hill Companies. New York, 225, (2005).

¹³ P. K. MOHANTRY, *COMPARATIVE GOVERNMENT AND POLITICS* (1st ed.), Wisdom Press, New Delhi, (2013).

¹⁴ PROF. DR. RAM KUMAR DAHAL. *ELECTION MANAGEMENT: ELECTION AND GOVERNANCE IN NEPAL*. New Delhi: Manohar Publications. New Delhi, 76, (2005).

¹⁵ ECN, *Constituent Assembly Election 2013 Analytical Report on Media Monitoring*. Kathmandu: Election Commission of Nepal. 17. (2014).

transparent. Which means on the one hand, that each citizen has the right to attend the counting of the votes when the ballot box is opened; this also means on the other hand, that it is possible to completely follow the whole process of the passage of the constituent's votes: starting from the ballots inserted into the ballot box till the final counting undertaken to establish the calculation that will eventually share out.¹⁶

Democratic elections are free when citizens have the right to choose from several candidates or parties that can run for the election without any restriction. They must also be free to decide whether they want to use their right to vote or to abstain from doing so if they prefer. If elections are treated in democracy as a determinant of the process of realizing the correct direction, everybody needs to be encouraged to utilize elections in a profitable and creative way at all costs and all the prerequisites required for this should be also respected. Democratic elections are periodic. Democracies do not elect dictators or presidents for life. Elected officials are accountable to the people and they must return to the voters at prescribed intervals to seek their mandate to continue in office.¹⁷ In fact, an election in democracy is not a competitive game of leadership among limited political parties or political persons but a system of looking for the representative liked by the people.¹⁸ The supreme court of India observed that only if the people are free to vote for a candidate of their choice democracy can function well with the help of such election.¹⁹

In the case of *Bikash Lakai Khadka et al. v. office of the Prime Minister and Council of Ministers et al.*²⁰ the Supreme Court said that it is the right to freedom of expression of one's opinion and the means and style of exercising that right which are the powerful means of ensuring people's participation in the governance. It will not be other wise to say that the very means of testing how democracy has been exercised in any country is the ideological and practical form of the freedom of expression enjoyed by the people of that

¹⁶ MOHANTRY, *Supra note 1*, 77.

¹⁷ Chandra Kanta Gyawali, "The Role of People and Their Representatives Through Electoral Process in Nepal." NEPAL BAR COUNCIL LAW JOURNAL, Nepal Bar Council. Lalitpur, 140, (2008)

¹⁸ *Bikash Lakai Khadka et al. v. Office of the Priminister and Council of Ministers et al.* Some Decisions of the Supreme Court of Nepal 2014 Vol. VI 5 2014 Decision No. 9069. Kathmandu: Supreme Court Nepal, 384.

¹⁹ *Indira Nehru Gandhi v. Raj Narayan* 1975 supp. 1SCC. 198.

²⁰ *Bikash Lakai Khadka et al. v. Office of the Priminister and Council of Ministers et al.* Some Decisions of the Supreme Court of Nepal 2014 Vol. VI 5 2014 Decision No. 9069. Kathmandu: Supreme Court Nepal, 372.

country. If the channels (means) of people's freedom of expression are obstructed or weakened or there is no environment for unhindered enjoyment of the freedom of expression or there is no environment for its full expression rather it seems to be of only controlled nature, there shall seem to be very few grounds to trust that democracy has manifested itself in accordance with its ideals. In a democratic system, elections and electoral system are the basis of democratic politics. The doctrine that a democratic constitution based on constitutionalism was linked with electoral system.²¹

Modern democracies, election is not simply the selection of people to represent in various organs of the state, it is also the way of ascertaining people's consent to the policies and programmes that the succeeding government would like to take in the next couple of years. Thus, the consent of the ruled is the very basis of liberal democracy. And election constitutes the legitimate means of getting popular consent to the government.²² The electoral process and electoral participation has a central role in a democratic political structure. Periodic elections are one of its regular features.²³ In a democracy, elections allow the people to freely choose their representatives.²⁴ Election is the success of democracy. Improper election leads to denial of democracy. Popular will is essential for true democracy. To make it possible, there shall be more incentives for more and open competition in the election. Finance is a tumbling block always.²⁵ Democracy is sustained by free and fair elections. Only free and fair elections to the various legislative bodies in the country can guarantee the growth of a democratic polity.

