

# **From Bullet to Ballot: The Politics of Peacemaking in Nepal**

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## TABLE OF CONTENTS

<b>Part I: Problem, Theory &amp; Method</b>	<b>1</b>
<b>1. Bullet to Ballot: The Politics of Peacemaking</b>	<b>1</b>
A. Introduction	1
B. Objective of Study	2
C. Rationale & Contribution of study	2
<b>2. Politics of Peacemaking: Theoretical Framework</b>	<b>5</b>
<b>A. Concepts &amp; Definitions</b>	<b>5</b>
a) <i>Peace Process &amp; Peacemaking – Clarity in Concepts</i>	5
b) <i>Peace Agreement – What it is what is not?</i>	7
<b>B. Literature Review:</b>	
<b>Deconstructing Success and Failure in Peace Process</b>	<b>8</b>
a. <i>Conflict Dynamics: Complexities in Armed Conflict Resolution</i>	10
b. <i>Structure of Peace Settlements</i>	22
c. <i>Role of Third Parties in Peacemaking</i>	27
d. <i>Infrastructure for Peace</i>	35
e. <i>Summarizing Theoretical Framework</i>	42
<b>3. Research Framework, Question and Hypotheses</b>	<b>46</b>
A. Research Hypotheses	46
B. Case Selection Criteria	49
C. Methodological Approach	50
D. Research Methods	51
<b>Part II: Case Study: Nepal</b>	<b>53</b>
A. Understanding Root Causes of Conflict in Nepal	53
B. Phases of Armed Conflict of Nepal	82
C. Conclusion	92
<b>Part III: Peacemaking and Peace Process in Nepal</b>	<b>93</b>
A. The Two Failed Peacemaking Process	95
B. The 2005-2006 Peacemaking Process: The Decisive turn towards Peace	111
<b>Part IV: Analysis &amp; Conclusion</b>	<b>121</b>
<b>Part V: Bibliography &amp; Annexes</b>	<b>127</b>

## ABBREVIATION

BJP	Bharatiya Janta Party
CoC	Code of Conduct
Congress I	Congress Party of India
CPA	Comprehensive Peace Accord
CPI - Maoists	Communist Party of India – Maoists
CPI – Marxist	Communist Party of India - Marxist
CPN-UML	Communist Party of Nepal (Unifies Marxists Leninist)
CPN-M	Communist Party of Nepal - Maoists
CRZ	Compact Revolutionary Zone
CSOs	Civil Society Organizations
DDR	Disarmament, Demobilization and Reintegration
EU	European Union
GDP	Gross Domestic Product
HD Center	Centre for Humanitarian Dialogue
HoR	House of Representatives
IDP	Internally Displaced People
INGOs	International Non Governmental Organizations
ICG	International Crisis Group
IPCRI	Israel-Palestine Center for Research & Information
JPMCC	Joint People’s Movement Coordination Committee
LDC	Least Developed Country
LTTE	Liberation Tigers of Tamil Eelam
MEO	Mutually Enticing Opportunities
MHS	Mutually Hurting Stalemate
MOR	Mutually Obtained Rewards
NA	Nepal Army
NC	Nepali Congress
NDA	National Democratic Alliance
NGOs	Non Governmental Organizations
NHRC	National Human Rights Commission
PLA	People's Liberation Army
RNA	Royal Nepalese Army
RPP	Rastriya Prajatantra Party (National Democratic Party)
SLC	School Leaving Certificate
SPA	Seven Political Party Alliance
SPA –M	Seven Political Party Alliance and Maoists
UCDP	Uppsala Conflict Data Program
UK	United Kingdom
UN	United Nations
UNMIN	United Nations Mission in Nepal
UNPF	United People's Front
URPC	United Revolutionary People's Council
US	United States
VDC	Village Development Committee
UPA	United Progressive Alliance

# **From Bullet to Ballot: The Politics of Peace Making in Nepal**

## *Abstract*

### *Summary*

This dissertation seeks to advance theory on peace process. In doing so this research proposes to seek the answers of two related questions concerning peace making process of Nepal. First it aims to seek to explain reason for the failure of negotiation process in 2001 and 2003 and secondly analyses the crucial elements for the success of peace process of 2005-2006 in Nepal. The first inquiry is much more focused on the internal dynamics of the peacemaking process and mainly analyzes the process, which results in a peace agreement between the warring parties. The second inquiry is much more related with the overall success of the peace process in terms of its external dynamics. There are several examples where there is a peace agreements but it does not results in ending the violence.

To improve our understanding of the process the research looks at the empirical evidence from three mediated sets of peace process of Nepal. The focus is mainly on the first failed peace process which started on August 3, 2001 and lasted till November 23, 2001; then second failed peace process which started from January 29, 2003 after Maoists unilaterally decaled ceasefire went on till August 26, 2003 and finally ended and third is 2005 -2006 series of peace talks and signed agreements between the Seven Key Political Parties and Maoists Insurgents in Nepal which finally bring about end to 12 years of Maoists insurgency in Nepal. Thus this study tries to understand the Nepal's Peace process in depth. Taking Nepal as a case study it analyzes the dynamics of negotiation process and overall peace process to understand the research problem.

In order to unpack these various perceived complications in the peace process, this proposed study examines four independent variables that are expected to provide an important explanation of why peace process success or fails. These variables are: the dynamics of armed conflicts which leads parties to negotiation process; the structure of settlements in the process; the role of third party & regional politics in peace process; and state infrastructures needed to support the process.

The study shows that the parties involves in dialogue if they are in *mutually hurting stalemate* which is a necessary condition for the success of any negotiation process but not the sufficient condition for the success of the peacemaking process. In order for the parties to sign an agreement they should have a *mutually enticing opportunity* that entices parties to sign a peace agreements but it is not the necessary guarantee of the success of the peace process. In order for the long-term success of a peace process both parties should own the peace process as *mutually obtained rewards*.

### *Methodology*

The research method adopted in this study is qualitative and utilizes comparative & explanatory case study methods. This method is advantageous when examining contemporary as opposed to historical events, when the behaviours being explained cannot be manipulated, and when several sources of evidence are used to analyze the data.

This dissertation study primarily relies upon two methods of data collection: participant observation and triangulation. Participant observation requires experiencing a program as both an insider (“participant”) and a critical observer (“observation”). Meanwhile, triangulation involves asking the same (interview) questions of a variety of people in order to see if their answers are echoed, so as to further verify findings.

Similarly various secondary sources of data are also used including journal articles, books, newspaper articles, government archives and other archived sources such as radio interviews, TV interviews etc.

### *Expected Contribution*

The major contribution of this dissertation is the new theoretical framework which analyzes various aspects of peacemaking/peace process. The dissertation tries to introduce new element in peace process literature namely *infrastructure of peace* which is a major contribution to the existing peace process/peacemaking literatures. The concept of *infrastructure of peace* is a concept which analyzes there major domestic components

needed for the success of any peacemaking process or entire peace process. These components are *democratic system of governance or democracy; active participation of civil society* and *government initiated institutions in the form of peace commissions or peace ministry, which supports long-term peacebuilding mechanisms.*

This dissertation also contributes to the scientific evaluation of the Nepalese Peace Process as most of the evaluation so far has been based from the praxis point of view where as this dissertation evaluates the Nepalese peace process through scholarly lens. This is one of the major contributions to existing peace process literature as Nepalese peace process is a very unique one as many existing theoretical concepts and arguments cannot grasp the complexities of this process. This in itself can be case for other peacemaking or peace process.

# **From Bullet to Ballot: The Politics of Peace Making in Nepal**

## **PART I: PROBLEM, THEORY & METHODS**

### **1. From Ballot to Bullet: The Politics of Peacemaking**

#### **A. Introduction**

As long as there has been conflict, there have also been attempts at resolving conflict peacefully. However, with major conflicts, military clashes, and violence still a part of people's lives, the fact that so many peace process have not yet succeeded in achieving and maintaining peace is overwhelming evidence that there exists a fundamental problem in the negotiation process, Why has numerous peace making process has not led to a peace agreement? This is one of the daunting problems of numerous peace-making processes and in case of Nepal as well, there have been two past failed attempts to resolve the conflict? But interestingly the third peace making process is immensely successful in transforming the country, not only from violence to peace but also in terms of social, political and cultural transformation of Nepal.

Thus it is an interesting case which supports that peacemaking evolves within a specific social, political and economic context involving different actors, numerous issues, and domestic and international constraints. Clearly, peacemaking involves economic, political, domestic and international variables, many of them affected by other institutional and structural limitations. These factors combine to create the political environment in which negotiations evolve. To focus on only one factor renders a study of peacemaking unsatisfactory and incomplete.

So this study aims to use the approaches and concepts from conflict resolution literatures to answers two related questions concerning peace making process of Nepal. First it aims to seek to explain reason for the failure of negotiation process in 2001 and 2003 and secondly analyses the crucial elements for the success of peace process of 2005-2006 in Nepal.

## **B. Objective of the Study**

The objectives of this study are to find out the new analytical framework to understand the politics of peacemaking.

More precisely, the objectives of the study are to:

1. Why peace making processes in 2001 & 2003 failed where as in 2006 peace making process succeed to reach an agreement?
2. What are the crucial elements for the success of peace process in Nepal?

## **C. Rationale & Contribution of the Study**

This study seeks to advance theory on peace process. In doing so this research proposes to seek the answers of two related questions concerning peace process. First, it seeks to explain why some negotiation process led to signing of peace agreements while others do not, and second, what are the crucial elements which led to the overall success of peace process. In spite of the fact that most mediated settlements of armed conflicts are not durable, it is still important that we understand why some peace process led to signing of peace agreements, without which full and durable end of conflict is not possible. The first inquiry is much more focused on the internal dynamics of the peace process and will mainly analyze the process which results in a peace agreement between the warring parties. The second inquiry is much more related with the overall success of the peace process in terms of its external dynamics. There are several examples where there is a peace agreements but it does not results in ending the violence.

The reason why this study focus to look into the peace process is because there have been a lot of research focused on how the conflict begins than about how they ends. There are very few researches done to understand the dynamics of the peace process.<sup>1</sup> So, this study aims to make

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<sup>1</sup> For more literature of Peace Process see, Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington DC: United States Institute of Peace, 1996); Barbara Walter, *Committing to Peace: The*

contribution to, the advancement of knowledge in peace process. Beside that Roy Licklider states that intellectually the problem of negotiating an end to an armed conflict is daunting.<sup>2</sup> Even though, some evidences indicates that negotiated agreements are at a rise in post-conflict world in intrastate conflicts but the stability of such negotiations and negotiated settlements is a matter of concern. So this study aims to study peace process in a holistic approach considering the every possible variable that governs its sustainability.

To improve our understanding of the process through which armed conflicts are concluded, the research will look at the empirical evidence from three mediated sets of peace process of Nepal. The focus will be mainly on the first failed peace process which started on August 3, 2001 and lasted till November 23, 2001; then second failed peace process which started from January 29, 2003 after Maoists unilaterally decaled ceasefire went on till August 26, 2003 and finally ended and third is 2005 -2006 series of peace talks and signed agreements between the Seven Key Political Parties and Maoists Insurgents in Nepal which finally bring about end to 12 years of Maoists insurgency in Nepal. Thus this study will try to understand the Nepal's Peace process in depth. Taking Nepal as a case study it will analyze the dynamics of negotiation process and overall peace process to understand the research problem.

In much of the scholarly debate understanding the peace process, most of literature argues that the negotiations process fails due to the lack of trust between the parties, while others are of the opinion that it is due to the fundamental irreconcilable positions; raising security dilemma of parties to carry on peace process or the poor handling of the negotiation process by the mediator. Taking sober look at the above arguments, it seems that each peace process have its own complication either in the form of irreconcilable differences or parties face or lack of trusts between them but I believe that people would not wage an armed conflict if they trusted each

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*Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002); John Darby and Roger Mac Guinty, eds. *Contemporary Peacemaking: Conflict, Violence and Peace Process*, (London: Palgrave Macmillan, 2003); John Darby and Roger Mac Guinty, eds. *The Management of Peace Processes*, (London: Palgrave Macmillan, 2000); Stephen John Stedman, Donald Rothchild and Elisabeth M. Cousens, eds. *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder: Lynne Rienner, 2002); Thomas Ohlson, "Understanding Causes of War & Peace," *European Journal of International Relations* 14,133 (2008).

<sup>2</sup> Roy Licklider, "Obstacles to Peace Settlement," in *Turbulent Peace: The Challenges of Managing International Conflict*, eds. Chester A. Crocker, Fen Osler Hampson & Pamela All (Washington D.C.: United States Institute of Peace, 2001), p. 697.

other and thought they could solve their differences and disagreements easily. So in order to unpack these various perceived complications in the peace process, this proposed study will examine four independent variables that are expected to provide an important explanation of why peace agreements succeed or fail. These variables are: the dynamics of armed conflicts which lead parties to the negotiation process; the role of third party & regional politics in the peace process; the structure of settlements in the process; and the state infrastructures needed to support the process

## **2. Politics of Peacemaking: Theoretical Framework**

### **A. Concepts & Definitions**

In this section, some definitions of key concepts used in this research projects are discussed, as they are central to understanding of the research problems and serves to clarify the scope & objective of this study. To begin with, there seems to be no consensus in the academic literature on how to conceptualize between 'Peace Process' & 'Peacemaking'. In many instances these terms are used interchangeably in the scholarly literature on the subject and sometimes they are seen as analytically distinct terms. In addition, 'Peace Agreement' seems to be an equally elusive concept. Hence in order to avoid confusion in the research, these terms need to be clarified in detail.

#### ***a) Peace Process & Peacemaking – Clarity in Concepts***

The term "Peacemaking" appears to be a commonplace term, easily understood and frequently used in public discourse and in peace studies. On closer examination, it is much more elusive. Dictionaries define it tautologically as "the making of peace"; standard encyclopaedias do not recognize it as a topic for separate entry (though it does appear in two encyclopaedias of peace); and there is surprisingly little on "peacemaking" in academic texts on international politics.

The number of scholarly works explicitly devoted to peacemaking has been relatively small as compared to studies of war and its causes. It was in 1992 when In his 1992 report *An Agenda for Peace*, Secretary-General Boutros Boutros-Ghali spelled out the multiple roles that the United Nations has taken in regard to peace, under the rubrics of preventive diplomacy, peacemaking, peace enforcement, and peacekeeping, then the this term Peacekeeping began to appear in the scholarly literature in peace studies. "Peacemaking" in the specific sense used in the report refers to efforts to bring together parties already engaged in hostilities to seek agreement for peaceful resolution of their conflict. The United Nations role in this context is spelled out under chapter 6 of the UN Charter, which specifies the options of mediation, negotiation, conciliation, arbitration, judicial settlement, sanctions, and "other peaceful means." Mediation, negotiation,

arbitration, and judicial settlement have been central to the theory and practice of peacemaking over the course of history and have been treated in numerous historical, legal, and political works.<sup>3</sup>

Thus, peacemaking is the diplomatic effort intended to move a violent conflict into nonviolent dialogue, where differences are settled through representative political institutions. The objective of peacemaking is thus to end the violence between the contending parties. Peacemaking can be done through negotiation, mediation, conciliation, and arbitration. So it is a process which is initiated sometimes by country such as Norway's involvement in finding settlement of Sri Lankan Conflict or by International Organizations such as United Nations or by diplomats such as Former US President Jimmy Carter or similar key figures or by civil society in the particular countries such as IPCRI (Israel-Palestine Center for Research & Information) working to find out settlement of Israel – Palestine conflict or by the stakeholders of the conflicts themselves.

Similarly, the concept 'Peace Process' is also equally elusive and often confused with the term 'Peacemaking'. The term 'peace process' has become increasingly popular since the 1990s. Peace Process is much more detailed process and usually consists of three key components: peacemaking, peacekeeping and peace building. The objective of peace process is finding a lasting solution of a conflict. Tim Sisk defines peace processes as "step-by-step reciprocal moves to build confidence, resolve gnarly issues such as disarmament, and carefully define the future through the design of new political institutions".<sup>4</sup> John Darby & Roger Mac Ginty stresses that the term peace process "arose primarily from the growing recognition that the cycle of activities necessary to produce just and lasting agreement stretches both backward and forward from the actual period of negotiations"<sup>5</sup>.

Thus peace process has the following three processes:

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<sup>3</sup> Boutros Boutros-Ghali, "An Agenda for Peace," [document on-line] (New York: United Nations, 1992, accessed on 13 May, 2008); available from <http://www.un.org/Docs/SG/agpeace.html>,

<sup>4</sup> Timothy D. Sisk, "Democratization and Peacebuilding" in Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, eds. *Turbulent Peace* (Washington, D.C.: U.S. Institute of Peace, 2001) p. 787.

<sup>5</sup> John Darby and Roger Mac Ginty, "Conclusion: Peace Process, Present & Future" in John Darby and Roger Mac Ginty, eds. *Contemporary Peacemaking: Conflict, Violence & Peace Processes* (London: Palgrave Macmillan, 2003) p. 256.

1. The process of transition from hostility to amity, or from war to peace ("ending hostilities and preferably also resolving the active issues of war"), with or without explicit agreement - Peacemaking.
2. The development of procedures and institutions to facilitate conflict resolution, or termination & confidence building (including DDR Process, security guarantee of former combatants, monitoring mechanisms, transitional governments, elections etc) so that the governments or parties involved in the conflict are willing to cooperate and are able to reach and maintain agreement – Peace Keeping
3. Efforts to create the foundations or conditions for lasting peace - Peace building.

Based on the above discussion, this study arrives at the following theoretical definition of ‘peacemaking’ and ‘peace process’. Peacemaking is a short term to mid-term process which aims at initiating a dialogue among the warring parties to find a settlement of the conflict. Thus it is a process which is initiated either by the third party (mostly) or by themselves, through dialogue (mediation & negotiation), warring parties tries to find a settlement of the conflict and often a promise to upkeep that settlement is made by signing an agreement. Where as ‘peace process’ is a long term process which aims at working for lasting peace. So this definition clearly distinguishes these two terms. Here peacemaking process is conceived as just a part of peace process and usually aims at mapping for ‘finding’ solutions of a conflict where as peace process is an integrated process which aims at ‘working’ for a lasting peace.

For the purpose of this study, such distinction of these two key terms is essential and at the core of the research problem. Thus this study will use the above mentioned definition of these two terms.

***b) Peace Agreement – What it is what is not?***

When attempting to define the term ‘peace agreement’, there is always a sense of confusion and disorientation. How do we define an agreement to be a ‘peace’ agreement? It is a fact that most of the (peace) agreements which hoped to bring about end to the conflict failed and it proved to be a ‘disagreement’ than a ‘peace agreement’.

Peace agreement in general is defined as a treaty or agreement to end war or the threat of war. The more comprehensive definition of peace agreement is conceptualized by *Uppsala Conflict Data Project*, which states “a peace agreement should address the problem of the incompatibility, either by settling all or part of it, or by clearly outlining a process for how the warring parties plan to regulate the incompatibility”.

It further distinguishes between three groups of agreement namely *full agreement*, *partial agreement* & *peace process agreement*. Full Agreement is defined as “an accord where at least one dyad agrees to settle the whole incompatibility”; partial agreement is defined as “an accord where the parties in at least one dyad agree to settle part of the incompatibility” and peace process agreement where at least one conflict dyad agrees to initiate a process to settle the incompatibility.<sup>6</sup>

### ***B. Literature Review: Deconstructing Success and Failure in Peace Process***

Defining success and failure of peace process is a challenging endeavor.<sup>7</sup> This is because there is no clear standard to be applied for gauging the “success” and “failure”. When is a peace process a successful? The only criteria so far used to judge the "success" is a peace agreement between the warring parties. But peace process which has success in signing an agreement often includes various contentious issues such as ceasefires, post-conflict election, DDR and post-conflict reconstruction. So which of these processes has to be met in order to label a peace process to be a success? Moreover, when a country has been through a protracted armed conflict, it takes several years before unambiguous signs of peace emerge. Even if conflict ultimately stops, it may remerge a few years later, usually with the same causes and the same actors.

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<sup>6</sup> Lotta Harmbom et. al., “Armed Conflict and Peace Agreements,” *Journal of Peace Research* 43 (5) (2006), p. 622.

<sup>7</sup> For debate on assessing “success” and “failure” in mediation and conflict resolution, see. Louis Kriesberg, “Varieties of Mediating Activities and Mediators in International Relations,” in *Resolving International Conflicts: The Theory and Practice of Mediation*, ed. David Bercovitch (Boulder, Colo.: Lynne Rienner Publishers, 1996); Howard Ross and Jay Rothman, *Theory and Practice in Ethnic Conflict Management* (London: Macmillan, 1999); Zubek et al., “Disputant and Mediator Behaviours Affecting Short-term Success in Mediation,” *Journal of Conflict Resolution* 36, 3 (September, 1992): 546-572; R. William Ayres, “Mediating International Conflicts: Is Image Change Necessary”? *Journal of Peace Research* 34, 3 (1997): 431-477; Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington DC: United States Institute of Peace, 1996); Barbara Walter, *Committing to Peace: The Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002); Barbara Walter and Jack Snyder eds. *Civil Wars, Insecurity and Intervention* (New York: Columbia University Press, 1999).

Conflict resolution in armed conflicts requires belligerents to conclude peace agreements as a first step towards its resolution. Yet reaching peace agreements is a particularly difficult task. It is even more difficult for agreement that have been negotiated and signed to hold to bring an ultimate end to protracted armed conflict. One study by Barbara Walter puts the successful implementation of peace agreements arising from armed conflicts at 57 percent.<sup>8</sup> Mathew Hoddie and Caroline Hartzell categorized that there are three major decisions involved in every peace process for each parties to commit in the process. These decisions are: 1) the decision regarding whether or not to enter into negotiations, 2) decision regarding the settlement construction and agreement signing and 3) agreement implementation.<sup>9</sup> Similarly, Thomas Ohlson argues that entering into peace process is more like a forked road where the parties have to make a choice between alternative courses of actions<sup>10</sup>. He further argues that there are three distinguished phases during the peace process namely: 1) *dialogue phase* where parties involve in dialogue, negotiations leading up to a peace agreement; 2) *Implementation phase* when the stipulations of the peace agreement are to be carried out; and 3) *consolidation phase* when consequences and changing circumstances resulting from the implementation of the agreement are internalized, accepted and thus seen as legitimate by both followers and leaders<sup>11</sup>.

Thus I will like consider both framework and like to construct a new analytical framework to be applied in this research. To understand the nature of peace agreements arising from an armed conflicts termination, why it is difficult for belligerents to endorse them, and why those signed do not often ultimately end the conflict, this research will examine four independent variables that explain why peace agreements are difficult to be signed, and even harder to hold. These independent variables belong to broad categories of casual factors that explain outcomes in negotiated settlements. Further, each independent variable will be operationalized and sub-variables developed in order to provide a more through treatment of the subject of peace

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<sup>8</sup> See Walter, *Committing to Peace*, p. 6.

<sup>9</sup> Mathew Hoddie and Caroline Hartzell, "Civil War Settlements & the Implementation of Military Power-Sharing Arrangements," *Journal of Peace Research* 40 (3) (2003), p. 305.

<sup>10</sup> See Thomas Ohlson, "Understanding Causes of War & Peace," *European Journal of International Relations* 14,133 (2008), p. 143-144.

<sup>11</sup> *Ibid.* p. 144.

agreements. Moreover, specific questions will be raised to guide the analyses of the relationship between these independent variables and the nature and stability of the peace agreements.

**a. Conflict Dynamics: Complexities in Armed Conflict Resolution**

**i. Challenges and Complexities of Armed Conflict**

*Intractable Conflicts*

Terminating a violent conflict and building thresholds against a new one is risky, time consuming and cumbersome. The shift from unilateral to bilateral strategies, from confrontation to cooperation, and from 'winning' mindset to 'reconciling' ones is difficult.<sup>12</sup> Ohlson argues that in intra-state armed conflict, any other outcome than victory or defeat implies that the parties must co-exist without resorting to violence, often within the borders of a state, after a settlement which is the crucial difference from inter-state conflicts. As in the latter, states may have a "dissociative" options i.e., they can agree to minimize their interaction after the conflict. This is not a viable option within a state, unless the settlement stipulates partition. So Ohlson argues that shifting the strategy from armed conflict to negotiation is thereby not only taking risking being betrayed by the opponents, but also running the risk of being dethroned or branded as a traitor by his followers and may also lead to factions within his own party.<sup>13</sup>

It is a well known fact that the armed conflicts which are intractable make them less likely to be ended through negotiated agreements. Most of the armed conflicts are characterized by a number of grievances; cleavages such as class, ethnicity, religion and race being the most prominent. They are also dominated by animosities and hatred that can be traced back over decades and even centuries.<sup>14</sup> Once armed conflict between groups is started, stopping it or trying to arrange for negotiations is impossible because it becomes an irrational act as the objectives become less

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<sup>12</sup> Ibid. p. 144 - 145

<sup>13</sup> ibid, p. 145.

<sup>14</sup> Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley: University of California Press, 1985), p. 15. For the debate on whether ethnic conflicts have "ancient" or "modern" causes, see Strut Kaufman, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Ithaca: Cornell University Press, 2001).

clear, and even less amenable to rational calculation, and more a question of blind sentiment.<sup>15</sup> In such conflicts, hostility begets hostility, creating conditions of violent conflicts that feed upon themselves.<sup>16</sup> Armed conflicts that are thus analogous to epidemics: once ignited, they are likely to follow their own course until a decisive military victory over one party is reached.<sup>17</sup>

### *Profiteers of Armed Conflict*

"If violence would be costly for the stakeholders of a conflict, it would have disappeared a long time ago".<sup>18</sup> Violence will remain with us as long as it is perceived as profitable. Thus it is very obvious that armed conflicts are protracted because of the way belligerents' assess the cost incurred and the benefits expected in continuing the conflict. There is obvious that cost benefit calculations in every situations and in most cases the fear of continuing armed conflict becomes smaller than the fear of compromise and peace.<sup>19</sup> The advantage that belligerents' getting from the armed conflict can also be a detrimental factor as in some of the armed conflict due to the lucrative opportunity to make money by the rebel leaders, they are not willing to end the conflict rather try their best to prolong as much they can. This in short can explain why some armed conflicts are difficult to resolve through negotiations.

### *Leaders' Fear of Peace*

Another vindication why peace process fails is because of the role of leaders' play in negotiation. Zartman points out that, in the early stage of an armed conflict, negotiations fail because parties persists in talking to unrepresentative counterparts who cannot speak for large groups of followers or who cannot carry out an agreement if it were reached.<sup>20</sup> Such case is also reported by distinguished peacebuilder John Paul Lederach on his experience of mediation work between

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<sup>15</sup> See King, *Ending Civil Wars*; Robert Kaplan, "The Coming anarchy: How Scarcity, Crime, Overpopulation, Tribalism and Disease are rapidly destroying the Social Fabrics of our Planet," *Atlantic Monthly* (February 1994).

<sup>16</sup> See Edward E. Azar, *The Management of Protracted Social Conflict* (1990) p. 13-16.

<sup>17</sup> Edward Lutwark, "Give War a Chance," *Foreign Affairs* 78, 4 (August 1999): 36-45.

<sup>18</sup> Remarks of Prof. Luc Reyckler during my interaction with him in Kathmandu in August 2008.

<sup>19</sup> Thomas Ohlson, *Understanding causes of War & Peace*, p. 146.

<sup>20</sup> I. William Zartman, "Dynamics & Constraints in Negotiations in Internal Conflicts" in I. William Zartman (ed.) *Elusive Peace: Negotiating an End to Civil Wars* (Washington D.C.: The Brookings Institutions, 1995) p. 22.

Miskito/Sandinista conflicts in Nicaragua.<sup>21</sup> Second, even if some moderate members of both parties are willing to accept negotiations, the attitude and preferences of hard-liners is likely to prevent them from doing so, because the latter group may be so committed to the struggle that they are incapable of contemplating a possible compromise with the opposition.<sup>22</sup> At the same time, hardliners may engage in elite outbidding, a process in which ethnic leaders engage in a competition in extremism, promoting more and more extreme policies vis-à-vis ethnic groups in an effort to gain recognition as the most "authentic", and legitimate representative of their group.<sup>23</sup>

Hoddie & Hartzell noted that entering into negotiations requires the leaders of rebel groups to pay a high costs. "These costs are associated with a loss of power vis-à-vis a former enemy as well as a potential loss of credibility or stature within one's own group."<sup>24</sup> Similarly, Zartman points out that the fractional struggles within the leadership of rebel group weakens the leadership's goal of entering into the negotiations because leaders or fractions group accepting negotiations are likely to be accused by other fractions for softness.<sup>25</sup> This implies that negotiations are very difficult in internal conflicts due to the fear possessed by the leadership of the armed rebel groups.

### *Armed Conflict Complexes*

There are various complexities which makes the armed conflict settled through negotiations. As a general rule, an armed conflict takes a long time to get settled. As they drag on, the spawn multiple groups, becoming more complex. Wallesteen and Sollenberg argue that the measures of complexities in armed conflicts are based on the number of internal and external parties involved in the conflicts.<sup>26</sup> So the more the parties involved in an armed conflict the more complex it is to

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<sup>21</sup>Mariya Yevsyukova, "Learning's from the Nicaraguan/YATAMA Negotiations." *MCS Conciliation Quarterly*. (Spring 1988): V. 7, No. 2. p. 6-7.

<sup>22</sup> King, "Ending Civil Wars," p. 30.

<sup>23</sup> For an application of the concept of elite outbidding as a trigger to ethnic conflicts, see Stuart J. Kaufman, "Ethnic Fears and Ethnic War in Karabagh," p. 1-37.

<sup>24</sup> Mathew Hoddie and Caroline Hartzell, "Civil War Settlements & the Implementation of Military Power-Sharing Arrangements," *Journal of Peace Research* 40 (3) (2003), p. 305 – 306.

<sup>25</sup> Zartman, *Elusive Peace*, p. 23.

<sup>26</sup> Peter Wallensteen and Margaret Sollenberg, "Armed Conflict. 1989-2000." *Journal of Peace Research* 38(5) (2001).

find a negotiated settlement. This is especially severe in regional security complexes, defined by Barry Buzan as group of states whose primary security concerns link sufficiently together that their national securities cannot be realistically considered apart from one another.<sup>27</sup> Thus it is very much evident that the more parties to an armed conflict the lower the success rate for the negotiated agreement. This evidence is also supported by Daniel Druckman's analysis of non-armed international negotiations, which found that negotiations processes were facilitated by having fewer parties, and that stable agreements were more likely to be concluded from a small number of negotiations.<sup>28</sup> Apart from the internal complexities, armed conflicts also draw external parties from neighboring countries. This then requires the intervention or support of the neighboring states or the regional organizations for negotiations. As the number of domestic parties, the more outside parties are drawn into a conflict, the greater the probability that negotiations will deem to fail.

#### *Peace Negotiation & the Challenges of Security Dilemma & Anarchy*

One of the important reasons for the failure of the negotiation process or peace agreement is due to security dilemma especially within the rebel groups. Barbara Walter argues suggest that rebels compared to their counterparts will be stuck in more intense security concerns, owing to the necessity of disarmament. It is most often the governments that have the largest challenges in convincing the rebels of their future-aggressive behaviours.<sup>29</sup> Chandra Lekha Sriram argues that this is the reason why most peace agreements are so difficult to achieve and implement: the negotiating parties fear for their own security, and require reassurance.<sup>30</sup> Isak Svensson refers to it as 'commitment problems' in the peace processes.<sup>31</sup> Once the peace agreements is signed then the rebel are asked to disarm, demobilize and prepare to reintegration. Since the rebel are asked to give away their means of power and protection, the government remains armed. Thus when the rebels are contemplating demobilization, they face what John Herz describes as "security

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<sup>27</sup> Barry Buzan, *People States and Fear* (Boulder, Colorado: Lynne Rienner Publishers, 1991), p. 190.

<sup>28</sup> Daniel Druckman et. al. *Enhancing Organizational Performance* (Washington, D.C.: 1959), p. 157.

<sup>29</sup> Barbara F. Walter, *Committing to Peace: The Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002).

<sup>30</sup> Chandra Lekha Sriram, *Peace as Governance: Power Sharing, Armed Groups and Contemporary Peace Negotiations* (London: Palgrave MacMillian, 2008), p. 13-14.

<sup>31</sup> Isak Svensson, "Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace." *Journal of Peace Research* 44(2) (2007), p. 179.

dilemma” where individuals, groups and their leaders “are usually concerned about their security from being attacked, subjected, dominated or annihilated by other groups and individuals.”<sup>32</sup> Walter also argues that rebels anticipate their post-agreement future and the disarmament vulnerabilities make parties less willing to settle.<sup>33</sup>

On the issue of anarchy, Walter points out that unlike in the condition of anarchy in the interstate conflicts where states encourage cooperation through various treaties and sanctions but the anarchy for rebels in intrastate conflicts can be severe. If they cooperate and accept a negotiated settlement, they have to demobilize their forces and in doing so relinquish their only means of protection. The fact that rebels cannot maintain independent armed forces if they accept peace is the most difficult condition operating against cooperation in a armed conflict.<sup>34</sup>

## **ii. Barriers: From Negotiations to Peace Agreements**

Parties in the armed conflict may avoid entering into negotiation process because of the image that the parties wish to preserve of themselves and to protect from their adversaries. Paul Pillar points out that a parties’ offer to negotiate (whether government or rebel) is an action which others-including the enemy, and own soldiers – may use as an evidence of its intentions, plans, aspirations and morale.<sup>35</sup> Thus parties are themselves reluctant to initiate this process by themselves.

