

Framework for management of post-conflict transition in Nepal: Some issues and concerns

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1. The context

In this paper neither I am engaged in theoretical or academic discussion nor presenting the content in the format of standard peer reviewed papers. Instead, I have opted for a very pragmatic, simple and easy to read style presentation. I did it deliberately hoping that it will be useful for wide range of readers (politicians, journalists, students of political science and peace studies, practitioners, etc.). I have presented simple arguments that peace-democracy-development are rationally inter-connected. In the following sections I am discussing these issues in the framework of management of post-conflict transition in Nepal.

Nepal is entering into the post conflict phase after the signing of Comprehensive Peace Agreement (CPA) by the then rebel leader Mr Prachanda and the Prime minister in 21 November 2006 on the behalf of Communist Party of Nepal (Maoist) and the government of Nepal (representing the Seven Party alliance). Post conflict is a contested terminology because of its fuzzy boundaries. The main contention is on unclear timing about when it starts and when it ends. However, from the perspective of peace agreement, it is a time span between the signing of peace agreement to the completion of implementation of provisions mentioned in the agreements. Hence it is a situation of transition from conflict to peace.

In general, peace refers to the state of social, psychological, physical, and spiritual wellbeing on an individual. In the context of Nepal, the peace is a state of restoring normal and or improving relations between people and between institutions directly and or indirectly affected by the 10 years of armed conflict, addressing the legacy of conflict and achieving social, psychological, physical, and spiritual wellbeing of individual Nepalese people (Upreti, 2008a). Peace process in the context of the armed conflict is continuous phenomenon of undertaking the contents, methodology and outcomes related to end the armed violence, undertake the peace talks, reach negotiations and address the legacy of the armed conflict bring the situation in normal or improved stage (Upreti, 2008b). Addressing legacies of conflict is also called as post conflict situation.

Dealing with post-conflict situation requires appropriate management process that deals with past and envisions better future by generating hope and aspiration (Tutu, 1999; UNESCO, 2003; Aditya *et al.*, 2006). It can be achieve by sincere implementation of understandings and agreements reached in the past including Comprehensive Peace Agreement (CPA), appropriately dealing with past and ensuring transitional justice and rule of law, guarantying transitional security, providing peace dividends, proper facilitation of disarming, demobilizing and reintegration and restructuring of security sector and undertaking reconstruction and rehabilitation (Upreti, 2008b).

Nepal has experienced deadly armed conflict for a decade (13 February 1996 to 21 November 2006). The armed conflict was first started on 13 February 1996 by Communist Party of Nepal (Maoist) [CPN (M)] as a small rebellion in the four western hill districts of Nepal and quickly expanded all over the country and posed severe threat to human security in the country (Upreti, 2004; Pyakuryal *et al.*, 2008).

Since 21 November 2006, Nepal has entered into new era when the Government and the CPN (M) signed the CPA. The historic peace agreement not only ended the more than a decade of armed insurgency but also opened windows of opportunity to transform the feudal, centralized and exclusionary state into a

modern and inclusive nation. Transformation of Nepal's conflict into durable peace and democracy requires smooth implementation of peace process and its logical conclusion (Upreti, 2008a).

The 12-point understanding between the Seven Party Alliance (SPA) and CPN (M) and subsequent people's movement of April 2006 provided fundamental basis for ending armed conflict and restoring peace. Signing of the CPA and invitation to the United Nations Mission in Nepal (UNMIN)¹, Agreement on Management of Arms and Armies, the promulgation of the Interim Constitution, formation of the Interim Legislative Parliament and the Interim Government, completion of the verification process² of the 'peoples liberation army' (PLA) by a Joint Monitoring Coordinating Committee³; reaching agreements by the interim government with Madeshis, Janajatis and other concerned stakeholders, successful completion of the highly awaited and frequently postponed election of the Constituent Assembly (CA), declaration of Nepal as 'Democratic Republic' by the 1st meeting of the CA on 28 May 2008 and installing the power sharing arrangements (election of President, Prime Minister and Chair of the Constituent Assembly) are the major building blocks for Nepal's post conflict management (Upreti, 2008b; Baechler *et al.*, 2008).

The post conflict transition management has challenge of transforming a centuries' old feudal, centralized, unitary and exclusionary nation with widespread discriminations based on sex, caste, ethnicity and religion to a federal inclusive republic (Upreti, 2006).