Election is one of the important elements of democracy. In order to achieve and preserve democracy, the free and fair election is necessary. Moreover, the realization of democracy is possible through the active participation of citizens to reach decision and formulate policies, which realize the values. Democracy must serve with best possible decisions. The citizens must be able to pursue their interest and realize their aspirations and dreams. There must be equal participation of equal individuals and groups. No individual or

²¹ CHANDRA KANT GYAWALI, *PEOPLE'S SOVEREIGNTY AND CONSTITUTIONALISM* (1st ed.), Markhine Publication, Kathmandu, 215. (2013).

²² KRISHNA P KHANAL, *ELECTION AND GOVERNANCE : ELECTION AND GOVERNANCE IN NEPAL*, Manohar Publishers and Distributors, New Delhi, 118. (2005).

²³ *Ibid.*

²⁴ YASH GHAI, et.al (eds), *INTERNATIONAL IDEA, NEPAL CREATING THE NEW CONSTITUTION: A GUIDE FOR NEPALI CITIZENS* (1st ed.). International Institute for Democracy and Electoral Assistance. Lalitpur, 140. (2008).

²⁵ P. RATHNA SWAMY, *HANDBOOK ON ELECTION LAW* (1st ed.), Lexis Nexis. Haryana, 377. (2014).

group has an excess power over other individuals or groups, since unequal power thwarts the realization of interests, restricts autonomy and undermines self-respect.²⁶

The success of democratic elections in a country like ours depends mainly on the effective and purposeful interaction and synthesis of three vital agencies, namely the electorate; the candidate and the political parties, and the election machinery. Each one of these agencies should play its due part in the broad national interest, uninfluenced by narrow, parochial and personal outlook or approach.²⁷ Likewise, it has also been interpreted in that case that for the survival of democracy and good governance the people must have right to choose suitable candidates and for this the voters should also be provided with the opportunity to make such a choice.²⁸

The essence of the democratic system of rule is the adult franchise and in order to guarantee the adult franchise, the election process is the vital. Therefore, there should not be any controversy in making the election process regular and well managed.²⁹ Democracy is that of a free and open society as opposed to a bound and closed society. Free and fair elections are a basic postulate of a free democratic society and under our constitution elections are held on the basis of adult universal suffrage for every citizen who is not disqualified.³⁰ Modern democracies have established equality of suffrage as a basic principle of election. Election is an essential part of democracy. Although the values which people instill through ballot frequently change, elections are held only at a certain interval as it is vital for the stability and functioning of democracy.³¹ Elections are said to be the linchpin of democracy. They facilitate the transfer of the government and power without any violence.

The question of elections is of central concern to almost all democratic states, and is given considerable attention even in more controlled system, but it seems clear that elections have some kind of a place in almost all

²⁶ *Ibid.* 156.

²⁷ PARUL CHAKRAVARTY, *DEMOCRACY, GOVERNANCE AND ELECTORAL PROCESS* (1st ed.), Kanishka Publishers and Distributors. New Delhi. 85. (1997).

²⁸ *Bikash Lakai Khadka et al. v. Office of the Priminister and Council of Ministers et al.* Some Decisions of the Supreme Court of Nepal 2014 Vol. VI 5 2014 Decision No. 9069. Kathmandu: Supreme Court Nepal,. 391-392.

²⁹ *Advocate Sunil Ranjan Singh v. Election Commission, Kathmandu and et al.* Some Decisions of the Supreme Court Nepal 2013. Vol. 5, Decision No. 8535. Kathmandu, Supreme Court. 16.

