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Democracy or Oligarchy? Nepal's political situation in the election year 2022¹

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Source: Kantipur, 10 May 2022

Today I would like to look a little at the state of Nepali democracy in general, based on the local elections that have just been held. What has happened to the once hopeful resolutions, 16 years after Jana Andolan II, the popular movement of 2006, and not even 7 years after the adoption of the new constitution, the seventh since 1948, by the way?

I will begin with a brief review of the 2017 elections, the first under the new political system, and will then

¹ This is the revised translation of a lecture given by the author at the Nepal Day of the German-Nepal Association in Cologne on 28 May 2022. The theme of the event was "Nepali Diaspora – A Bridge to Nepal".

discuss the impact of electoral alliances, first concluded in 2017 at the national and provincial levels, but now extended to the local level as well. In doing so, a few selected aspects will be addressed that make clear that Nepal has many areas of work that must be addressed if the political system, democracy in general, and the constitution are not to fail again. The Nepali diaspora is also affected (the subject of this Nepal Day), the millions of migrant workers, the economy in general, which is in deep crisis in these difficult times worldwide. I think that these issues will be addressed in other lectures.

2017 elections

So let me start with a brief review of the previous elections. In 2017, local elections were held for the first time in 20 years. Nationwide, the CPN (UML) won the most mandates, but this did not necessarily mean much, since local elections are supposed to focus on other aspects than power struggles between parties and national politics. What is striking about the overview is that, at the time, only the five parties that later played a role in elections to the two higher levels of the federal system were able to win a significant number of mandates. Also striking is the high proportion of women, which was a result of the electoral system.

Position	CPN-UML	NC	CPN-MC	RPP	NMKP	SSF-N	RJPN	NLF	MJFN-L	Indep.	others
Mayor	123	105	34	1	1	10	14	0	0	2	3
Deputy Mayor	137	84	43	3	1	6	17	0	1	0	1
Chair Person	171	161	72	1	0	24	11	0	5	3	12
Deputy Chair Person	194	139	68	2	0	26	13	0	4	5	9
Ward Chair	2560	2286	1103	24	0	262	194	0	54	28	231
Female Ward Member	2776	2157	1035	25	20	290	211	0	56	0	172
Female Dalit Ward Member	2680	2101	1030	18	0	283	214	0	56	0	187
Member	5458	4423	2056	48	42	540	437	0	112	0	368
total	14099	11456	5441	122	64	1441	1111	0	288	38	983

Local election results 2017 (nepalresearch.org)

So now, in 2022, it was actually possible to adhere to the prescribed five-year cycle for elections, which I would definitely like to emphasize in a positive way, especially since the national party leaders had not allowed themselves to question this for a while either.

Parties	Pratinidhi Sabha 2017				Comparison to 2013						
	FPTP seats	per cent	PR votes	per cent	PR seats	seats total	per cent of total seats	per cent of PR votes 2013	difference in 2017	per cent of total seats 2013	difference in 2017
CPN-UML	80	48.48	3173494	33.25	41	121	44.00	23.66	9.59	30.43	13.57
CPN-MC	36	21.82	1303721	13.66	17	53	19.27	15.21	-1.55	13.91	5.36
NC	23	13.94	3128389	32.78	40	63	22.91	25.55	7.23	34.09	-11.18
RJPN	11	6.67	472254	4.95	6	17	6.18	new			6.18
SSF-N	10	6.06	470201	4.93	6	16	5.82	new			5.82
Nayan Shakti	1	0.61	81837	0.86	0	1	0.36	new			0.36
RPP	1	0.61	196782	2.06	0	1	0.36	6.66	-4.60	4.17	-3.81
NMKP	1	0.61	56141	0.59	0	1	0.36	0.71	-0.12	0.70	-0.34
Rastriya Janamorcha	1	0.61	62133	0.65	0	1	0.36	0.98	-0.33	0.62	-0.26
Independents	1	0.61			0	1	0.36			0.35	
40 other parties	0	0.00	599792	6.28	0	0	0.00				
Total	165	100.00	9544744	100.00	110	275	100.00				

National election results 2017 (nepalresearch.org)

The 2017 elections at the national and provincial levels saw the first nationwide electoral alliance between two major parties, the CPN (UML) and the CPN (MC). The goal of the two parties was to win an absolute majority of seats in this way. Thanks to the disciplined alliance, the two parties ended up with almost a two-

thirds majority of seats at the national level. In six of the seven provinces, the Left Alliance also achieved absolute majorities. The only exception was the present-day Province Madhesh.

