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IPCS-KAS PEACE AUDIT SERIES **PEACE AUDIT NEPAL**



Konrad
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Peace Audit: Nepal

Report of the IPCS-KAS Discussion

The Programme on In collaboration with the KAS, Institute of Peace and Conflict Studies (IPCS) through one of its Core Programmes 'Armed Conflicts in South Asia (ACSA)' at the Institute of Peace and Conflict Studies (IPCS) in collaboration with the KAS has been organisingorganizing a series of discussions titled "Peace Audit" as a part of its larger research in understanding the multiple dimensions of peace and conflict in South Asia.

The primary objective of this series on Peace Audit undertaken by the IPCS and KAS is to explore the following questions: Why in certain cases, despite the end of violence, peace does not prevail? Why in certain cases, despite the end of a civil war, a majority still believe that the conflict continues? How to ensure that the processes ultimately conclude in the presence of positive peace in the society? What measures need to be adopted to ensure that the peace processes are on the right track towards achieving a positive goal? More importantly, what measures need to be pursued in ensuring that there are no new fault lines in a post conflict environment?

The Institute in collaboration with the KAS organisedorganized a discussion on the above issues in August 2013 with an objective to audit the peace process in Nepal.

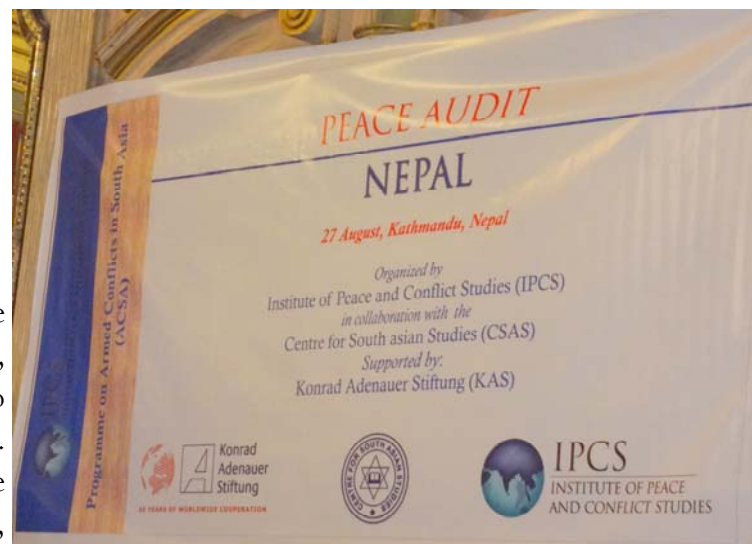
Peace Audit: An Introduction

D. Suba Chandran

End of conflict does not automatically result in positive peace. In a post conflict environment, peace is a process, which has to be waged with a conscious efforts to ensure that it is inclusive and provide justice at the end. At the same time, such a peace process cannot be everlasting; it has to be swift and end at a positive note, providing peace.

In Nepal's context, how is the peace process viewed and pursued? Federalism is a major issue of draft in building the constitution. Will a federal structure in Nepal address the basic issues of governance in the country? Will it be inclusive and participatory? Second, there has been an added emphasis on a Truth and Reconciliation Commission, on the models of South Africa. Will it be helpful in the South Asian context? Would it help the process, or open fresh wounds in the process?

Third, what have been the achievements and challenges so far in the process of re-



integration of ex-combatants? How important is this issue in Nepal's peace process?

Fourth, what role do the political parties play in the peace process in Nepal? What are the main challenges and reservations of these important actors of public opinion? How democratic the political parties are within?



Finally, what role to the external actors plays in helping the peace process in Nepal?

Nishchalnath Pandey

Nepal is undergoing significant transformation at every level today. Elections, constitution making, re-integration and consensus within political parties are the major issues facing Nepal.

The biggest question today is relating to election. Will it be held on time? Will it be free and fair? Will the political parties be able to take part and perform? Will there be a hung Parliament? If there is a hung Parliament, the Constitution making will face a bigger problem.

The interim governments have been making numerous amendments to the Constitution to the extent that it is believed that the amendments have become bigger than the mother constitution. Drafting a new constitution for Nepal remains one of the biggest challenges facing the country.

One of the most important hindrances to draft the new constitution is the lack of consensus amongst the main political parties. The parties are deeply divided in terms of what should be the nature of constitution and the structure of governance. In fact, there are not only differences between the parties, but also within them.

Even government with majority support has not succeeded, because of the differences within the leading political party. Lack of political consensus result in creating instability both within and outside the government; this could be seen in terms of how many Prime Ministers did Nepal have in the last ten years!

To conclude the peace process in Nepal is in pieces.

Yelisha Sharma

With the signing of the Comprehensive Peace Accord (CPA) in 2006 which ended a

decade long armed conflict referred to as ‘ People’s War’ waged by Maoist insurgents people of Nepal had taken a sigh of relief as that would mean an end to a decade long of hostilities, plundering and brutalities. A vision of ‘New Nepal’ had emerged. But, mainly because of mal-governance, nearly 16 hours of power outage during winter, mismanaged road expansion affecting the health and well being of the residents, growing culture of impunity, lack of accountability people are frustrated. At present, Nepal is in the seventh year after the peace agreement was made between the government and the Maoist insurgents yet we have not had a new constitution and a newly elected government. After the 2006 Comprehensive Peace Agreement the former Maoists became the part of the political mainstream by joining the interim government. In 2008, constituent assembly was set up with the purpose of drafting a new constitution within 2 years in which the Maoists emerged as the largest political force occupying bulk of the seats, monarchy abolished and Nepal declared a federal democratic republic on May 28, 2008. In 2009, Pushpa Kamal Dahal became the first prime minister of this interim government. However in 9 months time, due to disagreements with the president over the removal of the then Nepal Army Chief Rukmangat Katwal Pushpa Kamal Dahal stepped down. Since then, the Maoists had taken the seat of opposition and a coalition government was set up under the premiership of Madhav Kumar Nepal of communist Party of Nepal (UML), followed by Jhalanath Khanal and again maoist leader Baburam Bhattarai.