³⁰ H. M. SEERVAI, *CONSTITUTIONAL LAW OF INDIA* (4th ed.). Vol. 3, Universal Law Publishing Company. New Delhi, 3073. (2014).

³¹ Anand Mohan Bhattarai, "Electoral Disputes, 1991:A Brief Survey", *LAW BULLETIN*,. No. 3, Vol. 63. Kathmandu: Nepal Law Society. at 1-2. (1994).

contemporary political systems, and that indeed they provide an excellent focal point for the study of virtually all types of systems.³² Elections can occur without democracy, but democracy cannot ensure without elections. They are not the only method of maintaining popular control of government, but they are the essential one. Expressed in less noble language, these remain the central purposes of elections today. Elections are held even in aristocracy. In such a system of governance elections are held to show that governance is being conducted after being voted into power by the people. But it does not reflect the actual will of the people. In such a system it has also been seen that the people are made to vote for only one declared candidate who is declared elected stating that he has secured more than ninety percent of the votes.³³

Among the 193 countries worldwide that are recognized by the United Nations, 123 are said to be democratic. Thus, more than half of those states have set up a form of government that is characterized by the participation of its people, under whatever form that may be.³⁴ Civil society operates in an arena of voluntary collective action around shared concerns and values outside the state, family and the market. Civil society in Nepal has expanded the scope of democracy through policy advocacy and by working as pressure groups, often reminding the government about its own commitments.

Thus in a democracy, elections are the core institutions that connects political parties to the people and the people to their chosen legislature that forms the government. A democratic government is the product of its people's choice and can legitimately claim people's support. Democratic government is the government by consent and consent is not assumed one, but real one expressed freely by specific process periodically. This process is election. Elections have become integral part of our social and political life. Representative governance of state or any other institution necessitates election of representatives. Representative government is one of the basic tenets of democracy. It is only possible by means of elections. Election is a process by which people choose their representative for holding offices or responsibilities.³⁵

³² W. J. M. MACKENZIE, *FREE ELECTIONS* (3rd Impression), George Allen and Union Ltd., London, 4. (1967).

³³ *Bikash Lakai Khadka et al. v. Office of the Prime and Council of Ministers et al.* Some Decisions of the Supreme Court of Nepal Vol. VI 5 2014 Decision No. 9069. Kathmandu: Supreme Court Nepal, 392 (2014)

³⁴ MOHANTRY, *Supra note 1*. 72.

³⁵ Prof. Dr. Krishna Belbase. "Concept and Nature of Election Law". *NYAYADOOT*, English Special Issue No. 199. Kathmandu: Nepal Bar Association, at 1. (2012).

It is said that democracy and good governance are inter-dependent. Democracy is supposed to provide good governance to the people as the maximum participation of maximum people is possible there were as good governance generally guarantees democracy by facilitating free and fair election. It is the government machinery which conducts elections.³⁶ A responsible government needs to ensure that some popular control can be exerted over political leadership that government should be removable by electoral decisions and some alternative should be established.³⁷

4. Main Goal of Election

The main goal of election is to ensure entire segment of the national lives get an opportunity to vote for their representatives, their voices are listened and decisions are made according to their will.³⁸ The “electoral” goal of the aspiring decision-maker is an instrumental one, vis-à-vis the primary societal goal. Nor should one overlook the cumulative effect of elections, especially if they are conducted successfully and regularly over a period of time. They thereby become agencies for both political stability and legitimacy, and also for peaceful but potentially substantial even revolutionary change.³⁹ Elections have therefore become a mechanism for maintaining an integral link between the state and society. They are a measure to determine the process of governance. They feature popular mobilization and group dynamics representing the ideals on the basis of which the affairs of the state are conducted by the chosen representatives seated in the government.⁴⁰ Election is a medium for a tenured contract between the political party and the citizens.⁴¹

Elections are used to choose heads of state, heads of government, and members of the legislature, as well as a variety of other offices in political democracies.⁴² Elections ensure a peaceful and orderly change in the government without involving any kind of violence. They are the bastion of

³⁶ BIRENDRA P MISHRA, *REBUILDING NEPAL* (1st ed.), Bhrikuti Academic Publication. Kathmandu, 28. (2007).