Constant power struggles between top politicians, frequent failure to keep promises, complete neglect of actual government tasks and, in the end, increasing violations of laws and the constitution were known to dash hopes for finally more stability in Nepali politics under the Left Alliance (or NCP) government. But that should not be the topic here.

Election alliances

The electoral success of the Left Alliance of 2017 has made clear how easy it is to manipulate election results using electoral alliances. In 2017, for example, the two left-wing parties were elected by only 46.9 per cent of voters under the PR system, but won 63.3 per cent of all seats thanks to their alliance under the direct election system. Under the PR system, each party had to run on its own, so only this second vote said anything at all about how popular the parties were with voters. And here it is striking that the NC's gap to the election winner CPN (UML) was actually minimal.

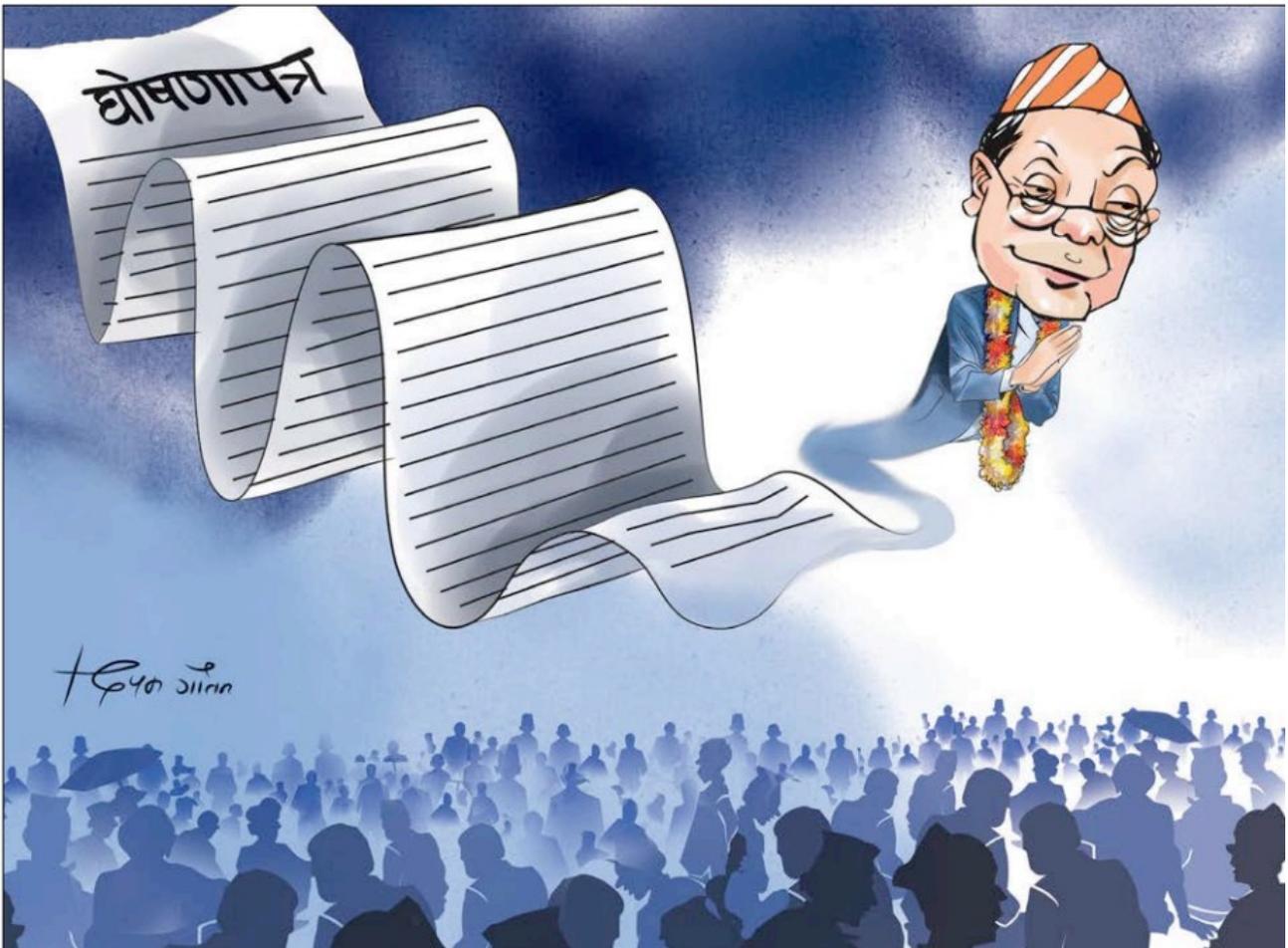
So this year, scheduled new elections will be held at all three levels of the federal system. One had the impression that the top politicians at the central level were primarily concerned with the national whole in the local elections as well. On the one hand, this is probably related to the fact that there is still a lack of clear delineation of the responsibilities and financial sources of the three federal levels, but on the other hand, the structures of the political parties are also very centralized. The latter is fostered by the provisions of the Political Parties Act, which endows party leaderships with an almost undemocratic amount of power.