Svensson argues that for government “a negotiated settlement implies that the government loses some of its authority which primarily refers to the right to make decision and legally use force. He further argues peace agreements give the rebel some degree of authority over a region or a part of a national authority. Usually government has to share power at national and/or regional levels and furthermore government gives away recognition and pays audience costs for talking with groups that have challenged the state’s monopoly on violence.<sup>36</sup> Similarly Hoddie and Hartzell argue that the rebel leaders also have to pay high costs to engage in the peace process.

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<sup>32</sup> John Hetz, *International Politics in the Atomic Age* (New York: Columbia University Press, 1959), p. 157.

<sup>33</sup> Walter, *Committing to Peace: The Successful Settlement of Civil Wars*, p. 72.

<sup>34</sup> *Ibid.* p. 338.

<sup>35</sup> Paul R. Pillar, *Negotiating Peace: War Termination as a Bargaining Process* (Princeton: Princeton University Press, 1983), p. 67.

<sup>36</sup> Svensson, “Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace,” p. 180.

“These costs are associated with a loss of power vis-à-vis a former enemy as well as a potential loss of credibility or within one’s own group.”<sup>37</sup>

So in an armed conflict reluctance to be the first to propose negotiations for settlement is a position most likely to be taken by both sides.” “The party that most fears the label of loser is the one that already looks like a loser. It resists asking for negotiations lest it be taken as a sign of weakness.<sup>38</sup> Thus the reluctance to move first strengthens the idea that conditions of political and military stalemate are more propitious for initiating peace negotiations.

Even if the warring parties are willing to enter into the negotiation process, they might have a different intentions associated with it. Svensson points out that that reasons for the rebel to enter into negotiation process is “the rebel gain international and national legitimacy by involvement in the peace making process.” This is one reason why rebel wish to use the proposed intermediaries as a part of the games of recognition. Similarly he argues that a peace making process “commonly implies a pause in the fighting which they can use to rebuild the military strengthen, increase their support-base or recruit more cadres.”<sup>39</sup> Similar arguments were proposed by Fred Ikle who argued that belligerents may seek negotiations for advantages other than attaining an agreement. First, as Ikle has observed, parties may initiate negotiations as a way of maintaining contacts with the opponent on the issues the parties consider important. Second, negotiations can be initiated as a substitute for violent actions. The third advantage of initiating negotiations other than for agreement is to use the opportunity to gather intelligence information from an opponent such as their strategies and resistance point. The fourth advantage use by adversaries is to deceive the opponent by buying time to prepare one’s use of force, to reinforce, or to allow for the deployment of troops to a new front. The final advantage is that the government or rebel group can use negotiation for propaganda objective such as to gain prestige, publicity and to show rectitude.<sup>40</sup>

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<sup>37</sup> Hoddie and Hartzell, “Civil War Settlements & the Implementation of Military Power-Sharing Arrangements,” p. 305-306.

<sup>38</sup> Pillar, *Negotiating Peace: War Termination as a Bargaining Process*, p. 68.

<sup>39</sup> Svensson, “Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace,” p. 180.

<sup>40</sup> Fred Charles Ikle, *How Nations Negotiate* (New York: Haper & Row, Publishers, 1964), p. 43-58.

Kriesberg states that “seeking negotiations also helps the party taking initiative because appearing to work for peace is politically popular in contemporary world.”<sup>41</sup> Thus negotiation is used as a tool by parties to avoid sanctions from the international community and also to convince domestic groups that they could be a better alternative to the regime in power. It is evident that negotiations initiated mainly for the above motivations are unlikely to lead to stable peace agreements no matter the timing of negotiations or the nature or any diplomatic efforts to get a settlement.

### ***iii. Devious Objectives and Spoilers' in Peace Process***

#### *Devious Objectives*

Oliver Richmond introduced the concept of "devious" objectives in scholarly debate.<sup>42</sup> Edward Newman and Oliver Richmond argue that devious objective is a strategy where compromise solution is not the objective of the disputants involved in a mediation process.<sup>43</sup> They further elaborate that the 'disputants may become involved in a settlement process in order to improve upon their prospects, but not necessarily in terms of finding a negotiated settlement with the adversary.' According to this concept, disputants in an armed conflict participates in mediation processes under the auspices of third-party mediators with a motivation to improve their prospects, From this perspective, the disputants may value the assets and resources the mediator brings to the conflict more than the search for a compromise solution to end the conflict.

Newman and Richmond further points out that 'disputants may therefore harbour devious objectives, unrelated to the attainment of a compromise solution, which might include motives such as achieving time to regroup and reorganize; internationalizing the conflict; profiting materially from ongoing conflict; legitimization of their negotiation positions and current status; face-saving; and avoiding costly concessions by prolonging the process itself.' For the

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<sup>41</sup> Louis Kriesberg, *International Conflict Resolution* (New Heaven: Yale University Press, 1992).

<sup>42</sup> Oliver Richmond, “Devious Objectives and the Disputants’ View of International Mediation: a Theoretical Framework,” *Journal of Peace Research* 35(6) (1998): 707 -722.

<sup>43</sup> Edward Newman and Oliver Richmond, "Obstacles to Peace Processes" Understanding Spoiling," in *Challenges to Peace building: Managing Spoilers during Conflict Resolution*, eds. Edward Newman and Oliver Richmond (Tokyo: United Nations University Press, 2006), p. 2.

government side, the difficulty in accepting an outside mediator stems from the perception that such a move raises the possibility of recognition of the rebel claims. It is therefore common for the government to reject mediation initiatives since such a move is likely to empower the rebels. For rebels however, the prospect of a mediator intervening is welcome, as this would empower them. Rebel groups may however be concerned with whether the rebellion has any chance of being viewed as internationally acceptable and not contravening any of the norms of the international system.<sup>44</sup> This problem becomes more significant if the mediator is associated with the United Nations, as the third party will have the interest of the UN charter in mind during the mediation process.

UN mediation is further complicated by the fact that the UN plays an important role as an agent of legitimization and recognition and a state (or the rebel group), which seeks legitimacy often turns to the UN to provide this because of its moral authority and sanctioned purpose. Thus, rebels will tend to perceive any third party initiation of mediation as part of what Christopher Mitchell describes as the 'recognition game' in which insurgents set up an alternative administration in the territory they control, and then attempt to gain international recognition. As a result, the mediator will get caught up in the recognition game in that any communication initiated with the insurgents will be viewed as accepting that they represent a people and a legitimate cause.<sup>45</sup>

Richmond points out other ways in which parties in an armed conflict may harbour 'devious objectives' for the mediator and the mediation process. First, while it may not be the mediator's objective to become a scapegoat, disputants may desire and even welcome the presence of a mediator as a potentially productive way of playing for time to regroup while assessing the next move. Second, one party in the conflict may see the presence of a mediator as an opportunity to introduce other parties (mediators) who are sympathetic to its own point of view and who may be able to limit the other party's room for manoeuvre. Third, disputants may go along with mediation, even if the mediator is biased towards the adversary because of the resources which mediators provide with them or which they gain merely by being involved in negotiations. This is particularly so if one of the parties feel threatened by the involvement of a third party in terms

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<sup>44</sup> Richmond, "Devious Objectives and the Disputants' View," p. 712.

<sup>45</sup> Christopher Mitchell, "External Peacemaking Initiatives and International Conflict," in *The Internationalization of Communal Strife*, ed. Manus Midlarsky (London: Routledge, 1992).

of its positions, or those of its constituencies. The disputant may react to this perceived bias, not by abandoning the process, but by trying to limit the actions of mediators to purely procedural matters on the ground of this perceived bias.<sup>46</sup>

### *Spoilers'*

One of the biggest challenges in any peacemaking process is the actors who are against the success of the process. Such kind of actors is labelled as spoilers. The spoilers are either within or outside the 'peace process', and use violence or other means to disrupt the process in pursuit of their aims. The concept of spoilers was introduced by Stephen Stedman in the scholarly debate. He defined spoilers are "parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it."<sup>47</sup> Stedman elaborates that, when leaders decide to end a conflict by concluding a peace agreement, they face challenges from three groups of actors; from adversaries who may take advantage of the settlement, from disgruntled followers who see peace as a betrayal of their key values and from excluded parties who seek either to alter the process or to destroy it.<sup>48</sup>

Stedman further points out that spoilers exists only after a negotiated settlement has been concluded, that is, after two or more parties in the conflict have committed themselves publicly to a comprehensive peace agreement.<sup>49</sup> A peace agreement creates spoilers because not all parties reach the decision to seek peace negotiations at the same time. Also a negotiated settlement has losers because it prevents some groups from attaining their aims through force. Moreover, armed conflict parties rarely monolithic; each side may have competition groups who may disagree on objectives, goals, strategies or even the desirability of a peace agreement. Sometimes competing leaders and groups belonging to one fraction may harbour as hostile relations to each other as to their adversaries from the main opposing group. Furthermore, some spoilers have limited aims and are willing to compromise, while others hold non-negotiable

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<sup>46</sup> Richmond, "Devious Objectives and the Disputants' View," p. 719.

<sup>47</sup> Stephen John Stedman, "Spoilers Problems in Peace Processes", *International Security* 22(2) (1997), p. 5.

<sup>48</sup> Stephen John Stedman, "Negotiation and Mediation in Internal Conflicts" in *The International Dimensions of Internal Conflicts*, ed. Michael E. Brown (Cambridge, Mass: MIT Press, 1996), pp. 341-376; Stephen John Stedman, "Spoilers Problems in Peace Processes", *International Security* 22(2) (1997), p. 5-53.

<sup>49</sup> Stedman, "Spoiler Problems in Peace Processes."

positions and see the conflict as an all-or-nothing affair. In short, Stedman concludes that the danger a spoiler poses to a peace agreement depends on three conditions; the position of the spoiler, the type of spoiler and the locus of the spoiler.

Spoilers can be of two types namely; an insider and an outsider. An insider spoiler participates in the peace process, signs the agreement and signals support for the implementation of the settlement, but later fails to fulfill important provisions of the agreement. Insider spoilers' signs agreement for the tactical reasons because they want the peace process to move forward as long as it holds the likelihood that they will achieve their aims i.e. they convince everyone else that the process is well on track, but they will seek to maintain their advantages and will be sensitive to actions that are likely to weaken their military capability.<sup>50</sup> In contrast, outside spoilers are parties who exclude themselves from the peace process because they feel that the agreement does not meet their demands or are excluded by the other parties because they hold incompatible preferences. They are not a party to the agreement and publicly declare their hostility to it. They use open violence to undermine the agreement, which includes kidnappings, assassination, massacring civilians and killing peacekeepers, threatening and taking hostage of foreign nationals.<sup>51</sup>

#### **iv. Ripe Moment, Mutually Hurting Stalemate & Peace Agreement**

It is widely believed that the key to successful agreement in an armed conflict lies in the *timing* of negotiations. Many scholars such as I. William Zartman argue that a conflict should be ripe in order for a negotiated settlement.<sup>52</sup> Zartman states that “parties can resolve their conflict only when they are ready to do so – when alternative, usually unilateral, means of achieving satisfactory results are blocked and the parties feel that they are in an uncomfortable and costly

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<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> For the detailed concept of Ripe Moment and Hurting stalemates see. I. William Zartman, *Ripe for Resolution: Conflict & Intervention in Africa* (New York: Oxford University Press, 2<sup>nd</sup> edition, 1989); I. William Zartman, eds. *Elusive Peace: Negotiating an End to Civil Wars* (Washington D.C.: The Brookings Institution, 1995) and I. William Zartman, “Ripeness: The Hurting Stalemate and Beyond” in *International Conflict Resolution after Cold War*, eds. Stren and Druckman (Washington D.C: National Academy Press, 2000).

predicament.”<sup>53</sup> There are two types of *ripeness* namely, cultivated ripeness and naturally occurring ripeness. Jeffery Rubin states that naturally occurring ripeness of a conflict exists when one or more of seven of the following conditions are met. These conditions are<sup>54</sup>:

1. The presence of internal unity if perspectives and goals within intra-national or intra organizational units.
2. Positive or negative development in the international environment which could lead to favourable negotiating conditions.
3. Inequality between parties in terms of power which could lead to favourable conditions for a hurting stalemate.
4. Either very strong or weak political leadership that could lead to the possibility compromise.
5. Good luck, defined as the absence of unpleasant events such as serious human rights violations.
6. The respond of initiatives by the other side (or expectation to respond).
7. Disputants' knowledge of the conflict and the ability to participate in discussion, so that negotiations can proceed without any delay on particular issue.

This *Ripeness* of the conflicts puts the parties into *Mutually Hurting Stalemate* (MHS) situation, which is a situation when the parties find themselves locked in a conflict from which they cannot escalate to victory and this deadlock is painful to both parties so that they seek alternative policy or way out.<sup>55</sup> In other words a mutually hurting stalemate is a no-win situation for both adversaries. Thus parties conclude that they would be worse off if they do not seek a negotiated settlement of the conflict. In some case MHS is the moment when the stronger party *slips* and weaker party *rises* and both parties moving towards equality.<sup>56</sup> Ohlson points out that the starting point of MHS lies in the cost-benefit analysis of both adversaries where they calculate that the fear of continuing the armed conflict becomes greater than the fear of compromise and peace.<sup>57</sup>

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<sup>53</sup> I. William Zartman, “The Timing of Peace Initiatives: Hurting Stalemate and Ripe Moments,” in *Contemporary Peacemaking: Conflict, Violence and Peace Process*, eds. John Darby and Roger Mac Guinty (London: Palgrave Macmillan, 2003), p. 19.

<sup>54</sup> Jeffrey Z. Rubin, “The Timing of Ripeness and the Ripeness of Timing,” in *Timing the De-Escalation of International Conflicts*, eds. Louis Kriesberg and Stuart J. Thorson (New York: Syracuse University Press, 1991), p. 237-246.

<sup>55</sup> Zartman, “The Timing of Peace Initiatives: Hurting Stalemate and Ripe Moments.” p. 19-20.

<sup>56</sup> Zartman, “International Mediation,” p. 27-45.

<sup>57</sup> Thomas Ohlson, *Understanding causes of War & Peace*, p. 146.

The naturally occurring ripeness is very rare and inconvenient to anticipate thus ripeness should be cultivated by third party. There are also several evidences that points out that even when conditions for resolving armed conflict may be ripe for resolution but the adversaries rarely come forward themselves instead they need support of the third parties or mediator. In such a case, third parties must facilitate the ripening process by creating the favourable condition for mediation. Thomas Ohlson argues that the perception of the ripeness most often results from power politics, force, coercion and fear. It is does not comes out normally from political goodwill, moral reassessment or a genuine change of mind. Instead it emerges out of a power-based pressure inherent in the conflict process itself. The result is the perception that it would hurt too much to continue with the conflict.<sup>58</sup> He further argues that external pressure basically non-military in nature such as diplomatic actions or economic and other sanctions in various forms may also help to create this situation of ripeness.<sup>59</sup> Zartman also points out that ripeness is only a condition: it is not self-implementing. It must be sized either directly or, if not, through persuasion by a third party.<sup>60</sup> Zartman and Aurik points out that a third party can make judicious use of sticks to bring combatants to the negotiation table as threats by third parties can tighten the jaws of deadlock, closing off further escalations and checking attempts to break out of the stalemate.<sup>61</sup> George Modelski makes the similar observation that a stalemate can always be contrived by international action. He notes that the international system can induce such a situation because it resources are superior and because a sufficient amount can be diverted in aid of the weaker parties for the purpose of creating a stalemate. The smaller and the weaker the country in armed conflict situation, the more likely will a third party-induced stalemate occurs in its internal conflict. Countries in armed conflict, as a general rule, are weak and exhausted. On the other hand, it is more difficult for third parties to create a stalemate between relatively powerful adversaries. Similarly, it is much more difficult to create a stalemate in situations where one of the parties to a conflict is disproportionately weaker than the other.<sup>62</sup>

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<sup>58</sup> Ibid, p. 146.

<sup>59</sup> Ibid, p. 146.

<sup>60</sup> Zartman, "The Timing of Peace Initiatives: Hurting Stalemate and Ripe Moments," p. 19-20.

<sup>61</sup> I. William Zartman and Johannes Aurik, "Timing the De-escalation of International Conflicts," in *Timing the De-escalation of International Conflicts*, eds. Louise Kriesberg and Stuart J. Thorston (Syracuse: Syracuse University Press, 1991), p. 178.

<sup>62</sup> George Modelski, "International Settlement of Internal war," in *International Aspect of Civil Strife*, ed. James N. Rosenau (Princeton: Princeton University Press, 1964), p. 143.

I. William Zartman argues that Mutually Hurting Stalemate (as discussed above) is a condition where parties are pushed into considering negotiations as a way to end their conflict by the unbearable costs involved in the evolving situation and the perceived impossibility of escalating themselves out of this stalemate at acceptable costs. He concludes that this is the opportunity for the initiation of negotiations. But MHS alone are likely to be unstable and unlikely to lead more enduring settlement; they will represent only an attempt to cut the costs of the conflict, get the bug off the back of the parties, arrive at an agreeing formula for ceasefire, and then stop, unmotivated to move on to a search for resolution, to get bear off the parties' back. This Zartman concludes that MHS is push factor necessary if insufficient condition for negotiation to begin and it is the role of the negotiators to provide the prospects for a more attractive future to pull themselves out of their negotiations into an agreement to end the conflict.<sup>63</sup>

***b. Structure of Peace Settlements***

The success of any peacemaking process as well as the entire peace process is also determined largely by the outcome of the negotiation or mediation process. So what are the factors which should be addressed in a peace agreement which brings stability or addresses the fear that adversaries are likely to face in post-conflict periods.

***i. Mutually Enticing Opportunity***

Caroline Hartzell argues that the most important element are those that address *security* concerns of the contending parties as they move from the situation of anarchy, to one of the normal politics that characterizes the post-conflict stages.<sup>64</sup> Further Hartzell identifies three areas that adversaries are likely to be most concerned with and that relate to the coercive, political and economic powers that the post-conflict governments is likely to exercise to the disadvantage of their own. These concerns are 1) that one's opponent's may gain control of military and police apparatus; 2) that one's opponent may gain advantage in the allocation of political power within

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<sup>63</sup> I. William Zartman. "MEO and Durable Settlements: theoretical and Empirical Evaluations of the Reasons for Durability of Peaceful Settlements in Civil Wars." Paper presented at the Annual Meeting of the American Political Science Associations Conference, September 2-5, 2004.

<sup>64</sup> Caroline Hartzell, "Explaining the Stability of Negotiated Settlements to Intrastate Wars," *Journal of Conflict Resolution* 43, 1 (1999), p. 3-22.

the new state and 3) that one's opponent may gain an economic advantage. Beside this we can also add the fourth concern which is regards to the concern that a post-conflict state may bring charges of human rights violations and genocide on the political and military elites of the adversaries.

Chandra Lekha Sriram also asserts that there are two important dimensions for the success of any peace process, i.e. increasing trusts between the adversaries and mitigating the security dilemma between them. She further argues that the agreement may be designed to lock in certain protection for each of the parties, particularly through power sharing, which may help to support stable peacebuilding in its medium to long-term. She proposes four forms of power sharing mechanisms which are 1) power sharing in security forces by mitigating security dilemma; 2) territory power sharing by declaring territorial autonomy or federal system; 3) political power sharing by electoral arrangements or secured civil service posts and 4) economic power sharing by provision of wealth sharing such as land reforms policy etc.<sup>65</sup>

Ohlson points out that if the dialogue phase lead up to a mutually agreed peace agreement, then the conflict-induced 'negative' pressures that initiated the dialogue must be complemented with the provision of more constructive pressures, factors that emerge out of the process of negotiation and/or mediation and which a) suggest an attractive compromise solution, b) reduce the fear of peace and c) generates increasing trusts between the party elites and play up perceptions of the benefits of peace.<sup>66</sup> Ohlson further argues that these factors that provide an attractive outcome, or at a minimum, one that former belligerent can live with have been termed as *Mutually Enticing Opportunity* (MEO). MEO's are particularly to any given peace process and comes in different forms and combinations such as immediate material benefits, guaranteed rights of power, property or position or participation; the opportunity to gain power with legitimate and non violent means, enhanced domestic legitimacy, enhanced international prestige or massive inflow of donors funds. In Ohlson words MEO complements the negative pressure, in place in the form of MHS (Mutually Hurting Stalemate) since the beginning of peace making process, thus generating increases in physical and organizational security, sustaining the changes

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<sup>65</sup> See Chandra Lekha Sriram, *Peace as Governance: Power Sharing, Armed Groups and Contemporary Peace Negotiations* (London: Palgrave MacMillian, 2008), p. 12-48.

<sup>66</sup> Thomas Ohlson, *Understanding Causes of War & Peace*, p. 146-147

in behaviour and causing preparedness to live side by side within the same borders without resorting to violence.<sup>67</sup>

Hartzell's study concludes that if the security concerns are not addressed in the peace making process then there is no agreement or even if there is one, there is slim chance of its genuine implementation.<sup>68</sup> Ohlson also states that without the MEO, no agreements are reached. If there is a peace agreement lacks institutional guarantee or MEO then there is a question regarding successful implementation of such agreements. Hartzell points out that there might be three reasons for the adversaries for signing an agreement without MEO. They are 1) it's a time buying strategy where adversaries are engaged in learning about their opponents and strengthening their forces; 2) adversaries accept it as a learning process whereby mistakes are minimized in later agreements and 3) pressure from powerful third parties.<sup>69</sup>

I. William Zartman argues that Mutually Hurting Stalemate (as discussed in length in above chapter) is a push factor which opening ground for the initiations of the negotiation process. He further argues that the push factor has to be replaced by the pull factor, in the form of a formula for resolution and a prospect of transformation that the negotiation parties designs a mutually acceptable outcomes to end the conflict which he refers Mutually Enticing Opportunity. Thus, MEO is a resolving formula that is seen by the parties as meeting their needs better than the status quo.<sup>70</sup>

## **ii. Costs of Signing and Implementing Peace Agreements**

Both the adversaries have to bear certain costs of signing as well as implementing the agreements. The signing of the peace agreements is a signal of conciliatory intent among the former enemies as peace agreement is the mutual commitment to develop a power sharing and power-dividing institutions that specify the distribution of state influence among the

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<sup>67</sup> Ibid.

<sup>68</sup> Caroline Hartzell, "Explaining the Stability of Negotiated Settlements to Intrastate Wars," p. 19.

<sup>69</sup> Ibid.

<sup>70</sup> I. William Zartman. "MEO and Durable Settlements: A theoretical and Empirical Evaluations of the Reasons for Durability of Peaceful Settlements in Civil Wars." p. 2-5.

adversaries.<sup>71</sup> Hoddie and Hartzell further argues that the unambiguous intent behind the creation of power-sharing and power dividing institutions is to limit the capacity of any one party to conflict to dominate the post-conflict state and use its advantaged position to harm the interest or survival of its rivals. Thus the agreement to establish power-sharing or power-dividing institutions signals the end of the pursuit of what typically (although not universally) the main objectives of the armed conflict: monopoly control of state. By committing themselves to participate in these institutions, signatories are creating a set of rules that will by virtue of their very existence limit their capacity unilaterally to shape the post-conflict society.<sup>72</sup>

In addition Hoddie and Hartzell states that in addition to cost of conceding power to rivals for the state control, there is also the likelihood that with the signing of power-sharing settlement a group representatives will lose credibility among some members of collectivity he or she represents and in many cases we see the breakup of rebel groups in various fractions. Thus Hoddie and Hartzell conclude that peace agreements are relatively rare due to these costs involved in signing it. Beside that they also argues that if the peace agreement are reached and signed with power-sharing & power-dividing instruments then they should have genuine interest of peace.<sup>73</sup>

Similarly implementation of the stipulations in a peace agreement is a fundamental test of the sincerity of the parties and the quality of the agreement. Hoddie and Hartzell also states that the implementation of the provisions of the recently negotiated peace accords provides former combatants with another opportunity to assess whether the intent of former rivals is conciliatory or duplicitous. The implementation stage in the process when parties to negotiations must demonstrate that they are credible partners in sustaining peace by assisting in the creation and maintenance of power-sharing or power-dividing institutions.<sup>74</sup> The cost of the implementation of the peace agreement is unpredictable costs. Stedman and Rothchild argue that the pays off implementing peace agreements are not common knowledge: no one knows for certain the

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<sup>71</sup> Mathew Hoddie and Caroline Hartzell, "Civil War Settlements & the Implementation of Military Power-Sharing Arrangements," *Journal of Peace Research* 40, 3 (2003), p 306.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid. p. 306-307.

<sup>74</sup> Mathew Hoddie and Caroline Hartzell, "Civil War Settlements & the Implementation of Military Power-Sharing Arrangements," p 307.

rewards and costs associated with making peace or returning to the armed conflict. Many settlements use election to establish in part the pay-offs of peace. However, since the winner and the loser in an election are not known in advance, the players may agree to a settlement only in the hope of winning an election; if the party loses the election, then it may prefer to return to armed conflict.<sup>75</sup>

Ohlson also argues that in order to guarantee the implementation of peace settlements, the third parties as well as the primary parties to the conflicts have to address some major challenges. First they have to deal with the mutual fear and distrusts, so as to bring about a feeling of physically and organizationally secure. Second they must implement the agreed political mechanisms for decision the future distribution of political power. For increasing the trusts between the parties the third parties have a very important role to play by giving the security guarantee. Similarly regarding the political power distribution there is no “one size fits all” theory. But some research has confirmed that majoritarian democracy is unwise in divided societies, so letting all major parties to have access to power makes more sense, particularly at the early stage of transition to peace. Ohlson further argues that the more parties that have influence-over decision making on the progression of the implementation process, and the more they adopt responsibility for it, the more difficult will it be for them to spoil it.<sup>76</sup>

Various research on settlements implementation concludes that there are four major variables frequently correlates with a difficult environment and lead to implementation and leads to implementation failure. They are: 1) parties perceiving and signing agreements for tactical reason such as time buying strategy; 2) presence of spoilers, i.e. leaders or factions that try to sabotage or otherwise derail the agreements; 3) bad neighbours, i.e. governments or other actors in neighbouring countries that oppose the agreement and assist the spoilers; and 4) valuable spoils of armed conflict, i.e. easily marketable goods such as diamonds, oils etc.<sup>77</sup>

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<sup>75</sup> Stephen John Stedman and Donald Rothchild, “Peace Operations: From short-term to long-term Commitment.” *International Peacekeeping* 1, 1 (Spring, 1994).

<sup>76</sup> Thomas Ohlson, *Understanding Causes of War & Peace*, p. 150.

<sup>77</sup> For more on Implementation Failure of peace process see the research of Thomas Ohlson, "Understanding Causes of War & Peace," *European Journal of International Relations* 14,133 (2008), Stephen John Stedman and Donald Rothchild, “Peace Operations: From short-term to long-term Commitment.” *International Peacekeeping* 1, 1 (Spring, 1994), Stephen John Stedman, Donald Rothchild and Elisabeth M. Cousens, eds. *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder: Lynne Rienner, 2002).

### iii. Mutually Obtained Rewards

Thomas Olson induces the concept of *Mutually Obtained Rewards (MOR)* where he argues that it is one of the most important factors for the successful consolidation phase of the peace process. He argues that 'in the consolidation phase the main issue is no longer to terminate one armed conflict, but to prevent another one from starting'. If consolidation is successful, then the likelihood of using violence as a conflict resolution method is reduced. In a sense, it can be called a return to 'normal politics'. By *Mutually Obtained Rewards*, he means that 'there is a need for concrete and manifest mutual rewards, such as improvements in political participation and access to political influence, more distributive justice or increased manoeuvring space for cultural identity'. There should be mutual acceptance of each other's right to exist among former enemies through processes of reconciliation and retribution. There must be improvements in civil security and in the rule of law. The polity should offer more accountability and transparency in the execution of power. There must, eventually, be more or better roofs over ordinary people's heads and more food on their tables.<sup>78</sup> Thus MEO is a part of the settlement for satisfying the needs of the people and acting on the root causes of the conflict. It also stress that for the success of any negotiation and peace process, it should also act on the socio-economic and environmental factors which gave the breeding ground of the conflict in the first place. According to Ohlson's argument, unless and until a peace agreement can address such issues, there is no guarantee for a sustainable peace.

#### c. *Role of Third Parties in Peacemaking*

Who are the third parties in the peacemaking process? This is always a point of argument in scholarly debate in peacemaking & peace process literatures. Scott Philips and Mark Cooney views that third party may aid peace or abet violence in a multitude of ways.<sup>79</sup> This is a broad categorization of Third Party. A more narrow definition has been given by Jacob Bercovitch and UCDP. Bercovitch defines third party is someone who is external to a particular conflict and who

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<sup>78</sup> Thomas Ohlson, "Understanding Causes of War & Peace," p. 151-152.

<sup>79</sup> Scott Phillips & Mark Cooney, "Aiding Peace, Abetting Violence: Third Parties and the Management of Conflict," *American Sociological Review* 70, 2 (2005), p 335.

interposes between the disputants in order to help them with their conflict management efforts.<sup>80</sup> Uppsala Conflict Data Project (UCDP) defines third party is a party that is involved in either helping the warring parties to regulate the incompatibility or the level of violence and work as a intermediary between the parties involved.<sup>81</sup> Thus it includes both the internal (civil society, faith based groups, academia, political parties etc) as well as the external parties (including international organizations, multilateral organizations such as UN, EU, or country). Since most of the peace process have been facilitated by the external parties so in this section, I focus more on the role of external third party in peacemaking process where as I choose to focus the role of internal third parties on National Infrastructure for Peace section of this chapter.

Third parties play an important role in peace process. Oliver Richmond points out that 'upon the introduction of a peace process and a third party into a conflict through some form of peacemaking the negotiating positions of the disputants are immediately modified.'<sup>82</sup> The inclusion of third-party can act as a catalyst in changing the disputants' relationship from destructive to a more cooperative relationship as new relational structures and possibilities for moderating the conflict are created with the entry of third-party.<sup>83</sup> The third-party uses multiple interventions such as use of less coercive tactics as applying diplomatic pressure on the warring parties to mediation, economic sanctions, arms embargo, to credible security guarantees to the former combatants, peacekeeping and military intervention, and to imposing a peace settlement on the parties. One hypothesis is that the successful implementation of peace agreements depends upon the presence of availability of third party that can proffer carrot or wield sticks to ensure that the process does not become derailed<sup>84</sup>. The importance of third party mediation in peace agreements has been noted by Dietrich Jung & Klaus Schlichte who points out that an

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<sup>80</sup> Jacob Bercovitch, "Third Party and Conflict Management in the context of East Asia & Pacific," in *Conflict Management, Security and Intervention in East Asia: Third-party Mediation in Regional Conflict*, eds. Jacob Bercovitch, Kwei-Bo Huang & Chung-Chian Teng (New York: Routledge, 2008), p. 20.

<sup>81</sup> See Uppsala Conflict Data Project (UCDP) website:

[http://www.pcr.uu.se/research/UCDP/data\\_and\\_publications/definitions\\_all.htm](http://www.pcr.uu.se/research/UCDP/data_and_publications/definitions_all.htm).

<sup>82</sup> Oliver Richmond, "The linkage between Devious Objectives and Spoiling Behaviour in Peace Processes," in *Challenges to Peace building: Managing Spoilers during Conflict Resolution*, eds. Edward Newman and Oliver Richmond (Tokyo: United Nations University Press, 2006), p. 61.

<sup>83</sup> Jacob Bercovitch, "Third Party and Conflict Management in the context of East Asia & Pacific," p. 21.

