

# Post-Conflict Peace Building in Nepal

## Challenges and Opportunities

*“Peace can be achieved by only peaceful means.”* Gautam Buddha

Dev Raj Dahal, Head, FES Nepal Office

### Introduction

The Nepalese peace process stands at crossroads. It is entangled in a binary code of power struggle between the ruling coalition led by Communist Party of Nepal Unified Marxist-Leninist (CPN-UML) and Unified Communist Party of Nepal (Maoist) though their regular *ad hoc* negotiations have not ceased. The protracted deadlock shows limited progress towards the goals of inclusive peace as position and action of main political actors have strained the scope of post-conflict initiatives. They are governed by the “bounded rationality,” of their own parties than the goals of peace agreement. Absence of “systemic thinking” has produced centrifugal tendencies of political parties: Unified Communist Party of Nepal (Maoist) vows to smash the existing state for a more inclusive one; the ruling coalition, at ease with its own precarious survival, does not have any coherent plan to augment the outreach of state’s authority in society; smaller parties have the temptation to free-ride in the national space and frequently shift their position with every change of political equation; group-enclosed social movements’ propensity to maintain a fluid political condition has offered disgruntled forces a new bargaining milieu; and predation of 109 armed groups continues to pose security and authority challenge to the state thus negatively affecting the production and business-friendly environment. The operation of state under the partial imperatives of ruling political parties has eroded its legitimate monopoly on power and weakened the ability of polity to create law-governed public order. As a result, the web of conflicts signifies a delicate “framework condition” for peace-building.

The international community treats Nepal as a “fragile state” and has defined the policies of engagement. Understanding the nature of this fragility is crucial to develop conflict-sensitive policies, capture the resiliency of state-society relations and inspire political actors to learn the societal heritage of tolerance and coexistence. This fragility is marked by high conflict risk, insecurity, culture of impunity and weak institutional capacity in service delivery and threatens to tear the peace process donned by Comprehensive Peace Agreement (CPA) of November 2006. Its solution requires trust building among key political actors where one risks a concession first and inspires the other to reciprocate. Without this the vaunted success of 2006 People's Movement such as drafting a more inclusive social contract, a workable constitution by May 28, 2010, stable peace, secularism, federalism, republicanism and delivery of social justice remain largely unconsolidated. Still, ordinary citizens hope that the implementation of CPA can end the ugly politics of negation, plan for equitable economic recovery and build a shared future. Obviously, politics of negation refuses the “systemic ties” of opposition with governance. The CPA’s success, therefore, rests on leaders’ ability to resolve core political issues, concert opportunity-creating policies, set up the reasons of state and help society heal.

A broad-based pluralistic consensus is necessary to expedite the coordinating role of Peace and Reconstruction Ministry, National Peace and Rehabilitation Commission to normalize frosty relations, Truth and Reconciliation Commission to investigate human rights crimes committed during war, utilize the resource of Peace Trust Fund for reconstruction and development and stabilize peaceful relationship through the works of Local Peace Committees at the villages. Similarly, trust building between the ruling coalition and UCPN (Maoist) entails the work of State Restructuring Commission and Scientific Land Reform Commission for development oriented transformation. The Constituent Assembly (CA) election on April 10, 2008 has increased the expectation and participation of highly diverse sectors of disaffected and disenfranchised people in politics beyond the capacity of political parties to manage. In the face of a discrepancy between anomic participation and low institutionalization, development space continues to shrink and security and authority vacuum in the countryside has scaled up predation and conflict. The erosion of human rights including rights to property vividly deciphers the inability of *governance to fulfill governance goals, untangle poverty-insecurity web, cope with the threat of climate change and resolve multi-layered conflicts.*