Coming to challenges, one of the major challenges towards conducting a free and fair election scheduled for November 19 and carrying the peace process forward has been to persuade the CPN Maoist Mohan Baidya led 33 party alliance to come into the election process. This alliance is adamant on solving the issues through all party roundtable conference. Changing the current non political government headed by Regmi and having a political government instead and postponing the election date of November 19 has been its major agenda. The political parties and the government consider these two issues as non negotiable. Hence, it has not been possible to reach an agreement. In fact the political parties have decided to deploy the Nepalese Army contrary to the general convention to strengthen the security process during the elections. This has further added fuel to the fire and outraged by the decision the agitated CPN-Maoists have sent a letter to the UN Secretary General Ban ki Moon stating that deployment of army for the elections is detrimental for the peace process and contrary to the Comprehensive Peace Accord (CPA).



The general public is in utter confusion and to blame are the leaders and the political parties too who are constantly changing their stance to suit their own party’s need rather than the need of nation which is detrimental towards

conducting a timely CA election. Rumours are such that Pushpakamal Dahal is still holding talks with Baidya to merge the two parties together which would most likely ensure his party the majority like it was seen during the first CA elections.

Uddhab Pyakurel



While reviewing Nepal's peace process, we have to go back to its background that is Jana Andolan-II in 2006. Due to many reasons it was a path breaking example for democracy struggles in the world. In spite of shoot-on-sight curfew imposed by the government, more than one-sixth of the total population of Nepal came in the street to support democracy struggle. The participants were not only the lawyers, journalists, doctors, poets, writers, teachers and other politically conscious section of people but also the generally apolitical people from every walk of life such as the laborers, farmers, rickshaw pullers, footpath traders, small hoteliers, taxi drivers and transport workers. Their aspirations behind the support were

diffident. However, there were some common objectives like democratic constitution, lasting peace, good governance, etc.

Democratic constitution: No doubt that Nepal has achieved a historical transformation along with the Janaandolan II. Monarchical to Republic, Hindu as state religion to secularism, unitary to federal, Hill high Caste Hindu dominated state structure to an inclusive democratic state are to be considered as some of the major achievements. Interestingly all of these achievements were bagged from April 2006 to the first meeting of the elected Constituent Assembly (CA) in 2008. Then onwards, no progress could be made towards democracy. Rather we had to witness the demise of the only elected body-the CA without bringing new constitution. Today, there is no legitimate body (neither at the local level nor in the center) elected by the people.

Lasting Peace: If talk about the issue of lasting peace, there is very interesting scenario in Nepal. Along with the begging of the peace process in 2006, there is no violent war and number of killing is decreased. However, conflict has been intensified in the society. Earlier there was only a Maoist party with the arms. But within three years of the peace process, there are more than hundred other armed

and semi-armed groups active in different geographical regions of the country. Earlier there was only a paramilitary youth group called Young Communist Group (YCL) which used to carry out its activities taking law into its hands, and terrorizing the people. But there are now 15 similar organizations formed by political parties as their youth wings. The subsequent government has denied to recognize/listen the voices raised through peaceful means which established a precedent that violence means only can get the attention of government to their demand, hence incensement of anti-systemic and extra-constitutional mode of struggle day-by-day. No conflict victims (neither the 6,050 families whose land, houses and factories were seized by the Maoists; nor 12,000 families whose movable property such as gold, silver, crops, cattle and machinery were looted by the Maoists, nor the family members of 1,360 people who went missing during 1996-2006, nor disqualified combatants, nor the family of the killed 17,800 people) are satisfied as the state is yet to convince them by taking some steps i.e. forming the Truth and Reconciliation Commission, creating the environment to return property, etc.

Governance: Transparency International (TI) has placed Nepal Ranked 154th in its Corruption Perceptions Index (CPI) in 2011, which was 46th in 2010, 143rd in 2009, 121st in 2008, 131st in 2007, 121st rank in 2006, 117th in 2005 and 90th in 2004.

Conclusion: In the name of peace process, Nepal has been moving towards more and more complex and conflictual situation. It is due to the following reasons: Non-transparent process (as if it was two men show between the then Prime Minister GP Koirala and Maoist Chairperson PK Dahal); Misuse of peace fund in irresponsible manner which helped rampant corruption in the society; and lack of sufficient critical mass to correct the stake holders if they left the right track.



Discussion, Questions and Responses

- Nepal is looking forward to the elections. It will have to take place, irrespective of the outcome of elections. Since it has been already decided that the new Constitution will be drafted by the new Parliament, it is essential to go through the process.
- The process will be fragile and volatile; it may affect the nature of change.

- Peace process is a “process”
- Integration is a success story. How did the process became a success?
- What happened to the missing people?
- The Peace process was not inclusive.



- • Peace Process in Nepal has in fact propagated the message of violence.

- PP has strengthened the authority of the State and sovereignty and the State does this through caving in every demands.

- Palace and the military worked together against the military; though the military is working with the militants in terms of integration,

- Maoists were fighting with the elected governments and now are trying to work with them.

- All the parties of the conflict have not been consulted.

- Maoists have been fighting the State, now they want to join the Army that they have been fighting; they do not believe in Parliamentary democracy and believe in one party rule.

- The youth is being victimized.

- Role of the Media in Peace Process: Is the media supporting one party or the other?

- The primary problem is between the State and the rebel; second is about the constitution; third is about the sharing of power.

- Is the process being complicated by including monarchy in the peace process?

- TRC: Should we keep it under the wraps, or address the issue? What would a TRC do?