³⁷ Seely, *Introduction to Political Science*. Vol. 1. New York: np. 324. (1940).

³⁸ DR. UMESH KUMAR BHATTARAI, *CONFLICT TO PEACE TRANSITION IN NEPAL* (1st ed.). Adarsh Books, New Delhi, 156. (2014).

³⁹ NORMAN D PALMER, *ELECTIONS AND POLITICAL DEVELOPMENT THE SOUTH ASIAN EXPERIENCE* (1st ed.), Vikas Publishing House Pvt. Ltd. New Delhi, 107. (1976).

⁴⁰ DHURBA KUMAR, *ELECTORAL VIOLENCE AND VOLATILITY IN NEPAL* (1st ed). Vajar Publications. Kathmandu, 2. (2010).

⁴¹ *Ibid.* 4.

⁴² JOHN T. ISHIYAMA. *COMPARATIVE POLITICS PRINCIPLES OF DEMOCRACY AND DEMOCRATIZATION* (1st ed.). Wiley-Black Well. UK, 158. (2012)

people's liberties and a sure check on the growth of any dictatorial tendencies.⁴³ Elections which connote a chain of processes from filing of nominations to the declaration of results have a vital and dynamics role to play in democracy. Both are so much intertwined that it is not possible to conceive of one without conceiving of the other. Elections have also become a means to recovery of the self by renewal of the legitimacy of the traditionally entrenched power elites through influence, intimidation and violence.⁴⁴

Elections provide the means for the peaceful and orderly transfer of power, for dealing with the vexing problem of succession for the routinization of political change.⁴⁵ Elections may play a larger role in the political socialization process in developing countries like Nepal than they do in more developed countries. Elections also serve as a forum for discussion of public issues and for expression of public opinion. In a developing society, electors may be moving from one place to another, either within the territorial limits of the same constituency or over to another, for a variety of reasons too well-known to be enumerated here.⁴⁶

Elections have become integral part of social and political life. We elect our President and Vice-President; we elect our legislatures; our representatives in local bodies like Municipal and Village Executives in cooperative societies, unions and associations and various other bodies. Of course, elections are effective instruments which enable and empower voters to change as well as end the tenure of elected representatives, Assemblies and Parliaments.⁴⁷ Elections are held sometimes also for defusing a political crisis. They are held explicitly for a clear cut verdict on a crucial issue other than electing representatives and forming the government. In liberal political lexicon such elections are called plebiscites or even consultations, if held in non-democratic country. A plebiscite decides on the towering and challenging issues through popular votes.⁴⁸ Electoral legitimacy therefore is an imperative to qualify governance with popular compliance and support, rationalizing and ensuring regime maintenance. Consequently, the enabling strength of the electorate

⁴³ J. K. CHOPRA, POLITICS OF ELECTION REFORMS IN INDIA (1st ed.). Mittal Publications. New Delhi, i. (1989).

⁴⁴ KUMAR, *Supra* note 40. 21.

⁴⁵ ALAN RENWICK, THE POLITICS OF ELECTORAL REFORM CHANGING THE RULES OF DEMOCRACY (1st ed.), Cambridge University Press. . New York, 52. (2011).

⁴⁶ V. R. RAMA DEVI & S. K. MENDIRATTA, HOW INDIA VOTES ELECTION LAWS, PRACTICE AND PROCEDURE (1st ed.). Butterworths. New Delhi. 250. (2000).

⁴⁷ QURAISHI, *Supra* note 6. 23.

⁴⁸ KUMAR, *Supra* note 40. 4.

is integral to political authority and the sustenance of that authority is built on performance. An elected authority derives its power from the approval and acceptance of the people with voluntary compliance.⁴⁹

Elections are among the most ubiquitous of contemporary political institutions, and voting is the single act of political participation undertaken by a majority of adults in a majority of the nation today. In most of the democratic states of the West, in the few non-Western democracies and in some non-democratic politics, elections have become a normal feature of the political system, even though their role and place in the system, and their actual significance, may vary greatly. A study of the electoral experience of all of the democratic countries, and of each of the national and perhaps also some of the local elections would be a fascinating exercise that would undoubtedly provide many insights into the nature and working of the political systems of the democratic states.