<sup>84</sup> This aspect of "carrot" and "stick" approach has been discussed in detailed by various scholars see, for example, Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements succeed or Fail* (Washington D.C.: United States Institute of Peace Press, 1996); Barbara F. Walter, *Committing to Peace: The Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002); Saadia Touval, *The Peace Brokers: Mediators in Arab-Israeli Conflict, 1948-1979* (Princeton: Princeton University Press, 1982).

increasing number of recent conflicts have been ended by third-party mediation rather than through one party's victory and the other side's defeat. Out of 161 armed conflicts being considered ended 1945-1996 periods, they find that only 17% of these conflicts ended with victory by the initiator, while in 26% of these cases, the defenders repulsed the aggression. In contrast, 40% of wars were ended by third mediation.<sup>85</sup> Third parties therefore serve as a crucial catalyst in developing a supportive relationship between adversaries and establishing the conditions that lead to not only conflict de-escalation but also a redefinition of the conflict "as a problem to be solved and not as a contest to be won."<sup>86</sup>

### **i. Third Party as Mediator**

#### *Third Party's Leverage*

A third-party can exercise strategic and tactical strength through the use of leverage. Leverage of any kind allows a third party to become a player in a conflict, in addition it provides the ability to put pressure on the conflicting parties to move to the negotiating table or accept a certain settlement. Leverage, as defined by Touval and Zartman as arguments and inducements that make unattractive proposals look attractive,<sup>87</sup> is indispensable to mediation success. The leverage is an important tool as the parties in conflict are only likely to accept third party mediation if the mediator is perceived as *able* and *willing* to help them reach an agreement. The mediators (third-party) sources of leverage take the form of: persuasion, which is ability to change the parties' perceptions of the conflict and put them on a path to peaceful settlement; skills to obtain desirable proposal out of each side in negotiations; threats to withdraw from negotiations; and sanctions or incentives to worsen or improve one of both parties situation, to increase their motivation to settle.<sup>88</sup>

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<sup>85</sup> Dietrich Jung and Klaus Schlichte, "From Inter-state War to Warlordism: Changing Forms of Collective Violence in the International System," in *Ethnicity and Intra-state Conflict: Types, Causes and Peace Strategies*, Eds. Haken Wiberg and Christian P. Scherrer (London: Aldershot, 1999), p. 39-40.

<sup>86</sup> Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail* (Washington D.C.: United States Institute of Peace Press, 1996) p. 12.

<sup>87</sup> Saadia Touval and I. William Zartman, "International Mediation: Conflict Resolution and Power Politics," *Journal of Social Issues* 41, 2 (1985), p. 37.

<sup>88</sup> Marieke Kleiboer, "Great Power Mediation: Using Leverage to Make Peace," in *Studies in International Mediation*, ed. Jacob Bercovitch (New York: Palgrave Macmillan, 2002), p. 127-138.

Touval and Zartman see leverage coming from three sources: first, from parties' genuine interest for a solution that the mediator can provide (rests on), second, from the parties' susceptibility to shifting weight that the mediator can apply, and finally, from the parties' interest in side payments that the mediator can either offer ("carrot"), or withhold ("stick").<sup>89</sup> The first source of leverage, the warring parties' desire for a solution is the most important source because without it, mediation cannot even be initiated. However, it is more difficult to apply this form of leverage when a power disparity is significant between the disputing parties, Touval and Zartman point out that this is because while the weaker party may desire a mediation solution to the conflict, the more powerful party may want to achieve a military victory.<sup>90</sup> In the second source, the susceptibility of the mediator to shifting weight in favour of, or against either of the disputants, the difficulty arises from two related factors: the mediator's *ability* to shift weight and the parties' *sensitivity* to that shift. The mediator must help to maintain the balance between the warring parties to desire a compromise solution.

The last source of leverage involves the use of side payments as inducement to compromise and as a catalyst to bring the disputants to the negotiating table. If used carefully, inducements can help the mediator move the process forward. Touval and Zartman however further point out that using inducement as a leveraging tactic has two inherent disadvantages: first, using inducement may require a long-term commitment of the mediator to the warring parties; and second, inducement may not be a major source of leverage throughout the process and even the end, their use may be limited.

### *Dilemma of Neutral v/s Bias Third Party*

There is debate regarding whether a neutral third party or a biased third party results in the successful peace making process and success of entire peace process. Third Party impartiality has traditionally been cited as important in the success of mediation process. Roland J. Fisher

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<sup>89</sup> I. William Zartman, "The Middle East: Ripe Moment?" in *Conflict Management in the Middle East*, eds. G. Bendor and D. Dewitt (Lexington, Mass.: Heath, 1987); I. William Zartman, eds. *Elusive Peace: Negotiating an End to Civil Wars* (Washington D.C.: The Brookings Institution, 1995); Saadia Touval and I. William Zartman, *International Mediation in Theory and Practice* (Boulder, Colo.: Westview Press, 1982), p. 40.

<sup>90</sup> Touval and Zartman, *International Mediation*, P. 40.

argues that third-party mediators are often thought to be more effective if they are unbiased or impartial.<sup>91</sup> Oran Young argues that, “the existence of a meaningful role for a third party will depend on the party’s being perceived as an impartial participant. . .”<sup>92</sup> He defines impartiality as “a situation in which the third party favours neither side to a crisis and remains indifferent to the gains and losses of each side.”<sup>93</sup>

Recently there has been extensive literature on the role of biased third party in the success of negotiation process<sup>94</sup>. John Paul Lederach argues that "neutrality" of the third party is a myth and he argues that it is the trust that you build with each party that matters. Kydd defines bias in terms of third-party actor who prefers an issue solution that is closer to the ideal point of one, rather than the other of the primary actors.<sup>95</sup> These recent research argues that third party are always bias because neutral third parties get no benefit from any particular type of solution unless and until they have their own stake in the process. Arad and Carnevale points out two types of bias: ‘bias of source characteristics’ refers to expectation that stem from the mediation’s closer personal, political, or economic ties with one party and ‘bias of content characteristics’ refers to the mediators settlement proposal.<sup>96</sup>

Touval also points out that even third party who are viewed as biased by one parties can still be accepted based on the context in which the acceptance takes place. He argues that adversaries’

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<sup>91</sup> Ronald J. Fisher, “Pacific, Impartial Third-Party Intervention in International Conflict: A Review and Analysis,” in *Beyond Confrontation: Learning Conflict Resolution in the Post-Cold War Era*, eds. John A. Vasquez, James Turner Johnson, Sanford Jaffe, and Linda Stamato (Ann Arbor: University of Michigan Press, 1995), p. 39–59.

<sup>92</sup> Oran Young, *The Intermediaries: Third Parties in International Crisis* (Princeton: Princeton University Press, 1967), p. 81.

<sup>93</sup> *Ibid*, p. 81.

<sup>94</sup> There has been extensive literature which questions the importance of mediator impartiality. Please refer Saadia Touval, *The Peace Brokers: Mediators in the Arab-Israeli Conflict, 1948–79* (Princeton: Princeton University Press, 1982); Jacob Bercovitch, and Allison Houston, “The Study of International Mediation: Theoretical Issues and Empirical Evidence,” in *Resolving International Conflicts: The Theory and Practice of Mediation*, ed. Jacob Bercovitch. (Boulder, Co: Lynne Rienner, 1996) pp. 11–35; Peter J. Carnevale and Sharon Arad, “Bias and Impartiality in International Mediation,” in *Resolving International Conflicts: The Theory and Practice of Mediation*, ed. Jacob Bercovitch (Boulder, CO:Lynne Rienner, 1996), p. 39–53; I. William Zartman and Saadia Touval, “International Mediation in the Post-Cold War Era” in *Managing Global Chaos: Sources of and Responses to International Conflict*, eds. Chester A. Crocker, Fen O. Hampson, and Pamela Aall (Washington, D.C.: United States Institute of Peace Press, 1996), p. 445–61 and Andrew Kydd, "Which Side Are You On? Bias, Credibility, and Mediation" *American Journal of Political Science*, Vol. 47, No. 4, (October 2003): 597–611.

<sup>95</sup> Andrew Kydd cited in Svensson, “Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace,” p. 181.

<sup>96</sup> Sharon Arad and Peter J. Carnevale cited in Svensson, “Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace,” p. 181.

decision to accept a third party is based on other factors such as availability of preferable alternatives; the cost of external disapproval and the parties fear that the third party may participate in a coalition with the opponent.<sup>97</sup> Svensson argued that biased third party may mitigate commitment problem by acting as guarantor for weak party. It is also argued in many literatures that by publicly involved in negotiation and mediation efforts, third parties show primary parties, and their constituencies, that they have an interests and a stake in negotiated settlement.<sup>98</sup>

### *Third Party Motivation*

The third-party has various motives to be involved in resolving a conflict. According to Touval and Zartman, mediators that have strong interest in resolving a conflict are more likely to succeed than those who do not. These interests are of two categories: mediation as self-interest/defence and mediation as a desire to extend and increase influence.<sup>99</sup> In the first case, third-party may enter into a conflict to protect its national interests such as concerns about their own security (economic, political, military or humanitarian) challenged by conflict in neighbouring country, humanitarian concerns and interests in regional stability. Thus, a solution to the conflict is important to the mediator because the conflict, from a purely cost benefit point of view may be a threat to the third party. The second reason the third party is interested in mediating the conflicts is because they are interested in extending their sphere of influence. In this respect, the third-party the process of mediation as an opportunity to develop closer ties with the parties. Moreover, a mediator may hope to win the gratitude of the party that feels that it has secured a better agreement than it would otherwise have done in bilateral negotiations.<sup>100</sup> Mediators can also increase their influence by becoming guarantors to the eventual peace agreement.

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<sup>97</sup> Saadia Touval, *The Peace Brokers: Mediators in the Arab-Israeli Conflict, 1948 -1979* (Princeton: Princeton University Press, 1982), p.14-15.

<sup>98</sup> Svensson, "Bargaining, Bias and Peace Brokers: How Rebels Commit to Peace," p. 181.

<sup>99</sup> Touval and Zartman, *International Mediation*, p. 16.

<sup>100</sup> *Ibid*, p. 16-17.

## *Strategies of Third Party*

Touval and Zartman identified three main interventions strategies by third-parties which are *communication-facilitation, formulation and manipulation*.<sup>101</sup> The first role involves the third-party to open up communication between the disputants including arranging face to face meeting, improve their relationship or at least transmit message between the disputants. The second role as formulator involves more active involvement of third-party such as redefining the issues and proposes possible solutions. The third role as manipulator is more pro-active role which is closely associated with intrastate conflicts where third-party becomes an actor with “interests and full participant” in the conflict by using both carrot and stick approaches.<sup>102</sup>

Bercovitch suggests that third-party as a mediator in any conflict has to engage in either one of the four roles. These four roles as outlined by Bercovitch are: *Information Function* (act as a communicator between the warring parties); *Tactical Functions* (using innovative strategies to engage and progress in mediation efforts); *Supervisory Function* (act as an impartial monitor to carry out terms of conditions during the mediation process such as ceasefire etc) and *Re-conceptualization Function* (use persuasive or coercive tools to achieve the desirable outcome).<sup>103</sup>

### **ii. Third Parties as Agreement Guarantors**

It is widely believed that an important reason why adversaries do not accept a negotiated settlement to end armed conflicts is because they cannot credibly commit to peace without the promise of implementation by a powerful third party. Indeed self-enforcing peace agreements are extremely rare, whether it is between interstate or intrastate adversaries.<sup>104</sup> Third parties can guarantee that vulnerable parties are protected from attack by their more powerful rivals once they disarm. Moreover, third parties can ensure that the payoffs from cheating on a peace agreement no longer exceed the payoffs from observing its terms. Once cheating becomes

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<sup>101</sup> *Ibid*, p. 39.

<sup>102</sup> *Ibid*, p. 39.

<sup>103</sup> Jacob Bercovitch, "Third Party and Conflict Management in the context of East Asia & Pacific," p. 23-24.

<sup>104</sup> Alan Dowty, *The Role of Great Power Guarantees in International Peace Agreements* (The Hebrew University of Jerusalem, 1974).

difficult and costly, promises to cooperate gain credibility and cooperation becomes more likely.<sup>105</sup>

Chandra Lekha Sriram argues that third party guarantees are central to peace agreements and its implementation. The third party plays a very important role in three major process of any peace process which includes: opening up and conducting mediation and negotiations among adversaries; providing security guarantees to the non-state actors and monitoring the entire process of implementation of agreements including report on compliance and cheating, human right abuses, implementation of key aspects such as disarmament, demobilization and reintegration (DDR) of former combatants.<sup>106</sup>

But how do adversaries determine whether guarantee they have been promised by third parties are credible or not? Barbara Walter points out that to be credible, a third party guarantee must fulfill at least three basic conditions. First, the third party must have self-interested interests in upholding its promise. The second condition is that the guarantor must be willing to sue force to enforce its will and must be militarily strong enough to punish the party violating the agreement. The final, condition is that the third party should be able to show resolve. The third party can show resolve by stationing enough troops to deter aggression in the region of conflict.<sup>107</sup>

### *Neighbours Interveners in Peace Process*

Peace Process can succeed or fail to hold, because of intervention from neighbouring states. External intervention in armed conflict may be in the form of subversion or foreign aid. Subversion is defined as aid to insurgents, which may be in the form of material support, or sanctuary to exiles and refugees fleeing across the border.<sup>108</sup> Foreign aid is support extended to the incumbent government and is, in this sense counter subversive. Traditionally, foreign aid used to be the preserve of the great powers, but as recent experiences in Africa and elsewhere

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<sup>105</sup> Barbara F. Walter, "The Critical Barriers to Civil War Settlement." *International Organization* 51, 3 (1997), p. 335-364.

<sup>106</sup> See Chandra Lekha Sriram, *Peace as Governance: Power Sharing, Armed Groups and Contemporary Peace Negotiations* (London: Palgrave MacMillian, 2008), p. 14-15.

<sup>107</sup> Ibid.

<sup>108</sup> I. William Zartman, "Internationalization of Communal Strife: Temptations and Opportunities of Triangulation," in *The Internationalization of Communal Strife*, ed. Manus Midlarsky (New York: Routledge, 1993).

have shown; sub regional hegemons and small powers actively intervene and take sides in local armed conflict.

In his study Fen Osler Hampson states that the success of a peace agreement is inextricably tied to the interests of neighbouring states and their overall commitment to the peace process. Moreover, in regions with transnational ethnic ties, making regional states part of the peace process is important because ethnic ties among people across political boundaries act as unstated alliances among those people.<sup>109</sup> In areas with transnational ties, intervention is more likely to happen if the elite of the intervening state share ethnic ties with a kin who are disadvantaged in the target state.<sup>110</sup>

Thus the conclusion from this is that the absence of credible commitments from powerful third parties is a major cause of why adversaries rarely commit to peace agreements and particularly neighbouring states can stand in the way of an agreement if they feel that their interests have not been addressed adequately by the agreement.

#### ***d.) Infrastructure for Peace***

In recent years, there has been increased recognition of the need for the national (domestic) infrastructure to sustain the peace process which includes conflict prevention and peacebuilding work. Particularly needs of two distinct infrastructures are now emerging in the discourse and debate in peacebuilding literatures. This national infrastructure includes democratic government and institutional capacity for sustaining peace process. But I would like to also add public opinion as another necessary infrastructure for peace.

#### **i. National Infrastructure for Peace**

In the recent practice various countries which are experiencing armed conflicts have created government sponsored offices/initiatives to facilitate negotiations between conflicting parties

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<sup>109</sup> David A. Lake and Donald Rothchild, Eds. *The International Spread of Ethnic Conflict: Fear, Diffusion and Escalation* (Princeton: Princeton University Press, 1998) p. 89.

<sup>110</sup> Ibid.

(including the government) and build societies capacity for peace. This includes institutions such as Department of Peace & National Unity in Solomon Island; High Commissioner for Peace in Colombia; Secretariat for Coordinating the Peace Process in Sri Lanka etc. The potential role of such domestic institutions has been articulated in government policy documents and acknowledged by various UN reports and declarations, including reports published by the Security Council, and regional organizations. Paul Van Tongeren and Christine van Empel argues that a country's capacity to prevent and resolve violent conflict at home and abroad may be strengthened by creating national conflict prevention mechanisms and joint platforms that enable dialogue among all stakeholders.<sup>111</sup> UN Secretary-General in the July 2006 Progress Report, when urged Member States "to consider creating elements of a national infrastructure for peace.... and to make use of available external support, including from the United Nations, in that regard."<sup>112</sup>

Similarly, Kristi Samuels discussed the need of the support for the state building in conflict area where she identifies three key requirements to sustainable peace process which includes:

- *Transforming the culture of a society to resolve conflicts through dialogue instead of violence.*
- *Reforms of the governance framework to prevent future conflicts.*
- *Creation of sustainable institutions.*<sup>113</sup>

Bruce D. Jones, points out a major challenge every international actors face in coordinating their approaches and their effort to implement peace agreement which he calls as lack of strategic coordination of peace process. He argues that 'armed conflict suffers from an inconsistency in conflict management strategy across different phases of the peace process; those who mediate agreements sometimes fails to coordinate with those who implement them.'<sup>114</sup> Roy Licklider stresses that five various international sectors needs to be coordinated during an ongoing peace

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<sup>111</sup> Paul Van Tongeren and Christine van Empel. Eds. *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*. (The Netherlands: European Center for Conflict Prevention, 2007).

<sup>112</sup> Report of the Secretary-General to the United Nations General Assembly, p. 29, paragraph 103.

<sup>113</sup> Kristi Samuels, "Sustainability and Peace Building: A Key Challenge," *Development in Practice* 15, 6 (2005), p. 728 – 736.

<sup>114</sup> Bruce D. Jones." The Challenges of Strategic Coordination," in *Ending Civil Wars: The Implementation of Peace Agreements*, eds. Stephen John Stedman, Donald Rothchild and Elisabeth M. Cousens (Boulder: Lynne Rienner, 2002), p. 89-115.

process namely donor governments, militaries, multilateral organizations, the private sectors and nongovernmental organizations, so he argues that a coordination unit is an utmost need in order for an effective participation of each sectors in the peace process.<sup>115</sup> Charles T. Call and Elisabeth M. Cousen has also stressed the need to build stable institution as they comment, "...the core lies in the establishment of institutions with the capacity to prevent, manage or otherwise adjudicate disputes between groups through political process instead of violence."<sup>116</sup> Catherine Barnes argues that government Ministry or Department of Peace may be appropriate institutions which can be an instrument for engaging and coordinating the various government ministries, departments, councils with the public, international actors or civil society in peacebuilding and conflict prevention. She presses the need for an avenue for the interaction of civil society and government agencies for cooperation in various stages of peace process including peace making, peace keeping and peacebuilding processes and conflict prevention.<sup>117</sup> These institutions can possibly play a vital role in building capacity for peace negotiations, providing institutional framework that may be perceived as more impartial than other government institutions and perhaps assist in transferring this expertise to post-conflict peacebuilding.<sup>118</sup> The effectiveness of such government induced ministries/departments, councils or commissions of peace can only be guaranteed if it includes key actors including civil society and adopts a participatory and transparent approach to peacebuilding and conflict prevention.

The concept of having such governmental institutions in the form of ministries or department of peace was proposed as early as 1792 in United States. It got worldwide momentum in 2001 after Congressman Dennis Kucinich of Ohio introduced legislation in congress for the establishment of Department of Peace in United States. Since then a worldwide movement sparked all over the world by grassroots peace builders and activists in countries like United Kingdom, Australia, Canada, India, Costa Rica, Nepal, Uganda etc. Since 2005, this movement united their effort and

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<sup>115</sup> Roy Licklider, "Obstacles to Peace Settlement," p. 714.

<sup>116</sup> Charles T. Call and Elisabeth M. Cousen. "Ending Wars and Building Peace: International Responses to War Torn Societies. *International Studies Perspectives* 9, 1 (2008), p. 1-21.

<sup>117</sup> Catherine Barnes. "Government structures, Chapter 5," in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, eds. Paul Van Tongeren and Christine van Empel (The Netherlands: European Center for Conflict Prevention, 2007), p. 37.

<sup>118</sup> Craig Zelizer. "Peace Commissioners and Secretaries for Peace: The Role of Government sponsored 'Peace Institutions' in Reducing Violent Conflicts," paper presented at the Annual meeting of International Studies Association, 49<sup>th</sup> Annual Convention, *Bridging Multiple Divides* (San Francisco: 2004).

called themselves Global Alliance for Ministries and Departments of Peace (Global Alliance). Global Alliance's emphasis is not only to conflict resolution but even more so on to the prevention of violence, and on the physical, social and psychological rehabilitation of individual and societies hurt by violence. This vital work – making peace an organizing principle of society – needs to be a central role of government.<sup>119</sup> I have personally involved in campaigning for the Ministry of Peace & Reconstruction in Nepal and I have stressed the need of such institutions in Nepal and in countries all over the world as such national infrastructures can provide the pragmatic approaches to peacemaking and peacebuilding process and even more importantly to implementation of peace agreements. This institution can be a window of opportunity for the civil society organizations to work along side with the government & armed rebel groups as a partner for peace. In the peacemaking process such collaboration can result in strong agreements with broad support. During the peacekeeping process this collaboration can be forge a joint monitoring of stipulated peace agreement signed by adversaries. And during peacebuilding process, this partnership can work together in sustaining peace by working on the roots cause of structural and culture violence which sparked the armed conflict.

## **ii. Democratic Governance**

Democratic governance and participatory decision-making processes strengthen the foundations for the capacity of states to deal in the conflicts. Barbara Walter states that democratic countries should be more likely to end the armed conflict in compromise settlement. She further stress that leaders of democratic credibly commit to peace agreements since they are more likely to be held accountable by their voting public for promise they made. Similarly power-sharing and power-dividing can be easily accepted by the political leadership of democratic states than authoritarian leader who stand to forfeit monopoly control of government. Walter concludes that “a focus on

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<sup>119</sup> For more on Global Alliance for Ministries and Departments of Peace, please visit [www.mfp-dop.org](http://www.mfp-dop.org). For more discourse of GA, please refer to Manish Thapa, “Nepal: Ministry of Peace & reconstruction – A Foundation for Peace” in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, eds. Paul Van Tongeren and Christine van Empel (The Netherlands: European Center for Conflict Prevention, 2007), Craig Zelizer, “Peace Commissioners and Secretaries for Peace: The Role of Government sponsored ‘Peace Institutions’ in Reducing Violent Conflicts,” paper presented at the annual meeting of International Studies Association 49<sup>th</sup> Annual Convention, *Bridging Multiple Divides* (San Francisco: 2004), Shiri Barr, ‘Lessons for Israeli-Palestinian Negotiations from Nepal’s New Ministry for Peace & Reconstruction’ paper presented at *First International Academic Conference Israeli-Palestine Conflict: Pathways to Peace*, Central Connecticut State University, March 28-29, 2008.

democratic political institutions, therefore, leads to the prediction that more democratic a state, the more likely that governments will be to negotiate a settlement to armed conflict.”<sup>120</sup> US President Woodrow Wilson states that ‘democracy promotes ascendancy of reason over passion and promise, the supreme and peaceful rule of counsel, or rational debate, which is the recipe for peace and progress in political life.’<sup>121</sup> Thus democratic regime are more open to the settle the conflict through dialogue and moreover implement the stipulated agreement in full spirit unlike the authoritarian regime whose major thrust will be more on strengthening its powerbase rather than being open to public scrutiny and accountability.

Stephen John Stedman and Donald Rothchild pointed out that some regime may sign the agreement with a tactical reason, i.e. to weaken their opponent and strengthen themselves. If the agreement promises to bring them in power, then they will meet their obligations. However, if the agreement looks as if it will reduce their power, they will go back to armed conflict – possibly launching a pre-emptive attack.<sup>122</sup> Such practice is more practiced by the authoritarian regime. They further argue that ‘in order to prevent the unravelling of agreements, it is important for leaders to emphasize the notion of fairness towards all major interests throughout the peace process. In this case, democracy may be interpreted quite widely, embracing a number of measures and principles of governance which lessens fear of any agreement among political minorities.’<sup>123</sup>

There is no denying fact on the role civil society organizations (CSOs) can play in responding, managing and preventing conflict as well as in post-conflict peacebuilding. Paul Van Tongeren and Christine van Empel points out that states ranges from an effectively functioning bodies that operate in a legally defined and enforceable framework and have a well-established democratic tradition to non-functioning entities where democracy and the rule of law are virtually absent.

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<sup>120</sup> Barbara F. Walter, *Committing to Peace: The Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002), p. 10-11.

<sup>121</sup> Woodrow Wilson cited in Roland Paris, “Wilson’s Ghost: The Faulty Assumption of Post-conflict Peacebuilding,” in *Turbulent Peace* eds. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, (Washington, D.C.: U.S. Institute of Peace, 2001) p. 765.

<sup>122</sup> Stephen John Stedman and Donald Rothchild, “Peace Operations: From short-term to long-term Commitment.” *International Peacekeeping* 1, 1 (Spring, 1994), p. 20.

<sup>123</sup> *Ibid*, p. 31 -33.

CSOs tend to thrive in the former and be under severe pressure in the latter.<sup>124</sup> In my earlier writings I have termed the perception of autocratic government towards the CSOs and such governments usually perceive CSOs as an “evil society”.<sup>125</sup> Thus it proves that democratic government is favourable for the well functioning of civil society which can contribute ‘different but valuable roles in each phase of a conflict: from early warning at the start to mediation when a conflict is already going on and awareness-raising in a post-conflict situation, to prevent the same from happening again. Precisely which roles CSOs assume depend not only on the nature and the severity of the conflict itself but also – even more important – on the kind of relationship a CSO has with the government.’<sup>126</sup>

CSOs can also play an important role in representing the views, aspirations and needs people in the peace process. The advocacy power of the CSOs, media can support the entire peace process for shaping the public opinion and their representation the process. As Catherine Barnes refers, CSOs ‘to the web of social relations that exist in the space between the state, the market and the private life of families and individuals.’ ‘Interlinked with the concept of ‘civil society’ is the idea of social capital: the values, traditions and networks that enable coordination and cooperation between people.’ She further adds CSOs therefore involves qualities associated with relationships, with values, and with organizational forms which takes form through various types of association and give expression and direction to the social, political, spiritual and cultural needs of members. By reflecting diverse interests and values, they enable the articulation, mobilization and pursuit of the aspirations of the different constituent elements within a society. As such, civil society groups can be a factor in war as well as a force for peace.<sup>127</sup> Hence, democracy is one of the prerequisite for the peace process to thrive as it opens and allows the CSOs to be a functional partner at various stages of the process.

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<sup>124</sup> Paul Van Tongeren and Christine van Empel. Eds. *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*. (The Netherlands: European Center for Conflict Prevention, 2007), p. 7.

<sup>125</sup> For more information on “evil society”, please refer Manish Thapa, “Nepal: Ministry of Peace & Reconstruction – A Foundation of Peace in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*. Eds. Paul Van Tongeren and Christine van Empel (The Netherlands: European Center for Conflict Prevention, 2007).

<sup>126</sup> Paul Van Tongeren and Christine van Empel. Eds. *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, p. 7.

<sup>127</sup> Catherine Barnes. “CSOs, Peacebuilding and the Power of Partnerships,” in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, eds. Paul Van Tongeren and Christine van Empel (The Netherlands: European Center for Conflict Prevention, 2007), p. 11.

### iii. Public Opinion

Hans Speier defines public opinion as 'free and public communication from citizens to their government or representatives on matters of concern to the nation is a phenomenon of middle class civilization'.<sup>128</sup> Thus success of any peacemaking or peace process depends upon the opinion of the general public towards process. My hypothesis here is that in Sri Lanka, initiating a peacemaking process and progressing in it largely depends upon the opinion of respective constituency, for e.g. Tamils for LTTE and Sinala for Sri Lankan Government. Unless and until the majority of people can perceive that peace has to be initiated through dialogue in their respective constituency, there is very little chance that peacemaking process can ever succeed.

International Relations Scholar Peter Trumbore has argued the role of public opinion in international negotiation process which could be relevant to understand the role of public opinion on the success or failure of peace process. He states that "in determining the role that public opinion plays in negotiation process, three factors are of central importance: (1) the preferences of the public relative to those of decision makers and other domestic constituents; (2) the intensity of the issue under negotiation; and (3) the power of the public to ratify a potential agreement."<sup>129</sup> He further argues that if public preferences were in line with political leaders' preferences there would be no question of constraint and vice versa. But if the issues tend to have high intensity involving wider range of political actors in the policy debate, then it could have serious constraints. Conversely, lower-intensity issues involve fewer political actors and generate less attention to outcomes than do high-intensity ones. And finally if the issues to be resolved through public scrutiny such as referendum then public attitudes to shape the conduct and outcome of the negotiation process is apparent.<sup>130</sup>

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<sup>128</sup> Hans Speier, "Historical Development of Public Opinion," *The American Journal of Sociology*, vol. 55, no. 4 (Jan, 1950), pp. 376-388.

<sup>129</sup> Peter F. Trumbore, "Public Opinion as a Domestic Constraints in International Negotiations: Two-Level Games in the Anglo-Irish Peace Process," *International Studies Quarterly*, vol. 42, (1998), pp. 545-565.

<sup>130</sup> *Ibid.* pp. 548-550.

e.) *Summarizing Theoretical Framework*

Negotiations Process and Peace Process tackles a lot of challenges and often do not work well. But it is important to note that failure or collapse of an agreement need not signal bad faith or irreconcilable differences. Roy Licklider argues that negotiations settlement by nature involves compromise; both sides have to abandon some of their goals to reach an agreeable agreement. The negotiated settlements are second best solutions, so that no party is totally committed to the terms of settlement itself.<sup>131</sup> So we need to envision a scenario in order to consider every weakness of the negotiation as well as the entire peace process. Thus based on my above discussion, I propose that there are five key variables which are key to success of negotiation process and hence results in the successful peace process. These five key variables are categorized into two parts. They are 1) Systemic Conditions and 2) Catalytic Conditions.

### **Systemic Conditions**

I argue that systemic condition is the process through which the negotiation process and entire peace process should progress. So systemic condition is a progression from dialogue phase to implementation phase and finally to consolidation or normalization phase. There are three key variables under systemic conditions which govern the process and each of these variables presides the others. They are I) *Mutually Hurting Stalemate (MHS)*, II) *Mutually Enticing Opportunities (MEO)* and III) *Mutually Obtained Rewards (MEO)*.

I argue that all of these variables are depended on each other. As Thomas Ohlson argues that *Mutually Hurting Stalemate - MHS* generates the ‘change within the party elites in the onset of the dialogue phase’ i.e. unless and until there is MHS, the conflict is not ripe for resolution or parties do not value the need of entering into dialogue phase to end the armed conflict. The dialogue phase will only be successful in signing an peace agreement if the negotiation process leads to a *Mutually Enticing Opportunities – MEO*, which Ohlson argues that MEO is only tool ‘to generate growing inter – and intra-party trust, a general change in attitudes, a degree of horizontal legitimacy between elites and confidence in the peace process during dialogue and

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<sup>131</sup> Roy Licklider, “Obstacles to Peace Settlement,” p. 699-700.

implementation Phase. Finally *Mutually Obtained Rewards* – (MOR) is the final outcome where all the parties involved in the process gets the are content with the outcome of the entire peace process which Ohlson refers as ‘leading to vertical legitimacy and a gradual return to normal politics – that is , to relatively stable and durable peace – in implementation and consolidation phase.’<sup>132</sup>

### **Catalytic Conditions**

The Catalytic Condition that I argue in this study is the facilitating agents which are the necessary condition if not insufficient condition for the success of every negotiation as well as entire peace process. This variable facilitates the entire process and helps the systemic condition to keep up its progression. I propose two variables under Catalytic Conditions. They are: I) *Third Party* & II) *Infrastructure for Peace*.

Third Party as defined by Uppsala Conflict Data Project (UCDP) is a party that is involved in either helping the warring parties to regulate the incompatibility or the level of violence and work as a intermediary between the parties involved. The third party can plan a very important role in facilitating the negotiation and the entire peace process. Thus I propose it to one of the catalysts for the success of the negotiation and peace process as it brings an important elements in the process such as leverage, security guarantee etc which can support the process to succeed.

Infrastructure for Peace is an entity which I propose that every state with an armed conflict should have which usually performs three major functions. First it helps to act as a central coordinating agency between the various governmental, non-governmental and international organizations to work together to build the infrastructure needed for the success of each and every step of peace process namely peacemaking process, peace keeping process and peacebuilding process. The example of such institutions are government initiated Ministry or Departments or Commissions for Peace. The second function of such infrastructures are to involve the public into the process or giving an space of public engagement in the process where such institutions can work with the civil society organizations in long term peacebuilding and

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<sup>132</sup> Thomas Ohlson, "Understanding Causes of War & Peace," p. 144.

grassroots peacemaking activities. The practice of formation of Local Peace Committees is one of the best examples of such practice. And finally such infrastructure of peace can also be act as a policy making body which supports government in proper policy formulation for a peaceful society. For example, the Department of Peace & National Unity in Solomon Island works with the line government agencies in formulating appropriate policy for conflict prevention and conflict resolution. Thus I argue that such state infrastructure work to curb the major social problems that the pre- and post-violence state is facing in terms of social, political, economic and security aspect. My argument here is that such states needs to build a state institution in order to curb its existing challenges and prepare itself to prevent from violence to reoccur again in future.

In most of the literature in conflict resolution, ‘democracy’ is the component which scholars argues, come after the peace process reaches a certain point and usually comes during the process of peacebuilding. But my argument here is that unless and until a state can have a minimum feature of democratic principles, the peace process cannot thrive. I argue that both peace process and democracy building has to go hand in hand. As Barbara Walter in her studies states that democratic countries more likely end the armed conflict in compromise settlement. She further stress that leaders of democratic credibly commit to peace agreements since they are more likely to be held accountable by their voting public for promise they made.<sup>133</sup> So this is clear that the democratization and peace process should go hand in hand for the sustainable peace. Thus I propose democratic governance as one of the necessary catalytic condition for the success of the negotiation and peace process.