### Conflict Lines

Prolonged deadlock at the center and high political dynamics in the periphery have tied the macro-conflict with the grievances of many sub-systems at the vertical level. Macro actors-- UCPN (Maoist) and ruling

coalition -- see only the negative side of each other's image, motivation, role and power rather than learning to broaden their group-enclosed vision. The micro conflicts are largely conditioned by the requirements of macro actors and vice versa through mutually reinforcing cycles of action and reaction and feedback loops. Transcending this cycle requires overcoming the lingering negotiation based on habit-driven process to engaging in constructive dialogues for collaboration, consensus and collective action. The habit-breaking situation requires either unbearable cost or sufficient incentives for transactional leadership at multi-track levels so that they can orient themselves to the goals of CPA and cooperate for a win-win outcome. The analysis below reflects the lines of conflict in Nepal:

- The bitter conflict between the opposition UCPN (Maoist) and the ruling coalition for power sharing and different approaches to state restructuring along federal lines, form of governance, integration and rehabilitation of Maoist combatants, democracy, structural reforms, autonomy of judiciary, political pluralism, election, citizenship criteria, etc is framed in a utilitarian zero-sum way. The persistence of deadlock is caused by a lack of habit change and formulation of correct strategy for compromise. The spoilers of peace active in each party are immune from the pressure of public opinion yearning for peace.
- Sustained extra-parliamentary social movements of various social classes, critical masses and dispossessed such as women, workers, landless, backward classes, Madhesis, ethnic and indigenous peoples and youths claiming distributive justice, power and recognition to their identities have strengthened the scope of redistributive politics beyond the capacity of state to fulfill. The recognition-based model of conflict resolution has made Nepalese politics open-ended and fuelled the cycle of constitutional instability.
- Place-bound Madhesi parties demand for "One Madhesh, One Province" collides with Tharus' assertion for Tharuhath—a separate federal state for Tharus. The Tharus and ethnic groups claim "prior use rights on land, water and forest" as well as multiple federal structures based on self-determination. All these groups have used conflict as a power equalizing process at the macro-structure of governance. The declaration of secularism has removed the emotional bond of Hinduism between Hill and Tarai and cynically cleaved their separateness.
- Twenty minority groups like Badis and Rautes who are non-represented in the CA have entered into a process of self-organization and articulation. They desire for inclusion and interest representation to offset their disadvantaged position beyond political and constitutional status quo created by winner-takes-all politics. The politics of social closure has thus generated crisis of state's authority across various groups on a national scale.
- The un-adjustment of Rastriya Prajatantra Party-Nepal to newly-enforced consensus of current establishment on secularism, republicanism and federal state and its plea for referendum on these issues is seeking to delegitimize the establishment. Its insistence for unitary, monarchist Hindu state has created common interest with the leaders of many old parties including Hindu groups in India thus having critical bearing on the system equilibrium. Ex-Monarch Gynendera Shah has said that monarchy has not ended in the country. His morale is boosted by increasing public support for him and statement by former NC president K. P. Bhattarai to revive the Constitution of 1990.
- Anti-system orientation of 109 non-state armed actors (only 7 of them are engaged in peace negotiation), ethnic armies, militant youth wings of various political parties and radical left outfits has produced a condition of statelessness. The armed non-state actors have continued to grab land and extort money from the people and are engaged in competitive violent action against each other and eroding the state sovereignty. Sanctuary of most of these groups across the border has enmeshed Nepal's southern flatland into complex geopolitics.

### **Micro-Macro Linkages**

The cooperation and conflict at the macro level shape and sustain micro dynamics and reinforce the process of socialization and orientation. A creative negotiation must try to bring out the actors from their party cocoon and expose to a changing broader national horizon. The entry of UCPN (Maoist) in parliamentary process has transformed state-centric People's War into society-centric conflicts. The changing nature of conflict has also transformed discourse, context, actors, issues and rules. But, there is a lack of concrete social learning and corresponding national policies to address it. Bringing the UCPN (Maoist) to democratic center requires an optimization of all actors whereby ruling coalition feels satisfied with it and does not threaten to resort to "security agencies" and both find high cost to deviate from democratic impulse. Similarly, public trust on political parties requires inner-party democracy and de-linking violence from politics so as to reduce the private ambition of leaders in favor of public interest. It helps to abolish the vicious circle of impunity and protect human rights of citizens.