- From contestations to consensus: Is there an attempt to forge consensus, and not provide provide more space?

Issue Brief

Peace Audit Nepal: Progress and Challenges

Yelisha Sharma

With the signing of the Comprehensive Peace Accord (CPA) in 2006 which ended a decade long armed conflict referred to as ‘ People’s War’ waged by Maoist insurgents people of Nepal had taken a sigh of relief as that would mean an end to a decade long of hostilities, plundering and brutalities. A vision of ‘New Nepal’ had emerged. But, mainly because of mal-governance, nearly 16 hours of power outage during winter, mismanaged road expansion affecting the health and well being of the residents, growing culture of impunity, lack of accountability people are frustrated. At present, Nepal is in the seventh year after the peace agreement was made between the government and the Maoist insurgents yet we have not had a new constitution and a newly elected government. We are still in the process of transition and this process is taking far too long than what had been stipulated. The only good news we have had in recent times is the official declaration of November 19 election date for the second constituent assembly. The entire nation is looking forward to participate in this November 19 election with a hope that it would bring an end to the current impasse – that is guarantee an elected CA and finally deliver a new constitution. Yet there are apprehensions among the leaders and also the general public regarding the surety of the elections and also whether this new CA would be able to deliver a new constitution.

After the 2006 Comprehensive Peace Agreement the former Maoists became the part of the political mainstream by joining the interim government. In 2008, constituent assembly was set up with the purpose of drafting a new constitution within 2 years in which the Maoists emerged as the largest political force occupying bulk of the seats, monarchy abolished and Nepal declared a federal democratic republic on May 28, 2008. In 2009, Pushpa Kamal Dahal became the first prime minister of this interim government. However in 9 months time, due to disagreements with the president over the removal of the then Nepal Army Chief Rukmangat Katwal Pushpa Kamal Dahal stepped down. Since then, the Maoists had taken the seat of opposition and a coalition government was set up under the premiership of Madhav Kumar Nepal of communist Party of Nepal (UML), followed by Jhalanath Khanal and again maoist leader Baburam Bhattarai. All in all , over a time period of 4 years four prime ministers came into the government to facilitate the constitution making process but were toppled due to ongoing rivalries within and among the parties.

At present, Nepal is in the seventh year after the peace agreement was made between the government and the Maoist insurgents yet we have not had a new constitution and a newly elected government.

The constituent assembly which was formulated with the purpose of drafting a new constitution within 2 years due to lack of consensus among the political parties kept postponing its deadline over a period of time and extended its tenure to altogether 4 years. Subsequently, the opposition parties mainly NC- UML time and again demanded the then reigning prime minister Baburam Bhattarai to step down and pave a path for new elections. PM Bhattarai was adamant that he would not step down unless the political parties fail to install yet another all acceptable government. Even president Ram Baran Yadav threatened to sack PM Bhattarai during this time. These times were marked with direct confrontations between the ceremonial head of the state- the president and the cabinet resulting in complete uncertainty as to what was to unfold. Hence, when the first ever constituent assembly got dissolved after its original and extended tenure of total 4 years without being able to draft a new constitution on 28th May 2012, there was a sense of frustration and disappointment among the general public. The political leaders were just too busy pointing fingers at each other for 28th May debacle. Nepal was marked with a complete constitutional vacuum- dissolved constituent assembly, no parliament as the CA was the acting parliament, hanging interim constitution and even no constitutional appointees in the constitutional posts like the Election Commission. Finally after a series of marathon meetings, the only option that emerged was to form a government in the Bangladesh model to calm the highly volatile situation and in order to conduct free and fair second CA elections to lead the peace process forward. Hence, Chief Justice Khil Raj Regmi was appointed as the Chairman of Council of Ministers on 14th March 2013. In the meantime Regmi's appointment has been highly opposed by Mohan Baidya led Maoist faction. They have vouched not to take part in the election process conducted under the leadership of Regmi. In fact, in April end 2013 the Baidya led party cadres had even started smashing the laptop computers owned by Election Commission representatives who were out in the field to update the voters list. This opposition is still ongoing and detrimental for the constitution drafting process. Succumbing to the antagonist forces, the question arises if Regmi resigns what would happen to the upcoming election? Despite all the opposition, this government has taken few baby steps towards conducting the elections and carrying the stalled peace process forward.

Immediately after Regmi came into power Mr Neelkantha Uprety was appointed as the chief election commissioner in March 2013. In June the government declared the election date and ever since the election commission has been speeding up the voter registration process. The commission ended its three-month long biometric voter registration in mid-July and registered 12.3 million of eligible voters before wrapping up the drive. This voter registration was further opened for a week from August 17-23 and the Election Commission has brought out the final list in the beginning of September. The government and the EC have also adopted the

necessary Acts—Voter Registration Act, EC Act, Election (Crime and Punishment) Act, CA Member Election Act and the Citizenship Act to carry the election process forward.

Similarly, a High Level Political Committee (HLPC) comprising of four major parties—UCPN (Maoist), Nepali Congress (NC), CPN-UML and United Democratic Madhesi Front (UDMF) has been formulated comprising of chiefs and one representative each from the parties. The committee is headed by the chief of each party on rotational basis for one month each. This committee has been instrumental in holding talks to bring the dissatisfied political parties into the election process to make the upcoming elections fully inclusive and legitimate. So far the HLPC has managed to reach an agreement with Upendra Yadav led Madhesi Janadhikar Forum (MJF)- a Madhes based party which was at the forefront in initiating the Madhes Andolan of 2007 in Nepal. Yet the negotiation with disgruntled Mohan Baidya led 33 party alliance is ongoing and seems to be inconclusive.