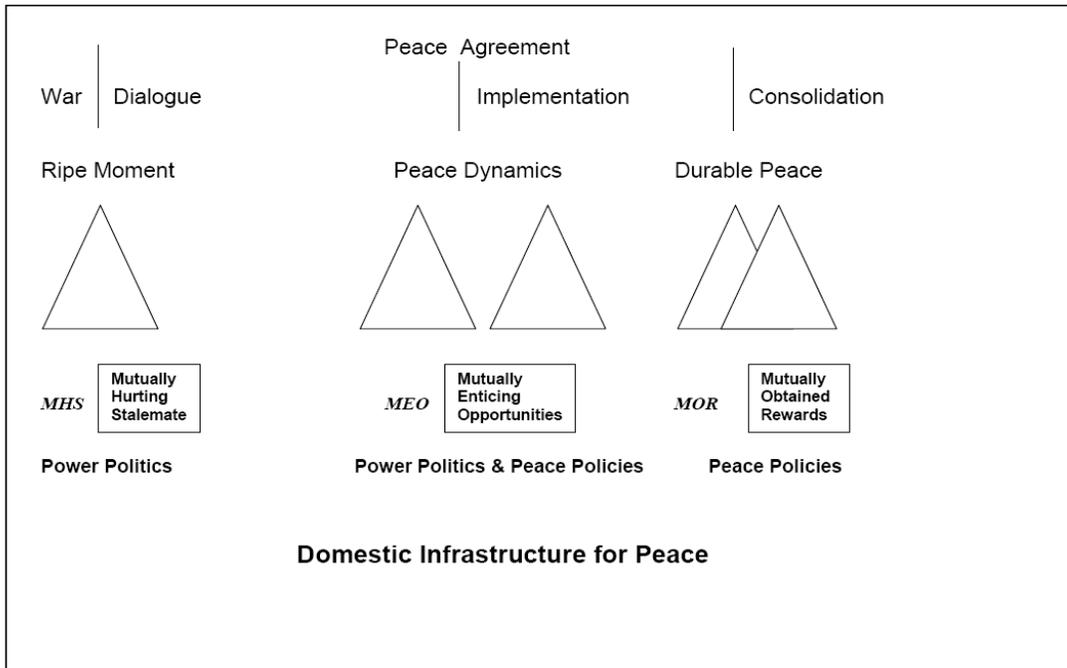
Public Opinion is an important element, which can impact the outcome of the negotiation and peace process. For success of any negotiation process and entire peace process, general people have to support the outcome of the process. Unless and until the processes have a general consensus among the people, the peace process is not going to bear any fruit. Thus I propose it to be another critical catalysts for the success of the negotiation and peace process.

Hence I propose the following schematic diagram as the conceptual framework of my study.

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<sup>133</sup> See Barbara Walter, *Committing to Peace: The Successful Settlement of Civil Wars* (Princeton: Princeton University Press, 2002).

### Third Party



### **3. Research Framework, Question and Hypotheses**

#### **A. Research Hypotheses**

Based on the above theoretical framework discussion, the following factors considers in depths in order to carry out the proposed study more systematically:

##### **a) Systematic Conditions**

###### ***Conflict Dynamics***

Armed conflicts are complex in its nature. Its termination is much more complex process as it is time consuming and cumbersome. The shift from unilateral to bilateral strategies, from confrontation to cooperation, and from 'winning' mindset to 'reconciling' ones is the most difficult process. Why and how belligerent decides to engage in a negotiation process? What are the barriers that have to be faced during negotiation process? What are the minimum criteria for achieving the success of forging an agreement between the belligerent? The following hypotheses will be tested:

*Hypothesis A – A conflict actors may engage in a negotiation process and hence likely to be sign peace agreements if both parties find themselves in a mutually hurting stalemate.*

*Hypothesis B – A conflict actors that holds non-negotiable goals is more likely to spoil the peace process than one that does not.*

*Hypothesis C – A conflict actors may engage in a negotiation process in order to pursue their own interest rather than a genuine interest of resolving conflict through negotiation.*

## ***Structure of Settlements***

What are issues (interests of the parties) that are needed to address during the negotiation process to forge a peace agreement between the belligerents? Did the process include all the parties to the conflict? How can the peace agreements be sustained to resolve the conflict? The following hypotheses will be tested:

*Hypothesis A – A peace agreement is more likely to be signed and to hold if it includes power sharing & power dividing (mutually enticing opportunities) provisions than if it does not.*

*Hypothesis B – A negotiation process is more likely to result in signing of peace agreement if it includes all the actors involved in the armed conflict than if it does not.*

*Hypothesis C – A peace agreement is more likely to be signed and to hold if it can transform the mutually enticing opportunities into mutually obtained rewards among the actors of the armed conflict.*

### **b) Catalytic Conditions**

#### ***The Role of Third Parties***

What roles did third parties peacemaking process? What is the impact of the leverage of the third party in the negotiation process? What is the motivation for the third-part to be involved in the mediation process? Similarly the success or failure of peace agreements also largely depends on the actions of neighboring states. So what are the roles of the neighboring states during the negotiation phase? Hence the following hypotheses will be examined:

*Hypothesis A - A peace agreements is more likely to be signed if it is initiated & mediated by third party (outsider) than if it emanates on its own.*

*Hypothesis B – A peace agreement is more likely to be signed and to hold when mediated by a third party that uses its leverage in support of the agreement.*

*Hypothesis C – A Peace Agreement is more likely to be signed and hold if the third party has an interest on resolving the armed conflict.*

*Hypothesis D – A peace agreement is more likely to be signed and to hold if it receives the support of neighboring countries than it does not.*

### ***Infrastructure for Peace***

Do states have enough infrastructures to sustain the peace process? Have civil society played major roles in the process? Whether peace agreement is signed and hold largely depends upon on system of governance of that state. It is seen that autocratic governments are more firm and unwilling to cooperate and seek military solutions to conflicts with regards to democratic governments, which believes in solution of conflicts through dialogue and compromise. Does public support the outcome of the negotiation and peace process? The following hypothesis will be tested on this regard:

*Hypothesis A - A peace agreement is more likely to be signed and to hold of there is a democratic system of governance than autocratic or manipulative government in power.*

*Hypothesis B - A peace agreement is more likely to be signed and hold when there is a considerable involvement of civil society in the entire process.*

*Hypothesis C – A peace agreement is more likely to be signed and hold when it has a broad base support of public.*

*Hypothesis D – A peace agreement is more likely to be signed and hold when it is administered through a peace related government institutions in the form of peace commissions or peace ministry, which supports long-term peacebuilding mechanisms.*

## **B. Case Selection Criteria**

An important part of any research design, especially for comparative qualitative research is the selection of the cases. With only few cases, a random selection seldom yields a representative sample. Instead, in the word of Kristine Höglund, "selection must be done in an *intentional* fashion, consistent with our research objectives and strategy."<sup>134</sup>

### ***Rationale for Focus on the Nepal's Peace Process***

This doctoral research will focus on peacemaking process in Nepal due to three main reasons:

First, from the present-day perspective, this peace process remains a focal point of international attention and scholarly activity given its importance and relevance to set it as a model for other countries.

Second, Nepal's peace process is a truly Nepalese process, unique in many ways. First, the peace process started with the pursuit of democracy, where political parties and Maoists rebels agreed to regain democracy before they enter into the process itself. Secondly there were many mini-agreements in the entire process which led to the ease of tensions and deadlock between the parties. Therefore, Nepal's Peace Process model can serve as an interesting and applicable model for other conflicts and likely be relevant and exportable to other areas of the world.

Third and finally, the Nepal was chosen because of my own personal connection & involvement in the entire process. Given the high levels of societal distrust and suspicion, as well as the sensitive nature of peace making work in Nepal, my connection afforded me access to people and data that I will never have had otherwise. Therefore, on a practical level, it would have been extremely difficult (if not impossible) for me to collect data in any other context with the depth and breadth that is essential for a doctoral study.

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<sup>134</sup> Kristine Höglund, *Violence in the Midst of Peace Negotiation: Cases from Guatemala, Northern Ireland, South Africa & Sri Lanka* (Sweden: Uppsala University, 2004).

### C. Methodological Approach

The research method adopted in this study will be qualitative and utilizes comparative & explanatory case study methods. Case study, sometimes called *monograph*, means studying only one event, process, person, organization unit or object. Case Study method is defined as an *intensive study of single units for the purpose of understanding a larger class of (similar) units*. A unit connotes a spatially bounded phenomenon - e.g. nation states, revolution, political party, election or person - observed at a single point in time or over some delimited period of time<sup>135</sup>.

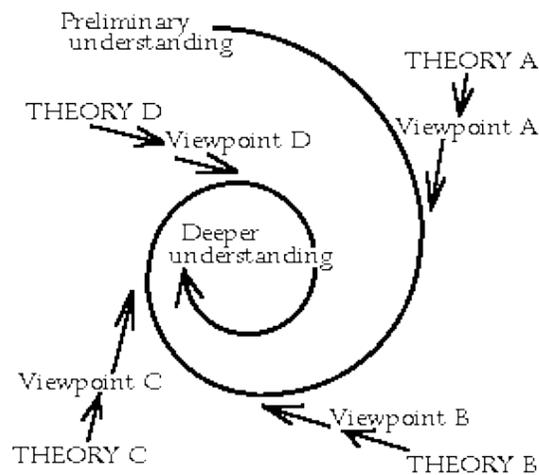
This method is advantageous when examining contemporary as opposed to historical events, when the behaviours being explained cannot be manipulated, and when several sources of evidence are used to analyze the data.<sup>136</sup> The comparative case study method is also the preferred method when "*what*" or "*why*" or "*how*" questions are being investigated. The comparative case method is also better suited to studying phenomena when the cases are too few to permit statistical calculations.

Statistical analysis in this research is not so helpful and has limitations. First, it is not particularly helpful in building causal theories of armed conflict's resolution. The idea of this research will be generated from reading detailed historical accounts of particular conflict not from regression analysis. Second, although pattern do emerge, important cultural and historical differences cause individuals, governments, and rebel fractions to act in ways not predicted by the theory. A contextual comparison of individual case ensures that the generalizations made here are not too sweeping and should help to reveal the limitations of theory. Finally, statistical analysis cannot confirm or disconfirm the casual mechanisms purported to link third party interventions and power sharing guarantees to the peaceful resolution of conflict. It can only reveal the correlation, if any, between each of these variables and peace. A careful study of an individual case therefore is needed to build, refine and test the theory in this study.

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135 John Gerring, "What is a Case Study and What is it Good for?" *American Political Science Review*, 98 (2) (May, 2004), p. 342.

136 Arend Lijphart, "Comparative Politics and the Comparative Method," *American Political Science Review* 54, 3 (1971): 682-693; Robert K. Yin, *Case study Research, Applied Social Research Methods Series* Volume 5. (Thousand Oaks CA.: Sage, 1994).



#### D. Research Methods

This dissertation study primarily relies upon two methods of data collection: participant observation and triangulation. Participant observation requires experiencing a program as both an insider (“participant”) and a critical observer (“observation”). Meanwhile, triangulation involves asking the same (interview) questions of a variety of people in order to see if their answers are echoed, so as to further verify findings.

Participant observation would cover the variety of data collection methods. H. Russell Bernard points out that participant observation includes various techniques such as 'observation', natural conversations, various kinds of interviews (structured, semi structured and unstructured), checklists, questionnaires and unobtrusive methods.<sup>137</sup> My case as a participant observation is very interesting one as over the period of year I have been switching my role between 'observing participant' and 'participant observation', which Bernard distinguish in his book. The similar contradiction has also been drawn by Michael Quinn Patton who describes:

*The challenge is to combine participation and observation so as to become capable of understanding the program as an insider while describing the program for outsiders.<sup>138</sup>*

<sup>137</sup> H. Russell Bernard, *Research Methods in Anthropology: Qualitative and Quantitative Methods* (Thousand Oaks, CA: Sage Publications, 1994), p. 21.

<sup>138</sup> Michael Quinn Patton, *Qualitative Evaluation and Research Methods* (Thousand Oaks, CA: Sage Publications, 1990), p. 207.

In terms of participant observation, Patton further explains that there are variations in the extent to which the researcher may participate in the setting under study, with one end of the spectrum being the “totally immersed participant,” while the opposite end is the “complete spectator.”<sup>139</sup> In between these two opposite poles are gradations in the degree to which a researcher is immersed in, or separated from, the research study.

Naturally, during my engagement in the peace process in Nepal, I have moved along this “participant observation spectrum” with relative fluidity. Though in my early years working with the Carter Center as a coordinator of the *Nepal Peace Initiative Project*, I was more involved in a discrete negotiation process after second peace process failed in 2003 so at that time I was more on the side of “totally immersed (staff) participant,” or what Bernard refers as observing participant as I was directly involved in the process. This period is from 2003 till 2005 when I was directly involved in the negotiation process as a staff of an organization involved in the direct mediation with the actors involved in the Nepalese conflict.

But after 2005 onwards, my orientation has been shifted from active participant on the process to mere observant. This the bulk of this doctoral study is derived from current research outcome where I base my findings from interviews with the relevant stakeholders of the peace process from both sides government and the Maoists and also with the key architect of peace process namely people from civil society, media, military and key leaders of various political parties of Nepal.

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<sup>139</sup> *Ibid*, p. 208. According to Patton, the “totally immersed participant” of (e.g.) in a peace process refers to the person who partakes of activities (as a staff or participant) without stepping back to observe, analyze, and record the nature, role, and effects of their participation. Meanwhile, the “complete spectator” of this scenario only engages in the latter (i.e. analysis and documentation of the peace process) without engaging in the former (i.e. participating in the peace process activities).

## PART II: Case Study – NEPAL

### Understanding Maoists Revolution of Nepal<sup>140</sup>

#### A. UNDERSTANDING THE ROOT CAUSE OF CONFLICT IN NEPAL

##### 1. Introduction

Founded in 1769 AD, the Federal Democratic Republic of Nepal<sup>141</sup> is multiethnic, multilingual & multi-religious and one of the oldest states in South Asia. It was politically unified in the mid-eighteenth century and ruled by Shah Dynasty. In the nineteenth century, under the leadership of the ambitious Prithivi Narayan Shah, its boundaries expanded until it came to conflict with the other ambitious imperial entity – the East India Company. The 1814 - 1816 war with the British East India Company & the subsequent *Sugauli Treaty* with the East India Company defined the present day borders of Nepal which lies sandwiched in-between India and China. This tiny Himalayan republic is renowned for spectacular natural beauty of her mountains and culture of tolerance and peace symbolized by Lumbini, the birthplace of Lord Buddha, the apostle of peace. For this very reason, Nepal had once declared itself a Zone of Peace in the late 80s<sup>142</sup>.

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<sup>140</sup> This entire chapter is based on my earlier publications: Manish Thapa, "From Romantic Revolution to Anarchic Evolution: Understanding Maoists Revolution of Nepal in *Asia & Pacific Studies*, vol. 7, 2010 (forthcoming); Manish Thapa, "The Role of Civil Society, Government and Political Parties in Peacebuilding" in *The New Dynamics of Conflict in Nepal*, eds. Bishnu P. Poudel & Hari Bansh Jha (Centre for Economic and Technical Studies, 2009), pp.; Manish Thapa, "From Conflict to Peace: The Role of Young People in Creating New Nepal" in *Young People, Education, and Sustainable Development: Exploring Principles, Perspectives, and Praxis*, eds. Philip. Osano and P. B. Corcoran (Netherlands: Wageningen Academic Press), pp. 289-295; Manish Thapa, 'Maoists Insurgency of Nepal: Context Costs and Consequences' in *Afro-Asian Conflicts: Changing Contours, Costs and Consequences*, eds. Seema Shekhawat & Debidatta Aurobinda Mahapatra (New Delhi: New Century Publications), pp. 78-100; Manish Thapa, "Understanding Maoists Insurgency from Wider Perspective" in Global Development Network Research Paper Series 1/05, 2005.

<sup>141</sup> Nepal has been declared Federal Democratic Republic on May 28, 2008 which ended almost 240 years of Monarchy. This took place after a decade-long People's Revolution launched by the Communist Party of Nepal (Maoist) along with several weeks of mass protests by all major political parties of Nepal culminated in a peace accord, and the ensuing elections for the constituent assembly voted overwhelmingly in favour of the abdication of the last Nepali monarch Gyanendra Shah.

<sup>142</sup> At the 1973 summit of the Nonaligned Movement in Algiers, King Birendra proposed that "Nepal, situated between two of the most populous countries of the world, wishes her frontiers to be declared a zone of peace." In Birendra's 1975 coronation address, he formally asked other countries to endorse his proposal. Since then, the concept of Nepal as a zone of peace has become a main theme of Nepal's foreign policy. As of mid-1991, Nepal had been endorsed as a zone of peace by more than 110 nations. Many of these countries also recommended a regional approach to peace as the goal. Interestingly this concept didn't have endorsement of India and the former Soviet Union.

It is a poor developing country with various social and economic ills. The Shahs, a royal dynasty, and Rana (their courtiers) ruled Nepal for most of its modern history. During 1959-60 Nepal introduced democracy, but it was short-lived. King Mahendra within one year abolished the multi-party democracy. Until the 1990s the royal class ruled Nepal without many constitutional constraints. Thus until 1990s, the country's political system was not a multi-party democracy. The prevailing political system was blamed for country's socio-economic ills. Democracy was seen as the panacea, and it became Nepal's great hope. Although political parties were banned, a pro-democracy movement was growing. From the outset, this was centred at educational institutions of higher learning where the country's rulers tolerated it. Students and teachers were at the forefront of democratic struggle. Finally these pro-democratic movement gathered strength in late 1989 and the late King Birendra acceded to their demands, giving the country a constitutional monarchy and multi-party democratic system. After which Nepal had a democratic constitution and multi-party elections. The Maoist communist party also contested in the first election and held almost a third of the seats in Nepal's Parliament.

But despite introduction of Democracy, the country failed to achieve stability despite three parliamentary and two local elections. Twelve governments were formed between 1990 and 2002. Corruption became widespread and the fruits of democracy only served the purpose of dominated upper *Bramins* and *Chhetri* caste groups, in a country where there are more than 103 ethnic/caste groups. A culture of impunity flourished as powerful leaders got away with the abuse of their power. People's expectation that development would follow democracy did not materialise. Unemployment soared, and along with it, disillusionment and dissent. Certain social ills such as corruption also increased. In short, little of substance in improving the living conditions of the people occurred even after the dawn of democracy.

The Maoists seemed betrayed by the failed promise of democracy and felt powerless even though they were hardly a fringe political party represented in the national parliament. In 1994, they abandoned their legislative seats and their leaders went underground. Then in February 1996, they declared People's War, claiming that only a communist state could solve the

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country's various social and economic ills, thus giving birth to Maoist Insurgency in the country. During the same time there was explosion of identity movement as marginalized groups - including various ethnic, caste religious, and gender groups - each of which faced political, economic, cultural, & socio-economic discrimination - began to demand autonomy, reservations and proportional representations. The Maoists Party, capitalizing on this growing disenchantment among 26 million populations, launched a violent insurgency against the parliamentary democracy in 1996.

After a decade of the rising tide of Maoist insurgency, peace has been destroyed giving rise to widespread fear and sense of insecurity. Likewise, the linchpin of the democratic system: election of the local bodies and the national parliament has been stalled. Educational institutions are in shambles and the economy is on the path to ruin, throttling badly needed development works in order to address widespread poverty, which is likely fuel more insurgency. The country's social and physical infrastructures, which have been built over the years, are also gradually destroyed, eroding the capacity of the country to deliver much needed development.

Nepal hosted one the most successful Maoist insurgency the world has ever witnessed in recent decades. The Maoists, who appear to model themselves on Peru's Shining Path guerrillas, have shaken the country's 14-years old, multiparty democracy to its very foundation and completely uprooted the 240 years old monarchy.

Several scholarly debates and analysis were conducted in the past to understand the root causes of Maoist Insurgency in Nepal. Given the magnitude of the crisis, the exploration of its causes and its continued successes has become a subject of interest to commentators and scholars in Nepal and beyond. Popular wisdom holds that insurgency is a direct result of the increasing despondency felt by the poor and socially marginalized in the country. While there is an element of truth in these prevailing analyses, evidence suggests that the underlying causes of the insurgency origins, rapid growth, and continuing success are far more complex<sup>143</sup>. Therefore, we

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<sup>143</sup> Rabindra Mishra, 'India's Role in Nepal's Maoist Insurgency': *Asian Survey*, Sep/Oct 2004, Vol. 44, No. 5, pp. 627-646.

should attempt to look into the origin of this conflict from a different perspective including the socio-economic factors, trans-boundary factors, internal politics, etc.

## 2. Deconstructing the Root Causes of the Conflict

Conflict is a universal and permanently recurring phenomenon within societies. But the question to ask is, what triggers violence? Unfortunately no single general theory of conflict exists. American Political scientist Harold Leonard Nieburg has argued that violence is a natural form of political behaviour, that the threat of inflicting pain by resorting to violence will always be a useful means of political bargaining within domestic and international society; that the threat of resorting to force demonstrates the seriousness with which the dissatisfied party sets forth its demands against the satisfied, the establishment.<sup>144</sup> Karl Marx is known for his assertion that 'conflict arises inevitably out of socio-economic change'. Moderate political elements as to Marx; prove too weak to strike viable compromises between those who agitate for rapid change.<sup>145</sup>

The recent literature in explaining internal conflicts uses two phenomena to explain conflict onset among rational choice analysts: greed and grievance. The former reflects elite competition over valuable natural resource rents. The latter argues that relative deprivation and the grievance it produces fuels conflict. The strong case for the "greed" argument was made by Paul Collier and Anke Hoeffler in their study for the World Bank.<sup>146</sup> Since then, the Collier-Hoeffler Model has been the focus of much of the greed-grievance debate in internal armed conflicts. John Bray et.al., claims that Nepal, being resource deprived state; greed factor could be irrelevant as there are few or none capturable resources that would make rebellion either viable or attractive rather grievances is the major catalysts for the rise of Maoists movement.<sup>147</sup>

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<sup>144</sup> James E Dougherty & Robert L. Pfaltzgraff Jr, *Contending Theories of International Relations: A Comprehensive survey* ( New York: Harper and Row Publishers, 1981), pp. 183.

<sup>145</sup> Ibid. pp. 315

<sup>146</sup> For more on this debate please refer: Paul Collier & Anke Hoeffler, "Greed and Grievances n Civil War," in *World Bank Policy Research Working Paper No 2355* (Washington DC: The World Bank, 2001); Paul Collier & Anke Hoeffler, "On the Economic Causes of Civil Wars," in *Oxford Economic Papers*, Vol. 50, No. 4, (October 1998), pp. 563-573; Mats Berdal & David M. Malone, eds., *Greed and Grievances: Economic Agendas in Civil Wars* (Boulder: Lynne Rienner, 2000).

<sup>147</sup> John Bray, Leiv Lunde & S. Mansoob Murshed, "Nepal: Economic Drivers of the Maoists Insurgency," in *The Political Economy of Armed Conflict: Beyond Greed & Grievance*, eds. Karen Ballentine & Jake Sherman (New Delhi: Viva Books, 2005), pp. 107-132.

In a society such as Nepal, in transition from traditional to modern, active monarchy to democracy, the causes of conflict are many. Conflict between forces seeking change and those resisting it has been ongoing since the dawn of democratic awakening in the 1940s. After the declaration of the Peoples War by the Maoists, Nepal became a country under siege with violence. What actually triggered that violence? Some see social inequality and exclusion of a large section of the population from the structures of political power and the sharing of resources by the traditional ruling elites as the underlying causes. There have been a lot of similar debates put forward as to gauge the root cause of Maoist Insurgency in Nepal.

“There is however widespread consensus as to the root causes of the conflict in Nepal. The main grievances, all closely related to each other include inequitable socio-economic and political access, bad governance/corruption and widespread poverty. These issues are used by the Maoists to justify their challenges to the legitimacy of the government, and all contribute to motivate certain sectors of the population to join or at least support their movement and their cause.”<sup>148</sup>

The new political order set up after 1990 failed to include all sections of Nepali society and nationalities and *Dalits* (untouchable caste). They remained – and they felt they were –outside both mainstream politics and the reach of development programs. Traditional regional disparities continued and far flung areas like districts of *Karnali Zone* remained under-represented in politics, planning and the development processes. Meantime, the gap between the people in the villages and the cities and between the rich and the poor continued to widen. Nepal in the 1990s experienced relative prosperity in the urban areas, but the redistribution of wealth and opportunities remained skewed, resulting in increased unemployment.

It did not take long for the insurgency launched simultaneously in three mid-western mountain districts of *Rolpa*, *Rukum*, *Jajarkot & Gorkha*, and *Sindhuli* in the east to spread. By the year 2000, Maoist violence had left no district unaffected and by mid January 2001, the Maoists had declared the formation of a provisional revolutionary district government (parallel government) in *Rukum*, *Jajarkot*, *Sallyan* and *Rolpa* districts. There are many theories on why the influence

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<sup>148</sup> Kievelitz, Uwe and Tara Polzer. *Nepal Country Study on Conflict Transformation and Peace Building* (Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), 2002), pp. 10.

spread as fast as it did. Some attribute the spread of rebel influence to the involvement and support of the excluded groups – mainly women, minorities and the *Dalits* – but there is not enough evidence to isolate this as the main reason. As noted by the Saubhagya Shah, the epicentre of the insurgency - the *Rapti Zone* in the mid-western Nepal – is not the most backward region in the country. He argues that “if social and economic marginalization alone were responsible for the emergence of the Maoist Movements, the hill districts of *Karnali*, *Seti* and *Mahakali* zones would be far more likely candidates, not only because of their grinding poverty and chronic food shortage, but also because of the nature of their terrain and their remoteness from the state centres<sup>149</sup>. Even though difficult to generalize, what is almost clear is that the spread of Maoist influence has strong social and economic roots including the exclusion of the poor and the marginalized by the State, as opposed by government to it being only ideological and “law and order problem”, or “terrorism”,<sup>150</sup>

From one perspective, the Maoist insurgency in its mid-western stronghold areas can be seen as a renewal of an age old confrontation between the *Thakuri* Raj and the radical left. The *Thakuris* (descendants of the rulers of the old principalities) and their clients had long dominated this area, and the nature of their rule at local level was repressive. This was in accord with the authoritarian regime at the centre during the party less *Panchayat* system<sup>151</sup> (1962-1990). Even after the restoration of democracy in 1990, the former *Panchas* survived, reviving their power base under

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<sup>149</sup> Saubhagya Shah, “A Himalayan Red Herring? Maoist Revolution in the Shadows of the Legacy Raj,” in *Himalayan “People’s War”: Maoist War in Nepal*, ed. Michael Hutt (London: Christopher and Hurst Publication, 2004), pp. 192-196.

<sup>150</sup> Arjun Karki & Binod Bhattarai, *Whose War: Economic and Socio-Cultural Impacts of Nepal’s Maoist – Government Conflict* (Kathmandu: NGO Federation of Nepal, 2003), pp. 3-10.

<sup>151</sup> Adopted by King Mahendra Shah, the new constitution promulgated on December 16, 1962, created a four-tier *panchayat* system. At the local level, there were 4,000 village assemblies (*gaun sabha*) electing nine members of the village *panchayat*, who in turn elected a mayor (*sabhapati*). Each village *panchayat* sent a member to sit on one of seventy-five district (*zilla*) *panchayat*, representing from forty to seventy villages; one-third of the members of these assemblies were chosen by the town *panchayat*. Members of the district *panchayat* elected representatives to fourteen zone assemblies (*anchal sabha*) functioning as electoral colleges for the National Panchayat, or Rashtriya Panchayat, in Kathmandu. In addition, there were class organizations at village, district, and zonal levels for peasants, youth, women, elders, laborers, and ex-soldiers, who elected their own representatives to assemblies. The National Panchayat of about ninety members could not criticize the royal government, debate the principles of party less democracy, introduce budgetary bills without royal approval, or enact bills without approval of the king. Mahendra was supreme commander of the armed forces, appointed (and had the power to remove) members of the Supreme Court, appointed the Public Service Commission to oversee the civil service, and could change any judicial decision or amend the constitution at any time.

a new guise by responding to the Nepali Congress's policy of incorporating the traditional social and political elites in its schemes of party building during the early 1990s.

However, the sense of popular empowerment spread after the successful 1990 *jana andolan* (People's Movement of 1990s) introduced a new power base against the traditional forces. Both the CPN (UML) and the CPN (Maoist, formerly the UPF) emerged as the most influential left forces in the people's fight against various forms of the *Thakuri* Raj in this region. The equation among the left forces has changed in favour of the CPN (Maoist) as a consequence of the UML's movement from the left towards the centre, while the Congress Party is constantly heading towards the right from the centre of the political spectrum in the country. The local *Thakuri* – centrist alliances in the mainstream parties' have never been strong under the democratic set-up. It deteriorated during the period of hung parliament (November 1994 to May 1999). As politics was concentrated at the centre in the game of government making and unmaking, the parliamentary parties grossly ignored the need for the party building at the grassroots level, thus providing occasion for a long drawn-out people's war<sup>152</sup>.

Lund and Mehler divide the root causes of conflict into four main areas with sixteen sub-areas. Nearly all of the causes mentioned are present in Nepal<sup>153</sup>.

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<sup>152</sup> Krishna Hachhethu, "The Nepali State and the Maoist Insurgency, 1996-2001," in *Himalayan "People's War": Maoist War in Nepal*, ed. Michael Hutt (London: Christopher and Hurst Publication, 2004), pp. 59-61.

<sup>153</sup> Michael Lund and Andreas Mehler, *Peace-Building and Conflict Prevention in Developing Countries: A Practical Guide*. (CPN Guidebook Draft Document: Brussels/Ebenhausen, 1999), p. 47 as reported in Kievelitz, Uwe and Tara Polzer. *Nepal Country Study on Conflict Transformation and Peace Building* (Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit -GTZ, 2002), pp. 25-27.

## ROOT CAUSES OF VIOLENT CONFLICTS

#1: Imbalance of Political, Social, Economic and Cultural Opportunities	#2: Illegitimate, Undemocratic and Inefficient Governance	#3: Absence of Opportunities for the Peaceful Reconciliation of Group Interests and for Bridging Dividing Lines between Groups	#4: Absence of an Active and Organized Civil Society
<ul style="list-style-type: none"> <li>◦ Socio-economic inequities</li> <li>◦ Exclusive government elite</li> <li>◦ Violation of political group rights</li> <li>◦ Destabilization by refugees and internally displaced people</li> <li>◦ Demographic pressure</li> </ul>	<ul style="list-style-type: none"> <li>◦ Legitimacy deficit of government and public institutions</li> <li>◦ Insufficient or declining public services</li> <li>◦ Criminal, social and political violence</li> <li>◦ Biased interpretation of the law by judiciary and security services</li> </ul>	<ul style="list-style-type: none"> <li>◦ Absence of effective dispute resolution mechanisms</li> <li>◦ Absence of plurality/diversified debate</li> <li>◦ Distrust amongst identity groups</li> <li>◦ Weak or detrimental external engagement</li> </ul>	<ul style="list-style-type: none"> <li>◦ Weak institutions/civil-society</li> <li>◦ Absence of professional and independent media</li> <li>◦ Lack of economic “peace interests”</li> </ul>

We will now look into the root cause of the Maoist Insurgency from a different angle taking into account the framework provided by Lund and Mehler. In addition to this framework other aspects are also considered which may help us to understand causes behind the spread of this insurgency.

### ***2.1 Imbalance of Political, Social, Economic and Cultural Opportunities***

Nepal's location between two civilizations (India and China) has in many ways shaped its distinctive history and society. Modern Nepal till 2006, was a Hindu Kingdom, where Indo-Aryan Customs and traditions dominated the rest of the group even though Nepal has three major groups of distinct origins namely Indo-Aryan - concentrated in the southern plains and mid-hills; Tibeto-Burman migrants who live in the hills and mountains and *Newari* people, who claims to

be the original people of Kathmandu Valley.<sup>154</sup> Maya Chadda asserts that Nepal's political set-up from the foundation of the state of Nepal has been dominated by some segments of Indo-Aryans which has ruled Nepal from its inception. Chadda also claims that Nepal's ruling elites for many years decided to have a close society due to their belief that close societies would be a political stable society.<sup>155</sup> This was clearly observed during the 150 years of *Rana* Rule – a high caste oligarchy that usurped power from the King until being deposed with the help of independent India by the Nepali King Tribhuvan.<sup>156</sup> Such practices by the ruling elites led to the marginalization of the vast number of the ethnic/caste groups from the power centers. The following two quotations portray the complex scenario in Nepal:

“In terms of caste and ethnic break-up, the country is essentially a conglomeration of minorities, with the two largest groups comprising 16 percent (*Chhetri*) and nearly 13 percent (*Bahun*) of the population. None of the other groups constitute more than 10 percent of the population. Regardless of the reality on the ground, Nepal was usually represented as a Hindu kingdom where different castes as well as ethnic, linguistic and religious groups have co-existed peacefully. However, the subordinate groups began to question this picture of tolerance and pluralism. Particularly since the restoration of multi-party democracy in 1990, when the open political atmosphere allowed the emergence of an energetic movement of ethnic assertion, whose leadership might regard Nepal as a pluralistic society, but one that is characterized by hierarchy, dominance and oppression.”<sup>157</sup>

“The future prospects of Maoism in Nepal will...depend largely on the extent to which the newly elected Nepali Congress government addresses the historic neglect and discrimination of the small rural communities which still make up the overwhelming majority of the population of the country...[which] means that a radical shake-up of the public administration system is in order to

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<sup>154</sup> Maya Chadda, *Building Democracy in South Asia: India, Nepal, Pakistan* (Colorado, Boulder: Lynne Rienner Publishers, 2000), pp. 51-52.