It also became clear that the respective central party level controls the provincial level, and to some extent the local level, in every respect, which may also be evidence that Nepal is still far from a federal democracy.



Source: *The Himalayan Times*, 17 May 2022

The closer this year's elections came, the more nervous top politicians became when thinking about their electoral chances. On the one hand, there was the winner of the last national elections, the CPN (UML). Its leader, KP Oli, was extremely confident of victory when he claimed that his party would win the elections in a landslide. Reasons for this claim were rather elusive. Oli plunged the country into a serious national crisis during his premiership. In the end, any breach of the law or the constitution was fine with him when it came to standing up to his party's internal rivals or former partners in order to maintain his personal power. It is hard to imagine that the voters have forgotten this so quickly. So far, in fact, the latter have understood the rules of democracy better than politicians, as all elections after 1990 prove. Politicians think of voters only when they need their votes. Each of the mostly utopian election manifestos is no longer worth the paper it was printed on shortly after the elections.



Source: Kantipur, 6 May 2022

While in 2017 it looked as if Nepal would develop into a two- or at best a three-party system, the various splits in 2021 led us to expect a multiparty system in which a single party would hardly be able to gain an absolute majority of votes and seats. It was therefore not surprising that the camp of the governing parties agreed on an electoral alliance even before the local elections, but it was still controversial within the parties involved and could not be implemented nationwide.

The CPN (UML) also opted for a certain electoral alliance. The number of potential partners was no longer large. Among others, KP Oli entered into an agreement with Kamal Thapa and his RPP-Nepal. A critical aspect of the agreement, however, was that RPP-Nepal candidates were to run with the election symbol of the CPN (UML). The election symbols stand for a party, not for an alliance. So, the plan of the CPN (UML) and RPP-Nepal seemed like an attempted fraud or at least like a deliberate misleading of voters.

Electoral alliances at the local level

At the national and arguably provincial levels, then, electoral alliances seem to make sense in the current situation, at least from the power-political perspective of the parties and their top politicians. But the question was what sense the alliances agreed upon at the central national level made at the local level. One could not get rid of the feeling that all this was also an expression of the top politicians' lack of understanding of the federal state. After all, federalism had been designed to bring about greater decentralization of political responsibility and better participation of the people at the local and provincial levels. However, people's concerns and problems vary greatly from one locality and region to another. In view of local or regional needs, alliances imposed by the central party leadership can only be a hindrance.

Even if electoral alliances might also be possible at the local level as needed, in a democratic state a decision on this should be made by the local grassroots and not by the party leadership. Furthermore, it was already apparent in the preliminary negotiations that there was a threat of further undermining of the socially inclusive PR system at the local level. When parties formed alliances, for example, they put up only one joint candidate for mayor and one for deputy mayor, often divided among the parties participating in the alliance. Thus, when parties subsequently each ran for only one of the two posts, their constitutional obligation to nominate candidates of different genders for those two posts was dropped. Since all parties are almost exclusively dominated and controlled by males, the nominees for both posts were predominantly men. Women suffered another bitter setback with regard to better political participation.