The Nepalese political leaders see peace in terms of benefits it yields to their parties not as a public good for all citizens. Lack of national perspective on peace has foiled the possibility for the implementation of CPA's goals. Similarly, the lure of mainstream leadership for executive power has prompted them to create *ad hoc* extra-parliamentary High Level Political Mechanism more to control the lever of power than to institutionalize CA's role in constitution-making and contributing to rule-governed peaceful regime. Smaller parties dubbed this political closure an "authoritarian tendency."

The ability of Track II civil society actors to bring democratic values to Track I actors' passion for power remained ineffective on many occasions. The reasons are: Track II actors are fragmented along partisan lines and lack post-conflict initiatives that can transcend their group interests for a representative national framework of peace. The newly emerged critical mass of business community, civic society and donors are seen active to de-escalate tension during Maoists' *Jan Andolan* III in the first week of May but they did not have the capacity to break the deadlock at the center and unfreeze peace building efforts at the local level involving *humanitarian assistance, protection and rehabilitation of people, conflict analysis, monitoring of human rights, accountability to peace agreement, talk observation, tension de-escalation, community mediation, advocacy, public communication, peace movements, uplifting of the marginalized, service delivery, etc.*

### **Challenges to Peace**

Nepal's peace process, however, requires resolving many hurdles and implementation of CPA as an exist strategy. First, the flawed political settlement over power-sharing between the Maoists and ruling coalition is the core challenge to make political transition from violence to durable peace. Second, mutual distrust caused by deep cleavages on many political issues and history of betrayal have served as driver of conflict. It has subordinated the spirit of CPA to the survival of coalition politics and constrained both constitution drafting, structural reforms and peace process. Third, the CPA is marred by many contradictions: between conflict management and conflict transformation, social change and social transformation, abolition of feudal land tenure system versus recognition to property rights, provision of increased social security versus weak tax base of the state to support welfare benefits, commitment to universal values of democracy versus old political culture of patronage, rights-based dialogue on democratization versus increasing militarization of society, constitutionalism versus popular sovereignty, equality of opportunity versus prior use rights, etc. Peace is, therefore, competing with other values such as power, resource, social justice, identity and constitution.

Both the parliamentary parties and the Maoists sought to use 12-point agreement to achieve their collective goal of removing the monarchy from power. After its removal, however, both shifted their goals. The SPA preferred democratic republic while Maoists preferred People's Republic. The SPA thought that Maoist commitment to democratic principles will land them into a parliamentary party and play by its rule. But, the Maoists retained three lines of struggle—parliament, street and mass revolt for socialist transformation. The parliamentary parties' hope was dashed off following the emergence of UCPN (Maoist) as a single dominant party with 39.7 percent of seat in 601-member CA and its claim to lead the government despite a lack of absolute majority. Fearful of perpetuation of Maoist regime, Nepali Congress (NC) declined to transfer power to UCPN (Maoist) until the latter accepted the rules of game from consensual to majoritarian. As a result, it took 4 months for the Maoists to form coalition government under its leadership.

During the Maoists' rule from August 2008-May 2009, its agenda of restructuring the state, Nepal Army, Court, etc alarmed the old political parties. NC and Madhesi Jana Adhikar Forum (Democratic) have accused the Maoists of opposing party pluralism when the draft of Maoist constitution barred those parties having "feudalistic and imperial linkages." This cobbled the non-Maoist parties and persuaded coalition partners to withdraw from the Maoist led government thus causing its ultimate collapse. With the formation of 22-party coalition government led by CPN-UML leader Madhav K. Nepal on May 4, 2009 Maoists organized several crippling strikes and threatened people's revolt, state capture and decisive blow to the regime. The ruling parties' inability to develop cohesive policy platforms and agendas, weak ties to the electorates and fear of Maoist radicalism together flocked them to conservative side. It now appears more concerned with sticking to power than pushing substantive reforms thus evoking anxiety of Maoists that the agenda of socialist transformation might be disrupted.