<sup>155</sup> *Ibid.* pp. 51-53.

<sup>156</sup> *Ibid.* pp. 52.

<sup>157</sup> Rajendra Pradhan, "Ethnicity, Caste and a Pluralist Society" in *State of Nepal*, eds. Kanak Dixit and Shastri Ramachandaran (Kathmandu: Himal Books, 2002), pp. 3-5.

make both more representative of the ethnic diversity of the country and more responsive to the needs of peasant communities.<sup>158</sup>

There was a rapid economic marginalization among the citizens of Nepal. They were deprived on the three basic dimensions of health, education and a decent standard of living. Based on the US\$ 2 per person per day international poverty line, about two-thirds of the Nepali population were still poor in 2005.<sup>159</sup> Economic inequality is also on the rise—a trend related to the spread of economic liberalisation. For example, the Gini coefficient of expenditures was 0.31 during the 1980s, 0.43 during the 1990s and 0.47 during 2000-03.<sup>160</sup> This represents the highest level of such inequality in South Asia. The ratio of the consumption of the richest fifth of the population to that of the poorest fifth increased from 4.3 during the 1980s to 7.6 during the 1990s to 9.1 during 2000-03—the highest level, by far, for South Asia (see Table below).

Table: Nepal's Rising Economic Inequality<sup>161</sup>

Year	Gini coefficient of expenditures	Ratio of the consumption of the top to the bottom quintile
1980s	0.31	4.3
1990s	0.43	7.6
2000-03	0.47	9.1

Another notable characteristic of Maoist movement is the degree of women's participation in guerrilla ranks. Women's political participation in the past had been limited to electoral areas, especially in voting and occasional candidacy in elections. It is a big surprise that Nepali women have now joined guerrilla organization taking up arms. It is one of the most commented on features of the Maoists rebellion due to the degree of women's participation in the movement. One third of all foot soldiers in Maoist strongholds are said to be women. Women occupy

<sup>158</sup> Andrew Nicholson as quoted in Deepak Thapa, "The Maobadi of Nepal" in *State of Nepal*, eds. Kanak Dixit and Shastri Ramachandaran (Kathmandu: Himal Books, 2002), pp. 86.

<sup>159</sup> UNDP, *Nepal: Human Development Report: State Transformation and Human Development* (Kathmandu: UNDP, 2009).

<sup>160</sup> Udaya Wagle, "Are Economic Liberalization and Equality Compatible? Evidence from South Asia," *World Development*, Vol. 35, No. 11, (2007), pp. 1836-1857.

<sup>161</sup> *Ibid.*

positions of leadership throughout the Maoist hierarchy, participate actively in village defence groups, and work as couriers and guides. It is reported that some of "the most violent actions against local 'tyrants' are associated with all women-guerrilla groups."<sup>162</sup> It is a subject of analysis that why many rural women have been a part of Maoist Movement? What specific life experiences convinced or compelled the women to take part in Maoist activities? The verification process of United Nations Mission in Nepal (UNMIN) on 27 Dec 2007 revealed that women made up 19 percent of total Maoists military. This is surprising fact in a masculine society where the military profession was always reserved for men. Among these female military personnel, it is reported that most come from ethnic and *dalit* groups, but there are also women from the *Bahun-Chhetri* castes.<sup>163</sup> Ideologically, the Maoist claim to favour an end to the patriarchal organization of the society. In Nepali context, it appears that this position is exemplified by their demands for equal rights for women to inherit ancestral property. In the well-known forty-point demand submitted to the government just before the declaration of people's war, one point deals exclusively with the patriarchal exploitation and discrimination against women demands that it should be stopped and daughters should be allowed access to parental property. However, the full liberation of women and gender equality is to be achieved only in a classless or communist society. Such a position is widely explained by the Maoist to women through political classes, cultural programs, and the party media and mass print media. So, women are another interest group which Maoists have focussed. They have time and again addressed women needs to attract them to their activities. This new phenomenon should not be taken lightly.

## ***2.2 Geographical Condition and Unemployment***

Nepal's rugged terrain (as similar to that of Afghanistan and Peru) is one of privilege for the Maoist and helps them to plant their roots in Nepal. The geological structure of Nepal has been suitable for guerrilla war operation. This is one of the important factors, which have led to the

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<sup>162</sup> Shobha Gautam, Amrita Banskota & Rita Manchanda, "Where There Are No Men: Women in the Maoist Insurgency in Nepal," in *Understanding the Maoist Movement of Nepal*, ed. Deepak Thapa, (London and New Delhi: Sage Publications, 2003), pp. 93-124.

<sup>163</sup> Mandira Sharma & Dinesh Prasain, "Gender Dimensions of the People's War: Some Reflections on the Experiences of Rural Women," in *Himalayan "People's War": Maoist War in Nepal*, ed. Michael Hutt (London: Christopher and Hurst Publication, 2004), pp. 154.

growth of Maoism in Nepal. The inexperienced and untrained Maoist rebel has several times beaten the Nepal Police and Government Army taking advantage of the geographical factor.

Thousands of unemployed and ill-educated youths in the interior of Nepal have joined the Maoist forces. The attraction to the rebels is particularly strong among ethnic minorities and the dalit castes (the Hindu “untouchable” castes). For typical rural youths who are limited by caste/ethnic discrimination and facing lack of educational and employment opportunities, joining the Maoist armed movement provides a quick way to be counted and to belong to something. There is also the added attraction of becoming involved in the pervasive networks of extortion and bank robbery operated by the Maoists to finance personal consumption and the guerrilla war that is said to have made the Nepali Maoist Movement the richest rebel group in Asia.<sup>164</sup>

Similarly given the precarious economic situation in the country, joining the Maoist Movement became an attractive option for young men and women in a growing number. In due course, the possession of arms was viewed as a means of subsistence by youth and child soldiers—and particularly by the footloose and often angry core members who faced educational difficulties and social exclusion. Moreover, the rebel groups provided their soldiers with food when their own Government would not. After 10 years of conflict the rebel combatants have gotten so used to the spoils of war and soldiering – power, prestige, resources – that it has become an accepted way of life and living among them. There is also the knowledge that re-entry into civilian life may cost them their lives, either at the hands of the Maoists or by the state forces scouring the countryside, for guerrillas. Hence, for them staying and fighting is ironically the safer alternative. This has bred a whole class of professional young guerrillas who may or may not understand or even agree with the full political implications of what they are fighting for, yet fully understand and appreciate the sense of power, purpose and resources that being a guerrilla has placed at their disposal. This core group of young Maoist fighting cadre is the driving force behind the guerrilla war.

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<sup>164</sup> Dhruva Kumar Shrestha, "Consequences of the Militarized Conflict and the Cost of Violence in Nepal," *Contributions to Nepalese Studies*, Vol. 30, No. 2, (2003), p. 184.

The low level of societal development, especially economic development, which could provide a venue for the capable young people into the labour market, is not available. Whereas literacy rates have increased over the decades, more students have failed the School Leaving Certificate (SLC) examinations (to be taken at the end of the tenth year of school). If the Maoist is a young people's movement, then they appear to be an alternative or 'outfall' option for those who consider themselves unable to gain access to the formal system. The option to join Maoist is most probably additionally supported by the very high degree of failure in the SLC examination, so that the failed pupils cannot hope to enter positions within the government or within (the very few) enterprises. These educated unemployed youth (the rate of which is increasing at geometrical proportions every year) have neither a job nor a school to go where they could be kept busy. These people, which are in between 15 to 18 years in age, are joining the ranks of armed guerrillas. This is one of the reasons why the Maoists were able to recruit immensely in their so-called *People's Army*.

### ***2.3 Illegitimate, Undemocratic and Inefficient Governance***

The 1990 People's Movement meant many things to many people. But for all people alike it ignited a level of expectations for progress and positive change unheard of in the aftermath of earlier political changes in Nepal. With political parties, media, activists and individual leaders joining the chorus, the belief that political freedom and democracy would rapidly and easily translate into progress of the society.

The new democracy transformed the political structures and gave some rights to the people. Ali Riaz and Subho Basu claims that the right to information, the right to organize associations, and separation of the judiciary, executive, and legislature constituted remarkable improvement in terms of political rights of people.<sup>165</sup> But it failed to transform the socio-economic status of Nepali people. The idealism of the movement soon gave way to Nepali realities – parties poorly prepared to exercise democratic power, old patronage structures remained intact, limited scope left for sustained economic growth, the antiquated centralized state continued, and government lacked capacity, expertise or will to convert ideas into successful policy. Add to this the

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<sup>165</sup> Ali Riaz & Subho Basu, *Paradise Lost: State Failure in Nepal* (New Delhi: Adarsh Books, 2010), pp. 59.

rampantly corrupt leadership of the two major political parties, i.e. Nepali Congress (NC) and Communist Party of Nepal - Unified Marxists Leninist (CPN-UML). These parties took turns to occupy the government to abuse power to an extent that citizens are disappointment and disillusioned with the fruits of “democracy”.

The frustrations associated with the unfulfilled expectations of the people following the replacement of the absolute monarchy with multiparty democracy provided fertile ground for the Maoist movement. The lack of access to political and economic space has been compounded by bad governance and corruption. Despite enormous amount of funds being poured into Nepal for development, the proportion of Nepalese below the poverty line are now greater than ever before.<sup>166</sup> The decentralization process to improve governance and increase people’s participation has been implemented but has not been very effective. The United Nations Country Team of Nepal, in its Progress Report in 2002 has rightly observed that, “The legitimacy of these structures has rested more on legal requirements and the financial and organizational ‘support’ of the central government rather than on the stake holding of the local voters.”<sup>167</sup> Similarly Saubhaghya Shah’s observation portrays the reality vividly: “It remains Nepal’s singular misfortune that the political forces are always engrossed with changing the regime, but never altering the substance of governance. ... For the political elites and counter-elites, establishing rule-based governance and institutional procedures has so far proved less attractive than simply overthrowing the political opposition and ruling through patronage and fiat.”<sup>168</sup>

When the movement oriented political groups of the *Panchayat* era turned themselves into political parties, they failed to build their institutions in democratic manner. While almost all of them mouthed democratic slogans, none built mechanisms through which the illegalities of party leaders, ideologues and members could be disciplined through transparent, credible but decisive sets of intra-party rules and procedures. Some political misdemeanours were allowed to occur with impunity in each of the big parties – Nepali Congress (NC), Communist Party of Nepal (Unified Marxist –Leninist) (CPM –UML) and Rastriya Prajatantra Party (RPP). Personal

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<sup>166</sup> Nepal Human Development Report. UNDP 2001, pp. 19-21.

<sup>167</sup> Progress Report 202: Millennium Development Goals Nepal, United Nations Country Team of Nepal, February 2002.

<sup>168</sup> Saubhaghya Shah, "From Evil State to Civil Society" in *State of Nepal*, eds. Kanak Mani Dixit and Shastri Ramachandaran (Kathmandu: Himal Books 2002), pp. 155.

aggrandizement, often in the name of helping the party, was overlooked. Although opposition parties often indulged in moral posturing, they too failed to come up with effective laws to tame excesses of the ruling party. The CPN (UML), which led the opposition for most of the period, was unable to create a social environment in which the laws that would govern party finances - said to be the single most important source of political corruption in Nepal –could be passed. This kind of deceit on the part of the political parties contributed directly to a widespread disenchantment with the multi-party democratic set-up, and facilitated the political arrival and growth of the Maoist.<sup>169</sup>

The fact is that Nepal has suffered for the past 12 years from corrupt, visionless leadership and rudderless and arbitrary state control, which has contributed in countless ways to the longevity of the Maoist Insurgency. Large ecological areas of the country have been sidelined in government measures to relieve poverty and encourage economic growth. These are, in particular, the mountain areas of the west and far west, where Maoist have begun their activities and taken the control.

Similarly, entrenched elite of upper caste Nepalese from the central belt of Nepal has monopolized government, including the two political parties who were in power from 1990, and the bureaucracy. Large numbers of citizens have been excluded socially, politically and economically by the hierarchical system. These are the *Janajati* – the ethnic group, and the *dalit*-the untouchable caste at the bottom of the Hindu caste system. Similarly women have also been excluded socially, politically and economically by the prevailing patriarchy. Inevitably those women of ‘low caste’ status have endured a double exclusion.

The reasons described above, needless to emphasise, provide enough rationale as to why the Maoists have constantly gained the strength exploiting the weakness of its opponent, the state and how it created turf to the monarch to legitimate his Royal Coup. The post-1990 politics have been characterized by anarchy which is reflected in the major events that have occurred in the subsequent 12 years (1992 – 2004) such as parliamentary elections being conducted 3 times,

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<sup>169</sup> Pratyoush Onta, “Democracy and Duplicity: The Maoists and their Interlocutors in Nepal,” in *Himalayan “People’s War”: Maoist War in Nepal*, ed. Michael Hutt (London: Christopher and Hurst Publication 2004), pp. 138.

recommendation for the dissolution of House of Representatives (HoR)) made 6 times; special sessions of the HoR being summoned 7 times, and government was changed 15 times (see table below). All these events occurred because the political sphere was excessively concentrated on power games. Besides, the political instability, frequent changes of government, politicization, division in the police force, erosion of ideology and decline in the credibility of political parties and their leaders-- all these count for weakness of the state's crisis management capacity vis-à-vis the Maoist movement. Since politics is concentrated at the centre (and under the control of upper caste *Bramins* and *Chettris*) in the game of government making & breaking, parliamentary parties grossly ignored the need of party building at the local level. This helped the Maoist to create their own space and territory for their 'long protracted people's war'. The Maoist Insurgency was started at a time when the state was heading towards instability, anarchy and crisis, owing to the unholy alliances among the parliamentary parties.

**Table: Governments in Nepal 1999 – 2004<sup>170</sup>**

Date	Prime Minister	Political Party	Duration
04-19-1990 till 05-25-1991	K.P Bhattarai	Nepali Congress + ULF (Interim)	13 Months
05-26-1991 till 11-28-1994	G.P Koirala	Nepali Congress (Majority)	43 Months
11-29-1994 till 10-09-1995	M.M Adhikari	UML Minority	9 Months
09-11-1995 till 03-11-1997	S.B Deuba	Congress-NDP-NSP Coalition	18 Months
03-12-1997 till 10-07-1997	L.B Chand	NDP (Chand) –UML-NSP Coalition	6 Months
10-08-1997 till 04-14-1998	S. B Thapa	NDP (Thapa) Congress – NSP Coalition	6 Months
04-15-1998 till 08-25-1998	G.P Koirala	Congress (Minority)	5 Months
08-26-1998 till 12-22-1998	G.P Koirala	Congress - ML Coalition	4 Months
12-23-1998 till 05-26-1999	G.P Koirala	Congress - UML-NSP Coalition	5 Months
05-27-1999 till 03-09-2000	K.P Bhattarai	Congress (Majority)	10 Months
03-10-2000 till 07-22-2001	G.P Koirala	Congress (Majority)	28 Months
07-23-2001 till 10-04-2002	S.B Deuba	Congress (Majority)	14 Months

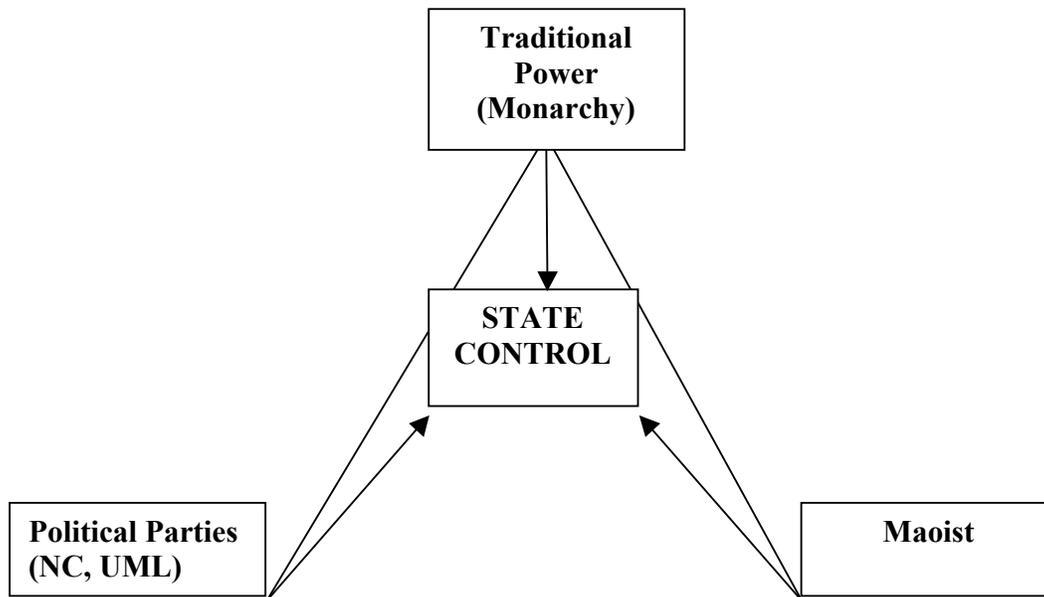
<sup>170</sup> Nepali Congress Party founded by socialist leader B.P Koirala; ULF – United Left Front – coalition of small communists party (including CPN –UML) formed to fight the *Panchayat* system in 1989 and this coalition dissolved when the three ULF ministers left interim government; UML – Communist Party of Nepal (United Marxist-Leninist) – originally professed revolutionary but now operated within parliamentary system; NDP – Nepal Democratic Party – partly former supporters and activists of pre-1990 *panchayat* regime; NSP - Nepal Sadbhavana Party – small regional party of Nepal southern plain *Terai* – associated with people of "Indian Descent"; ML – Communist Party of Nepal – Marxists Leninist – splinter group from UML in March 1998 and again rejoined in 2002; Nepali Congress Democratic – splinter party of Nepali Congress by led by Sher Bahadur Deuba in 2003/2004 but later again merged within Nepali Congress in 2007.

10-11-2002 till 06-04-2003	L.B Chand	King's Appointed Cabinet	8 Months
06-05-2003 till 06-02-2004	S. B Thapa	King's Appointed Cabinet	12 Months
06-03-2004 till 02-01-2005	S.B. Deuba	Splinted Nepali Congress (Democratic)	8 Months

#### ***2.4 Absence of Opportunities for the Peaceful Reconciliation of Group Interests and for Bridging Dividing Lines between Groups.***

The situation in Nepal was perhaps more complicated than most other conflict situations in that in addition to the multiparty system, the monarchy was also a major player in the country. This became more visible especially after the removal of the Prime Minister Sher Bahadur Deuba by then King in October 2002. Since then, the various political parties have refused to participate in the governmental process. Since many perceived the takeover by the King to be unconstitutional, the non-participation by the political parties is viewed as lack of input from the people.

The institution of the monarchy has always been ascribed a central position throughout Nepal's history. But survival of such a central institution started to dwindle after 2001. King Gyanendra reached to the throne in the background of the Royal Massacre of June 2001, in which King Birendra along with his entire family was killed. Unlike his predecessor, King Gyanendra had a problem of legitimacy. His popularity and legitimacy declined due to his ambition to become a "Constructive Monarch". The royal take-over of power, which started since October 2002 invited confrontation with all the major political parties. This entry of monarchy in the power game had further worsened the stability of Nepal and the conflict had thus taken a triangular shape.



*Fig: The Triangular Contention*

Similarly, the state capacity to use the armed forces was limited by the fact that the then Royal Nepalese Army (RNA) was not under the control of a civilian government. The party-military hostility was compounded by the factors of historical legacy,<sup>171</sup> constitutional ambiguity<sup>172</sup> and non-cooperation. The exchange of heated words between civilian leaders and military officials accusing each other for the escalation of the Maoist crisis surfaced publicly several times. The Government military reaction was further complicated by the palace's separate dealing with the Maoist. The army had deliberately and consciously kept itself at a distance from the elected government and multiparty democracy as if its primary duty is only to protect the palace. But after the Royal Proclamation in February 1, 2005, RNA was active in forefront against the Maoist.

The Maoists cultivated internal contradictions and crisis among the same actors – particularly the palace/army and the political parties – to enhance its strengths and capacities. Maoists utilized the situation on their advantage both ideologically and strategically. Riaz and Busu assert that ideologically Maoists rejected the prevailing democratic system and strategically Maoists

<sup>171</sup>South Asian Analysis Group (SAAG) Working papers February 2005, <http://www.southasiaanalysis.org>.

<sup>172</sup> SAAG Working Papers December 2004, <http://www.southasiaanalysis.org>.

undermine it by organizing armed insurrection against the political elites badly divided among themselves<sup>173</sup>. After Royal coup, the Maoists started forging very good relations with the political parties and this relationship started to turned into mutual cooperation after a 12 point agreement was signed on November 2005 in New Delhi. This set a base for the April Revolution of 2006 which toppled the Monarchy and led Nepal towards a new political transformation.

### ***2.5 Absence of an Active and Organized Civil Society***

It might seem appropriate to start this section with Nepal Human Development Report 2001 which observes, “In Nepal, where society is comprised of many castes, creeds and ethnic groups, strong patrimonial and patriarchal systems have long existed to perpetuate the domination of the elite. Subsidiary governance will be realized only when people themselves become aware of their rights, and exercise them as citizens and members of civil society to promote individual and collective well-being.”<sup>174</sup> Nepal’s decade-long conflict between the government and the Maoist rebels has disrupted the relationship between civil society, the state and the market. Successive governments during the time of the conflict took an authoritarian stance and tried to place restrictions on civil society groups, thereby reducing their room to manoeuvre. While civil society was thought to act as a check on the powers of the state, it was the state that set the parameters for civil society, considering it to be an ‘evil society.’<sup>175</sup> Nepal’s civil society failed to play a crucial role in mediating between the needs of special groups and those of the common good, between political and economic sectors for the welfare of the majority of citizens, who are poor, powerless, deprived, and, due to the decade-old conflict, alienated from the mainstream democratic and development process.

After the February 1, 2005 Royal Proclamation, civil society was seen as more active and influential than predicted. Though it was unable to intervene decisively in conflict, it played a more important and critical role in mobilizing the Kathmandu middle class, whose democratic

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<sup>173</sup> Raiz and Basu, *Paradise Lost: State Failure in Nepal*, p. 134.

<sup>174</sup> *Nepal Human Development Report 2001*. New Delhi: Oxford University Press, 2002, pp. 6.

<sup>175</sup> Manish Thapa, "Ministry of Peace & Reconstruction: A Foundation for Peace" in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, eds. Paul Van Tongeren & Christine Van Empel (The Netherlands: Global Partnership for Prevention of Armed Conflict, 2007), pp. 55.

aspiration tipped the balance in the 1990's but who has become dissatisfied with the party politics.

### Short Glance on the Root of Conflict in Nepal

STRUCTURAL CAUSE						
Unification through conquest	Religion based elitism	Political Centralization	Lack of Democratic Practice		Bad Governance	
Latent Conflict	Socio-economic Disparity	Regional Imbalances	Chronic Poverty	Ethnic Discrimination	Gender Prejudice	Caste-based exclusion



PROXIMATE CAUSE				
Failure of Democratic Leadership	Exclusion of Bhattarai Faction of the UPFN in 1994 Election & formation of the CPNM in 1995	Operation Romeo (armed Operation to suppress people)	Constitutional Contradictions	Monarch v/s Political parties Conflict



ESCALATORY CAUSE					
Operation Kilo Siera II (1998)	Royal Palace Massacre and change in the character of the Monarchy	9/11 Event and 'War on Terror'	Activation of RNA in November 2001	King Takeover in October 2002	External factors



CONFLICT PROLONGING CAUSE				
Radicalization of Conflicting Parties	Increased Human Rights Violations	Increased numbers of Internally Displaced People	Political Instability	Direct Foreign Interventions in domestic matters

## ***2.6 Regional Dynamics***

Nepal is a landlocked country, surrounded by India on three sides. The remaining northern one is separated from China by the Himalayas. This geo-political situation has forced Nepal to be completely dependent on India for trade, commerce and access to sea. Without India's cooperation, Nepal's engagement with the rest of the world and its quest for stability and economic development cannot bear much fruit. This power allows New Delhi to play a manipulative role in Nepal politics in a way, which serves its own interest.

It is also important to understand the Maoist movement in a historical context and continuity, which has thrived due to the geopolitical situation of South Asia. It is also important to understand the political crisis Nepal is currently facing within the historical context of India's role in Nepali politics, rather as a phenomenon nurtured at home by political, social and economic factors. It is worth mentioning in this context that the rulers in India had supported the pro-democracy movement in Nepal in 1950-51 when the *Rana* oligarchy collapsed. Again in 1990, Indian leaders arguably played a crucial role in restoring multiparty system by using a year-long Indo-Nepal transit impasse to precipitate the collapse of the *Panchayat* regime. One can draw certain lessons from this experience. In spite of the Nepali state's apparent weaknesses, it is capable of defusing domestic crises. However, whenever there is outside intervention/assistance, Nepal has been forced to make concessions. After 1990, India forced Nepal into signing several secret bilateral accords such as Mahakali River Treaty, Trade & Transit Treaty by manipulating the oppositional politics in Nepal. According to this argument, the rebel leader Ram Raja Singh (during the Panchayat days) and now the Maoists are prime examples of India's 'strategic coercion' against the Nepali State. Without a base outside Nepal, the Maoists would have found it very hard to continue their guerrilla war.

On February 4, 1996, when the Maoists submitted the famous 40 point demands<sup>176</sup> to the Government, the top three demands were directly related to India. The first demand proposed the removal of ‘all unequal stipulations and agreements’ from the 1950 Nepal–India Treaty of Peace and Friendship. The second one urged the Nepali Government to admit that the ‘anti-national’ Nepal India Tanakpur (Hydroelectricity) Agreement was ‘wrong’, and together with the Mahakali River Treaty, which was incorporated the former, should be nullified. The third demand stipulated that the entire Nepal-India Border should be systematically controlled, and vehicles with Indian number plates should not be allowed free entry. All of these were categorized as demands related Nepal’s nationalism. However, today they are rarely been an issue for the Maoists and the anti-Indian rhetoric is practically non-existent in their official documents.

Surprisingly the public, press and the politicians first began to suspect a link between the Maoist movement and India after the Maoists’ lukewarm reaction to the Nepal-India Kalapani border dispute that grabbed national attention in 1998. During the height of the controversy, in 1998, nationalists’ sentiments in Nepal was used as political capital by the several political parties – but not by the Maoists. Until then, regarded as one of the most vocal critics of India, the Maoists were conspicuously absent from the whole saga. This fuelled suspicion that the Maoist leadership had taken shelter in India and hence was not in a position to engage in any anti-Indian activities.<sup>177</sup> Then in August 2001, there was a dramatic report that the entire top rank of Nepali communist leadership met the Maoist chairman, Prachanda, at a small village, *Siliguri*, in the Indian state of West Bengal. It was commented at that time that such a jamboree of top-ranking aboveground and underground Nepali Communists in so called strategically important Chicken Neck could not have taken place without the knowledge of Indian security agencies.<sup>178</sup> There are many instances after the above incident where Maoist leaders were known to have been freely moving around in Indian states. The most scandalous among these was Indian leadership frequent meeting with the Maoist Supreme Prachanda in New Delhi and the New Delhi being the

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<sup>176</sup> On February 4, 1996 the CPN(Maoist) submitted, through UPF a 40-point charter of demands for socio-economic transformation to the then government headed by Sher Bahadur Deuba, giving that government a two-week ultimatum to fulfil it. The 40-point demands with the letter is Annex I of this dissertation.

<sup>177</sup> Kalyan Chaudhari, “A Spurt in Maoist attacks,” *Frontline*, April 28 – May 1, 2001 and Dipak Mishra, “Nepalese Extremists Being Trained in Bihar,” *Times of India*, April 16, 2001.

<sup>178</sup> *Times of India*, November 27, 2001.

architect of November 2005 agreement between Maoists and Seven Political Parties for ceasefire & cooperation. So following the *Siliguri* revelations, no one in Nepal, except perhaps Maoist supporters, was ready to believe that New Delhi was unaware of Maoist leaders' whereabouts on Indian Territory.

Then Indian Foreign Minister Jaswant Singh labelled the Maoists as terrorists and stated that India would support the Nepali Government in its fight against them. For Nepal, this was certainly a welcome and surprising move by India. At the time of Singh's declaration, Nepal itself had not labelled the Maoists as terrorists and both were engaged in political negotiations. India reiterated the promise that it would not allow its territory to be used by those inimical to Nepalese interest. However, the top Maoist leaders appeared to be able to function without restrictions in New Delhi; they issued frequent statements and talked to the world media from Indian capital.<sup>179</sup>

There is also another dimension to the relations between India and Nepal. India has been supplying the Nepalese government with military hardware and training assistance. The Arms Assistance Agreement was signed in 1965 to assist in reorganization and modernization of the Royal Nepal Army with the objective of strengthening the security and independence of Nepal. The agreement was recognition of the military links between the two countries and it established India as the primary supplier of arms to Nepal. In 2004, India provided a grant of over US\$ 14 million to Nepal in order to enable it to buy Indian defence equipment. Nepal wanted upgrades of India-designed INSAS rifles and ammunition and an increase in the supply of advanced light helicopters and mine protection vehicles. Nepal also bought arms from Belgium, Poland and the United Kingdom.

Among the states offering assistance, India has a special interest in curtailing the activities of the Nepalese Maoists. In India the *Naxalite* movement that had begun in 1967 had metamorphosed in three decades into a major movement affecting almost 159 districts in over 12 states. The merging of the People's War Group and the Maoists Communist Centre of India in 2004 to form

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<sup>179</sup> There are frequent interviews given to BBC Nepali Services and "The World Today" program by the Maoist leaders from New Delhi.

the Communist Party of India –Maoists (CPI-Maoists) has become a major cause for concern. What is even more disturbing to the Indian government is the evidence of linkages between the CPI-Maoists and the Maoists of Nepal. This strategic alliance has opened up avenues for movement of persons and materials. It has also led to the creation of safe havens and the extension of training facilities for each other. The two groups seek to create a corridor called the Compact Revolutionary Zone (CRZ)<sup>180</sup> that would stretch from Nepal to *Andhra Pradesh* running through *Bihar, Jharkand, Chattisgarh* and *Madhya Pradesh* of India. The Indian Maoists have already sufficient influence in these areas and using the infrastructure put up by them would be a boon for the Nepal Maoists. The CRZ would ensure free and easy movement for both groups.

### **3. Impact of the Conflict**

All conflicts share certain features, though every particular situation is unique. They reflect change and clash of interests, which varies in each context and which, if not managed, leads to escalating strife. Nepal's conflict reflects political, cultural, social and economic clash of interests, which are related to and distribution of resources and power, value systems, social norms, ethnic, caste, class and gender inequality.

The Himalayan kingdom of 27 million people has been wrecked by the Maoist insurgency for decades. Fourteen governments have taken office till 2006 since the restoration of democracy in 1990, and the great expectations of the *Jana Andolan* have yet to materialize due to continuing political turmoil and social unrest. Furthermore, only a small segment of the society, i.e. elites, those who were already rich to begin with, seemed to benefit disproportionately during this period. Twelve years on, the country still finds itself in near-complete disarray as a result of the ongoing political, social, and economic turmoil.

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<sup>180</sup> In August 2001 Communist Party of Nepal –Maoists and Naxalites of India agreed for the idea of establishing a Compact Revolutionary Zone (CRZ), from the forest tracts of Adilabad (Andhra Pradesh) to Nepal, traversing the forest areas of Maharashtra, Chhattisgarh, Jharkhand and Bihar, was conceptualized at Siliguri in a high-level meeting of the Maoist leaders from India and Nepal. The primary aim of CRZ is to facilitate the easy movement of extremists from one area in the proposed zone to another. The concept of CRZ was essentially seen as a prologue to the further expansion of Left-wing extremism in the subcontinent.