Meanwhile, International Community has showered support from all over to support the CA elections. Switzerland has already signed an agreement to give funding worth NRs 900 million to Nepal out of which 4.5 million funding is to be used for the upcoming 19th November 2013 elections which would be channelized through Nepal Peace Trust Fund (NPTF). Not very long ago, Indian External Affairs Minister Salman Khurshid had also visited Nepal to show support towards the upcoming elections. India is providing over 764 vehicles worth 800 million to support the CA polls. Prime Minister Manmohan Singh himself have also held talks with Regmi and expressed India's concern in conducting a timely election. Similarly Nepal's northern neighbour China by sending State Councillor Yang Jiechi to Nepal at top political level, not only expressed solidarity to CA polls but instantly announced monetary support worth Rs 15.41 billion for the procurement of materials required for elections.

The election date is approaching so all these major political parties are busy nominating the candidates and distributing the tickets. On October 3rd 2013 which was the final deadline for registering the names of candidates contesting first past the post, the political parties showed a lot of enthusiasm in filing the nominations. In fact all the 124 political parties registered with the Election Commission nominated their candidates for first-past the poll system. UCPN Maoist leader Pushpa Kamal Dahal has filed his nomination from the Terai region of Nepal in Siraha-1, Baburam Bhattarai has filed his nominations from two districts Gorkha-1 in the hilly region and Rupandehi-4 from the Terai region. Nepali Congress president Sushil Koirala is also contesting from two regions namely Banke-3 and Chitwan 4. However most of these candidates who are contesting the polls are familiar faces who were there in the first and the failed

Not very long ago, Indian External Affairs Minister Salman Khurshid had also visited Nepal to show support towards the upcoming elections. India is providing over 764 vehicles worth 800 million to support the CA polls. Prime Minister Manmohan Singh himself have also held talks with Regmi and expressed India's concern in conducting a timely election.

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constituent assembly. Unhappy with the candidates filed by the party leaders dissidents have filed independent nominations or left their party and joined other parties to have themselves nominated. To an extent this has made the public weary of the political parties yet this has not fully dampened the public enthusiasm. The nomination day was marked with strong opposition by the UCPN Maoist. In fact there was clash between cadres of UCPN Maoist and CPN Maoist in western region of Nepal which left nearly 12 people injured. The CPN Maoist cadres also had burn the effigies of top leaders of four major political parties.

In addition to all this election fervour, one of the major achievements of the peace process has been the integration of the former combatants- PLA fighters into the Nepal Army. Major political parties on November 2011 had made an understanding to integrate into the Nepal Army a maximum of 6,500 of the 19,000 combatants verified by the United Nations Mission in Nepal (UNMIN). A total of 1,462 had applied for integration and the rest had opted for retirement scheme introduced by the government. A total of 1,352 of the 1,462 former PLA combatants selected for integration into the national army had already entered service in junior ranks in July and this process has come to a full circle in August when the remaining 70 ex combatants joined the Nepal Army as officers. This integration is a major step forward in the peace process .

Nepal has also made progress towards attainment of Millennium Development Goals (MDGs) by reducing the proportion of people below the national poverty line, increasing the enrolment in primary education and being on track towards achieving maternal health and child mortality rate. Especially a significant leap was seen in reducing poverty since 2006. Of the 20 countries examined by the Oxford Poverty and Human Development Initiative(OPHDI), Nepal is one of the exemplary countries which made a rapid reduction in absolute poverty. In fact the annual poverty decline in the country is noted to be 4.1 percent compared to 3.1 percent in Rwanda and 3.2 percent in Bangladesh making the country the best performer. The multidimensional poverty index of Nepal which was 64.7 percent in 2006 has lowered to 44.2 percent according to a report by OPHDI.

Coming to challenges, one of the major challenges towards conducting a free and fair election scheduled for November 19 and carrying the peace process forward has been to persuade the CPN Maoist Mohan Baidya led 33 party alliance to come into the election process. This alliance is adamant on solving the issues through all party roundtable conference. Changing the current non political government headed by Regmi and having a political government instead and postponing the election date of November 19 has been its major agenda. The political parties and the government consider these two issues as non negotiable. Hence, it has not been possible to reach an agreement. In fact the political parties have decided to deploy

the Nepalese Army contrary to the general convention to strengthen the security process during the elections. This has further added fuel to the fire and outraged by the decision the agitated CPN- Maoists have sent a letter to the UN Secretary General Ban ki Moon stating that deployment of army for the elections is detrimental for the peace process and contrary to the Comprehensive Peace Accord (CPA). The letter was handed over to the UN resident coordinator Jamie McGoldrick who was accompanied by Ambassador of Switzerland to Nepal Urs Herren during a meeting between the two parties in Kathmandu which was organised at the request of the CPN Maoist. CPN Maoist now is accusing the political parties of deliberately ostracizing themselves from the election process and using unconstitutional forces to maintain the status quo. Heresay is also that this faction is seeking international support especially from the Western countries to delay the scheduled election. Alliance of 33 political parties led by CPN Maoist chairman Mohan Baidya has announced general strike (Nepal Bandh) during the period of 11th to 20th November 2013 to foil the upcoming Constitution Assembly poll.

The general public is in utter confusion and to blame are the leaders and the political parties too who are constantly changing their stance to suit their own party's need rather than the need of nation which is detrimental towards conducting a timely CA election. Rumours are such that Pushpakamal Dahal is still holding talks with Baidya to merge the two parties together which would most likely ensure his party the majority like it was seen during the first CA elections. Since it is less than 2 months now for the elections, the government needs to be stringent and the political parties need to set a deadline as to whether the Baidya faction is coming to elections or not and to remain fixed on that criteria so that the Election Commission can move ahead with its preparations for the elections with conviction.