The week-long Maoist agitation in May against the coalition government in support of a new national unity government proved counter-productive. On the request of diplomats, business community, civic society, popular pressure and fear of violence forced it to withdraw and resumed talk again. On May 28 three major parties endorsed the extension of CA for one more year on the ground that Prime Minister Nepal will resign at an appropriate time.

### **Opportunities for Peace**

The 12-point agreement, CPA, Interim Constitution and other agreements signed by UCPN (Maoist) and government then headed by SPA marked an end to large-scale hostilities, paved the way to peace, CA election and declaration of secular, federal democratic republic of Nepal. The signing of peace accord has reduced the amount of direct violence. It has also promised "positive peace" by resolving historically "existing all class, ethnic, gender and regional problems," through the restructuring of Nepali state and inclusive social transformation based on democratic spirit and values. Three different agreements of 2006—CPA of November 21, Agreement on Monitoring of the Management of Arms and Armies of November 28, and SPA and CPN (Maoist) agreement of November 28—underline the modality of peace process. The public support for peace is unflinching. Numerous peace movements and organizations are working to highlight the cost of war and benefits of peace. Micro-local organizations are constructively engaged in peace building by bringing the connectors of society for social cohesion, dispute handling, reconciliation, relief works, local economic recovery, supporting livelihoods and public action at the local level and generated capacity for the rhythm of revolutionary social change. The increased political representation of women, Dalits, Madhesis, indigenous and ethnic groups in the CA has minimized structural injustice and improved the level of institutional learning. Now, the Nepalese society resonate a shift from inherited to self-chosen system and rights-based demands have reformed many of the irrationalities of Nepalese society and reduced the level of structural violence.

Peace building involves mainly three approaches—*reconstructive peace building* especially in monitoring a truce, disarming and demobilizing armed forces, providing humanitarian assistance, strengthening participatory governance, protecting human rights and rehabilitation, reconstruction and reconciliation and *transformative peace building*—which seeks to address the root causes of conflict and satisfies the basic needs of the community in post-conflict societies such as security, order, identity and development and *reconciliatory peace building* which seeks to restore broken relationship through transitional justice. These steps will remain weak unless there is macro-political consensus. Three major parties—Maoists, CPN-UML and NC—are seeking a solution of their long standoff in a package deal and identified six key areas:

### ***Reviewing the Past Agreements***

Nepal's main problem with the leadership is not a lack of constitution but a lack of constitutional behavior and propensity to change law by extra-constitutional politics every time thus posing difficulty to sustain rule of law. They also lack a culture of accountability to their past commitments. Many of the agreements regarding peace are not implemented in a time-bound manner, such as de-linking of Maoist combatants from the command and control of the party and their rehabilitation and reintegration; missed the deadline of promulgating a new constitution by May 28; failed to agree on the formation of institutional pillars of peace, return the property seized during conflict and manage the displaced. The status of 1,200 missing persons is yet to be determined. The Maoist strategy to restructure the state along 12 ethno-federal lines has evoked fear among traditional parties of protracted ethnic conflict as they stressed federalism on the basis of linguistic and cultural specificity, north-south verticality, territoriality and resource capacity. Similarly, there is an inadequate national response to send the remaining 70,000 conflict displaced people (out of 350,000) back to their homes.