Box 1: Uniqueness of Nepal's peace process

- Largely managed by internal actors unlike heavy direct involvement of external actors
- Fighting political forces (democratic political parties and CPN Maoists) coming together to fight against the then monarchy (as a greater enemy). Hence the triangular conflict (between the king, democratic parties and the Maoists) turned in to bipolar (the king v/s political parties) forcing the king to surrender, reaching to CPA and finally abolishing monarchy.
- Greater contribution of civil society
- People's power reflected in the *Janaandolon II*
- Greater international support to people and parties after the takeover of the king in 1st February 2008
- Solidarity for change from bureaucracy, judiciary, business sector and other many sectors of society
- Rebellion force selected by people as largest political party from the election
- Cooperation by military (instead of attempting to go for military rule and respecting political change and CPA),
- Active engagement of domestic peace and conflict transformation researchers and practitioners in seeking solution
- Huge pressure from human rights community (nationally and internationally) to come to peaceful solution of the armed conflict.

¹ The 5622nd Meeting of Security Council had established United Nations Political Mission in Nepal (UNMIN) by unanimously adopting the resolution 1740 (23 January 2007) as per the request of the Government of Nepal and the CPN (M).

² All total 19604 people have been qualified from the UNMIN verification process.

³ For details about the Joint Monitoring Committee, see the decision (SC/8942) of 5622nd Meeting (PM) of the Security Council of UN.

Experiences around the world have demonstrated that women can play important roles in all elements of peace process such as a) implementation of UNSCR 1325, b) crisis management, c) negotiation and conflict management, d) peace talks and agreements , e) post conflict transitional management (transitional security and transitional justices and f) post conflict reconstruction and rehabilitation.

2. Management of post conflict transition

Making post conflict transition successful requires focusing on the following components:

1. Management of post conflict process
2. Dealing with contents, and
3. Behavioural response

2.1 Management of post conflict process

So far, process part of Nepal's peace process is relatively weak and even it is said that that Nepal's peace process is 'without processes' (Upreti, 2008a). Nepal's post conflict transformation process can be even more successful by making 'process right'. To make process right means inclusion of main stakeholders of peace process in the decision-making (e.g., women, Dalists, Janajatis, conflict victims, displacement, etc), balancing confidentiality and transparency, getting approval of decisions that have far reaching consequences by people (e.g., referendum), proper documentation of the decisions, being accountable to sincerely implement decision, etc. Experiences of other conflict ridden countries show that right process helps to make quality decisions and that helps better implementations of the decisions (ICG, 2006).



Proper process helps to achieve these transformations and lack of due process creates obstacles and complications while implementing transformation packages.

Table 1: Post conflict Indicators

<ul style="list-style-type: none"> • Inclusive constitution making process • Major constitutional issues decided by referendum (ownership principle). • Constitutional principles respected while making constitution, • Completion of constitution making within the defined time
<ul style="list-style-type: none"> • High Level Peace Commission and all other monitoring mechanisms in full function • High degree of peoples participation in peace process
<ul style="list-style-type: none"> • All agreements and understandings are implemented honestly and timely
<ul style="list-style-type: none"> • Ensure transitional justice • Impunity is properly addressed • Rule of law is established • Implementation reparation, reconciliation, rehabilitation, reintegration, reconstruction packages,

<ul style="list-style-type: none"> • Police performance is effective and free from politicisation and malpractices • Security situation good • Illegal arms supply controlled • Armed groups controlled
<ul style="list-style-type: none"> • Smooth implementation of DDR and SSR according standard practices • NA fully collaborates for SSR • New national security policy formulated • Collective commitment from all political parties in addressing challenges brought by armed conflict
<ul style="list-style-type: none"> • Human rights situation is improved • Impunity is full addressed • Full justice to conflict victims and survivors
<ul style="list-style-type: none"> • Constructive dialogue, mutual respect and collective responses among political parties (coalition culture) • Consensual response to problems
<ul style="list-style-type: none"> • Functional elected leadership in DDC/VDC. • Great demand for and ownership of development • Consensus in development priority
<ul style="list-style-type: none"> • Positive response towards people's genuine demand and engage in dialogue and interaction • Coalition culture in the power sharing government • Parliamentary elections according to new constitution • High economic growth rate • Major infrastructure development started • Autonomy and rights of citizens respected
<ul style="list-style-type: none"> • LPC independently engage on dealing with the past • Reintegration and psychological reconstruction incorporated into national policy and practices