Similarly, contentious issues on the handling of war-era human rights abuses has come to attention too and needs to be handled in a timely manner before it clouts the election process. The formation of the truth and reconciliation commission (TRC) which is an important part of the peace process is in limbo due to clause of blanket amnesty. The international community has refused to fund the commission unless it complies to the international standard. Maoist leaders continue to argue that all outstanding human rights violations during the insurgency period should be dealt with by the Truth and Reconciliation Commission instead of piecemeal. Human rights defenders, however, say that outstanding criminal cases can't wait for TRC and should be treated according to the existing laws. This issue had gained much attention while Colonel Lama of the Nepal Army

Similarly, contentious issues on the handling of war-era human rights abuses has come to attention too and needs to be handled in a timely manner before it clouts the election process. The formation of the truth and reconciliation commission (TRC) which is an important part of the peace process is in limbo due to clause of blanket amnesty. The international community has refused to fund the commission unless it complies to the international standard.

The concept of Federalism is still very much contested. Opinions are divided among the ones who want to have ethnic- identity based federalism and administrative federalism. The indigenous groups and Madhesis are in favour of taking into account the diversities exhibited by the Nepalese society and construct the state institutions accordingly.

was arrested in the United Kingdom on charges of torture committed during the Maoist insurgency. The then Nepal government had seriously expressed objection towards the arrest. Narayan Kaji Shrestha who was the Foreign Minister during that time who belongs to UCPN Maoist party had summoned the British Ambassador to Nepal and handed in the protest letter calling the action against the principle of sovereign nation's jurisdiction. The British authorities however claimed "universal jurisdiction" over serious crimes such as war crimes and torture. It was Advocacy Forum a human rights organisation based in Kathmandu in coordination with a British firm who had brought this case in attention of the British government. Similarly, the Adhikari couple from Chitwan, had been on a 'fast unto death' for weeks protesting the death of their son at the hands of the Maoists during the insurgency also did get a lot of media coverage. Human rights supporters campaigned vehemently to support the Adhikari duo. It was after 47 days of fasting and numerous attempts when Secretary Krishna Hari Banskota from Prime Minister's office broke the fast of the agitating couple by offering juices after signing a three point agreement between

the couple and the government. The agreement includes arresting and taking action against the perpetrators, providing compensation to the victim and victim's family and making arrangements for the security of victim's family. The police had very recently arrested a person in charge of Adhikari's murder but due to lack of evidence was released on bail after staying 25 days in custody. During this whole time UCPN Maoist strongly opposed the government's decision of addressing this incident as according to the UCPN Maoists these war era crimes should only be dealt through TRC. These two cases are only the tip of an iceberg. In the absence of a Truth and Reconciliation Commission a certain form of transitional justice mechanism should be in place to address the concerns of the victims and the affected family so that whatever has been achieved till date in the course of peace process does not go in vain. Also, if such issues are ignored for long it would increase the grievances among the affected which could lead to the formation of yet another disgruntled faction. But contrary to the need of the situation the National Human Rights Commission of the country is bereft of commissioners.

The concept of Federalism is still very much contested. Opinions are divided among the ones who want to have ethnic- identity based federalism and administrative federalism. The indigenous groups and Madhesis are in favour of taking into account the diversities exhibited by the Nepalese society and construct the state institutions accordingly. This stance is supported by major political parties like UCPN Maoist and Madhesi Janadhikar Forum. In contrast the older parties like Nepali Congress and UML are in favour of administrative federalism which according to them is more conducive in case of Nepal to maintain national unity and social harmony. Another question to ponder upon is economy too. None of the

political leaders or parties have seriously addressed this but whether Nepal has enough resources to support federalism and which kind of federalism is most suitable for Nepal keeping in mind its economic resources needs to be looked into. The issue of federalism was the primary cause of failure of the first ever Constituent Assembly and if not dealt with properly could be a major obstacle in drafting of the new constitution through the second constituent assembly too.

Some emerging non traditional security concerns:

Violence Against Women

Another important security concern which seems to be highly pervasive in Nepal is violence against women. In fact I feel privileged to be able to address this non traditional security concern in front of the present audience which itself speaks of the severity of the situation. Worec Nepal, an NGO working on Violence Against Women in Nepal has documented a total of 206 cases of VAW in between 15 June 2013 till 15 July 2013. Of the total cases, 83 women were victims of domestic violence, 16 women were subjected to murder, 45 to rape and 33 to social violence. Cases on rapes, witchcraft practices, violence on migrant women workers, sexual assaults, domestic violence, intimate partner violence and many other forms of violence perpetrated against women are being reported by media like never before. No doubt there have been several positive developments with regards to women's issues like the provisions entailed in the Interim constitution 2007 which brings women's issues within the periphery of fundamental rights, the 11th amendment in the Muluki Ain and gender equality act 2006, domestic violence act (2009) are all progressive in terms of addressing women's issues in general and VAW in particular. But in the absence of an effective implementation and punishment mechanism the cases are on rise and even in the reported cases perpetrators are not timely punished. Also, due to absence of a strong legislative body a lot of violence specific acts like acts against witchcraft practices are still pending. Hence to combat social evils like VAW which is taking a strong grip in our society, state mechanisms need to be strengthened and for this too upcoming CA election will play a decisive role.

In a country where skilled and unskilled young people are migrating abroad for better opportunities foreign employment is a matter of grave concern. If the trend continues in a similar pace ,very soon Nepal would be completely void of young manpower and intellectuals to work towards her own growth and development. Also the rise of 'Arab Spring' – escalating political tensions in the Arab countries could have adverse effect on the Nepalese migrants there.

Foreign Employment

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development. Also the rise of 'Arab Spring' - escalating political tensions in the Arab countries could have adverse effect on the Nepalese migrants there. The question arises what would happen if more than 2 million migrant workers abroad have to return to Nepal due to instability in the Arab world. Already Saudi Arabia is adopting stringent measures and recently 1000 Nepalese illegally working in the Arab country were deported. Nepal's economy which is mostly remittance driven will be in jeopardy if all the migrants workers were to return home. Also the government does not have any back up plan and policy in place to support its own people if they return. Hence, this situation needs to be immediately rectified and foreign investments directed accordingly not just for material gains but creation of long term opportunities.

