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Nepal: Conflict Dynamics and Choices for Peace

Dev Raj Dahal, FES Kathmandu

- The nine-year old Maoist insurgency and counter-insurgency operations by the state in Nepal have weakened the authority of the state and eroded the space for democratic politics.
- Continued violence has claimed the lives of more than 10,000 people, crippled development infrastructure, debilitated socio-economic and governance reforms, caused the withdrawal of many foreign -aided projects from rural areas and induced a livelihood crisis.
- The absence of an elected parliament and local bodies has created a democracy vacuum, weakened the accountability of governance and undermined the prospects for institutional redress of structural injustices to the poor, women and Dalits.
- Manifest conflicts among the establishment made up of a coalition of four parties, the Maoists and another coalition of four political parties that are agitating for power have resulted in a political deadlock adding further complexities to conflict transformation efforts, not least their competing sources of legitimacy and conflicting perspectives on the national problem.
- Both the government and civil society are doing their best to muster national and international collective action for the immediate beginning of negotiations. Which strategic choices for conflict settlement and peace are available?

Nepal is facing a serious political and human rights crisis. The nine-year old Maoist insurgency (February 13, 1996) and counter insurgency operations by the state have claimed the lives of 10,264 persons. According to the National Human Rights Commission (NHRC) on an average 23 persons were killed each week. The state struggles to hold on to its legitimate monopoly of power and the capacity to fulfill governance functions - national security, law and order, voice and participation and delivery of public goods. Violent conflict has led to the breakdown of education, closure of several businesses and weakening of farm-based subsistence economy. The unpredictable security situation is causing the withdrawal of many foreign aided development projects and an exodus of rural people to urban areas and abroad.

The overwhelming use of society's resources only by the organized centers of power is the main factor that has led to the erosion of the efficacy of the state to protect the powerless people caught in poverty, caste and class hierarchy and patriarchy. These underlying structural conditions have been blamed by many analysts as the stimulants of societal revolt against the state. In the beginning, societal grievances were articulated to political parties. Due to procrastination, neglect or even suppression of those grievances by the party or parties in power, the conflict assumed violent proportions posing a critical challenge to the state authority, political stability and the institutionalization of the democratic order. To combat rampant corruption and the growing culture of impunity, the Commission for the Investigation of Abuse of Authority (CIAA)

started taking action against the guilty and the government announced several socioeconomic and governance reform packages. But these appear to have come too late to resolve the conflict as it has already assumed a more sinister dimension of an intense power struggle.

Manifest Political Conflict

The manifest political conflict in Nepal is triangular in nature - between the Communist Party of Nepal-Maoist (CPN-Maoist) and the monarchy, between CPN-Maoist and the political parties and between political parties and the monarchy. In this political equation, no actor has total dominance over the other. Even a coalition of two actors cannot marginalize the third one. The stubborn position of these actors so far has produced a situation of deadlock. The constitutional politics turned confrontational when elected Prime Minister Sher Bahadur Deuba postponed parliamentary elections, and King Gyanendra eventually sacked him for failing to hold elections and assumed the executive powers in 2002.

Several governments have been formed since then but have had to resign for failing to organize an effective coalition to resolve the crisis. The absence of an elected parliament and local bodies has created a "democracy vacuum." After the breakdown of peace talks since August 2003, conflict between the security forces and the CPN-Maoist guerrillas spiraled high. The security forces are controlling the district headquarters and Kathmandu. The CPN-Maoist is conducting its guerrilla activities in rural areas. Stability and economic prosperity in urban areas and conflict and crisis in rural areas indicate that both are de-linked from each other. The sharp increases in various types of conflicts clustered around the fault-lines of the state have dissipated any early hopes for an easy political transition from patrimonial to democratic governance. Civil society organizations are not adequately

positioned to organize and articulate the power of the public for social change. They have, however, been effective in monitoring human rights violations, organizing peace rallies and negotiated between Maoist-affiliated student and trade unions and the government authorities for the opening of schools and factories.