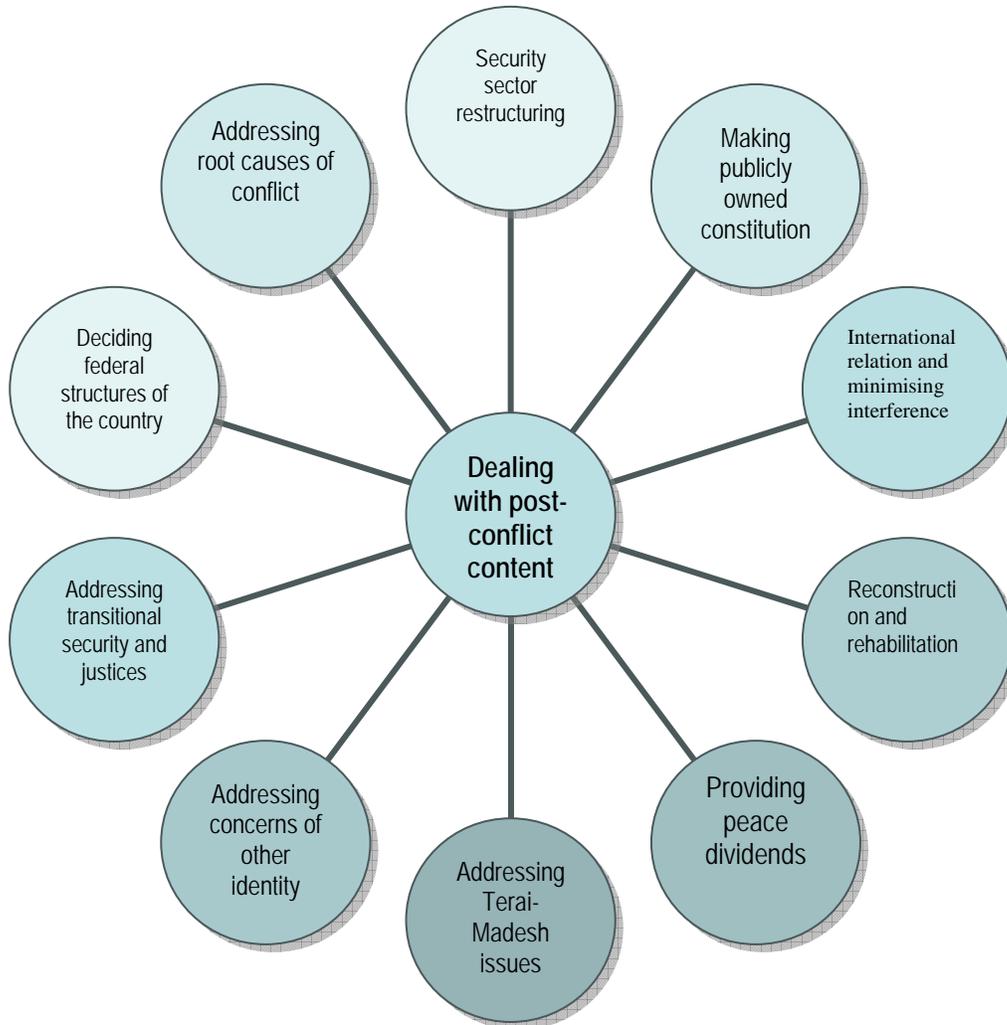
Source: Compiled from Upreti 2008a and b; Upreti 2006 and 2004.

2.2 Dealing with the post conflict contents

Success of post conflict period requires a process of smooth transformation of the transition (Pyakuryal *et al.*, 2008f). It is possible only when the political, economic, social, cultural, psychological barriers are dismantled and new vision and commitments are made through appropriate process (Bloomfield *et al.*, 2003; Galtung, 1996; Upreti, 2004). It is virtually impossible to transform the feudalistic, centralised, unitary, monarchist and exclusionary country into a modern, equity oriented, federal Nepal without transforming perspective, thinking, action and behaviour of all people of Nepal. Transformation requires in:

- a) Attitude, behaviour, perspective, thinking and action of major actors (political leadership, bureaucracy, judiciary, security forces, social elites and their organizational structures, procedure and mode of representation);
- b) Rules (most of the existing laws, rules and provisions are the controlling and exclusionary and need change,
- c) Issue (Nepali society is transforming from civil war to durable peace and hence all issues and agenda of the war-time must be changed and the role of government should be facilitating instead of controlling),