Synopsis and Recommendations:

- It was the intra and inter party rife that led to the dissolution of the first ever constituent assembly without promulgating a new constitution. So this time around political leaders and parties should look at the national interest and concentrate all their energies towards drafting a new constitution rather than being caught up in their petty personal interests.
- Free and fair election is the most important process of a democratic state so the November 19 election should take place as per schedule.
- The formation of Truth and Reconciliation Commission should not be stalled for long and while it takes place some form of transitional justice mechanism should be in place to address the group grievances.
- The contentious issues like federalism and modality of the government should be solved through dialogue but if that fails voting mechanism should be used to reach an agreement so that the constitution drafting process does not get delayed further.
- Non traditional security concerns like the plight of Nepalese workers in Arab countries and Malaysia and Violence Against women should be addressed in a timely manner through effective policy level interference. The growing level of impunity should be addressed.
- There should be a clear vision among the leaders, pragmatics and practicalities considered for a new order. Once this fact is realised by the political leaders, decision makers and constitution drafters then only a new and effective constitution is possible in Nepal.

Needless to say successfully completing the election and promulgating a new constitution seems to be a mammoth task and would require a lot of coordination and collaboration among the concerned stakeholders. Also there are impending security threats as Mohan Baidya faction is out of the election process and speeding up its preparations to foil the election. In fact it has planned Nepal Bandh coinciding with the election date which could dissuade the general public from travelling to cast their votes. The political scenario is still highly polarised and fraught with disagreements. It is very unlikely for now that Nepal would relapse into conflict. But It should also be kept in mind that a lot of new changes have been made in Nepal in a short period of time as a result of which Nepal is still coming to grips with the reality so for now all the efforts should be concentrated on establishing and making concrete what has been accomplished so far. Yet there is positivity that the upcoming election will be decisive in delivering a new constitution and paving the way forward for Nepal and its people. And of course the world is watching.

Issue Brief

Nepal's Politics: After the Peace Agreement

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Nepal's peace process was formally started on January 6, 2007 along with signing of the Comprehensive Peace Agreement (CPA). The CPA not only declared the “End of conflict” for “giving permanency to the ongoing ceasefire between both the parties—Government of Nepal and the United Communist Party of Nepal-Maoist (UCPN-M)” – but directed senior leaders of the parties to be sincere in “the main policy for long-term peace” as decided in the earlier meetings. It was in fact an output of the several other important efforts made by the SPA and the UCPN-M in different periods of time and contexts, since its preamble acknowledges many of the previous agreements: 12-Point understanding signed on 22 November 2005; 25-Point Code of Conduct agreed on 25 May 2006; 8-Point agreement signed on 16 June 2006; others formal-informal consensus reached between the SPA led Interim Government of Nepal and the UCPN-Maoist; and the letter sent to the United Nations by both the sides

The treatment of the state and society to the UCPN-Maoist as to other parliamentary political parties helped them assimilate with and adopt the culture of the multiparty democracy. It created a well-matured ground for making the interim constitution as per the spirit the historical Jana Andolan 2006.

Thus, the peaceful abolition of the 240-year old institution of monarchy and establishment of the Democratic Federal Republic has been seen as the biggest achievement of the Jana Andolan-II. Also, the representation of marginalized communities such as Dalits, Adivasis, Madhesis, women and other minorities in the elected Constituent Assembly (CA) has given a remarkable positive message to the world.

with the similar viewpoints after the successful Mass Movement in 2006 . The CPA along with the ongoing peace process of Nepal has been considered as a fully indigenous process as there is no formal national/international mediator . It is, as mentioned before, an output of the several confidence building measures that gave the gate pass to the UCPN-Maoist to enter into the mainstream politics. The process of mainstreaming the UCPN-Maoist was initiated and formalized by allowing its members in the reinstated Parliament in 2006 and Interim Government in 2007. The treatment of the state and society to the UCPN-Maoist as to other parliamentary political parties helped them assimilate with and adopt the culture of the multiparty democracy. It created a well-matured ground for making the interim constitution as per the spirit the historical Jana Andolan 2006.

“Declaring the beginning of the new chapter of peaceful collaboration between the parties” the CPA initiates for “forward-looking political resolution”, and commands both the parties to go through the spirit of earlier consensuses by internalizing and respecting the respective issues of either side. It orders the UCPN-Maoist to reiterate their commitment “towards democratic value accepting competitive multiparty democratic system of governance, civil liberty, fundamental rights, human rights, full press freedom and concept of rule of law” . It, on the other hand, obliges the SPA “to ensure the sovereignty of people through election of Constituent Assembly (CA), restructuring of the state and socio-economic and cultural transformations” . That is why the CPA is a document that initiates radicalizing the mainstream political parties, and mainstreaming the UCPN-Maoist bringing it in the competitive party politics through a peaceful manner. In fact, the spirit of 12-point understanding between the UCPN-Maoist and the SPA followed by other agreements was for establishing “absolute democracy” in the country. The full-fledged democracy was possible only after “ending autocratic monarchy” and also assuring equality and justice to the people. Thus, the concept of the federal structure of the state was assured by amending the Interim Constitution and the notion of inclusive and participatory democracy was accepted as a major requirement for leading socio-political transformation to a greater extent.

Thus, the peaceful abolition of the 240-year old institution of monarchy and establishment of the Democratic Federal Republic has been seen as the biggest achievement of the Jana Andolan-II. Also, the representation of marginalized communities such as Dalits, Adivasis, Madhesis, women and other minorities in the elected Constituent Assembly (CA) has given a remarkable positive message to the world. The strength distributed in the previous CA was more than 33% by women, 38% by Janajatis, 33% by Madhesis, and 8% by Dalits, etc. The three major marginalized groups, irrespective of their party position, had deserved the required critical masses in the last CA.