The government and the Maoists have the gun at their disposal to evoke fear in the minds of the people, but this has not deterred the political parties from mobilizing people against them. The king, the army, police, business class, Nepali Congress (Democratic), Communist Party of Nepal-Unified Marxist Leninist (CPN-UML) and a group of Rastriya Prajatantra Party (RPP) and Nepal Sadbhavana Party (NSP) constitute the establishment. A coalition of four parties - Nepali Congress (NC), Nepal Workers and Peasants Party (NeWPP), Nepal Sadbhavana Party (Anandi Devi) and People's Front Nepal (PFN) is agitating against the establishment in favor of the reactivation of the constitutional process. Large donors are too focused on supporting the metropolis at the cost of periphery, while cooperation is needed for the rural civil society, youths, poor people, women and small peasants.

Competing Legitimacy

Nepalese political forces have been claiming various forms of legitimacy - traditional (monarchy), electoral (political parties) and revolutionary (CPN-Maoist) - to contest for power, but their inability to get socialized and operate according to the constitutional rules of the game has built a propensity to perpetuate the political deadlock, thus making conflict inevitable. In a weak state dependent on foreign aid, external support to the government has added yet another element in terms of legitimacy. Each political force holds clashing preferences, claims the rightness of its own cause and aversion to the demands of others. For example, King Gyanendra declared his role as a "con-

structive monarch", thus granting him more influence. Political parties prefer a "constitutional monarch", and the CPN-Maoist is struggling for a republican state. In this context, it is difficult to envisage an early return to the negotiation table, especially because everybody appears to be making gains through the conflict and stepping up rhetoric that would intensify rather than pacify it. Only conflict-fatigue and wariness in the warring factions might change their mind-set.

Conflict Transformation

People desire peace, but their capacity to bind the leaders to a mutually beneficial course of action has not been productive so far. Shared risks among the three adversaries could make cooperation possible. The political parties realize that the perpetuation of the violent conflict would erode their political space and their civil societies in rural areas. They fear a scenario of CPN-Maoist and the King striking a deal to weaken and isolate them, while the monarchy fears the danger of political parties moving closer to the Maoist camp. Party leaders argue that since the king is still the pivot of Nepali politics, a direct dialogue of rebels with the King might revive the "active monarchy" and undermine the relevance of parties. Each political force has made public its own agenda of reform. These agendas reject the political equation of 1990, the constitutional status quo and aim to restructure state-society relations. This holds a possibility to transform the zero-sum conflict into a positive outcome. But in the absence of effective intermediaries, a serious dialogue prospect has yet to set off.

Peace Negotiations

The first round of government-Maoist dialogue (2001) broke down after the Maoist attack on the military barracks at Dang, forced the government to declare a state of emergency and mobilize the army. The second round of talks in 2003 broke down after the killing of 17 unarmed

Maoists and two civilians by security forces in the midst of the negotiation. Additional causes were growing mistrust between the two sides, the absence of any mechanism to monitor the violation of the code of conduct and human rights, single-track negotiation, talk more on differences than on common points, inflexibility in the adjustment of goals, poor role definition of facilitators as mere communicators and a lack of support from political parties for the negotiations. Similarly, there was no transformation in the 'we are winning' mindsets of both sides to reconciliation. There was some political provision for reform but no military provisions regarding the adjustment of the Maoist force. The government was insisting on the prior surrender of arms by the Maoists which they rejected outright.

Conflict Escalation

After the breakdown of the cease-fire, the government branded the CPN-Maoist a "terrorist outfit," created a Unified Command of the Royal Nepalese Army (RNA), Armed Police Force (APF) and Police (a force of 138,000 armed personnel, including those from civil and armed police agencies) and introduced the Terrorist and Disruptive Activities (Control and Punishment) Act which allows security forces to detain persons accused of terrorism for a year. The security forces are gaining greater tactical mobility to go with their superior equipment, intelligence and planning. It believes that after the detention of 11 senior Maoist leaders in India, the split of the Maoist-affiliated Tarai Liberation Front [a regional party which wants autonomy of the southern plains bordering India] and Kirant Workers' Party [an ethnic party of the eastern mountains] and the abolition of the Special Task Force from Kathmandu Valley, the rebels have become weak.

The Maoists' current political strategy involves developing an understanding with the opposition parties, persuading them

to work together for a constituent assembly, strategic concentration on India, mobilizing international support, especially with those who have differences with the US, and appealing to the UN to "play a mediator role" in resolving the problem. The party disclosing its military strength has said it now commands three divisions, nine brigades and 29 battalions. In addition to the main Maoist force, the People's Liberation Army has 100,000 militia members who will be soon to put into Company Level Formation.