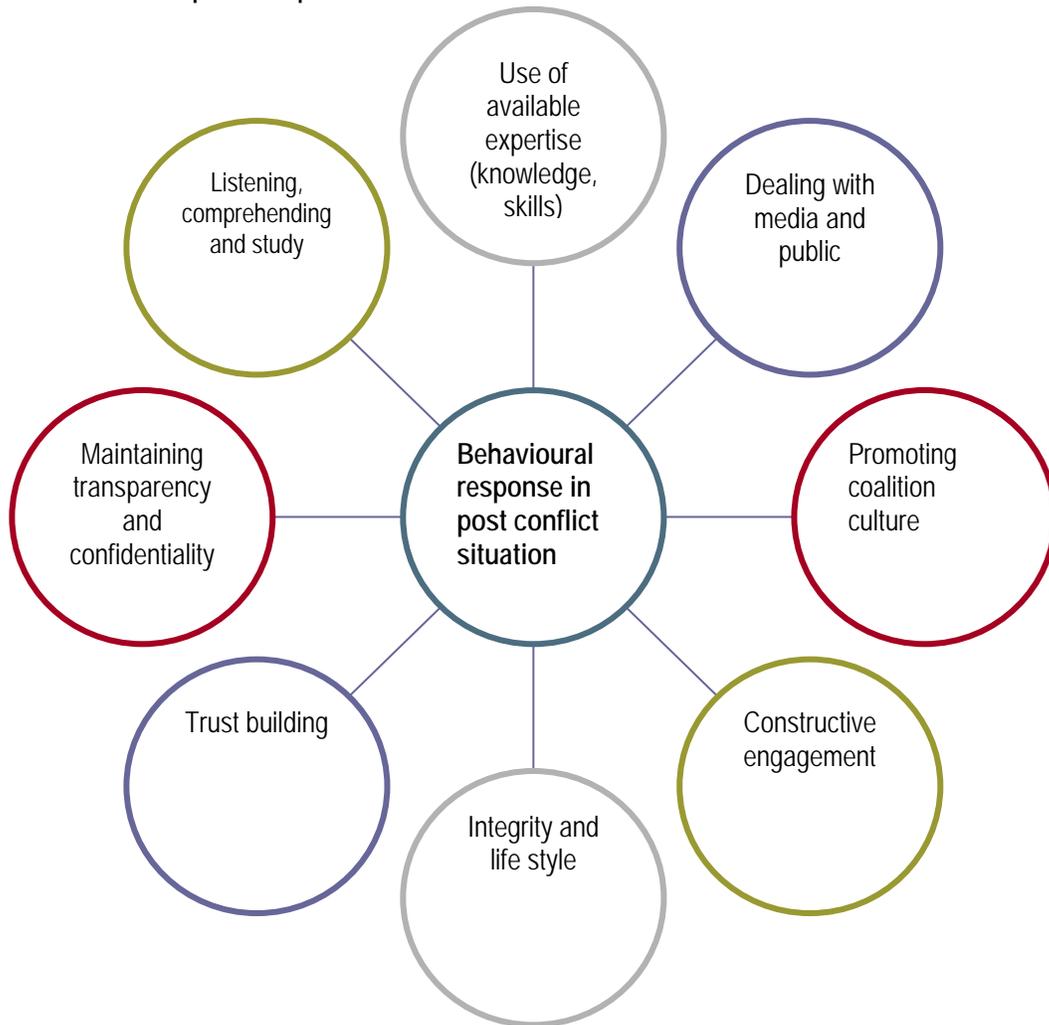
- d) Structures (transformation is required in existing structure and power relations),
- e) Context (transformation of exclusionary and controlling patterns of governance),
- f) Value (e.g., social change through violent action to social change through peaceful action, non-violence, and co-existence).



The post-conflict transition must

- a) address root causes of the conflict and structural inequalities;
- b) build trust, cohesion and harmony at community;
- c) develop community resilience to cope with the adverse impacts of conflict;
- d) create space and opportunities for peace building,
- e) ensure visible benefit form the project to socially excluded and marginalized people and making sue that they are included in the decision making process;
- f) prevent possible widening of gap between rich and poor and enforces discriminations;
- g) make sure that development interventions are not introducing new conflicts and tensions and
- h) ensure that resources are not captured and manipulated by elites or warring parties. This is possible through incorporating PCIA into development programme and project.