### ***Trust and Tolerance Building***

Trust building requires mutual policy adjustment, reciprocal concessions and common orientation to CPA. The Maoists have agreed to return the seized property to the rightful owners and remove the para-military structure of its Young Communist League to convert itself into a civilian political party. It is, however, difficult to remove the landless from the lands they occupied due to its political implication to Maoist's image of the "liberator of the oppressed." The Maoists vainly tried this in Dang. Building trust depends on strengthening moderate forces in each political party, bridging legitimate goals of actors and formulation of joint development projects. Reconciliation, devoid of structural openings to newly mobilized groups, cannot address the root causes of conflict and transcend the divisions of the past for a shared future.

### ***Avoiding Dual Authority System***

The leaders have agreed to find a way out of the President Ram Baran Yadav's action in countermanding the sacking order of army Chief by the government by delimiting his authority to ceremonial one like in a parliamentary system. Nepal's political crisis took a sudden turn on April 20, 2009 when the then Prime Minister Puspa K. Dahal asked Nepal Army Chief General Rookmangud Katawal to give reasons for new recruitment of 3,010 NA, eight retired generals' service extension and boycott of six events in the national game by the NA players due to Maoist combatants' participation. Unhappy with General's account and his reluctance to integrate "politically indoctrinated" combatants into NA, Prime Minister Dahal dismissed him on May 3 and appointed Lt Kul B. Khadka as Acting Chief. In reaction, the partners of ruling coalition withdrew from the government. President asked General Katwal to continue in office. Upset by the President's move, Dahal resigned on May 4 and latter tabled a "commitment motion" at the parliament for debate about the constitutionality of President's move but Speaker of parliament denied to entertain it. Since then Maoists continued to advocate civilian control of NA, criticized India for supporting President's action, raised the question of national independence and organized a series of strikes to paralyze the functions of governance without being able to achieve its own objectives.

### ***Integration and Rehabilitation of Maoist Combatants***

The United Nations Mission in Nepal (UNMIN) has verified 19,600 valid Maoists and placed them and their arms under its supervision in various cantonments. A group of people close to government argue that UNMIN should no longer monitor the NA and focus on the Maoist combatants while others view that it should engage in the democratization of NA. The UCPN (Maoist) has agreed to de-link the Maoist combatants from their party and bring them under Special Committee for Supervision, Integration and Rehabilitation headed by the Prime Minister. It presented four models: formation of a separate security force consisting of only Maoist combatants; formation of a separate security force with equal numbers of the Nepal Army, Nepal Police, and Maoist combatants; integration of combatants into the security forces on a unit wise basis; and voluntary rehabilitation of a certain number of combatants. The Maoists demanded Rs. 2 million for each combatant who agrees to join social life instead of security agencies. The government said that the amount is too high.

Prime Minister Nepal has said that some 3,000 Maoist combatants can be integrated into various security agencies based on one-weapon-one-fighter principle. There are 3,475 Maoist weapons registered at the UNMIN. But, Maoists opposed this formula. One significant progress in the peace process is the discharge of disqualified 4,008 minors from the cantonments. UN agencies are working to provide them training and life-supporting skills and other facilities. The Home Ministry is working on a comprehensive security policy and efforts are being made to improve civil-military relations.

### ***Drafting the New Constitution***

All political parties have made commitment to the principles of human rights, democracy, multi-party competition, social justice, free press, independent judiciary and durable peace. These are the defining features of Nepalese constitution and peace. On May 28 a three-point pact was signed among UCPN (Maoist), NC and CPN-UML. Accordingly, the parliament amended the Interim Constitution eighth time to extend the tenure of the CA by one year. But other two points such as consensually move to achieve logical conclusion of the peace process and complete the work of drafting constitution and resignation of prime minister as soon as possible for a national consensus government to carry our the stipulated objectives remains unfulfilled. The shift from majoritarian to consensual politics marks a hope but the May 30 meeting of leaders of 19 ruling parties concluded that Premier Nepal should not resign until the modality and composition of the new government is decided including agreement on fundamental principles of the constitution. Lack of harmony on concrete deadlines, contents of constitution and adherence to positional stand locked the parties in a deadlock. So long as politics of monopoly of power continues, systemic ties between the government and opposition cannot be restored and democracy continues to remain an unstable regime.