### **3.1. Socio-Economic Impacts of Conflict**

The insurgency has affected every Nepali's life. Unfortunately, much of the discourse on the conflict in Nepal is concentrated on political aspects while very little attention has been given to the socioeconomic cost of the conflict. When the first and second peace talks between the Maoists and the government took place in 2001 and 2003, the debate revolved exclusively around politics. Ten years of insurgency have weakened the Nepali state and society in numerous ways. It was the Maoist who brought the ceremonial army out of the barrack to become active countrywide for the first time in the modern era. The rebellion has retarded the economy and hit development activities. It has also made India increasingly powerful in national affairs as Kathmandu sought help from New Delhi to confront the rebels. The impact on the economy has been significantly declining and development activities are at standstill.

Over 14,000 Nepalese have lost their lives since violence began in 1996. Human rights violations have reached dangerous proportions with both, the rebels and security forces, reported to have engaged in various forms of atrocities such as torture, kidnapping and summary executions.<sup>181</sup> For a least developed country (LDC) like Nepal with a per capita income of around US \$ 238 and more than 42 per cent of people living below the poverty line<sup>182</sup>, the cost of the conflict in terms of destruction of infrastructure, decline in economic growth as well as delivery of even the basic services to the most needy have become devastating.

It is believed that the insurgency has cost Nepal eight to ten percent of its GDP. Forty percent of the Village Development Committee (VDC) buildings have been destroyed and following the dissolution of local bodies by the Deuba government, local commerce and development activities have come to a grinding halt. The inadequate rural infrastructure including power plants, electricity grid and telecommunication towers, all prime Maoist targets remains, have been ruined. Nearly 2000 schools, mostly private, have also been periodically closed. Health centres

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<sup>181</sup> Amnesty International Report that Nepal has the highest number of disappearance in the world. Amnesty International Annual Report 2004. [www.amnesty.org](http://www.amnesty.org).

<sup>182</sup> The World Bank (WB), *Nepal at Glance* (Kathmandu: The World Bank Report, 2005), pp. 2.

and schools, which depend on government grants to VDCs, are without medicines and supplies. Widespread fears of Maoists and security forces, and lack of economic opportunities have forced more than half a million people to leave their rural homes and migrate to district headquarters, Kathmandu and even India.

### **Estimated Cost of Conflict (in Billions of NRs)<sup>183</sup>**

Typology of Cost	Category	Costs in Nrs <sup>184</sup> .
Direct Cost	1. Direct Government Security Expenditure	39.63 b
	2. Maoist's Military Expenditure (estimated from various sources)	2.00 b
	3. Government expenditure on relief services	N/A
	4. Cost of infrastructures, Bank Loss, Extortions	25.00 b
Indirect Cost	1. Business loses due to Maoist strikes and closures	100.00 b
	2. Loss of income from reduced tourists arrival	11.50 b
	3. Loss of income due to lost human capital	14.40 b
	4. Loss of income due to lost FDI	6.50 b
	5. Loss of income due to displacement both internal and external	8.00 b
	6. Output foregone in the severely affected areas	N/A
	7. Forgone public investments	12.30 b
Total Cost		219.00 b

In areas most affected by the insurgency, there have been perceptible demographic changes. Women headed most households in the absence of men and boys as many have left homes due to fears of forced conscription by the Maoists and routine harassment by the security forces. Evidence of increasing reliance on remittance notwithstanding, many overseas Nepalese were shying away from sending money to their families in villages due to fear of extortion. Initially, the Maoists were able to capture public imagination with strong opposition to perceived inequality and injustices-such as patriarchy, polygamy, child marriage, gambling and drinking.

<sup>183</sup> Dhruva Kumar, *Consequences of the Militarized Conflict and the Cost of Violence in Nepal*, Contributions to Nepalese Studies, (Kathmandu) vol. 30, no. 2, July 2003, pp. 207.

<sup>184</sup> The current exchange rate is approximately 64 NRs for 1 US\$

They also dealt harshly with individuals who they identified as corrupt, which often include village elites and the police. Much of this goodwill was squandered when they resorted to indiscriminate violence.

During the insurgency, landmines were excessively used by both the sides to hurt each other. The use of the landmines was most common trick used by the Maoists to delimit the security force operations. Till now, there is no reliable information on the location of the landmines. Similarly there is also proliferation of small arms and light weapons in Nepal during and after the insurgency.

Another area that has been affected drastically is the rural healthcare sector. While the Maoists have generally been supportive of immunization, these programmes have suffered largely in recent years due to poor levels of social mobilization. Many international donor agencies have completely withdrawn from Nepal due to the poor security situation. One study revealed that in the Maoist affected districts rates of malnutrition are exceptionally high, e.g. 62 percent in *Achham*, 69 in *Jajarkot*, 78 in *Jumla* and 83 in *Kalikot*. According to the World Health Organization, any region with 40 percent malnutrition rate is facing a serious public health concern.

Though democracy and the constitution have been the principal targets, the advocates of change through peaceful political competition have suffered the biggest casualty. This polarization trends fuelled further radicalization of the political situation on ethnic and religious lines. The discourse of ethnic identities, which previously remained under carpet suddenly surfaced and entered into political discourse. Forces of 'regression' consolidated around the monarchy, using the institutions to resist the popular aspirations for change. Monarchy tried to re-establish legitimacy by using the traditional Hindu image of the King as incarnation of Vishnu and symbol of national identity are reminiscent of the Aristotelian doctrine of 'Great Chain of Being' or the idea of the divine right of kingship. Advocates of radical change took the view that the monarchy was the root cause of all miseries and its removal is the only ultimate remedy. Mainstream political parties were agitating for the restoration of the derailed constitutional process they themselves are partly responsible for distorting and hence weakening the process of peaceful and

positive change. As a result, the Democratic centre has been considerably weakened and unable to significantly influence the situation and force the warring sides to stop violence and restore the constitutional process. Even though the country was facing a humanitarian crisis of massive proportion, the political parties, the Maoists, and the royalists have paid scant attention to the pressing needs of the people. If the poor socio-economic conditions drag on, and nothing is done to alleviate poverty and suffering of the people, the good will towards the peace process would likely evaporate.

But at the same time there were also some very positive development in the form of social movements was seen due to the decade long conflict in Nepal. A new wave of social movements emerged and transformed various issues such as *dalits*, bounded labourers and *janajatis* (ethnic). The most prominent social movements is of *janajati* movement or those of ethnic groups – who are conscious of their common ethno-communal culture and have their own myths and languages separate from high caste Hindu values, claimed the status of *adivasi* or original inhabitants of the land. With the intensification of ethnic activism *Janajati* movements evolved into a mass movement and opened up new debates concerning their status in Nepali society.<sup>185</sup>

### **3.2 Gender Impacts of Conflict**

Though civil war affects common people, its impacts are felt by men and women in different ways due to their gender roles and responsibilities. Conflict, especially civil conflict like the one in Nepal, is essentially a struggle over access to, and use of, resources and power. Thus, it is important to understand the different ways that men and women are drawn into this struggle through their distinct identities, differential access to and control over resources and through changes in gender ideologies.<sup>186</sup> Any discussion of gender and conflict is immediately faced with the problem that it occurs within what is traditionally seen as a ‘masculine discourse’. Most societies, such as Nepal are structured around patriarchal cultural traditions, and in the case of

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<sup>185</sup> Ali Riaz & Subho Basu, *Paradise Lost: State Failure in Nepal* (New Delhi: Adarsh Books, 2010), pp. 13.

<sup>186</sup> Byrne Bridget, *Gender, Conflict and Development, Volume 1: Overview*, IDS Report No. 34 (Brighton: Institute of Development Studies, 1995), pp. 2

war, men tend to be the ones who take up arms and go to the battlefield while the women tend to the home fires.<sup>187</sup>

During the Maoists Insurgency, gender roles and social relationships in Nepalese villages have drastically changed. Due to displacement of male from village, the conventional roles of men and women have changed. For example, women have started to plough land in absence of their male members of the family, which was culturally forbidden.<sup>188</sup> Significantly gender relations and gender roles are fundamentally altered, thus putting extra burden on women during conflict. At the same time, the conflict opens up opportunity for women to be empowered as several cultural restrictions such as unequal treatment and discrimination against women are changed. Another notable characteristic of Maoist movement is the degree of women's participation in guerrilla ranks. Women's political participation in the past had been limited to electoral areas, especially in voting and occasional candidacy in elections. It is a big surprise that Nepali women have joined the guerrilla organization taking up arms.

But at the same time, there is a drastic increase in the domestic violence such as increased cases of rape, both by the armed force and the insurgents. Both sides used rape as a tactic to intimidate the opposing side. There were also reported cases of increase in the HIV/AIDS as most of the female IDPs were directly or indirectly forced to enter commercial sex industry. Similarly, numbers of single woman also increased due to the armed conflict. They were displaced along with their minors after the loss of their husbands from either warring party due to forced cultural practices of the society.<sup>189</sup> The Maoists Insurgency in Nepal undoubtedly impacted significantly on gender relations both in positive and negative ways.

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<sup>187</sup> Manish Thapa, *Institutional Approaches to Gender Mainstreaming in Post Conflict Reconstruction: A Case Study of World Bank* (Austria, Stadschalining: European Peace University, 2006), pp. 11-12.

<sup>188</sup> Bishnu Raj Upreti, *Armed Conflict and Peace Process in Nepal* (New Delhi: Adroit Publishers, 2006), pp. 273.

<sup>189</sup> *Ibid.* pp. 274.

## Short Glance on Impact of Conflict

IMPACT OF THE CONFLICT <sup>190</sup> :	
Positive Impacts	Negative Impacts
Pressure on local and national politicians to introduce reform, and increased awareness of existing social problems	Arbitrary law and order system: violent punishment of non-supporters and 'enemies of the people'
Increased awareness of and actions against corruption	Extortion of 'donations'
Empowerment of lower castes, ethnic groups and women	Impediment of government services, especially education
Less gambling and alcohol abuse; lowered interest rates of money lenders	Demands of food and shelter without payment
Active monitoring of government development programmes, making them more transparent and efficient	'Fake Maoists' appearing, who are difficult to control
Local conflict resolution through people's courts	Forced participation in activities and rallies
Decrease in police harassment	Spread sense of insecurity and fear

### **B . PHASES OF ARMED CONFLICT OF NEPAL<sup>191</sup>**

United People's Front (UNPF), the political wing of Communist Party of Nepal – Maoists submitted 40 point (see Annex I) demands to then Prime Minister Sher Bahadur Deuba on 4 February 1996. The demand was handed by Dr. Babu Ram Bhattarai along with the two other members of the party and warned the government if appropriate actions were not taken within 13 days (17 February, 1996) then they would be forced launch a armed rebellion movement. Prime Minister Deuba, ignored these demands and went for official tour to India, which provoked the Maoists to formally announce the start of so called People's war (insurgency). Raiz and Basu asserts that the 40-point demands were just a 'political propaganda and manifesto which the Maoists used to weave a patriotic consensus and multiclass alliances of cross segment of

<sup>190</sup> Kievelitz, Uwe and Tara Polzer. *Nepal Country Study on Conflict Transformation and Peace Building* (Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ), 2002), pp. 31.

<sup>191</sup> The time-frame for this research has been considered from February 1996 till April 2008 as a point of reference. This time- period is considered as the point of reference for this research as February 1996 is considered as the start of Maoists Insurgency in Nepal and April 2008 as the successful election of constituent assembly election which was the major demand of the Maoists Party and major criteria used for the success of peace process in this research. The development before February 1996 and after April 2008 is not considered for the ease of analysis of this research.

population behind their political agenda.<sup>192</sup> These demands are broadly categorized into three sections. The first categories of demands are related to Nepal's Nationalism including revision of all treaties with India, open borders, sovereignty issues, stopping of Gorkha Soldiers Recruitments, foreign capital, donors' dependency and the role of NGOs and INGOs etc. The second category of demands are related to democracy – which criticized the prevailing government and governance demanded for political reforms such as constitution building by Constitutional Assembly, secularism, civilian oversight of police and military, regional autonomy of ethnic minority etc. The third category of demands are related to livelihood of the people such as adoption of radical land reforms, minimum wage for labours, universal health care, free education etc.

Violent conflict in Nepal has different components and phases: in the early phase mainly on government property such as police posts and administration buildings started and human rights violations including many killings of enemies of the revolution took place (government employees, local capitalists, for example, people objecting to the Maoist philosophy, but also men that were misusing power). However, the Maoists also tried to win the people over to their philosophy. They put forward 40 point demands (See Annex I) politically centering around: the abolition of the monarchy and the introduction of people's governments, and socio-political issues focusing on justice. These demands aim at empowering women, the lower castes and other minorities, and also to counteract corruption, injustice, social inequality and foreign domination of the country. The Maoists initiated their revolution by making an appeal that they are challenging the then prevailing anarchic governance as their leaflets stated "to initiate the process of forcibly smashing this reactionary state and establishing a New Democratic state", in accordance with "the almighty ideology of Marxism-Leninism-Maoism to free humanity forever from the yoke of class exploitation".<sup>193</sup>

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<sup>192</sup> Ali Riaz & Subho Basu, *Paradise Lost?: State Failure in Nepal* (New Delhi: Adarsh Book, 2010), pp. 133.

<sup>193</sup> Translation of the Maoists leaflet distributed across Nepal by the CPN (M) at the start of the insurgency in February 1996 mentioned in International Crisis Group, *Nepal's Maoists: Their Aims, Structure, and Strategy*, Asia Report No. 127, 2005.

## The Preparatory Phase: February 1996- August 2001

The Nepali Maoists are following many of the original concepts of Mao Zedong's theory of protracted warfare with an orientation towards the adaptation of these concepts by the Peruvian Maoist movement, *Sendero Luminoso* or so called Shining Path. Meanwhile, the Nepali Maoists have developed their own adaptation called *Prachanda Path*<sup>194</sup>. They are also linked to international Maoist parties and organizations. As In China's Mao who divided the process of people's revolution into three stages -- strategic defence, strategic balance and strategic offence – was the structure followed by the Nepali Maoists, at least in theory, throughout their armed campaign.

The Maoists Strategic Balance Stage prevailed from 1996-2001. The Maoists's revolution was launched on 13 February 1996 with surprise attacks on police posts in the western districts of *Rolpa* and *Rukum* and the eastern district of *Sindhuli*.<sup>195</sup> In the early years, the Maoists gained a lot of support throughout the country and they established People's governments in several districts. Furthermore, many women supported the Maoists. The Maoists initially started by 'attacks on civilian political opponents and small guerrilla attacks; as the conflict progressed, the group shifted to mass attacks on districts headquarters'.<sup>196</sup>

During this early phase, the government saw the Maoist insurgency as a security problem to be addressed by the police. The Government's response was to crack down with increasingly repressive security measures undertaken by the poorly-trained police forces.<sup>197</sup> Thus, many human rights violations were committed by the police against Maoists and suspected Maoists. The government initially treated the insurgency as a serious law and order problem. By the end of the 1990s government recognized the need to address its political dimensions. A high-level

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<sup>194</sup> *Prachanda Path* refers to the ideological line of the Communist Party of Nepal (Maoist) considered as a development of Marxism-Leninism-Maoism and named after the leader of the CPN(M), Pushpa Kamal Dahal, commonly known as 'Prachanda'. "*Prachanda Path*" was proclaimed in 2001 and is an extension of Marxism, Leninism and Maoism which is totally based on home-ground politics of Nepal. The doctrine came into existence after it realized that the ideology of Marxism, Leninism and Maoism couldn't be practiced completely as it were done in the past, so a suitable ideology, based on the ground reality of Nepalese politics was adopted by the party.

<sup>195</sup> International Crisis Group, *Nepal's Maoists: Their Aims, Structure, and Strategy*, Asia Report No. 127, 2005.

<sup>196</sup> Kristine Eck, *Raising Rebel: Participation and Recruitment in Civil War* (Sweden: Uppsala University, 2010), pp. 10.

<sup>197</sup> *Ibid.*

commission led by Nepali Congress (NC) prime minister Sher Bahadur Deuba, set up in 1999 to examine “the Maoist problem” concluded that the insurgency sprang from “defects in the handling and management of statecraft...social discrimination, unemployment and economic development”.<sup>198</sup> When the head of the commission, Sher Bahadur Deuba, shortly afterwards became prime minister, he staked his political fortunes on the possibility of ending the insurgency through negotiations. At the time, opinion surveys also showed that the public wanted a political solution to the conflict. Thus the government declared unilateral ceasefire and invited Maoists for initiating dialogue. Thus the Negotiation process was started from August 2001 and lasted till November 2001. This leads the Maoists Movement to the second phase.

### **The Escalation Phase: November 2001 - January 2003**

In the beginning of the next conflict phase, which began with the Maoists’ withdrawal from negotiations in November 2001, the government declared a state of emergency for the entire country, and the new King authorized the use of the army to fight the Maoists as it was very evident that the poorly trained & poorly equipped police force stood little chance against hundreds and later thousand-strong hordes of Maoists fighters. The Bush-administration placed the Maoists on various sanction-inducing lists of ‘terrorists’, and the Nepalese parliament passed anti-terrorist legislation aimed at both party members and their supporters. An armed police force was established to battle the Maoists. As part of the international anti-terror campaign, the US and British government began to support the Nepali government with military aid. Maoists also subsequently launched high-profile, well coordinated attacks against the police and military.

This led to a tense situation all over the country involving roadblocks, curfews and a *de facto* abolition of the freedom of the press. Serious human rights violations from both the army and the Maoists increased. Human rights organizations reported atrocities concerning mass rape of women and girls by soldiers and executions without trial and other accusations of human rights violations.

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<sup>198</sup> Astri Suhrke, *UN Support for Peacebuilding: Nepal as he Exceptional Case*, CMI Working Paper 7, 2009.

The overall security situation in the country further deteriorated. Starting in September 2002, the Maoists gained military strength and launched major attacks against the security forces and declared that it reached the second stage of its revolution which they called as "strategic balance". The central goal in achieving strategic balance is to reduce the capacity and influence of the state while building up an alternative government-in-waiting which is done by developing the military capacity sufficient to hold one's own against opposing forces, though not necessarily equality.<sup>199</sup> It was done by declaring the formation of People's Liberation Army (PLA) in September 2001. The Maoists strategy really worked well as they were able to capture many parts of the country. Maoists attempted to reduce the state's reach through attacks on police posts to force withdrawal; attacks on mainstream party activists to eliminate political competition; attacks on local government bodies and forced resignations of officers; attacks on infrastructure to reduce the state's delivery capacity; and the intimidation and cooption of remaining institutions and civil servants, such as teachers.<sup>200</sup> Different parts of the country were affected in different ways. While the rural areas, especially in the mid-western areas, were heavily affected by the war, the entire Kathmandu Valley was not physically affected by the war at all.

The political situation, too, became tense: In October 2002, the king dismissed the then Prime Minister Sher Bahadur Deuba, dissolved the cabinet and postponed parliamentary elections for an indefinite period. In the aftermath of these events, there were demonstrations by the major political parties resulting in confrontation with the king. Then this armed conflict moved towards the triangular contention between the Monarch (who wanted an autocratic rule with support from Military), Political Parties (who wanted to restore the democracy) and Maoists (who wanted to change the entire political and socio-economic systems including establishing a republic).

Kristine Eck argues that the deployment of army was considered as the turning point of in the conflicts of Nepal which led to the escalation of violence. 'It became increasingly clear that the much feared army would not be able to definitively crush the Maoists forces as hoped and expected and it was also clear that the Maoists had little chance of outright military victory,

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<sup>199</sup> International Crisis Group, *Nepal's Maoists: Their Aims, Structure, and Strategy*, Asia Report No. 127, 2005, pp. 24.

<sup>200</sup> *Ibid.*

particularly given that the Nepal's government had powerful international backers.<sup>201</sup> Surprisingly, both government and Maoists declared ceasefire in January 2003 and resumed negotiation process. This is seen as the end of the second stage of the Maoists and with the failure of the peace talk on August 2003, Maoists revolution entered into its third stage.

### **The De-escalation Phase: September 2003 – December 2005**

This conflict phase started with the second breakdown of negotiations at the end of August, 2003. Both warring parties (Maoists and Royal National Army (RNA)) have prepared themselves during the seven months of ceasefire for an eventual restart of the conflict. With their new equipment and training, the RNA now feels more protected against direct confrontation with the Maoists, whereas the Maoists have started to apply a different military strategy. Instead of going for massive attacks on the army costly to human life, they have shifted to small scale attacks and to targeted assassinations and bombings. Moreover, they have enlarged their range of operations from rural areas, mainly in the mid-west, to the southern plains and the eastern parts of the country as well as to the cities. The war restarted with bombings and targeted assassinations in Kathmandu in early September.<sup>202</sup> This marks a clear change in military strategy by the Maoists. By early 2004 declared the formation United Revolutionary People's Council (URPC) and the declaration regional autonomous people's governments had "immensely contributed to consolidate the military base areas to prepare for final stage of their revolution known *Strategic Offensive*. The Maoists formally announced the launch of Strategic Offence on 31 August 2004. During this phase Maoists were able to launch successful attacks and captured several districts headquarters.

On the political front there existed a great rift between all actors after and before the second negotiation process. During the negotiation process between the Royal Government and Maoists, political parties described the process as an attempt to side-line the political parties.<sup>203</sup> In a press conference during the negotiation process Dr. Baburam Bhattarai – leader of Maoists Party claimed that there exists two states in Nepal representing two armies and two cultures and

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<sup>201</sup> Kristine Eck, *Raising Rebel: Participation and Recruitment in Civil War*, pp. 11.

<sup>202</sup> ICG Report, 2005, pp 26.

<sup>203</sup> Rita Manchanda, "Talks and Fears," *Frontline* 20, no. 7(29 March – 11 April, 2003).

described the ceasefire as a strategic equilibrium between these two forces which was a view to undermine the political parties which were agitating on the streets during that time for the restoration of democracy. Thus closeness of Royal Government and Maoists also dwindled after the break down of the negotiation process in August 2003. Thus these subsequent development around 2003-2004 created a high tensions among these major political actors of Nepal.

The political situation started to deteriorate after the King Gyanendra sacked Prime Minister Sher Bahadur Deuba on 1 February 2005, arrested major political party leaders and declared state of emergency by stripping some important constitutional provisions such as freedom of expression, censorship rights imposed on newspapers, radios and televisions. This coup created a new political alignment as an opportunity for the Maoists and Political parties to come closer on a common ground as the monarch with support from the army continued to exercise the stranglehold on power. This was the starting point of re-conciliation between the Maoists and the Political Parties in the history of Maoists Revolution, to cooperate on the common agenda. Since the start of the insurgency, political parties' activists and leaders were the major target of Maoists attacks. For political parties, from 1996 to mid-2001 the main threat to the parliamentary system was the Maoists but after June 2001 palace massacre and Gyanendra's accession to the throne, the Monarch became more of a threat.<sup>204</sup>

On 8 May 2005, the leaders of Seven Political Party Alliance (SPA)<sup>205</sup> issued a joint declaration for united efforts to resolve the national crisis which stressed for their demands for the restoration of democracy in Nepal. They also invited Maoists for the open dialogue and requested them to adhere on the principles of democracy and multiparty system. This declaration paved a ground work for starting dialogue between Maoists and political parties. The informal talk between the Maoists and the political in mid-2005 and Maoists declared unilateral ceasefire on 3 September 2005. These paved an opening up dialogue between the Maoists and Political parties, under the condition that Maoists would commit for the multiparty democracy and political parties would

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<sup>204</sup> International Crisis Group, *Nepal's New Alliance: The Mainstream Parties and the Maoists*, Asia Report N°106, 28 Nov 2005 , pp. 4.

<sup>205</sup> The Seven Party Alliance was a coalition of seven Nepali political parties including Nepali Congress, Nepali Congress –Democratic, Communist Party of Nepal – United Marxists– Leninist, Nepal Workers and Peasants Party, Nepal Goodwill Party (Ananda Devi), United Left Front and People's Front - seeking to end autocratic rule in the country. They spearheaded the democratic movement in Nepal during 2005-2006 and also brought Maoists into political mainstream.

accept the Maoists demand for constitutional assembly for writing up new constitution. After several rounds of talks between the two sides with support from the Indian political leaders, finally on 22 November 2005, both sides declared that a 12-point agreement was signed between them, which led to the joint strategy between Maoists and political parties work ahead to end the repressive monarchy, embraced constituent assembly elections and multiparty democracy.<sup>206</sup> This led to the start of another phase.

On November 17, 2005 in New Delhi, overcoming the last obstacles to a basic deal the twelve-point agreement between the political parties and Maoists was signed which is popularly known as 12 points Agreement (see Annex II).<sup>207</sup>

### **The Normalization Phase – January 2006 – April 2008**

The 12-point Understanding was a roadmap for the Seven Political Party Alliance – Maoists (SPA-M) to work ahead for the restoring peace & democracy in Nepal. The Understanding proclaimed that ‘implementing the concept of absolute democracy through a forward-looking restructuring of the state has become an inevitable need.’<sup>208</sup> Astri Suhrke argues that this agreement created a storm for the popular uprising despite significant hurdles remained in the agreement due to disagreement on various issues on the agreements. One of such disagreement Suhrke points out is the Seven Party Alliance of mainstream parties wanted a government based on a restoration of the Parliament that the King had dismissed (and where the Maoists, of course, were not represented), while the Maoists wanted a national political conference to establish an interim government. But all agreed that, regardless, the way forward was to create ‘a storm of nationwide democratic movement facilitated largely with the support of civil society’<sup>209 210</sup>.

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<sup>206</sup> The 12-point agreement which was signed on Kathmandu, November 22, 2005 is attached here with as Annex II (Unofficial translation).

<sup>207</sup> On 17 November 2005, the Communist Party of Nepal (Maoists) and seven-party alliance signed historic 12 point agreement in New Delhi, India. The agreement called for end of absolute monarchy, followed by the establishment of a full-fledged democracy and the restructuring of state apparatus to address political, social, economic, cultural as well as class, ethnic and gender issues. The Maoists also agreed to participate in multi-party democracy and lay down arms under the UN or any credible international supervision. See Annex II.

<sup>208</sup> Astri Suhrke, *UN Support for Peacebuilding: Nepal as he Exceptional Case*, CMI Working Paper 7, 2009, pp. 6-7.

<sup>209</sup> For more information of Civil Society's involvement in the popular uprising of 2006 please refer - Manish Thapa, "The Role of Civil Society, Government and Political Parties in Peacebuilding" in *The New Dynamics of Conflict in*

King Gyanendra hold municipal election on 6 February 2006 which gave his legitimacy a big jolt as only 20% turned out to vote<sup>211</sup> in this election which was boycotted by all the political parties. The message of this election was quite clear that legitimacy of the Royal government was in serious threat. The start of the so called *Jana Andolan II* or popularly known as April Revolution started with the call for 4 days general strike beginning from 6 April 2006 by Seven Political Party Alliance and supported by Maoists. This movement was neither fully planned nor fully spontaneous. It was founded on the loose political alliance forged by the parties and the Maoists in November 2005 with the hope that their joint peace plan would arouse population, who were increasingly disillusioned with the multiple failures of royal rule. Nepal's mainstream parties and the Communist Party of Nepal (Maoist) agreed to pursue a joint strategy against what they call 'the autocratic monarchy' and a plan for constitutional reform that, if implemented, would bring the Maoists into mainstream non-violent politics. Tens of thousands of people gather on the street protesting against the Royal Regime. The movement was remarkable for the breadth of popular participation and the speed with which it gathered momentum which was beyond the expectations of the mainstream parties and the Maoists. In order to calm down the situation, curfews were imposed with the support of police and army but people started to defy such curfews and exerted pressure on the Monarch to give back the power to the people. In order to protect his legitimacy the Monarch on 21 April 2008, offered to return the Executive power to political parties and asked the Seven Party Alliance to nominate the name of the Prime Minister. It was already too late and this offer led to the strengthening of the movement which put more pressure to the King. Finally on 24 April 2008, popular movement forced the King to accept the victory for democracy in Nepal. Forced to acknowledge the 'spirit of the people's movement', then King Gyanendra accepted popular sovereignty, reinstated parliament and invited the mainstream seven-party alliance to implement its roadmap – including election of a constituent assembly to rewrite the constitution in

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*Nepal*, eds. Bishnu P. Poudel & Hari Bansh Jha (Centre for Economic and Technical Studies, 2009), pp.; Saubhagya Shah, *Civil Society in Uncivil Places: Soft State and Regime Change in Nepal* (Washington DC: East West Center, 2008); Manish Thapa "Nepal - Ministry of Peace & Reconstruction: A Foundation for Peace" in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, eds. Paul Van Tongeren & Christine van Empel (The Netherlands: European Center for Conflict Prevention, 2007).

<sup>210</sup> Astri Suhrke, *UN Support for Peacebuilding: Nepal as the Exceptional Case*, pp. 6-7.

<sup>211</sup> The voter turnout in previous election is quite impressive and is around 60%. Almost 66% caste their vote in the parliamentary election of 1999 and 63% in the municipal election of 1997.

line with the parties' agreement with the Maoists. This historical moment transformed Nepal's political landscape but ushered in a lengthy and challenging road to peace.<sup>212</sup>

The pro-democracy movement of April 2006 transformed Nepal's political landscape forever into new direction. The first sitting of the reinstated House of Representatives proposed to hold an election to a constituent assembly. The government initiated peace process with the Maoists. Representatives of the Government and the Maoists on 26 May 2006 signed a 25-point Cease-fire Code of Conduct which paved the way for elections to the Constituent Assembly. After series of dialogue between Maoists and government, on 21 November 2006, Prime Minister Koirala and Maoist chairman Prachanda signed the Comprehensive Peace Accord (CPA) 2006 (Annex III), bringing the decade-long armed insurgency to an end and promising to chart a new destiny for "peaceful and democratic" new Nepal including inclusive of provisions on human rights, civil and political rights and needed socio-economic transformation. This declared an end to the ten-year civil war, thus paving the way for inclusion of the rebels in mainstream politics and for elections to an assembly that would write a new constitution. In a detailed agreement on arms management, the Maoists committed to cantonment of their fighters and locking up their weapons under UN supervision; and the Nepalese Army (NA) are largely confined to barracks.

The Interim constitution was promulgated on January 2008 and 83 Maoists representatives were inducted as Member of Parliament in the Interim Parliament and later Maoists joined the interim government. Subsequently with the roller coaster ride of hope and suspicion, Nepal was able to hold the historic Constituent Assembly Election on 10 April 2008, resulting in one of the most inclusive parliament both in terms of gender as well as ethnic representation. The constituent assembly, elected through a mixed first-past-the-post and proportional system have 601 members - 575 were elected and 26 nominated by the cabinet. The Communist Party of Nepal (Maoist) came out with the victory in the elections but it fell short of a majority to form a government. It decided the abolishment of 240 years old monarchy declaring Nepal to be Federal Democratic Republic of Nepal.

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<sup>212</sup> For reporting on the early stages of the pro-democracy movement, see Crisis Group Asia Briefing N°49, *Nepal's Crisis: Mobilising International Influence*, 19 April 2006. <http://www.crisisgroup.org/home/index.cfm?id=4073&l=1>

### C. CONCLUSION

In 1996 the Maoists were a small, fringe party with no weapons, few active members and a support base limited to a few pockets of the remote countryside. Their ten-year armed insurgency transformed them into a powerful political force capable of standing alongside, and sometimes overshadowing Nepal's major established parties. This is one of the successful guerrilla movements which has sustained from jungle to the parliament. There is no denying the fact that the Maoist Insurgency, after all, is indicative of some underlying flaws in the historical structuring of institutions and allocation of political, economic and social resources in Nepal. It is possible and often necessary to find a silver lining in every problem, and the Maoist insurgency too brings its own share of opportunities for Nepal and Nepalese. It has advanced a historic challenge to Nepali society, state and its custodians to dare and repair some fundamental flaws in the nature and functioning of the nation and state. In the course of attending to the crisis induced by the insurgency the leaders are presented with a landmark opportunity to re-evaluate and redesign all aspects of politics, governance, and democracy and to introduce structural reforms in the management of the state. Politicians and power centres may have to sacrifice a few things in the short run, but all Nepalese stand to gain much from a renewed, stable and strengthened democracy in long run.