The CPN-Maoist has blamed "Indian expansionism as the main hindrance to a progressive political outlet" which is also "trying to *Bhutanize* and *Sikkimize* Nepal by adopting Nehru's policy that the Himalayas were India's northern border." It also unveiled "a new plan to fight foreign intervention" through a "tunnel war." Leftist leader M.B. Singh, however, argues that the Indian government's recent policy to declare ceasefire with several radical Maoist groups in India and the growing Indian influence in Nepalese politics might limit the role of the King and coalition government and even force the Maoists into negotiations.

Strategic Choices to Conflict Settlement and Peace

Peace through National Security. A state that fails to provide for its own security ceases to be a sovereign. In Nepal a lack of trust between political parties and the RNA has left their rational potential for cooperation unrealized. While the RNA seeks its role in defending the "reasons of the state," and in removing the "state of nature," political parties fear that they might be sidelined in the peace talks. Political leaders are concerned more with the democratic deficit and never really understood the national security problem. A careful management of the nation's delicate geopolitics is equally central to pull the loyalty of centrifugal forces of society towards the consolida-

tion of statehood and beef up its legitimate role in *governance*. Peace, democracy and development cannot be organized in a condition of a security vacuum.

Peace through Public Order and National Consensus:

The coalition government favors the constitutional mechanism as a means to settle conflicts. Peace through law and order has so far proved inoperative, as the security forces have not succeeded in either isolating the Maoists from the people or controlling their influence. On August 12, 2004 the government set up a High Level Peace Committee (HPC), called the CPN-Maoist for peace talks and expressed its commitment to be "flexible to any point within the bounds of multi-party democracy and constitutional monarchy." On October 3 Premier Deuba warned, "The government will have to initiate the election process if the Maoists do not come forward for negotiation." But whether that is feasible has been questioned by many, especially if some of the political parties have yet to join the government's peace initiative - which is vital for elections.

Peace through Constitutional Amendment:

Although many analysts rest their arguments on the hope that peace will come about after a reconfiguration of the power structure through a constitutional amendment, it is a doubtful proposition as even the present constitution was never respected when most of the political actors went about pursuing their own interests. Surprisingly, talk about the need to change the constitution comes only when one is out of power. Even then, the changes sought need to find a consensus first. The Nepali Congress (NC) is interested more in limiting the king's powers; RPP lays stress on proportional representation of social groups and women in politics and the state. The CPN-UML is caught between a constitutional reform and a demand for opening debates for the constituent assembly.

Peace through the Constituent Assembly: CPN-Maoist is demanding the fulfillment of three preconditions for the solution of ongoing insurgency – a round-table dialogue among all relevant sections of society, an interim government and an election for a constituent assembly to draft a new constitution. NeWPP, PFN and many left parties prefer a new constitution drafted by a Constituent Assembly (CA) to resolve the conflict. Other parties lay varying stress on the need for a new constitution, let alone the constituent assembly or even the process of electing the assembly.

Peace through International Mediation: The CPN-Maoist has demanded a role for the UN in mediation. Due to the inability of the political leadership in Nepal to prevent the war of attrition between CPN-Maoist and security forces, many political parties such as CPN-UML, PFN, United Left Front (a coalition of small left parties) and the human rights and civil society organizations have shown their preferences for a UN role in mediation. The government, however, rules it out. Some mainstream parties are not interested in UN mediation because they are unsure of its outcome, fear losing more power to the people and also do not want to antagonize India, which is opposing international mediation.