Basically, the CPA talks about the process of democratization of Nepal Army defining it as to bring the NA under the civilian control and the process of professionalization of the Maoist combatants. The restructure of the state is another issue that makes the system more inclusive (by allowing more and more opportunities to the people from the marginalized groups based on caste, ethnicity, gender, region, religion, etc.). The main focus of the CPA is to transform the UCPN-Maoist from an insurgent group into a 'civilian political party'. Thus, it orders the UCPN-Maoist to follow a couple of the measures i.e., to return the property confiscated during the insurgency to the owner; to allow other political parties for political campaign in the country in general, and in the UCPN-Maoist controlled villages in particular. Similarly, the High Level Especial Committee for Army Integration, Truth and Reconciliation Commission, Commission for the Investigation of Disappeared People, State Restructuring Commission, etc., for making federal structure were other important tasks opened up by the CPA. Furthermore, the election of CA for the making of a new constitution was the major task.. Because at that particular time, the state moves from the divided past to a shared future and requires the capability and feasibility not only to create a just order, but to perform its basic state functions also. That must be the case of provisioning the State Reconciliation Commission in the Interim Constitution of Nepal 2007. But it is yet to be materialized by the governments.

The Agreement on Monitoring of Management of Arms and Armies reached between the Government of Nepal and the UCPN-Maoist on 28 November 2006, was another major provisions under the CPA, since the management of Maoist combatants and their arms were most important and difficult issues. To facilitate the work of the arms and armies management, the United Nations Mission in Nepal (UNMIN) was established on January 23, 2007 on the request of the Interim Government and the UCPN Maoist in accordance with the guidance of the CPA. The UNMIN started working in Nepal as per the United Nations Security Council Resolution number 1740 having a limited role, i.e., "monitoring and supervising the peace process". The role was basically to monitor whether the respective parties confine their activities in accordance with the agreements reached between the parties. In fact, the UNMIN had no right of taking the decisive role for the peace process but it can facilitate the respective parties to follow and implement the agreements in letter and spirit. The management process of the combatants of the UCPN-Maoist began on 8 January after a Joint Monitoring Coordination Committee (JMCC) was formed and the UNMIN announced the first result of the verification of Maoist combatants on 27 December 2007 .

Out of seventy five other former Maoist fighters who have cleared the written exam to join the NA at the officer level, seventy including four women became officers in the Nepal Army on the August 26, 2013. Before that the cantonments where the former combatants of the Maoist People's Liberation Army (PLA) resided were closed down, and Maoist weapons were under state control.

The structure, role and responsibilities of the Army Integration Special

Though UCPN-Maoist leadership also issued a directive to end human rights abuses in September 2, 2006, no evidence has been found which assures the earlier commitment by the UCPN-Maoist leadership. Here, the question of accountability can be raised before the UCPN-Maoist leadership.

Committee, which was formed “in order to inspect, integrate and rehabilitate the Maoist combatants”, were neither effective nor authorized to independently work as required. It was formed for technical purposes and had nothing to do unless there was a political consensus among the major political parties in the CA. The issue of management of Maoist combatants was politicized to that extent that stopped the whole peace and the constitution writing process. The advocacy and counter-advocacy on the issue of the Maoist combatant’s management made the process more complicated. However, integration issue has concluded with the integration of a little over 1,400 former Maoist fighters into the Nepal Army. The final phase of the integration process saw 1,388 combatants have join at the soldier level after they opted for integration and passed through the NA-conducted selection examinations. Out of seventy five other former Maoist fighters who have cleared the written exam to join the NA at the officer level, seventy including four women became officers in the Nepal Army on the August 26, 2013. Before that the cantonments where the former combatants of the Maoist People’s Liberation Army (PLA) resided were closed down, and Maoist weapons were under state control.

If one minutely follows the CPA, it has prohibited a couple of things, which are mainly: (1) to hold, carry and display arms, use of violence and armies for creating terror and fear; (2) to intimidate and use any type of violence against people—kidnap, murder, and torture to hurt or render mental pressure against any individual; (3) to recruit additional armed personnel or conduct military activities; (4) to collect cash or goods and services or levy against one’s wishes and against the existing law; (5) to restrict free movement of people and goods; (6) to spy on military activities of either sides; (7) to publicize for or against any side and support or protest against any side, (8) damaging and seizing public/private/governmental and non-governmental property, etc.

But in practice, nothing was implemented in a serious manner. In fact, only five out of the nine restricted activities under the CPA, and only seven out of 19 clauses under the Agreement on Monitoring of Management of Arms and Armies reached between the Government and the UCPN-Maoist on 28 November 2006 were implemented by the Maoists ; it was the UCPN-Maoist which started recruiting youths to increase the number of the Maoist combatants in cantonments just after it signed the CPA. The UCPN-Maoist called the youth openly by establishing a "recruiting center", cantoned the 'new recruits.' Such recruitment camps were lunched by hanging the banner at many of the district headquarters, with the assurance of a good salary (with a promise of Rs. 7,000 salary per month) and job guarantee in Nepal Army. Then, young students were not only running away from the houses and schools catching the golden opportunity to join the Maoist combatants. And, many of the youths from villages were abducted by the UCPN-Maoist for the purpose. Children-including some as young as 12 years-were taken

away from their families to take part in the Maoist combatants and militia activities...[and] some of them have received military training with weapons since the ceasefire was declared. Even if internationally recognized organizations such as the Office of the High Commissioner for Human Rights (OHCHR) and UNMIN raised question by reporting the similar reports, neither the then government nor the UCPN-Maoist initiated any measure to stop the process. Rather, the UCPN-Maoists' supremo Prachanda, with pride boosted how he and his party fooled domestic counterparts as well as international community saying that his party successfully increased the number of its combatants from 7-8 thousand to 32,250 through new recruitment. Also, the UCPN-Maoist continued its activities of extortion, intimidation, abductions, ill-treatment, violation of rights of internally displaced people and even killings after the CPA too, though the numbers of such activities are considerably low. They continued their so-called parallel governments till the completion of CA election, and tried to stop political activities of other political parties till today. According to the OHCHR report, the rebels were responsible for the death of at least 16 civilian, mostly innocent villagers and for abduction of at least 184 individuals since the ceasefire declaration of April 26. Though UCPN-Maoist leadership also issued a directive to end human rights abuses in September 2, 2006, no evidence has been found which assures the earlier commitment by the UCPN-Maoist leadership. Here, the question of accountability can be raised before the UCPN-Maoist leadership.