2.3 Behavioural response in post conflict situation



Nepal's peace process is in fact widely praised for its fast and substantial progress. However, it has not only equally criticised for its failure to deliver the promises but also encountered several challenges and obstacles. Peace process became shaky when various regional and ethnic groups vehemently opposed the resisting attitude of SPA leaders on their demands of inclusion and participation in decision making. The bumpy road of peace process is getting back on track after the successful completion of the CA election. However, logical ending of the ongoing peace process depends upon the commitment of political leadership to translate the promises into action and the external cooperation particularly from India. So far, leadership has shown willingness to make peace process successful but failed to internalise the need of widely expected transformation (Upreti, 2008a).

Making transition successful requires to accomplish the following:

- Implementation of the agreements and understanding

- Monitoring of the implementation
- Adaptation and revisions of the agreements
- Stakeholders participation in implementing the provisions of peace agreements
- Different national and local elections according to the provision of the new constitution

2.4 Structures required for post-conflict transition

- Commission on Land Reform
- Security Commission and or National Security Council
- Security Sector Restructuring or other related committees ,
- Committee on Disappeared Persons
- Local Peace Committee
- Administrative Restructuring Commission
- Thematic Committees (e.g., Peace Trust Fund)
- National Peace and Rehabilitation Commission
- High level State Restructuring Recommendation Commission
- Political party structures
- National Peace Commission Including Peace Secretariat (MoPR),
- Research and Resource Centre,
- Peace Trust Fund Management Committee
- Technical Committees and Special Task Forces (for thematic issues)

3. Challenges of post conflict transformation

1. Agreeing on federal structures
2. Coping with unanticipated challenges emerging in the course of transition.
3. Agreeing on creation of structures as required by the peace agreements,
4. dealing with past and transitional justice,
5. Economic growth and stability
6. ensuring peace dividends to conflict victims and poor sections of society,
7. Ensuring transitional Justice and rule of law,
8. ensuring transitional security⁴,

⁴ In any war-torn countries one of the major challenges after signing the peace agreements is maintaining security situation. Though the term, 'post conflict' is contested in Nepal particularly after the emergence of several small armed groups and their engagement in violence, the operational definition of post conflict is 'a situation after the formal signing of the CPA on 21 November 2006 by the government and the CPN (M) that ends armed conflict and parties earlier engaged in fights, violence and war start to implement the provisions of the agreements'. The transitional security of Nepal particularly in Terai⁴ is severely challenged by small armed groups such as Janatantrik Terai Mukti Morcha (Jwala Singh); Janatantrik Madesh Mukti Morcha (Goit), Janatantrik Terai Mukti Morcha (Bisphot Singh), Madeshi Mukti Tiger, Terai Cobra; Python, Terai Baggi, Terai Army, Madeshi Virus Killers Party, Royal Defence Army, Gorkha Line Mukti Morcha, Liberation Tigers of Terai Ilem (LTTE), Kirat Workers Party (mainly Udayapur and Khotang). In addition to these armed groups, there are other criminal groups active in Terai (Chhotelal Sahani; Sanju Baba, Raju Singh Rathor and Munna Singh Groups are few of many others mainly operating from India), rural areas and towns and creating severe insecurity and violence. This is serious immediate security concern that state has to address (Upreti, 2008e). Nepalese people are seriously suffering from insecurity and violence. Phenomena of criminality led insecurity such as kidnapping of children, murder and attempted murder, robbery, illegal trafficking of arms and ammunitions, human trafficking, drugs abuses and trafficking, atrocities, murders, killings, massacres, forced displacement became serious (Upreti and Nepali, 2006). This phenomenon, particularly from Terai is growing particularly after signing of the CPA. The transitional situation is getting further complicated after creation of the

9. Facilitating disarming, demobilizing and reintegration process,
10. Free and fair conduction of elections,
11. Implementation of reconciliation, rehabilitation, recovery and reconstruction to make peace process successful,
12. Implementation of the understandings and agreements reached in the past,
13. Keeping external interference away or minimum an obtaining international support,
14. Maintaining impartiality and keeping security, bureaucracy and judiciary out of political interference
15. Managing and or addressing public expectation and frustration,
16. Monitoring of peace process and peace agreements,
17. Peace dividends to conflict affected people and reparation packages.
18. Realising the need of political party building⁵
19. Initiating appropriate reconstruction and development⁶
20. Security system restructuring

The widening gap of mistrust between the CPN (M) as leader of the ruling coalition and the Nepali Congress Party as the main opposition has caused serious hurdles in sincerely executing the provisions of CPA and moving this country ahead. Political scientists often argue that there is no enemy in the politics but there is opponent. However, the major political parties in Nepal are treating opponents as enemy. They are blatantly abusing very sensitive issues like army integration for their vested political interests rather than handling sensitive issues delicately. Though degree and intensity of abuses vary between parties but none of them are free from such abusive attitude.