### ***Power-Sharing as Distributive Solution of Conflict***

Post-war societies often form a national unity government as an option to harmonize all dissenting voices and balance the interests into peace process. Transformation of negative peace into positive peace through peace-building efforts--reconstruction, rehabilitation, reconciliation and development is expected to address the root causes of conflict. Transitional justice, peace and democracy together form a virtuous cycle. The transformation of Maoists from a rebel to the country's ruling party has been highly turbulent one. During its rule, NC's alienation from power and during 22-party coalition the UCPN (Maoist)'s alienation from

power constrained the implementation of peace process. Majoritarian governments failed to create a consensual program, a common peace monitoring body, a peace lobby in each party and foster a culture of peace through peaceful collective action. The sustainability of peace also requires genuine engagement with multiple stakeholders of society to give them a sense of ownership, participation and stake in democratic equity. In the context of heterogeneity of actors, justness of outcome in power sharing can satisfy contending forces and increase their democratic commitment to peace. But mere power-sharing, devoid of leaders' commitment to democratic values and checks and balances of institutions, cannot stir back public trust on the system.

### **International Community**

International system has provided deterrence against excessive violation of human rights and possibility of relapsing conflict into war. The United Nations Mission in Nepal (UNMIN) as per its mandate supported the CA election and verified and placed arms and armies in the cantonments and barracks. Now in the changed context, it has offered the government to supplement the Mission's monitoring role by a mixed military body, by a national civilian body or by consolidating cantonments or weapons storage containers. Donor coordination in bridging governance gap between security and development policy under Paris Declaration on Aid Effectiveness and engaging those actors who support endogenous post-conflict state building measures are the ways to avoid unpredictable policy response of post-conflict state. Entry points for peace building rest on adapting the aid programs to changing conditions, linking to wider peace process and avoiding clientalism.

The CPA is seen by international community an opportunity to shift humanitarian support to state-building, development, livelihoods and peace but there is a lack of proper coordination and coherence. In the past few months, the UN, the European Union, the United States and China have urged Nepal's political parties to work together to avoid the alarming crisis by reaching consensus on the new constitution and work for the peace process. India, fearful of expanding Naxlites war at home and Chinese assertiveness in Asia, has strongly backed the current government against Maoists. China, inspired by its growing economic clout and alarmed by Free Tibet Movement, has raised its geopolitical stake in Nepal through multi-sectoral cooperation. Spokesperson of Chinese Foreign Ministry Jiang Yu said, "We sincerely hope the Nepalese political forces will take the national interest into consideration, hold dialogue, coordinate and seek a consensus." The US also finds the utility of trilateral engagement with Nepal's immediate neighbors.

### **Conclusion**

The polarization of Nepalese politics and crippling strikes have undermined the state's ability to seek national security, political stability, build democratic institutions and address post-conflict challenges, especially within the realm of rule of law. Without a broad-based national consensus and generous international cooperation for enhanced development outcome repairing the vertical chain of authority from Kathmandu to periphery, overcoming state fragility, bridging the bitterly cleaved forces and building stable peace remain daunting challenges. The transfer of subsidiary identities into a Nepali national identity is essential to concert action at larger scale thereby retaining national coherence and social discipline. The public support for peace is strong but the government needs the formulation of equity-based redressal mechanism which can enlist the cooperation of social diversity in a pluralist consensus. What leaders require is supporting effort to rebuild democratic and economic structures through program and policy-oriented interventions for effective transitional justice. Strengthening civic culture in Nepalese leadership and their low level of law-abiding attitude requires scaling up the efficiency of rule of law and civic loyalty to democracy. In a modernizing society like Nepal exposed to various contesting ideals, the demonstration of democracy's superiority over them is essential to enlist the support of multi-stakeholders of society in virtuous cycle of peace-building efforts.

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