On the other hand, neither the Truth and Reconciliation Commission, nor the Commission for Investigating the Displaced People was formed to manage the peace process and address the victims during the conflict. So, interest of conflict between the rival forces resumed again while the UCPN-Maoist succeeded in making total combatants upto 32,250 without any disturbance of the then government.

As a result, the CPA has become a turning point for various political/social movements in Nepal. Nationwide Janajati Movement had the demands of secular state status and ethnicity based autonomous federal structures. Dalit groups were launching a movement to end caste-based discrimination. Madhes Movement of August 2007 led by the MJF had the demand to declare Nepal as a federal democratic republic and full proportional representation system for the election of CA. Chure Bhawar movement (August-October, 2007) was known as anti-Madhes, because it had opposed the demand of Madhes Movement II led by United Democratic Madhesi Front from December 2007 to February 2008 to declare autonomous 'One Madhes, One Pradesh' and to amend the Election Commission Act in increasing the relaxation for inclusive candidacy (from 20 per cent to 30 per

In summary, Nepal faces multiple conflicts today. It is reported that some 69 semi-armed groups are active in Nepal (till March 2009) and most of these have mushroomed particularly after the CPA. However, the government of Nepal has recorded that there are 109 armed, semi-armed, and criminal groups intensifying their activities in Nepal and most of these are active in Tarai-Madhes.

In fact, their modus operandi to run the country proved to be more corrupt, irresponsible, unaccountable, incompetent to provide the good governance and less honest to the expressed commitment. As a result, hopelessness and frustration was increasing among the various deprived communities who had no expectation from other parties, and have been helping the UCPN-Maoist with high hope for change

cent). Similarly, the Tharu Movement from March 2-14, 2009 demanded the government to withdrawal its ordinance, which had defined the identity of all communities residing in the flat-land as Madhesi. It had also demanded to replace the terminology “Madhes” by “Tarai-Madhes,” and recognize the Tharu as a separate ethnic identity in Madhes and form a federal state for Tharus with their prior-rights on the local natural resources: water resource, jungle and land (Jal, Jangle ra Jamin) available in their particular territory. Federal Limbuwan Movement is also an ethnic movement, especially launched in nine districts of the Eastern hills. Their main demand is to form an Autonomous Limbuwan State.

In summary, Nepal faces multiple conflicts today. It is reported that some 69 semi-armed groups are active in Nepal (till March 2009) and most of these have mushroomed particularly after the CPA. However, the government of Nepal has recorded that there are 109 armed, semi-armed, and criminal groups intensifying their activities in Nepal and most of these are active in Tarai-Madhes. The number has been increasing day-by-day. The following is the list of some of the major armed and criminal groups which are active in recent days in Nepal. It is said that most of the groups have their own military wing and their strength varies from 150 to 2000 in number.

Here, one can pose a question asking the main causes of the mushrooming violent conflict in specific countries even after introducing the peace process to resolve a conflict. Several research works suggest that there are several overlapping problems that are directly-indirectly responsible for increasing the numbers of armed and semi-armed groups inside Nepal after the CPA . It can be seen that all these problems came mainly ‘due to low regulative capacity ’ of Nepali state and due to a very limited “presence of the state” that badly affected government-run development and other activities . In fact, the SPA government lost its cohesive power before the UCPN-Maoist even if it tried to implement most of the commitment for making a suitable atmosphere for the peace process. It was reported that the government freed all the UCPN-Maoist cadres from prison, withdrew all the cases filed in the courts, lifted the terrorist tags on the UCPN-Maoist, etc., for making a suitable environment for strengthening the peace process. The situation encouraged the UCPN-Maoist as if it could get more than their expectation and started bargaining further. The tough time not only for the UCPN-Maoist but also the whole process began, when people started counter-action against the UCPN-Maoist activities by taking law and order on their hands. When the UCPN-Maoist led the government after the CA election in 2008, the situation worsened.

Awareness and expectation were increased by the catchy slogan of the UCPN-Maoist during the insurgency that radicalized the entire society. But these raising expectations remained unfulfilled after the political change. Even if they came in the

peace process, participated in the government and parliament, became the single largest party in CA election, and then formed the government under their leadership, the UCPN-Maoist could not make any policy change towards peaceful and democratic ways . No conflict victims (neither the 6,050 families whose land, houses and factories were seized by the Maoists; nor 12,000 families whose movable property such as gold, silver, crops, cattle and machinery were looted by the Maoists , nor the family members of 1,360 people who went missing during 1996-2006 , nor disqualified combatants, nor the family of the killed 17,800 people) are satisfied as the state is yet to convince them by taking some steps i.e. forming the Truth and Reconciliation Commission, creating the environment to return property, etc.

In fact, their modus operandi to run the country proved to be more corrupt, irresponsible, unaccountable, incompetent to provide the good governance and less honest to the expressed commitment. As a result, hopelessness and frustration was increasing among the various deprived communities who had no expectation from other parties, and have been helping the UCPN-Maoist with high hope for change