4. Conclusions

Making Nepal's post-conflict transition successful requires collective efforts of political parties, civil society, bureaucracy, security organizations and international community. It is crucially important to review the past achievements and problems faced focusing on process, mechanisms, and outcomes, spirit of various agreements (avoiding blames and counter blames) and come forward with new commitments, necessary institutional arrangement and appropriate process and procedure that ensure smooth transition from war to peace and address all grievances of Nepalese people.

coercive nature of organisations such as Young Communist League⁴ (YCL), Youth Force (YF) and *Madesh Rakshya Bahini* by political parties. The official justification of need for creation of such forces by political parties does not match with the actions. The only legally defined institutions such as police, army and private security system approved by the government have coercive rights. However, these organisations are operating without any legal mandate that consequently weakens state security apparatus, creates parallel functioning and adds insecurity. Any one can easily understand that coercive forces created by political parties serve their vested interests. Once powerful political parties have created such coercive forces severely weakened police force (by politicisation or political protection) can not contain them. Hence, Nepal's security situation is facing dilemma.

⁵ Political parties are the leading force in nation building and democracy and their governing style determines destiny of this country. Support to democratise political parties, promoting internal democracy and development of younger leadership are crucially important to make transformation successful. The practices of exclusion and under recognition in political process are the outcome of feudal mindset and changing such attitude requires intimate engagement and dialogue-cum-practice.

⁶ Reconstruction and development is one of the most important elements in achieving peace and stability. New vision, new policy, new strategy, new institutional arrangement, new methodological approaches and fresh perspective on development are essential to make development sector responsive and contributing to make peace process successful. Adopting conflict sensitive development approaches is one of the main options for policy makers to maximise the contribution of development sector in achieving sustainable peace, social harmony and living standard of Nepalese people. The newly created Ministry of Peace and Reconstruction has central role in developing conflict sensitive development vision, policies and strategies for the promotion of reconstruction and development.

Coming years are not only opportunities for Nepal's peace, democracy and prosperity but also challenging in achieving them. If the security issues are not collectively taken by all political parties as their common concern, organized crimes and insecurity will continue and even further expand with activities like extortion, abduction, robbery, looting, narcotics smuggling, rape, girls trafficking, hunting and smuggling of rare animals (e.g., musk deer, valuable furry skin, tiger bones, rare herbs, woods, etc.). So far political parties have not proactively engaged enough to deal with transitional security. Further, if parties continue their coercive youth mobilisation it will be the worst situation. Hence, addressing transitional security requires collective responsibility of government, political parties, security actors, civil society, media and community.

Improving transitional security is only short term strategy and it needs long term security policy of the nation. Long term security policy of the nation has to consider at least coming 5 decades of the possible security scenarios in the region and international level. Restructuring of security apparatus (army, police, intelligence), ministries (home and defence), National Security Council should be guided by national security doctrine and policy, international relations and economic policies with strong provision of civilian control of the security sector and proper oversight from the parliament (Upreti and Nepali, 2006).

So far state has not properly internalise and acknowledge the women crucial role in peace process and therefore not provided substantial responsibility. One of the main reasons of this response is the masculine mind-set, a true reflection of feudal, patriarchal society. Women themselves have also indirectly or directly contributing to this mind-set. Women are half of the population of the nation and therefore they are half of the solution of the country. It is also inappropriate to argue that women's role alone brings peace and stability in Nepal. However, meaningful participation of women in peace process can definitely contribute to achieve it. Nepal needs to learn and internalize from the experiences of other countries where women have greatly contributed to peace building, peace operation, reconstruction, rehabilitation, resettlement, reconciliation, resettlement reintegration, and repatriation (6R). To make the Nepal's peace process successful qualitative engagement of women in content, structures and process of peace process is essential. Peace process is being part of political process; women engagement in broader political process can only ensure women's representation in peace process. Hence, these two components should go together.

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