5. Role and Importance of Election

The election provides wider opportunities to represent the choices to the citizens of the country to choose the candidate to govern their affairs. The election is a mechanism, which represents the wills of the people. But in fact there is a distortion in the applications of wills of the people. Our will is always for our own good, but we do not always see what it is. It is also stated further that the general will is right but people may not discover the general will.⁵⁰

Another important aspect of elections is the relationship between the electorate and the elected member of the Assembly. Elections in single-member constituencies are often justified by the need for strong accountability, since a comparatively small electorate will elect its own member of parliament and maintain direct contact with the elected member.⁵¹

Elections serve important functions in the area of recruitment and training, which are essential in any political system. They serve as agencies for recruitment and training at least four different key groups: voters generally, party members, party activist, and political leaders. Elections recruit voters,

⁴⁹ *Ibid.* 3.

⁵⁰ SWAMY, *Supra note* 25.

⁵¹ Niles A. Butenschon and Kare Vollen Electoral Quotas and the Challenges of Democratic Transition in Conflict Ridden Societies. A NoRDEM Special Report. University of OSZO. 20. (2011).

and involve masses of people in an activities ranging from simply the act of voting to active participation in the campaign innumerable ways, usually through participation in the activities of political parties and through partisan identification. Through participation in party and campaign activities, in the actual voting on election day, and in other ways voters are not only recruited into politics, but they are also trained as citizens and participants. This double function is a particularly important one in developing political systems where channels of recruitment and training are some what limited parties are particularly.

Elections are particularly conspicuous and revealing aspect of most contemporary political systems. Elections are complex events involving individual and collective decisions which directly affect, and are affected by, the total political and social process. They open up channels between the polity and the society, between the elites and the masses, between the individual and his government. They are major agencies of political socialization and political participation.⁵² Elections are complex events involving individual and collective decisions which directly affect, and are affected by, the total political and social process. They open up channels between the polity and the society, between the elites and the masses, between the individual and his government. It keeps democracy, peace, prosperity, progressive socio-economic change and freedom, integrity, sovereignty and dignity of the country at the center. It covers political, economic and social transformation and conflict management, management of armies and arms, ceasefire, end of war, observance of the human rights, fundamental rights and humanitarian laws, mechanism for peaceful dispute settlement and implementation.⁵³

Elections are important democratic institutions. However, holding elections is no guarantee that a state is democratic. There have been many instances of elections being corrupted to serve the interests of individuals and regimes, and to consolidate their hold on power. Nonetheless, the need for elections in the democratic process cannot be denied. Elections are the fundamental procedural aspect of a democratic polity through which the people demand accountability from their leaders.

Elections are also conceived of as a means of conflict resolution. Decisions are made, and controversies are settled, by 'ballots not bullets'. Conflicts

⁵² KUMAR *Supra* note 40. at 1.

⁵³ AYDHEE PRASAD YADAV, *CONSTITUENT ASSEMBLY ELECTION 2008 AT A GLANCE* (1st ed.). Election Commission. Nepal, Kathmandu at IV. (2008)

exist in all political systems. In totalitarian and authoritarian systems they are sublimated and suppressed, and the fiction of consensus is preserved. Even elections are used as instruments for indicating consensus, as the nearly unanimous votes in favour of a single state of candidates are alleged to attest. In some non-totalitarian, but at least usually partially authoritarian, systems of elections also are alleged to be agencies of achieving consensus, and not simply for indicating the will of the majority. In such systems the conflict that in fact exists is either sublimated or resolved through agreement among caste, communal group, tribe or other ascriptive leaders, and the vote becomes merely a means of affirming the consensus that has been reached by sublimating or papering over the underlying conflicts.⁵⁴