## PART III: PEACEMAKING AND PEACE PROCESS IN NEPAL<sup>213</sup>

### Ending Insurgency in Nepal

As long as there is an armed conflict, there are also attempts at resolving these conflicts peacefully. In case of Nepal, although the Maoists Insurgency started from February 1996, but it didn't draw attention of the government and international community till 2000. The Nepalese government viewed it as a law & order problem and dealt with ill-trained and poorly equipped police force. By the end of the 1990s government recognized the need to address its political dimensions. A high-level commission led by Nepali Congress (NC) prime minister Sher Bahadur Deuba, set up in 1999 to examine "the Maoist problem" concluded that the insurgency sprang from "defects in the handling and management of statecraft...social discrimination, unemployment and economic development".<sup>214</sup>

There are many indications that although Nepali politicians were not taking Maoists seriously but then Monarch – King Birendra was concerned about the situation and was holding discrete talks with the Maoists with support from his brother Prince Dhirendra and some of his advisors.<sup>215</sup> There was open tension between the government and monarch during 1999 – 2000 on the use of Army to contain the Insurgency. Then Prime Minister Girija Prasad Koirala requested King Birendra give permission for the use of military which the palace denied. After the death of King Birendra in a massacre, there was revelation that he was holding secret

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<sup>213</sup> This chapter is based on my previous publications: Manish Thapa, "The Role of Civil Society, Government and Political Parties in Peacebuilding" in *The New Dynamics of Conflict in Nepal*, eds. Bishnu P. Poudel & Hari Bansh Jha (Centre for Economic and Technical Studies, 2009), pp.; Manish Thapa, "From Conflict to Peace: The Role of Young People in Creating New Nepal" in *Young People, Education, and Sustainable Development: Exploring Principles, Perspectives, and Praxis*, eds. Philip. Osano and P. B. Corcoran (Netherlands: Wageningen Academic Press), pp. 289-295; Manish Thapa, 'Maoists Insurgency of Nepal: Context Costs and Consequences' in *Afro-Asian Conflicts: Changing Contours, Costs and Consequences*, eds. Seema Shekhawat & Debidatta Aurobinda Mahapatra (New Delhi: New Century Publications), pp. 78-100; Manish Thapa "Nepal - Ministry of Peace & Reconstruction: A Foundation for Peace" in *Joint Action for Prevention: Civil Society & Government Cooperation on Conflict Prevention & Peacebuilding*, eds. Paul Van Tongeren & Christine van Empel (The Netherlands: European Center for Conflict Prevention, 2007), pp. 55-60; Manish Thapa, "Back to Negotiation: Diagnosis & Prognosis for future Negotiation Process in Nepal" in *European Peace University - Research Paper Series*, 02 (2006).

<sup>214</sup> Astri Suhrke, *UN Support for Peacebuilding: Nepal as the Exceptional Case*, CMI Working Paper 7, 2009.

<sup>215</sup> Based on my conversation with Mr Chiran Sumsher Thapa who was Principal Secretary and Advisor of King Birendra and his exclusive Memorial of Late King Birendra featured on Nepal Weekly Newspaper - Chiran Sumsher Thapa, "Marriage was not only Reason for Royal Massacre" *Nepal Weekly*, vol. 10, no. 44, 30 June 2010.

dialogue with the Maoists. King Birendra, being the well-educated and democratic monarch had views that Army should not be used against own citizen in any case and he always believed in resolving the issue by dialogue as he saw grievances of people for the rise of this insurgency.

Dr. Baburam Bhattarai one of the key ideologue of Maoists Movement of Nepal praised King Birendra immediately after his assassination and wrote a letter to Kantipur – major Daily Newspaper of Nepal stating:

*[w]hatever your political ideology might be, one thing every honest Nepali nationalist has to agree with is this: King Birendra's liberal political ideology and his patriotism were seen as his weakness and had become a crime in the eyes of the expansionist and imperial powers. Later, his unwillingness to mobilize the army – which has a tradition of loyalty towards the King – to curb the People's Revolution taking place under the leadership of Nepal Communist Party (Maoist) became his biggest crime in the eyes of imperialist and expansionist powers ... we can now say – NCP (Maoist) and King Birendra – had similar views on many national issues and this had created in fact an informal alliance between us.<sup>216</sup>*

Other informal channels were also active for seeking a peaceful resolution of this conflict through dialogue. Teresa Whitfield states that 'non-governmental and bilateral peacemakers such as the Centre for Humanitarian Dialogue, The Carter Center as well as the United Nations, in communication to different extents with India, as well as China, the United States and European Union and other donors, have been variously involved since 2000 and their efforts is geared to encourage dialogue, introduce expertise gleaned from peace processes elsewhere, or provide other unspecified support served a variety of purposes.'<sup>217</sup>

There are three formal peacemaking processes in Nepal. Out of these three formal peacemaking process only one process was successful in achieving the Comprehensive Peace Agreement and transform itself to a peace process. Other peacemaking efforts were merely limited to the negotiation process which failed after several months with deadlocks in some contending issues.

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<sup>216</sup> Baburam Bhattarai, "The Letter of Dr. Baburam Bhattarai on the Palace Massacre in Nepal," *Monthly Review*, 53, no. 2, <http://www.monthlyreview.org/0601letter.htm>, retrieved on May 30, 2010.

<sup>217</sup> Teresa Whitfield, *Masala Peacemaking: Nepal's Peace Process and the Contribution of Outsiders* (New York: Conflict Prevention and Peace Forum/Center on International Cooperation, October 2008), pp. 2.

## **A. The Two Failed Peacemaking Process**

### **1. Negotiation Process of 2001**

The first negotiation process started in a very dramatic way. When the most controversial Prime Minister Girija Prasad Koirala stepped down and paved the way to Sher Bahadur Deuba, to lead the government on 1 July 2001. On a utter surprise, Prime Minister Deuba unilaterally declared a ceasefire and called Maoists for dialogue. The Maoist also declared the ceasefire and the formal negotiation process was initiated. Thus three rounds of negotiations took place in August, September, and November 2001.

Each party had its own negotiation team and the talks were facilitated by two independent, highly respected Nepali civil society facilitators Mr. Daman Nath Dhungana and Padma Ratna Tuladhar. Prior to the talks, the Prime Minister held all-party meetings and received a broad-based mandate for the dialogue.<sup>218</sup> The Maoists negotiating team comprises of three member headed by Krishna Bahadur Mahara. Government formed team comprised of 4 members headed by Mr. Chiranjivi Wagley. The Maoists started negotiations with two major demands: a new constitution through constitutional assembly and institutionalization of republic. These demands were seen very radical by the government as government was not in a position to talk about the republic and constitutional assembly. Subsequently during the talk progressed government released sixty-eight political prisoners. By the third round, the Maoists were ready to compromise on the issue of the monarchy and demanded the installation of an interim government and elections for a Constituent Assembly. When there were signs of progress but all of the sudden the Maoists walked out of negotiations and violent conflict flared up again.

What led to the failure of the first negotiation process? There are many reasons given by scholars and commentators. Some commentators argue that the first negotiation process failed due to differences over key political issues. The Maoist demanded for an interim government, a new

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<sup>218</sup> Liz Philipson, *Conflict in Nepal: Perspective on the Maoist Movement* (London: Center for the Study of Global Governance, 2002).

constitution to be drafted by an elected Constituent Assembly and a republican state failed to find a resonance within the governmental claim that the multiparty system and constitutional monarchy were non-negotiable.<sup>219</sup> Both the parties used this as an opportunity to strengthen their military position. But other believes that Maoists had to abandon the negotiation process due to the growing internal rift. Ali Riaz and Subho Basu claims that there were tensions among the grassroots Maoists leaders & Maoists military wing with the Maoists negotiators.<sup>220</sup> The negotiations was heading far from the original goals of the Maoists party, i.e. institutionalize republic and making new constitutions through constitutional assembly which created dissatisfaction among the party cadres. Similarly, Ram Bahadur Thapa, the senior leader and head of Military wing of Maoists Party was not satisfied with the direction of the negotiation process was heading. Thus Maoists had to withdraw from the negotiation and continued their offensive attacks against the government security forces.

This negotiation process was seen as an advantage to the Maoists in many fronts. First by entering into this negotiation process Maoists get an equal footing with the government in the eyes of the international community. It was also able to release some of its prisoners' and above all during the ceasefire, it was able to strengthen its military force by new recruitments and strategic positioning. For the Maoists, in particular, used this opportunity of the ceasefire and the peace talks to weaken the other side through open political propaganda and strengthening their own political and military position. This behaviour of the Maoists during the first negotiation process is what termed by Edward Newman and Oliver Richmond as *Devious Objectives* where the disputants in an armed conflict participates in mediation processes under the auspices of third-party mediators with a motivation to improve their prospects, From this perspective, the disputants may value the assets and resources the mediations brings to the conflict more than the search for a compromise solution to end the conflict.<sup>221</sup>

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<sup>219</sup> Shambu Ram Simkhada, *Causes of Internal Conflicts and Means to resolve them - Nepal: A Case Study* (Switzerland: PSIO Occasional Paper 3, 2004).

<sup>220</sup> Ali Raiz & Subho Basu, *Paradise Lost?: State Failure in Nepal* (New Delhi: Adarsh Books, 2010), pp. 153.

<sup>221</sup> Edward Newman and Oliver Richmond, "Obstacles to Peace Processes" Understanding Spoiling," in *Challenges to Peace building: Managing Spoilers during Conflict Resolution*, eds. Edward Newman and Oliver Richmond (Tokyo: United Nations University Press, 2006), p. 2.

## **2. *The Negotiation Process of 2003***

After the breakdown of negotiations there were different attempts to prepare for renewed negotiations. In March 2002, the Maoist leader, Prachanda, offered a ceasefire to resume peace talks. But then Prime Minister Deuba, however, ruled out peace talks before the Maoists surrendered their arms. Moreover, the political situation escalated towards the end of 2002 when the king dismissed the then prime minister, Deuba, dissolved the cabinet and postponed parliamentary elections for an indefinite period. However, there had been a few local groups carrying on independent dialogue with the conflicting parties. Some of them were also supported by international governmental and non-governmental organizations in one way or another. Moreover, the UN, Centre for Humanitarian Dialogue (HD Centre), The Carter Center as well as other bilateral donors tried to support peace building in different ways. Both parties had however declined the role of external mediation.

The Second Ceasefire was declared by both parties on 29 January 2003 and subsequently the negotiation process initiated when Sagar Chettri (on behalf of Maoist) and Minister Narayan Singh Pun (on behalf of Government) signed a undisclosed ceasefire agreement. Three rounds of negotiations followed in April, May, and August 2003. Each party had a negotiation team and the talks were again facilitated by respected Nepali facilitators, two of them were already facilitators during the first round of negotiations in 2001. The four facilitators were seen as close to the negotiation teams two were appointed by the government, two by the Maoists. However, they were only allowed the limited role of providing Good Offices during and between the negotiations. Government immediately revoked the terrorists' label of the Maoists party, removed the Interpol red corner notice for the arrests of the key Maoists leaders and released almost 100 of prisoners of Maoists party. As compared to the 2001 negotiation process, this was a more well organized and well preparedness from the both sides for the negotiations. Before the start of the dialogue, 22-points Code of Conduct was signed by the government and Maoists and formed a monitoring team led by representative of Nepal Human Rights Commission consisting 13 Members.

The second negotiation process was undergoing in a completely different circumstances as compared to the first process due to various reasons. There was a distinct scenario of *Mutually Hurting Stalemate (MHS)* on both sides to enter into dialogue to find a negotiated settlement or at least undergo through a *strategic pause* to strengthen themselves. Mahendra Lawoti and Anup K Pahari argues that both sides were desperate to enter into dialogue as the circumstances was completely different for both parties.<sup>222</sup> The Monarch lost faith due to the royal massacre; there was a intense political division due to the dissolved House of Representatives by the new Monarch and his growing ambition to take control of the power and Maoists had uprooted almost all the police stations from rural part of Nepal and also limited the political activities of its rival parties namely Nepali Congress and CPN – UML. Similarly for Maoists as well the prevailing scenario was challenging as Royal Nepal Army was deployed to contain the insurgency; recruitment campaign was not going smoothly in order to maintain Maoists People’s Liberation Army and war on terrorism after 9/11 and declaration of Maoists as a terrorist was a serious implication on their movement.<sup>223</sup>

The talks took place in a cordial atmosphere; however the situation was difficult due to a number of reasons and apart from this, there was a lack of confidence between the parties. The process was additionally complicated due to the fact that the government changed during the negotiation period and only presented a negotiable proposal in the third round. However, by then, the position of the Maoists on their fundamental political issue of the Constituent Assembly had already become a make-or-break issue, comparable to the end of negotiations in November 2001.<sup>224</sup> The government instead proposed for the possibility of a round table conference to form an all-party government rather than the constitutional assembly which the Maoists denied as they reiterated that constitutional assembly is the most important condition for them to continue dialogue. Suddenly a news broke that the Royal Nepal Army killed 17 unarmed Maoists with their hands tied behind their backs (the National Human Rights Commission later confirmed this event as a war crime), the Maoists hardened their demand of the republic and later in 27 August

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<sup>222</sup> Mahendra Lawoti and Anup K. Pahari, "Violent Conflict and Change: Cost and Benefit of Maoists Rebellion in Nepal," in *The Maoist Insurgency in Nepal: Revolution in the Twenty First Century*, eds. Mahendra Lawoti and Anup K. Pahari (New York: Routledge, 2010), p. 305-306.

<sup>223</sup> *Ibid.*

<sup>224</sup> Based on my conversation with facilitators of Negotiation Process of 2001 and 2003 Mr. Daman Nath Dhungana and Mr. Padma Ratna Tuladhar.

2003 declared the end of the negotiation process citing the that there was no point in continuing the dialogue.

Analyzing the Second Negotiation Process of 2003, there were a lot of factors fuelling its failure. Lack of trust, fear and feeling of insecurity on both sides, the delay on the part of the government to finalize its representatives to the negotiation, controversies in the implementation of agreements, non compliance with the mutually agreed code of conducts, unwillingness of the both parties to agree to a human rights accord, pronouncement of uninformed judgments by diplomats and the ambiguous role of the India contributed to the failure of the second peace talks.<sup>225</sup> The second reason for the failure of this negotiation process was the both sides unwillingness to include the political parties (who were agitating against the Royal Government for restoration of democracy) in the process. In fact there are many references where both<sup>226</sup> government and Maoists deliberately tried to deny their importance in the process. During one of the press conference Dr. Baburam Bhattarai – leader of Maoists party denied the need to the other political parties to be involved in the process as he claimed that Maoists and Monarch are only two major forces.

The third reason why it failed is both sides utilized this opportunity to strengthen themselves and preparing for renewed conflict. The government utilized ceasefire period to strengthen its military capabilities in terms of arms, intelligence, training and the physical identification of the Maoist leaders and cadres. The Army significantly improved the defences of its bases, making the high-profile attacks that marked the previous phase of the war far more difficult. Even though Maoists seemed very serious for the success of this process but it also utilized this opportunity of ceasefire for intensive political and military development. It gained the release of their cadres from jail, forced withdrawal of cases filed by the government against them on the court of law, expanded public contact, promoted their political agenda and recruited, trained and mobilized additional militia and gained international recognition. Their negotiating position was designed to appeal to a mainstream audience: the proposed model of a roundtable conference, interim

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<sup>225</sup> Shambu Ram Simkhada, *Causes of Internal Conflicts and Means to resolve them - Nepal: A Case Study*. PSIO Occasional Paper 3/2004, pp. 61-62.

<sup>226</sup> International Crisis Group, *Nepal's Maoists: Their Aims, Structure, and Strategy*, Asia Report No. 127, 2005, pp. 25.

government and constituent assembly carefully avoided any reference to dictatorship of the proletariat or rolling Cultural Revolution. Thus both sides used this opportunity as devious objectives to fulfil their own interests and strengthen themselves.

The last but not the least, some spoiler behaviour was seen in this process. There were particularly two types of spoilers – the political parties and foreign diplomats. The political parties who were agitating on the streets were threatened by this talk as both the parties (Maoists and Monarch) were sidelining their role in the process. This behaviour created a fear amongst the political party leaders and they were not very supportive to this negotiation process and in fact criticized this process an attempt to sideline them.<sup>227</sup> The foreign diplomats (especially US, UK, India and EU) were supporting government agenda time and again during the negotiation process. In one of such instances number of foreign diplomats publicly praised the position paper the government presented at the third round in August 2003 as a response to the paper forwarded by the Maoists in April. This was quickly viewed by the Maoists as further evidence that the international community was in bed with the monarchy and a conspiracy against them and their revolution.

### ***3. Why the negotiations failed in 2001 and 2003?***

There are many reasons why the both negotiations process failed. After close analysis of activities and interests of both parties (Maoists & Governments) we can be see that the triggers that led to the breakdown of negotiations in 2001 and 2003 were different; however, the immediate and structural causes of the breakdown were the same in both negotiation phases.

#### ***3.1 The immediate trigger of the breakdown in 2001 and 2003***

The immediate trigger for the breakdown of the negotiation process in 2001 was the 'suspicion' of both parties regarding the activities of their army. The Government suspected Maoist that they were utilizing the ceasefire in power creation and strengthening their people's army by recruitment etc where as the Maoist suspected Government of utilizing the ceasefire period for

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<sup>227</sup> Rita Manchanda, "Talks and Fears," *Frontline* 20, no. 7 (29 March-11 April 2003).

making strategy for plotting attacks on Maoist People's Army. So both parties called off the negotiation and launched attacks on each other. In fact, it is now proved that both parties were strengthening their military strategy during the negotiation process.

Similarly, the immediate trigger of the breakdown of negotiations in 2003 was the killing of 17 Maoists and two civilians in Doramba during the third round of negotiations. An official investigation into the killings by the Nepali Human Rights Commission came to the conclusion that it was a war crime as defined under the Geneva Convention. The group was unarmed with their hands tied behind their backs and mostly shot in the head.<sup>228</sup> It was unclear whether this was done by then local Royal Nepal Army commanders or whether it was a systematic plan by hardliners within then Royal Nepal Army with the intention to spoil the negotiation process. It is now quite clear that both Monarch backed government and Maoists were not really serious about the negotiation process. Shambu Ram Simkhada claims that 'the government utilized the period of ceasefire and negotiation to strengthen its military capabilities in terms of arms, intelligence, training and the physical identification of Maoist leaders and cadres.'<sup>229</sup> In turn, the Maoists utilized the opportunity to gain the release of cadres from jail, "force" the withdrawal of cases filed against the Maoists in courts of law, "confuse" the security forces, expand public contact, promote their political agenda, and recruit, train and mobilize additional militias.

In reality the Government and the Maoists used the period of the ceasefire as a strategic pause to strengthen their military capabilities. The military thinking on both sides dominated the political thinking that led to resumption of high intensity conflict. So, we can argue that both of the parties had *devious objectives* in pursuing the negotiation in 2001 & 2003. The Maoists utilized this process for strengthening their military by recruiting people and expansion of their operation area. The Maoists were also successful in releasing their prisoners from government prison and gained equal footing in the eyes of the International Community as by entering the negotiation process they had opportunity to justify their movement. At the same time government utilized this period in understanding the structure of the Maoists party and their military outfits as well as gaining crucial information about the Maoists strategy.

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<sup>228</sup> See Amnesty International press release, <http://www.amnesty.org/en/library/asset/ASA31/027/2003/en/9fffec60-d69a-11dd-ab95-a13b602c0642/asa310272003en.html>, retrieved 20 March, 2010.

<sup>229</sup> Shambu Ram Simkhada, *Causes of Internal Conflicts and Means to resolve them*, pp. 61.

### ***3.2 The immediate cause of the breakdown in 2001 and 2003***

The immediate cause of the breakdown of negotiation process in 2001 as well as in 2003 (in both negotiations during the third round) was a fundamental disagreement with regard to major political issues that were on the negotiation agenda. While the Maoists insisted that a Constituent Assembly should be held that would leave the option open for a fundamental change of the constitution (one of the major demands of Maoists stated in their 40-point demands), the government wanted only to go as far as amending the constitution.

These two different negotiation positions caused stalemate on in the negotiations that led the Maoists to pull out of talks. Twice the Constituent Assembly became the make-or- break issue that is regarded by many people as a structural disagreement that can hardly be solved.

However, going into negotiations with contradictory positions which seem impossible to reconcile is commonplace. If warring parties had positions easy to handle they certainly would not have gone to wage an armed conflict for it. In negotiation theory and practice, there are many strategies on how to deal with such conflicting positions, and how to handle the past and future interests of the parties in order to find common ground.

In the both of these negotiation process basically, the two fundamental reasons were cited to be the fatal causes of the breaking of the ceasefire.<sup>230</sup> They were:

1. One Point demand of the Maoist for the unconditional constitutional assembly. The Maoists were not ready to compromise in their unconditional constitutional assembly demand.
2. The mandatory basis put forward by the government which is sovereignty vested in people, constitutional monarchy, multiparty democracy, and preservation of promotion

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<sup>230</sup> Bishnu Raj Upreti, *A Road Map for Peace Process in Nepal* (Kathmandu: Center for Democracy and Governance & FES Nepal, 2003).

of the national integrity and unity. The government was not ready to go beyond the mandatory bases for the negotiation.

### **3.3 The structural causes of both failures in 2001 and 2003**

There were set of structural causes<sup>231</sup> accounting for the failure of both negotiations in 2001 and 2003:

#### *3.3.1. Ripeness for Resolution*

A conflict must be ripe for resolution, meaning that all parties involved in the conflict must have the perception that they can better achieve their goals through negotiation than by continued fighting. This often takes a long time, since parties often do not understand that they can achieve more through a political settlement than by fighting. Too often parties believe that military victory is somehow possible. However, in reality this is rarely the case in guerrilla warfare.

In the Nepali context, too, during 2001 and 2003, there was a problem with ripeness because the hardliners on both sides still believed that there was possibility of military solutions to the conflict. This was an obstacle to both negotiation processes since it put the negotiation teams from both sides under pressure from their hardliners. This turned negotiable positions into hardliner make-or-break positions and has a counterproductive impact on transforming these positions into valid interests and needs.

In 2001 negotiation process, government perceived that the conflict needed to be resolved. The timing of 2001 negotiation process was exactly after the Royal Massacre and Nepali people were also frustrated with the prevailing political clout of government making and breaking. Thus, government at that time calculated that getting a settlement to the ongoing conflict could send a good message to the people. But on the Maoists part, negotiation was not an important agenda as they calculated that they were progressing well on their mission. So they were rather participated on the negotiation process with *devious objective*, i.e. to get as much advantage from the

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<sup>231</sup> Stedman, Stephen et. Al, *Ending Civil War, The Implementation of Peace Agreements* (Boulder: Lynne Rienner Publishers, 2002).

negation and ceasefire. In 2003 the situation was just opposite as government was in a very comfortable position due to back up to their military effort by the international community including US, UK, India and EU where as Maoists position was very weak as they were listed as terrorists and international community were united to support Nepalese government to fight against them. So clearly, Maoists were very serious in the 2003 negotiation process but government was using it to its advantage. This both of these negotiation process failed as there was not a situation of *mutually hurting stalemate on both sides* or in other words, the conflict was not ripe for resolution.

### *3.3.2 Fundamental mistrust and suspicion*

Besides the make-or-break issue of the Constituent Assembly, the issue of fundamental mistrust between the conflicting parties was also being identified as one of the basic reasons for the negotiations failing on both occasions. They were suspecting each other in every step which seriously hampered both the negotiation process.

It is true that trust building is a very important issue during negotiations. However, all negotiations start with a lack of trust as people do not go to war if they trust each other and think they can solve their disagreements easily. In addition, trust building is a long and difficult process that needs time. Nevertheless, it is an element of the negotiation process that can be supported by negotiation experts. In both processes, there was not enough trust-building process as both process started abruptly.

### *3.3.3 Lack of involvement of all relevant, representative groups*

This is one of the main factors that determine the success or failure of peacemaking process. The logic is simple: if not all relevant groups are included in the process, they will not take ownership of the process and will either spoil the process or the process will not be representative and cannot therefore be successfully implemented. For example, the radical Palestinian groups have not been included in the Oslo Peace Agreement and do not feel bound by it. Local militia groups in the Congo have also been excluded, for example, from the peace process. They are now the

main spoilers. The non-involvement of civil society also proves to be an obstacle to sustainable peace building. However, in practice it is difficult to involve all relevant players in the negotiations. The lesson is that it is necessary to involve all big players, even the unarmed, in the negotiations, and to build up adequate, official mechanisms to link the other groups to the official process. A good example is the peace process in Guatemala, where civil society had its own official assembly (*Asamblea de la Sociedad Civil*) that was installed parallel with the official negotiations. The civil society groups discussed the main issues relevant to peace building and communicated them to the parties. Most of these issues were then included in the negotiation agenda. Moreover, all partial agreements were also discussed by the assembly.

In Nepal, the negotiation process was an exclusive one; major players such as the political parties and representatives from important civil society groups were excluded from negotiation process. The role of the political parties was ignored in the whole negotiation process of 2003. Though they issued press statement wishing for the success of the peace talk but they did not constructively contributed in the process not both parties felt the need to engage them in the process. On the other hand the political parties also did not initiate any contributory actions that could lead to the peace. So this can be attributed as one of the failure of the peacemaking process of 2001 and 2003 as relevant stakeholders including major political parties and civil societies were ignored.

#### *3.3.4 One-track facilitation channels*

Negotiations have failed, because there was only one channel, the official negotiation channel. For example, the successful peace agreement in Mozambique was only reached because it involved different mediators, negotiators and many informal facilitators behind the scenes: when one channel failed, the other continued. However, in Nepal, in both 2001 and 2003 Negotiation process, the major focus of the process was on the official negotiations between the conflicting parties. It was due to one-track facilitation the negotiation process could not be revived as soon as the parties declared the process to an end.

### *3.3.5 Lack of broad-based support for the negotiation process*

Despite the fact that the dialogue solution was morally supported by almost the entire Nepalese society, there was no dynamic process in place to ensure sustained pressure on the parties to stick to the dialogue. The civil society organizations of Nepal were very weak and its support to the peace process was far too weak.

To complicate this process the elites of the Nepalese society including academia, journalists, politicians, business people were not in favour of the negotiated settlement on both occasions as they could not trust the Maoists' political intension. Beside that these were the section of the population who were constantly targeted by Maoists as business people were extorted, journalists were constantly attacked and academia were constantly threatened and teachers were constantly tortured and killed. Thus even though general Nepalese people wished for a peaceful solution of the conflict but around 2001 and 2003, Nepalese elites were hesitant of bringing Maoists to the political mainstream through negotiated settlements.

### *3.3.6 Insufficient legitimacy of government*

During the negotiation process in 2003, talks were additionally complicated by the fact that the government was not a democratically elected body. Its legitimacy was questioned and it remained unclear as to what extent the relevant players were talking to each other. The confusion over decision-making authority prompted repeated calls by the Maoists for the RNA and the king to declare that any agreement reached at the negotiating table would be binding.<sup>232</sup> The negotiators didn't had the direct contact with the Monarch as there were several occasions that the Negotiators tried to contact Monarch to clarify on various issues. But the representative of the Monarch - the government was not sure about various issues raised during the negotiation process nor did they relay these issues to the palace for clarification. So this also seriously hampered the negotiation process in 2003.

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<sup>232</sup> International Crisis Group, *Nepal: Back to the Gun*, Asia Briefing N°28, 22 October 2003, pp. 6.

### *3.3.7 Inconsistent role of international actors*

Many peace processes have also failed because of a lack of international support. However, it is crucial that this support promotes those working for peace in the country. The process must have ownership. But there are many support activities international players can fulfill.

In the Negotiation Process of 2001 and 2003, we cannot say that the international players have simply ignored it. However, their role has not been consistent. In both negotiation process International community played ambiguous role. During both negotiation processes most international actors had taken a wait-and-see position, avoiding a proactive role due to different opinions on how to support the achievement of peace in Nepal (India, US and Great Britain still supported military solutions, whereas the other EU countries including Switzerland and Norway support non-violent solutions). Owing to these differences, the international community was not speaking with one voice and thereby limiting its constructive influence on the process.

Moreover, peace processes are not in a vacuum. If the regional powers are not in favour of peace, they might in their turn become spoilers. Thus, it is important to involve them in one way or another in the wider peace process. In Nepal, the constructive engagement of India and China is crucial to the success of any negotiations and the peace process as such. In both negotiation processes the role of India was very ambiguous and controversial. In the first Negotiation in 2001, India declared Maoist as terrorist when Maoist and Government were negotiating on the table. During second negotiation process India resisted to bring the International Mediators (such as UN, EU or other relevant actors).

Furthermore, the general international environment must also to be taken into account. The war on terrorism had a direct effect upon peace building in Nepal, because it strengthens the military forces and thereby indirectly supports military solutions to the conflict. Particularly the role of US has been very controversial due to their strategy of War on Terrorism. US labelled Maoist terrorist and provided government with arms to solve this issue militarily. So this also fuelled the conflict in 2001 Negotiation Process.

### 3.3.8 Poor Handling of negotiation processes

Many international observers to the situation had criticized the fact that in comparison with international standards, both Nepali negotiations were handled in an unprofessional way, simply because fundamental negotiation standards were not met. The way the issues were treated in both negotiation process, had led to frustration on all sides. International Crisis Group comments on the 2003 Negotiation process as 'chaotic; mediators and negotiators appeared to lack training; there was no real secretariat; and international technical support for it as well as monitoring of the ceasefire was extremely limited.'<sup>233</sup> The negotiating parties wanted to protect themselves from losing control of the negotiation process. The negotiation teams and the facilitators were afraid that they might be regarded as a group of people without sufficient knowledge for dealing with negotiations, while the Maoist negotiation team tried to make it clear that it was the issue of the Constituent Assembly and not the lack of technical professionalism that made them walk out of the negotiations. On the contrary, the international donors could not understand why the parties were so much against professional support of the process.

### 3.3.9 Weak implementation of Code of Conduct (CoC)

In both negotiation processes, the parties were very reluctant to develop and agree on the code of conduct. But with the constant pressure from the International Community and the facilitators, both parties agreed to issue the code of conduct in 2003 Process. Both the parties then agreed to form CoC Monitoring Committee representing both the parties. But both parties raised serious question of the neutrality of CoC Monitoring committee and they did not support the Committee. During the ceasefire both government and Maoist forces were in regular violation of the code of conduct, and both sides suspected the other of planning an imminent attack. The RNA and the Maoists were never able to develop effective mechanisms for monitoring and verifying the “code of conduct” they had agreed would govern their behaviour during the ceasefire.<sup>234</sup> So this was one of the factors for the breakdown of the Negotiation process in 2003. Taking a sober look to the issue, the situation can be analyzed as follows:

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<sup>233</sup> International Crisis Group, *Nepal: Back to the Gun*, Asia Briefing N°28, 22 October 2003, pp. 5.

<sup>234</sup> *Ibid.*, pp. 3-4.

The issue had been discussed in a much too technical manner. However, in reality, professional handling of negotiations is mainly about strategic issues on how best to deal with constraints and challenges, conflicting negotiation positions, how to support the teams in dealing with their own hardliners and spoilers and much more. How to best deal with these issues is part of a profession called negotiator, mediator or facilitator. It has also nothing to do with external or internal influence, national or international players' it is about expertise in dealing with these issues. Moreover, in political negotiations, those giving or supporting this type of professional expertise represent a crucial issue. Professional mediators, negotiators or facilitators need to be appointed by the conflicting parties and also need to have the skills mentioned above which enable them to professionally support the negotiation teams. It is therefore necessary to find out who has this expertise and who is suitable to support the Nepali parties in future negotiation processes.

Looking at these strategic issues, it becomes clear that in fact many negotiation standards have not been met with in both negotiations in 2001 and 2003:

*No pre-talks:* Instead of secret pre-negotiation or shuttle diplomacy, the parties immediately rushed into official negotiations, which put great pressure on the parties.

*Unclear/inconsistent negotiation strategies by negotiation parties:* Despite the common wish to solve problems by dialogue, there was no clear idea of how to go about it when the talks began in 2001. The same happened at the beginning of the 2003 negotiations. The Maoists had a clear negotiation agenda from the start, however, no clear strategy about how to reach it. The government only came up with a negotiable agenda during the third round of negotiations in August, 2003.

*Positions were not transformed into interests:* As in every negotiation, apparently irreconcilable positions had been proclaimed by the parties. But no attempt had been made to seriously work on these issues. For example, during the negotiations between Israel and Egypt at Camp David in 1978, both parties insisted on the Sinai strip being part of their territory for different reasons. This was a totally irreconcilable position as both wanted the same piece of land. With the help of

mediators these positions could be transformed after long negotiation into the real needs and interests of the parties. Israel insisted on Sinai because of security fears, and Egypt insisted on Sinai for historical reasons. After this was clear, the issue could be solved. Egypt received the land and Israel security guarantees. Both negotiation processes in Nepal never got far enough to explore the needs and interests of the respective parties.

*Lack of professional expert support for both the negotiation teams and the facilitators:* Both teams and the facilitators could have been supported by independent negotiation expert teams as one of many preconditions for successful negotiations.

*Lack of a communication strategy:* There was no agreement on how to communicate to the media. This is an important strategic issue during a negotiation process, because the negotiation teams can land under pressure from their bases in case issues are presented in the wrong way at the wrong time. The right media strategy is therefore crucial to protect the process.

*Lack of security arrangements:* No negotiations among the military parties of either side took place. This is standard practice in negotiations as this type of security arrangement is a necessary precondition for the process to come into being. In addition, the debate on such arrangements among military personnel is a good confidence building measure. In many negotiations it is the military personnel from both sides which get to understand each other better than the politicians.

### *3.3.9 Lack of a vision for a peaceful Nepal*

Many peacemaking processes mostly failed due to a lack of vision for peace. During a peacemaking process the different parties must develop ideas on how the country should look when there is sustainable peace. This vision must be shared and discussed by all relevant sectors of society as part of a strategic discourse on the future of Nepal. These opinions must then be channelled back to the negotiation table and the peace building process as such.