State of Nepalese Democracy

Is Nepal now a democracy? If the assessment is limited solely to the people's right to vote every five years, then the answer is "Yes!" provided that the elections are free and fair. But elections are not the only element of a democracy. People's aspirations, opinions, freedoms and rights should be at the heart of any democracy. In Nepal, however, these needs of the people have often been sidelined while political parties have indulged in blame games, cheap publicity stunts and deceptions over the years. Critics say governments have been there for the elites who helped them gain power, but not for the lower class families who simply could not afford health care or a good education for their children. Governments did not work for the people, according to a not insignificant critique of the state of Nepali democracy.

The parties of the current governing alliance like to talk about a great success in the local elections these days. However, the drop of around 10 percent in voter turnout is more indicative of people's frustration. The good performance of independent candidates, especially in larger cities, despite massive support for the alliance candidates from the national party levels, shows that people have largely lost confidence in the political parties and their current leaders.

The elements of a functioning democracy must include at least: Separation of powers, independent judiciary, direct or indirect participation of the people, rule of law, transparency of government and administration, protection of fundamental rights, free and fair elections, to name just a few. Many of these criteria have not been met in the past five years, or at best only half-heartedly. The legislative branch alone has been constantly eliminated by the executive branch. Rulings and directives of the Supreme Court were often simply disregarded.

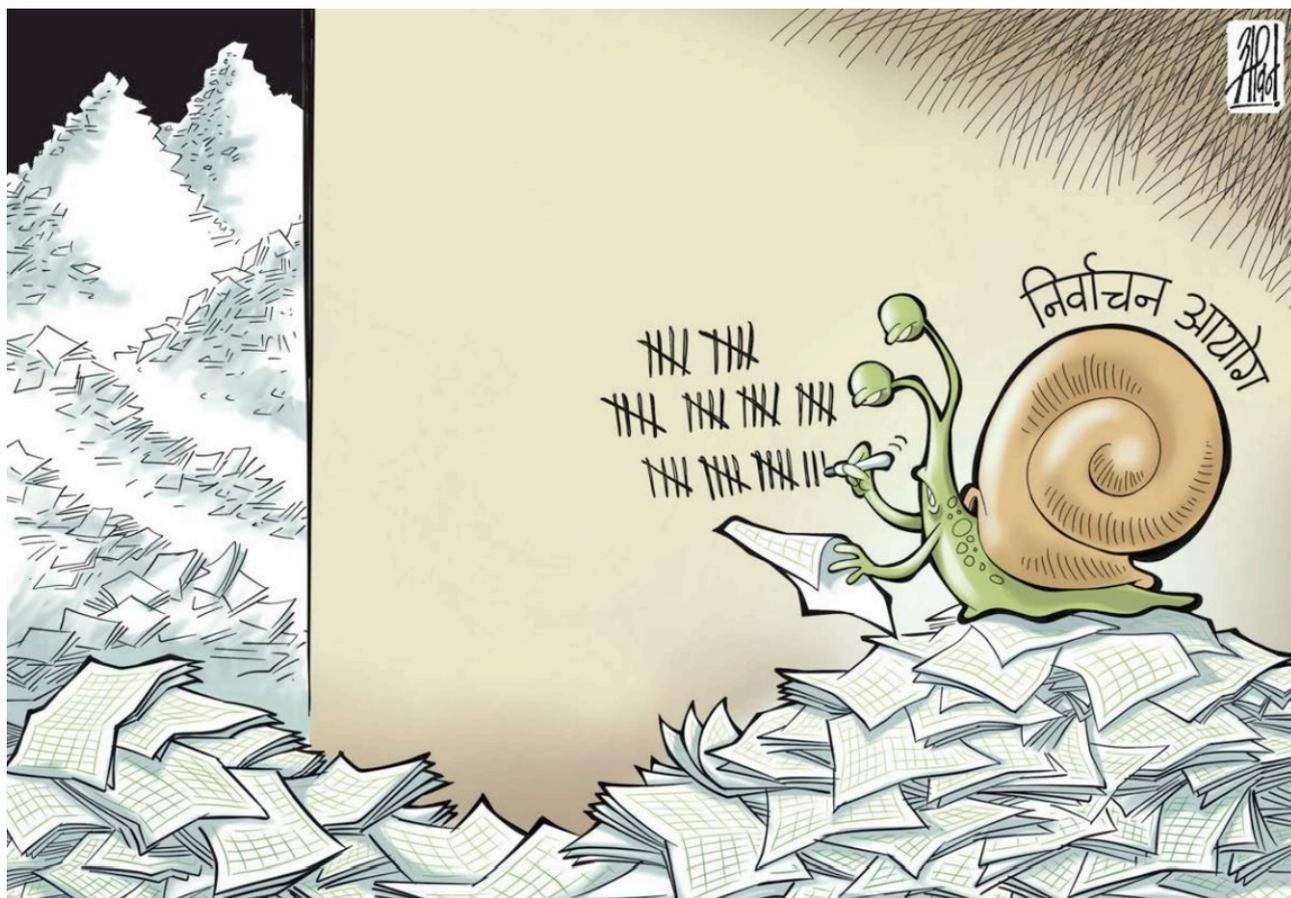
S/N	Ballot-1	Ballot-2	Ballot-3	Ballot-4	Ballot-5	Ballot-6
	<i>Chair/Mayor</i>	<i>Vice Chair/ Deputy Mayor</i>	<i>Ward Chair</i>	<i>Woman Ward Member</i>	<i>Dalit Woman Ward Member</i>	<i>Other Ward Members</i> (ballot should be marked in any two boxes for the two additional ward members)