The important purpose of election may be defined as:

- (i) election bring politics within the reach of common man and provide a mechanism for the direct involvement of the people in the political system,
- (ii) election is the process of passing opinion of electors through votes to accept the policy of the political parties for them,
- (iii) election ensures effective participation of people to establish democracy. Regular, free and fair elections contribute to the process of political development conversely the absence of regular election creates the scope of dictatorship,
- (iv) elections are the bedrock of democracy, without election there can be no democracy, and without democracy there can be no elections,
- (v) due exercise of electoral right in election discover political leader and gives the elector a feeling that he has a vital role in the state policy,
- (vi) election is a method of intervention in politics when their vital interests are threatened. Elections act as a restraint on government, and provide a means for protection of their interest,
- (vii) election introduces the accountability in the political system. They make government responsive to the needs of the people and
- (viii) free and fair elections are the inspirations of the people to participate in the election and contribute to establish a stable government.

The function of election is to assure, or at least to promote, achievement of the values that make democracy desirable.⁵⁵ Thus, election play a key role

⁵⁴ KUMAR *Supra* note 40. at 97-98.

⁵⁵ *Bikash Lakai Khadka et al. vs. Office of the Priminister and Council of Ministers et al.* Some Decisions of the Supreme Court of Nepal 2014 Vol. VI 5 2014 Decision No. 9069. Kathmandu: Supreme Court Nepal. 393.

in a democratic polity, it gives mandate to elected members for forming the government, on obtaining their majority, control the government, ascertain public opinion on various issues and choose law-makers periodically. Moreover, elections in a democracy are also a reminder to the youth of their rights, responsibilities, representation, aspirations and transformation.

6. Conclusion

Elections are an important means of people's participation. They are also the barometers of any democratic governance and participation in the political and decision-making mechanisms.⁵⁶ The governing power to rule the country should be arrived from the will of the people, as only the people can say who has the right to rule over them. Where the constitution sets-up a system of elected representative government, that government acquires its authority both from the constitution and the people who elect it. Democratic elections become central to national politics as previously disenfranchised people are enfranchised with broadening the base of participation. Ballot becomes the most crucial instrument as representation and the formation of the government in participatory politics depends entirely on vote. Election puts the value on the vote cast for self-determination of an individual enjoying the franchise by virtue of the right of being a citizen of the state.⁵⁷

Elections are essential to democracy, and democratizing states need to continually improve their processes to ensure that the voice and will of the people are reflected in the outcome when they choose their leaders. In democracy in particular, election draws the ordinary people into the political process.⁵⁸ Elections are a central ingredient in the system of representation in modern democracies. Article 19 has granted to every person freedom of opinion and expression. Likewise, it has been mentioned in Article 21(3) that the will of the people to be expressed through election shall be the basis of the authority of the government.⁵⁹

In fact, the freedom of opinion and expression is not only an indispensable matter of the personal life of an individual, it is also necessary for the participation of the people in various policy making processes for the whole society and the nation. It has been an accepted belief that in order to ensure people's participation in a democratic rule the people's will ought to be reflected

⁵⁶ DAHAL, *Supra* note 13, at 76

⁵⁷ KUMAR, *Supra* note 40, at 1

⁵⁸ *Ibid.*

⁵⁹ UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948.

not only in regard to survey of public opinion about various subjects, ascertaining the will and opinion of the people and holding a referendum but also in regard to the acts of making of policies, rules and laws of the government. Therefore, even in such situations it is deemed essential to guarantee the freedom opinion and expression to the citizens.⁶⁰ This right is an integral facet of the freedom of opinion and expression as it originates from that freedom. So as the citizens express their opinions through ballot papers this right to vote is integrally related to the freedom of opinion and expression.



⁶⁰ PROF. DR. RAM KUMAR DAHAL. ELECTION MANAGEMENT: ELECTION AND GOVERNANCE IN NEPAL. New Delhi: Manohar Publications. New Delhi, 372., (2005).