International Response

There is no coordinated response of the international community to the Maoist challenge, almost reflecting a similar discord among the political forces in the country itself. The US policy is still to provide 'security assistance' to the RNA and believes that one last military offensive can bring the Maoists to the negotiating table. On October 3, the US Ambassador to Nepal, James F. Moriarty said, "My government is not comfortable with the concept of mediation right now, particularly when the Maoists are not giving any sign that their real goal is multiparty de-

mocracy." The European Union (EU) favors "democratic peace" by means of a negotiated settlement to address the root causes of the conflict and suggested that Nepal "benefit from international mediation." The Swiss and Norwegians have shown a willingness to mediate in the conflict. China disowns the Maoists, calls them "anti-government forces," opposes external meddling in Nepal and suggests that the problem should be solved by the Nepalese themselves. India fears that the insurgency in Nepal could spill over to its geopolitical heartland, the Gangetic belt, and points out the possibility of smuggling sophisticated American arms to Indian Maoist insurgents in many Indian states. An extremely porous 1,800 kilometer plus open border and the presence of a large number of Nepalese in India has enabled the Maoists to use Indian territory as sanctuary for guerrilla training, collecting arms and ammunitions and escaping arrest. The Indian government favors "stringent action" and opposes "any third party mediation in the Nepalese peace process". On September 8 India stressed on "increased security cooperation," started to provide counter-insurgency training to the police force, stepped up border patrolling and joint search operations and intelligence sharing activities against Maoists. At the same time India has extended cooperation to improve Nepal's security, economic and social situation.

The common thread among all the different stances is that the Maoists will ultimately have to be accommodated into the power structure, but that they will need to accept the fundamental tenets of the present Constitution. Their assistance strategy appears to have made an implicit assumption that their assistance and, of course, the global war against terror do not appear to be conducive for the Maoists to gain any real military victory. The Maoists are therefore reduced to using guerrilla tactics to undermine the state

structures to coerce the government into giving in to their demands. Even this ability will be significantly reduced especially if the Indian promise to assist translates into a halt of all cross-border raids from Maoist sanctuaries there. A successful assistance strategy by all the international actors would therefore lead the state structure to absorb the Maoist organization on its own terms - within the present constitutional parameters of multiparty democracy and constitutional monarchy. The terms and conditions of that absorption will have to be decided at the negotiation table.

On March 23, 2004 UN Secretary-General Kofi Annan urged the government and the Maoists to take immediate steps to end fighting and to resume the peace process with the participation of all political parties and civil society. Rejecting the military solution to the conflict, he reiterated his offer of help in any manner the parties consider useful. But the Maoist morale and zeal to fight are drawn from the years of misrule by the government and the existing socio-economic inequalities, and this source of their inspiration is unlikely to be resolved any time soon. To marginalize the Maoist force militarily may be easier than leaving them without a cause to kill and die for. However, current peace initiatives appear to be geared at a power sharing agreement among the political actors, not resolving the sources of the conflict. Therefore, continuity of the conflict appears to be on the cards unless the international donors add to their assistance strategy a governance and development component that far outstrips the current security component.

Rational Solution

The war of attrition between the security forces and rebels, especially the prolonged deadlock due to neither victory nor defeat of any side leaves dialogue as the only rational option for the solution of armed conflict in Nepal. A middle ground, however, must be invented between the government's rejection of the constituent assembly and the CPN-Maoist's rejection of the current constitution. India, the USA and the UK and the government have clearly stated their commitment to "constitutional monarchy and multi-party democracy." A conflict can be resolved constructively if all parties affected by it are satisfied with the negotiated outcome and a conflict transformation process addresses the root causes of the conflict. Conflicts tend to be resolved by agreement, negotiations, compromise and social contract, but durable peace can be achieved only if it is based on democratic principles and values. Hence,

- Confidence-building measures can serve as a first step towards the declaration of ceasefire.
- Coordination of the behavior of all forces is essential to reach the common goal of democratic peace and strengthen cooperation among them through the formulation of common policies. Conflict can be regulated by cooperative means if peace-building strategies are employed to prevent and resolve the crisis.
- Negotiation should proceed with the goals rather than tinkering with the means, such as roundtable dialogue, constituent assembly and an interim government.

AnsprechpartnerInnen:

Dr. Beate Bartoldus, Tel.: 0228-883-516, E-Mail: Beate.Bartoldus@fes.de (verantwortlich)

Dr. Paul Pasch, Tel.: 0228-883-510, E-Mail: Paul.Pasch@fes.de

Ulrike Ehnes, Tel.: 0228-883-508, E-Mail: Ulrike.Ehnes@fes.de

Friedrich-Ebert-Stiftung, Internationale Entwicklungszusammenarbeit, Referat Asien und Pazifik
Godesberger Allee 149, 53175 Bonn, Fax: 0228-883-575

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