To secure seats, parties have abandoned their core values and formed unnatural alliances that resemble cartels. Each vote is an expression of trust. For people to have confidence in their governments, leaders need to communicate their policy, budget and program decisions to the people clearly, accurately and effectively. Transparency and information, however, are unknown words in Nepal's political circles.

Already the local electoral system is subject to increasing criticism. Voters can cast seven votes:

Mayor/chairman, respective deputies; Ward committee: chairman, one woman, one Dalit woman, two other members. In small rural communities with only a few candidates, this may still be understandable, but in cities and especially large towns with numerous participating parties and candidates, this means confusing large ballots.

Invalid votes are literally provoked. All this is made worse by the fact that the ballot papers contain neither the names of the parties nor the candidates, but only the symbols assigned to the parties and independent contenders. Discrimination against smaller parties and independent candidates is tolerated. This system dates from a time when the literacy rate in Nepal was below 20 percent. Critics are therefore calling for drastic change. One consequence of this complicated system was that the vote count took about two weeks, especially in the larger cities.



Source: Kantipur, 16 May 2022

Every Nepali who has reached the age of 18 has the fundamental right to vote. However, this right is denied to the following groups of people:

About six million Nepalis abroad (i.e., more than 20% of the total population, not of those eligible to vote; since almost all of these migrants are adults, their share of the voting population is thus considerably higher yet), including all migrant workers (and these are especially younger people),

260,000 people on security duty during the elections

300,000 election workers

The Supreme Court obliged politicians years ago to give these people a choice, which neither the Oli nor the Deuba governments cared about in any way. None of the top politicians wants to understand that decisions of the Supreme Court are binding law and must be implemented by the executive and legislative branches.

In this context, it should also be mentioned that the age limit of 21 for candidacy at the local level should urgently be lowered. According to the 2011 census (unfortunately, I do not yet have the new figures), 46 percent of the population was younger than 20, which means that half of the population is deprived of active

involvement even in their cities and municipalities!

Not only the current local elections, but also the general political events of recent years have made it clear that the Political Parties Act is in need of a fundamental democratic overhaul. In its current form, it is primarily oriented toward preserving the power of top politicians, i.e., it serves an oligarchy rather than the power of the people. The powers of party leaders should be drastically curtailed; all parties must be forced, if necessary under threat of withdrawal of party status, to abide by the constitution and laws. Social inclusion must be made mandatory and enforced for all party levels, as well as in the nomination of election candidates. Party expulsion or other "punishment" of party members for expressing opinions that differ from those of the party leadership must be made virtually impossible. Finally, persons against whom legal proceedings are pending must be prohibited from holding any public or party office until they have been adjudicated. And such cases are not necessarily rare in Nepali politics, up to the highest state offices.

The federal state could be a good political system for Nepal if the top politicians of the parties would finally give up their centralist patterns of thinking! In the recent elections, they rather hindered democracy and development at the local level! Nepal calls itself a federal state. Nominating candidates for local elections is not the job of national party leaders! The latter should at most make recommendations to the local party level, but not issue directives, especially with regard to the nomination of local election candidates and election alliances!

The rule, now confirmed by the Supreme Court, that incumbents must resign from their posts before elections if they wish to run again is also incomprehensible. It remains to be seen whether Prime Minister Deuba and the other members of the government will resign before the next national elections if they want to run again.

Similarly, no one in government service should be forced to resign if he or she wishes to run in elections, as required by Article 14 of the Political Parties Act. Prior to the current local elections, over 1,500 teachers resigned from their profession for this reason alone. In addition, the same article's requirement that one must be at least 18 years old to join a political party is also discriminatory and counterproductive to the political maturation of young people.

Two questions should be posed in conclusion:

Why, as in all previous elections, was there a significantly lower percentage of registered women eligible to vote in these local elections, even though, according to the most recent census, women make up about 51 percent of the population and are significantly less likely to reside abroad as migrant workers?

Why do male politicians constantly claim that women are less qualified for political leadership positions, although the women elected in 2017 proved otherwise, even though they were generally only granted deputy posts? At the same time, the top male politicians have continuously demonstrated their incompetence.

Concluding remarks

It should be noted at this point that at the event in Cologne, a Nepali medical doctor rejected the above theses in his subsequent lecture on the topic of "Nepali Diaspora". Nepal's political system, he said, as well as its electoral system, are similar to those in Germany, what corresponds to the slogans of Nepal's ruling elite, but not to reality.

The federal system was written into the constitution in 2015, but it has not been properly implemented and developed to this day. The Nepali electoral system cannot be compared at all with the German one. In Germany, seats won through the direct election system are balanced according to the proportional result. A party that received 30 percent of the votes will also end up with only 30 percent of the seats, not to mention the problem of overhang mandates.

There is no balance in Nepal. Compared to the Constituent Assembly electoral system, the ratio of about 60:40 per cent was reversed in 2015 in favour of the direct election system. Whereas the interim constitution of 2017 had said that political parties should also apply the guidelines for the proportional electoral system when selecting candidates, which they of course ignored in both elections, this passage was simply deleted in 2015.

The result: thanks to parties totally dominated by men, 159 men and only six women were directly elected to parliament in the 2017 elections. 51 per cent of the directly elected MPs came from the Tagadhari castes. The Nepali electoral system, and the related passages of the constitution and subordinate laws, serve to maintain power and control of a few ageing and in some cases repeatedly failed males at the helm of the parties. Mind you, I am not against Nepal's political parties, but they need to change tremendously and also renew their personnel.



Source: *Nagarik*, 26 May 2022

In addition, the next speaker called for more time for the democratisation of Nepal. How long are the people of Nepal supposed to wait? Democracy dawned 32 years ago. At its foundation, the Federal Republic of Germany had left behind a system that had been much more authoritarian and brutal than Royal Nepal. 32 years after the founding of the FRG, i.e. at the beginning of the 1980s, Germany had been a consolidated democracy for some time. The constitution is still stable today and has undergone only very few changes. Nepal has already had its third constitution in the corresponding period and this one, too, is under threat. The shortcomings of the 1990 constitution and its numerous compromises with the monarchy and the previous political system were the cause of the Maoist insurgency and ultimately facilitated Gyanendra's coup.

The development of Nepal's democracy has stagnated or even declined. The reasons for this are the failed top politicians and persisting fundamental evils such as patriarchy, casteism and Hindu state thinking.

In recent days, the question has repeatedly been raised whether it would not be appropriate to force a generational change in politics by limiting the possibility of re-election to two terms. The constitution already provides for this at the local level in Articles 215 and 216. At the national level, the old and often failed politicians cling to their chairs and declare themselves indispensable. This leaves political control indefinitely in the hands of a small circle of mostly high-caste males who intensify rather than reduce their control down to the lower level of what should be a federal system. This is not democracy, but oligarchy.

Of course, this small circle will not voluntarily change the laws to deprive itself of its arrogated prerogative. The recent wave of protests against violence against women makes it clear that change can also be brought about peacefully. Hope lies with the young generation, which makes up a large part of the diaspora. If they finally get a chance to exert direct influence, things could also change politically. I believe in that.