During both negotiation processes, the bargaining positions of the parties were pretty clear: the Constituent Assembly with the option of a greater change in the political system versus

amendment of the existing constitution. Beyond this, nothing was clear. Talks centered only around the vehicles for change (Constituent Assembly or amendments) but not at all on how a future Nepal would look without violence and armed conflict. This made it very difficult to support a process with an open end and gave way to scepticism and positions which hold on to the existing power instead of taking the risk of engaging in a process leading to an uncertain future.

## **B. The 2005-2006 Peacemaking Process: The Decisive turn towards Peace**

After the breakdown of the 2003 Negotiation Process, Nepal saw the most intense escalation of the conflict. On 1 February 2005, the Monarch dissolved the parliament, imprisoned politicians, cracked down on the media, and declared an emergency and imposed coup with support from the Army. This decision of Monarch to be more autocratic and control over the governance changed the entire scenario of the conflict of Nepal and in-fact created a base for the political parties (which are out of power) and Maoists to come closer and initiate joint strategy to establish peace & democracy in Nepal.

### ***1. Preparatory Phase***

The 2005 Royal Coup created a new dynamics in the conflict of Nepal. Teresa Whitfield argues that ‘the coup proved an enormous mistake as it precipitated a profound shift in the country’s political forces whilst also triggering the marked displeasure – albeit with important differences between them - of Nepal’s most influential neighbour and partners: India, the United States and the United Kingdom.’<sup>235</sup> Similarly on the political front this coup as it brought together the political parties and Maoists to start dialogue as autocratic monarchy was painful for both Maoists and political parties to bear.

Maoists and Political Parties were at the *mutually hurtling stalemate* as both parties were weakened after 2005 Royal Coup. The seven major Political Parties got together and formed a coalition and issued a joint declaration for united efforts to resolve the national crisis which

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<sup>235</sup> Teresa Whitfield, *Masala Peacemaking: Nepal's Peace Process and the Contribution of Outsiders* (New York: Conflict Prevention and Peace Forum/Center on International Cooperation, October 2008), pp. 6.

stressed for their demands for the restoration of democracy in Nepal. This coalition was formed as their movement for democracy needed some strength as they lost credibility from the people. Thus gradually and after the coup, they started dialogue with Maoists. International Crisis Group report argues that ‘the parties’ approach to engaging the Maoists is based on their perception of shared threats and weaknesses as their overriding aim is to recover their position at the heart of a multiparty system and thereby political power.’<sup>236</sup> ‘From 1996 to mid-2001 the main threat to the parliamentary system was the Maoists and since June 2001 palace massacre and Gyanendra’s accession to the throne, the palace has become more of a threat.’<sup>237</sup> Beside this, the political parties also lost their base from their voters and constituencies as due to intensification of the Maoists insurgency; local level political parties’ leaders were forced to leave their village or threatened to stop their political parties’ activities. Thus political parties by 2005 were at the utmost dilemma as they surrendered institutional territory (governance power) to the monarch and political territory to the Maoists.<sup>238</sup>

On the contrary, the Maoists were also feeling the heat after the breakdown of 2003 Negotiation process. The military aid and international support received by the Royal Nepal Army was limiting the growth of their insurgency. The biggest failure of the Maoist strategy is that the urban insurrection called for by their political doctrine was never on the cards as their presence and activity in the capital and major towns of Nepal were limited which contained their insurgency in the rural part of Nepal.<sup>239</sup> International Crisis Group analysed on its report immediately after the breakdown of the 2003 Negotiation Process that 'Maoists did not believe that an all-out military victory is possible, particularly with international actors such as India, the U.S., China and the UK willing to prevent such an outcome.'<sup>240</sup> 'Instead, a medium intensity conflict would seem to fulfil a number of their needs: it convinces the cadres that their leadership has not “gone soft”, and it keeps pressure on the military and the political establishment to accede to their demands without burning all bridges.'<sup>241</sup>

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<sup>236</sup> International Crisis Group, *Nepal's New Alliance: The Mainstream Parties and the Maoists*, Asia Report N°106, 28 Nov 2005 , pp. 25.

<sup>237</sup> *Ibid.*

<sup>238</sup> *Ibid.*

<sup>239</sup> *Ibid.*, pp.9.

<sup>240</sup> International Crisis Group, *Nepal: Back to the Gun*, Asia Briefing N°28, 22 October 2003, pp. 7.

<sup>241</sup> *Ibid.*

This stalemate within the Maoists Party and Seven Political Party Alliance brought them together for dialogue for common agenda to launch an offensive political attack against the autocratic Monarch. Seeing an opportunity to pitch their political agenda and initiating working relationship with the political parties, Maoists unilaterally declared ceasefire on 3 September 2005 and initiated dialogue with the Seven Political Party Alliance. After series of dialogue, both parties on November 2005 arrived at the general principles of restructuring, issued in the form of a 12-point Understanding that laid out the agreement on constituent assembly elections, multiparty democracy and an end to autocratic monarchy between the political parties and Maoists.<sup>242</sup>

## 2. *Amalgamation Phase*

The 12-point agreement which was signed between the Seven Political Party Alliance (SPA) and Maoists in New Delhi created a storm towards the peaceful resolution of the conflict. The primary objective of the agreement was to end Nepal's violent conflict; it looked forward to the Maoists' suspension of armed struggle, participation in a peaceful democratic movement and commitment to respect human rights norms. It bound the SPA and the Maoists to launch a joint struggle against the king and called upon civil society, professional organizations and others to boycott municipal elections announced by the king and to actively participate in a peaceful movement. It also specifically referred to outside supervision of the armed Maoist force and the Royal Nepal Army during the electoral process, led by the UN 'or a reliable international supervision'.<sup>243</sup>

There are several factors which can be argued to understand why Maoists Party (labelled as terrorist) and Seven Political Party Alliance decided to work together. One of the factor which brought them together is due to the King's autocratic ambitions in an era of democracy, as well as his misrule and arrogance of power, mobilized virtually the entire political spectrum in opposition to the Palace.<sup>244</sup> So Palace was the common enemy not only to the Maoists Rebels but also political parties who have been constantly betrayed by the palace time and again.

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<sup>242</sup> See Annex II for the 12 point Agreements between the Seven Political Parties and Maoists.

<sup>243</sup> Astri Suhrke, *UN Support for Peacebuilding: Nepal as he Exceptional Case*, pp. 6.

<sup>244</sup> *Ibid.*, pp. 8.

The second factor can be explained using the *Mutually Hurting Stalemate* concept. Both Maoists and Political Parties were going through a very difficult period. Maoists Rebels had a very serious internal rift within their party structure. Similarly, the palace with support from the Nepal Army was very successful in containing the Maoists Insurgency around 2005 as many newspapers reporting suggested that Maoists insurgency was loosing ground due to break in communication channels, containment of their extortions drive among the business community of Nepal and due to their terrorist tag which posed a serious challenge to continue their insurgency for a very long period of time. So they need to change their strategy to survive otherwise they there were fear that they could loose the game. Similarly the political parties were also loosing ground in the political sphere as Nepalese people were fade up with their 15 years of handling of political power and their constant making and breaking of government.<sup>245</sup> During 2005 royal takeover, there was a silent consent of the people to King's rule as people were frustrated with the dirty party politics. When the seven party alliance announced their non-violent movement against the King's rule for restoring democracy in Nepal, very few people supported the movement which was a testimony of serious challenge to their political future. Thus for other major political parties, need to invent some political magic to gain the popular support of the people.

### **3. *Reconciliation Phase***

The 12-point agreement also provided an opportunity for both actors - the political parties and Maoists to reconcile with the Nepalese People. On the 6<sup>th</sup> point of the agreement Maoists officially accepted their past mistakes and shortcomings and committed that such mistakes would not be repeated in future. Similarly the political parties on the 7<sup>th</sup> point of the 12-point agreement also accepted their mistake of failure of governance for last 15 years and committed not to repeat it again.<sup>246</sup> In addition the Maoists also committed to adhere the multiparty democratic system, civil and fundamental rights and rule of law. They also committed to return the property sized during

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<sup>245</sup> In 12 years (1992 – 2004) parliamentary elections being conducted 3 times, recommendation for the dissolution of House of Representatives (HoR)) made 6 times; special sessions of the HOR being summoned 7 times, and government was changed 15 times.

<sup>246</sup> See Annex II for the 12 point Agreements between the Seven Political Parties and Maoists.

the insurgency and also let the displaced people to return to their home and let the people to freely conduct political activities. This was crucial step forward by a party whose political ideals once was to establish one-party communists republic similar as in People's Republic of China. This clearly reconciled the fundamental political difference between the political parties and Maoists. Beside that this was also a step for the broader support from the elites of Nepalese society as this agreement provided them an assurance that Maoists can be trusted and this alliance between political parties and Maoists can be supported against the King's autocratic regime. The agreement also urged the civil society and in general Nepali people to support the people's movement. This created a mass based support for the people's movement as people wanted change in the country and they saw this alliance between Maoists and Major Political Parties to bring some change in the system or at least peace they wished for a long time.

The most surprising aspect of 12-point Agreement is the role of India in brokering this process and in fact the agreement was signed in New Delhi under the initiative of New Delhi leadership.<sup>247</sup> India and New Delhi bureaucrats were always suspicious of Maoists activities in Nepal. From the beginning India wanted to contain this movement and labelled it as an act of terrorism as India is also suffering from similar kind of insurgency namely *Naxalites* Movement<sup>248</sup> (similar kind of Maoists Movement in India). India publicly criticized Maoists and hold the view that it supports multiparty democracy and constitutional monarchy enshrined in Nepal's constitution as the two pillar of political stability in Nepal.<sup>249</sup> In both of the previous negotiation process India resisted for the settlement of conflicts through dialogue rather it hold the view that Maoists could be defeated militarily and accordingly provided arms to then Royal Nepal Military.

By 2005, the stance of India changed significantly as it not only acted as a facilitator to broker the 12-point Agreement but significantly changed its stance towards Maoists and Nepal's Monarchy. There are various explanation to this change in policy by Indian establishment. One of the explanation is the dwindling relationship between Nepal's Monarch and India after Royal

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<sup>247</sup> Then Indian Foreign Minister Pranab Mukharjee accepted that the Maoist party which was an extremist party and chose violence, was convinced by India and compelled to join mainstream politics through 12 Point Agreement.

<sup>248</sup> As of 2009, Indian Naxalites are active across approximately 220 districts in twenty states of India accounting for about 40 percent of India's geographical area challenging the status quo of Indian Government.

<sup>249</sup> Bishnu Raj Uprety, "External Engagement in Nepal's Armed Conflict," in *The Maoist Insurgency in Nepal: Revolution in the Twenty First Century*, eds. Mahendra Lawoti and Anup K. Pahari (New York: Routledge, 2010), pp. 220-221.

Takeover in Nepal by the Monarch and his affinity towards China. The second explanation is the change in guard in New Delhi as till 2004, National Democratic Alliance (NDA) coalition headed by Bharatiya Janta Party (BJP) was heading the government which was very close with Nepalese Monarch since its establishment. But in 2004 BJP lost the election and United Progressive Alliance (UPA) headed by Congress Party of India (Congress I) came to power whose relationship with Nepalese Monarch was not so cosy due to historical cleavages between Gandhi Family and Nepalese Monarch. To reconcile this relationship between Nepalese Maoists and Indian establishment, Communist Party of India - Marxist (CPI-M) was an important partner of UPA Alliance thus played a very important role in bringing Nepalese Maoists into political mainstream through the 12-point Agreement. This is a surprising reconciliation between Nepalese Maoists and India as since beginning of the insurgency in Nepal in 1996, Maoists targeted India in many fronts including its initial 40-point demands where its top three demands were directly related to India and its injustice to Nepal.

#### **4. Collaborative Phase**

The 12-point agreement cemented the cooperative strategy between the political parties and Maoists which strengthened the people's movement for democracy against the autocratic royal regime. The agreement reflects some important achievements: the Maoists have formally committed themselves to joining a multiparty system and the mainstream parties have signed up to a process of constitutional change. Each side has recognized past mistakes and vowed not to repeat them.<sup>250</sup>

A body was formed to strengthen the people's movement known as Joint People's Movement Coordination Committee (JPMCC), which was comprised of political leaders from seven political party alliance. JPMCC established the policies and outlined the schedule of opposition activities. Flexible links were maintained with various elements of civil society like the professional organizations, media, students, NGOs, artists, activists, and the Maoists to coordinate the opposition.<sup>251</sup> A four-day strike was called by the Seven Party Alliance and

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<sup>250</sup> International Crisis Group, *Nepal's New Alliance*, pp. i.

<sup>251</sup> Saubhagya Shah, *Civil Society in Uncivil Places: Soft State and Regime Change in Nepal* (Washington DC: East West Center, 2008), pp. 18.

Maoists (SPA-M) from April 6 where Maoists party played a very crucial role. The Maoists for the first time adopted non-violence means of non-cooperation by blocking the district headquarters and mobilized their supporters in rural parts of Nepal and accordingly sent their unarmed cadres to Kathmandu (capital city) to launch the peaceful protest against the royal regime.<sup>252</sup> The protest surprisingly had unprecedented participation from people. International Crisis Group in its report noted that:

There were at least four categories of participation: (i) organisers and instigators (mainstream party, Maoist or independent); (ii) active participants – those on the streets, chanting slogans, marching; (iii) indirect participants – onlookers and hangers-on, those giving water or other help to demonstrators; and (iv) silent supporters, who may have stayed at home but supported in other ways; for example, the large sums raised very quickly, but in multiple small donations, for injured protestors' medical relief were a sign of the depth of public support. Youth and students were prominent, many not from political backgrounds.<sup>253</sup>

Although the opposition movement was successful due to the new strategic alliance between the seven parliamentary parties and the Maoist rebels, the historic moment catapulted civil society into prominence among the forces arrayed against the royal regime.<sup>254</sup> The civil society played a crucial role by providing the critical spark and energy to the this political movement. So the grand success of the general strike which was planned initially only for four days. Later it was extended indefinitely, when the opposition sensed the government's vulnerability to local protests and foreign pressure.

After 19 days of nationwide protests and confrontation, on April 24 2006, King Gyanendra was forced to leave his autocratic rule and reinstated the Parliament which he dissolved 15 months ago. This led to the opening of new era to Nepalese politics. Girija Prasad Koirala was chosen as the next Prime Minister and subsequently the Seven Political Party Alliance agreed on the following terms and conditions:<sup>255</sup>

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<sup>252</sup> Raiz and Basu, *Paradise Lost: State Failure in Nepal*, p. 169-170.

<sup>253</sup> International Crisis Group, *Nepal: From People Power to Peace*, (Brussels: Asia Report No. 115, 10<sup>th</sup> May 2006), pp. 6.

<sup>254</sup> Saubhagya Shah, *Civil Society in Uncivil Places*, pp. 1.

<sup>255</sup> International Crisis Group, *Nepal: From People Power to Peace*, pp. 14.

- To make elections to a constituent assembly the main agenda of the reinstated parliament;
- To remain committed to the twelve-point agreement and urge the Maoists also to abide by it;
- To include the Maoists in an interim government once elections for the constituent assembly were confirmed and a disarmament process had started;
- To constitute a high-level commission to investigate state abuses against pro-democracy protestors; and
- To declare null and void all “unconstitutional decisions” taken by the royal government.

This started a new beginning in the Nepalese politics as the political parties and Maoists after April 24 started the negotiation process to end the 14 years of insurgency. The Nepalese Peace Process is very unique in two aspects. First there was already a mini-agreement (road-map) between the major political force and Maoists which guided the negotiation and peace process. The second interesting aspect of the Nepalese Peace Process is that the actors of the conflicts first decided to work collaboratively on restoring democracy then only they decided to enter into negotiation to resolve their differences. This is a unique feature of the Nepalese Peace Process which is not seen in any part of the world. This collaborative phase helped to build confidence among the warring parties. This also provided both parties into equal status as the major problem of any negotiation process and peace process is the hierarchy of the warring parties.

### 5. *Transformative Phase*<sup>256</sup>

24 April 2006 marks an interesting transformation of Nepalese history as King Gyanendra accepted popular sovereignty, reinstated parliament and invited the mainstream seven-party

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<sup>256</sup> The researcher limits the Transformative Phase till April 2008. The time-frame for this research has been considered from February 1996 till April 2008 as a point of reference. This time-period is considered as the point of reference for this research as February 1996 is considered as the start of Maoists Insurgency in Nepal and April 2008 as the successful election of constituent assembly election which was the major demand of the Maoists Party and major criteria used for the success of peace process in this research. The development before February 1996 and after April 2008 is not considered for the ease of analysis of this research.

alliance to implement its roadmap – including election of a constituent assembly to rewrite the constitution in line with the parties' agreement with the Maoists. This is an important achievements of the people's movement in which people were given an opportunity to restructure the state. The first sitting of the reinstated House of Representatives on 28 April 2008 proposed to hold an election to a constituent assembly, striped the monarchy of all its constitutional, ceremonial, and customary authority and Nepal was declared as a secular country.

Subsequently government initiated peace process with the Maoists. Representatives of the Government and the Maoists on 26 May 2006 signed a 25-point Cease-fire Code of Conduct which paved the way for elections to the Constituent Assembly. After series of dialogue between Maoists and government, on 21 November 2006, Prime Minister Koirala and Maoist chairman Prachanda signed the Comprehensive Peace Accord (CPA) 2006 (Annex III), bringing the decade-long armed insurgency to an end and promising to chart a new destiny for "peaceful and democratic" new Nepal including inclusive of provisions on human rights, civil and political rights and needed socio-economic transformation. This declared an end to the ten-year civil war, thus paving the way for inclusion of the rebels in mainstream politics and for elections to an assembly that would write a new constitution. In a detailed agreement on arms management, the Maoists committed to cantonment of their fighters and locking up their weapons under UN supervision; and the Nepalese Army (NA) are largely confined to barracks. This achievement was based on the collaborative effort of major political parties of Nepal, Maoists, civil society and international community. The Maoists and Political Parties decided to sign peace agreements after rounds of dialogue and debate as they saw it as opportunity for the country as well as their own political gains. Beside that there was a significant pressure from the civil society and in general from Nepalese people for restoring peace and democracy in Nepal. Thus this supports my above hypothesis of *mutually enticing opportunities* that for a peace agreement to get signed and ensure its sustainability, there should be *mutually enticing opportunity* for signatory parties. In Nepal too, signing this agreement was an opportunity for both parties – Maoists and other political parties to take a lead role in creation of New Nepal through restructuring of Nepali state and society through socio-economic and political re-engineering. Secondly, for both parties it was an opportunity to secure new political future in this changed context as for Maoists signing this agreement gave them an entry to political mainstream (including removal of their terrorist outfit by international community) and for

political parties it was an opportunity to renew their political landscape which was diminishing in the past.

The Interim constitution was promulgated on January 2008 and 83 Maoists representatives were inducted as Member of Parliament in the Interim Parliament and later Maoists joined the interim government. The interim constitution guaranteed not only the way for Maoists to enter into political mainstream but it also guaranteed the Maoists the access of political power as 83 Maoists leaders were inducted as parliamentarians into then existing parliament. Subsequently Maoists also joined the coalition government. For other political parties as well, the interim constitution guaranteed its status quo as leading political forces side by side with Maoists. Thus this development supports my above set hypothesis of *mutually obtained rewards*. The interim constitution and coalition government provided equal rewards to both parties – Maoists and mainstream political parties. Thus it is due to this fact that the peace agreement was signed and sustained without any mishaps as we see in other peace process.

Subsequently with the roller coaster ride of hope and suspicion, Nepal was able to hold the historic Constituent Assembly Election on 10 April 2008, resulting in one of the most inclusive parliament both in terms of gender as well as ethnic representation. The constituent assembly, elected through a mixed first-past-the-post and proportional system have 601 members - 575 were elected and 26 nominated by the cabinet. The Communist Party of Nepal (Maoist) came out with the victory in the elections but it fell short of a majority to form a government. It decided the abolishment of 240 years old monarchy declaring Nepal to be Federal Democratic Republic of Nepal. There are still challenging road head for the achieving the success of this peace process in terms of the commitment laid out by both political parties and Maoists. But the researcher can argue that the success of the Nepalese peace process is a guarantee as most of the provision laid out in the Comprehensive Peace Accord has been at least fulfilled.

## **PART IV: ANALYSIS & CONCLUSION**

In this study the researcher attempts to find out the conditions for the success and failure of peacemaking process and entire peace process. The first question dealt in this research was why some peacemaking process (negotiation) results in achieving a peace agreement where as some peacemaking process fails in between. In order to explain this mystery, Nepal's three peacemaking process was taken as a case study. The second question laid out in this research was quite vague which attempt to analyse the element of success of the entire peace process. In both of these inquiry, Nepal was a very suitable case as it had two previous failed peace making attempts and one recent successful endeavour. It is among the few successful peace process the world has ever witnessed in the internal conflicts as most of the internal conflicts are protracted and peacemaking process and entire peace process is complicated due to several factors. The scholarly focus till date in peacemaking process and peace process is focused on how to mediate these internal conflicts under the illusion that all you needed to do was get an agreement and the armed conflict would end. But this particular research has moved one step further on explaining how to mediate in internal armed conflicts and what are the elements needed to sustain these peace process or peace agreements. Although this study cannot be generalized to all cases but at least it provides a point of reference for further research and inquiry.

The researcher will like to conclude the dissertation based on the hypothesis laid out on the Part I of this dissertation by summarising the findings from discussion of two failed negotiation attempts of Nepal namely 2001 and 2003 and the recent successful attempt of 2006 to unlock the mystery behind the success and failure of peacemaking process (negotiation) for signing a peace agreement and also finding crucial elements of the success of the entire peace process.

### **I. Systemic Condition**

The systemic condition that researcher argue above are the necessary condition for success of any peacemaking and peace process. These are the elements which should be present for any negotiation process to be successful on resulting the signing of agreements between the warring parties. In addition this elements also guarantees the sustenance of the peace process. There are

two major variables proposed under systematic condition are: *Conflict Dynamics* and *Structures of Settlements*

### ***A. Conflict Dynamics***

Internal armed conflicts are very complex in its nature. Its termination is much more complex process as it is time consuming and cumbersome. The shift from unilateral to bilateral strategies, from confrontation to cooperation, and from 'winning' mindset to 'reconciling' ones is the most difficult process. This element focuses on the internal characteristics of conflicting parties. The researcher hypothesized that conflict actors may engage in negotiation process and later sign peace agreements if they find themselves in *mutually hurting stalemate*. This hypothesis is clearly proved in both failed negotiation process in which both parties were not clearly in hurting stalemate position whereas in the parties decided to enter into the third negotiation process as well as later signed peace agreement due to *hurting stalemate* position developed by due to the domestic and international political transformation.

The second hypothesis addressed the issue of the goals of the party during the negotiation process. The first two negotiation process failed due to the parties non-negotiable goals as Maoists wanted Constitutional Assembly as its ultimate goal where as the government at that time was not in favour of it rather was willing to accept constitutional amendments. This changed in the third negotiation process in which parties were willing to accept any outcome through consensus. The political parties were flexible to accept Maoists demand of Constitutional Assembly who were in previous process in opposition to this idea. The third hypothesis is also proved as in two previously failed negotiation process, both parties engaged in this process to serve their own interests and buy time to strengthen their political and military structures whereas in the third process both parties genuinely committed to the negotiation process hence it resulted in a peace agreement.

### ***B. Structure of Settlements***

The second element of systemic conditions was solely concerned with the substantive provision of peace agreements. The first hypothesis is concerned regarding the power sharing elements that

hold true in all three peace-making efforts of Nepal. On the first two-failed negotiation process, there was no mention of power sharing between the government and Maoists insurgents as both stand at different level of political hierarchy. Thus it was not enticing opportunity for Maoists to commit on the peacemaking process. But on the third peace-making process both parties had a equal footing in terms of status quo as well as there was a clearly crafted deal on power sharing mechanisms. Thus as soon as the peace agreement was signed Maoists leaders were inducted in the parliament as parliamentarians and they were also included in coalition government. The international community also recognized Maoists as a political entity rather than as terrorists and thereby removed them as from terrorist tag list and sponsor of terrorism (except US Government). This played a crucial role for the success of the third negotiation process.

The second hypothesis proposed is concerned with inclusion of all the relevant actors of armed conflict. In first failed negotiation process of 2001, Nepali Congress – the political party in charge of government was negotiation on behalf of government but completely ignoring other political parties including the opposition party in the parliament. Subsequently on the second negotiation process Monarch's representatives were negotiating with Maoists where as political parties were ignored in the process. In both process the civil society were not been even consulted or involved in the process. Thus this resulted non-cooperation from left out actors to the process. The third negotiation process was an inclusive process as all the actors (all major political parties, Maoists, civil society) were consulted and involved in the process that geared towards signing of the peace agreement and success of the overall peace process.

The third hypothesis under concerned with the achievements of the actors, which could help in the sustenance of the peace agreement and overall success of the peace process. This hypothesis can only be tested in the third successful negotiation process where both parties were given an equal opportunity and credit to be equal partners for the restructuring of Nepal through political and socio-economic restructuring of Nepali state. The Maoists were given opportunity to enter into political mainstream and access to power. They were even voted as the largest political party by the people of Nepal in the Constitution Assembly Election making them biggest political party of Nepal which guarantees their stronger commitment towards the peace process.

## **II. Catalytic Condition**

The Catalytic Conditions are the facilitating agents which are the necessary condition if not insufficient condition for the success of every negotiation as well as entire peace process. This variable facilitates the entire process and helps the systemic condition to keep in its progression. The two variables proposed under Catalytic Conditions are: I) *The Role of Third Party* & II) *National Infrastructure for Peace*.

### ***A. The Role of Third Parties***

The external third party plays a significant role in negotiation process. These roles can either be negative or positive depending upon the interest of these external parties. There are four hypothesis proposed to test this variable in this research. The first hypothesis proposed suggested the peace agreement is more likely to be signed if it is initiated by external third party than it emanates on its own. In two failed negotiation process of 2001 and 2003, there was no involvement of any third party and in fact third party acted as a spoiler to the process rather than connector. Thus both of these processes failed to get any agreement. Whereas in the third negotiation process of 2005-2006, India played a very important role as a external third party and hence credited to the success of the negotiation process.

The second hypothesis tested under this variable is concerned with the use leverage by third party to support the negotiation process. Clearly on the third negotiation process, India as a third party used its leverage to bring two former enemies – Maoists and political parties to work together to restore peace and democracy in Nepal. The third hypothesis concerned with the interest of the third party to resolve the armed conflict. In this case as well during the two failed negotiations process of 2001 and 2003, India clearly had no interest to resolve the conflict through use of dialogue instead it was supporting the military victory over the Maoists insurgents. But during the 2005-2006 Negotiation process the stance of India changed and it had a personal interest to resolve the conflict through dialogue between political parties and Maoists.

The fourth hypothesis sets an assumption that neighboring countries can play a significant role in brokering the peace process rather others. Even though in Nepalese peace process there were no

significant involvement of external actors other than India, but India was very much dominant in all of these process either as a spoilers (during first two failed negotiation process) and connector (during the recent successful negotiation process). It can assumed and concluded that none of the external actors could have played such significant role as compared to India during the third negotiation process of 2005-2006 which resulted the peace agreement.

### ***B. Infrastructure for Peace***

Infrastructure of peace can be categorized in various forms. For example the cultural aspect of *ubuntu*<sup>257</sup> in African context can be one of the important infrastructure of peace embedded in the cultural practices of day-to-day life of people that could facilitate to realize the culture of peace. Thus every society has infrastructures of peace, which is either embedded in political, cultural, institutional structures. One of such infrastructure that is hypothesized is regarding the democratic system of governance. The argument is the negotiation process is successful if the governance is democratic as it will be impossible to talk about compromise to the autocratic government. Thus during the first negotiation process, even though there was a democratically elected government but Maoists was not willing to progress on the peace process. The second negotiation process started when the Monarch was imposing autocratic regime in Nepal. Thus it failed as it held a view that government can have a military victory over the Maoists. The third negotiation process was quite unique as both actors (mainstream political parties and Maoists) first decided to fight against the autocratic King's regime and subsequently progress into dialogue phase to resolve the issues of the conflict.

The second hypothesis is concerned about the involvement of civil society in the negotiation process. On both failed negotiation process of 2001 and 2003, role of civil society was undermined. But on the third negotiation process of 2005-2006, civil society took a lead role in the negotiation process that later resulted the signing of peace agreement. The civil society facilitated the negotiation process and later monitored the process after the signing of the peace agreement, which contributed to the overall success of the peace process.

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<sup>257</sup> Ubuntu, is an ethic or humanist philosophy focusing on people's allegiances and relations with each other. Ubuntu is seen as a classical African concept and one of the founding principles of the new republic of South Africa, and is connected to the idea of an African Renaissance.

The third hypothesis is concerned with the public support for the negotiation process. During the first two-failed negotiation process, the public support was very divided for and against the negotiation process. Clearly the Nepalese elites were not comfortable with the Maoists as they were the ultimate targets during the insurgency and hence they suspected the Maoists intention. But during the third negotiation process, there was immense public support for the Maoists-political party alliance during the people revolution of April 2006. Thus this broad based support from the public was also one of the crucial elements for the overall success of the negotiation process of 2005-2006.

The fourth hypothesis proposed is concerned regarding the government-initiated institutions in the form of peace commission or peace ministry that can support the success of the negotiation process and over all success of the peace process. Such institution was not in existence during first and second failed negotiation process. But after the failure of the second negotiation process, then Royal Regime constituted a National Peace Commission, which geared towards facilitating the future negotiation process by analyzing the past failed negotiation process. This acted as a catalysts during the third negotiation process and later the National Peace Commission was upgraded into Ministry of Peace & Reconstruction which is now responsible for the monitoring of the peace agreements and provide support for the implementation of the agreements. This government institution supported the sustainability of the peace agreement and overall success of the peace process.

## PART V: BIBLIOGRAPHY & ANNEXES

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## **ANNEX - I: Memorandum from United People's Front to the Prime Minister (40-point Demands)**

[Note: Baburam Bhattarai, the leader of the United People's Front (UNPF), the political Wing of Communist Party of Nepal – Maoists, submitted a forty-point memorandum to Prime Minister Sher Bahadur Deuba on 4 February 1996. Following is the reproduction and un-official translation of the Memorandum]

Right Honourable Prime Minister  
Prime Minister's Office,  
Singha Darbar, Kathmandu

Sub: Memorandum

Sir,

It has been six years since the autocratic monarchical partyless Panchayat system was ended by the 1990 People's Movement and a constitutional monarchical multiparty parliamentary system established. During this period state control has been exercised by a tripartite interim government, a single-party government of the Nepali Congress, a minority government of UML and a present Nepali Congress-RPP-Sadbhavana coalition. That, instead of making progress, The situation of the country and the people is going downhill is evident from the fact that Nepal has slid to being the second poorest country in the world; people living below the absolute poverty line has gone up to 71 per cent; the number of unemployed has reached more than 10 per cent while the number of people who are semi-employed or in disguised employment has crossed 60 per cent; the country is on the verge of bankruptcy due to rising foreign loans and deficit trade; economic and cultural encroachment within the country by foreign, and especially Indian, expansionists is increasing by the day; the gap between the rich and the poor and between towns and villages is growing wider. On (lie other hand, parliamentary parties that have formed the government by various means have shown that they are more interested in remaining in power with the blessings of foreign imperialist and expansionist masters than in the welfare of the country and the people. This is clear from their blindly adopting so-called privatisation and liberalisation to fulfil the interestes of all imperialists and from the recent 'national consensus' reached in handing over the rights over Nepal's water resources to Indian expansionists. Since 6 April, 1992, the United People's Front has been involved in various struggles to fulfil relevant demands related to nationalism, democracy and livelyhood, either by itself or with others. But rather than fulfil those demands, the governments formed at different times have violently suppressed the agitators and taken the lives of hundreds; the most recent example of this is the armed police operation in Rolpa a few months back. In this context, we would like to once again present to the current coalition government demands related to nationalism, democracy and livelihood, which have been raised in the past and many of which have become relevant in the present context.

Our demands

### *Concerning nationality*

1. All discriminatory treaties, including the 1950 Nepal-India Treaty, should be abrogated.
2. The so-called Integrated Mahakali Treaty concluded on 29 January, 1996 should be repealed immediately, as it is designed to conceal the disastrous Tanakpur Treaty and allows Indian imperialist monopoly over Nepal's water resources.
3. The open border between Nepal and India should be regulated, controlled and systematised. All vehicles with Indian licence plates should be banned from Nepal.
4. The Gurkha/Gorkha Recruitment Centres should be closed. Nepali citizens should be provided dignified employment in the country.
5. Nepali workers should be given priority in different sectors. A 'work permit' system should be strictly implemented if foreign workers are required in the country.
6. The domination of foreign capital in Nepali industries, business and finance should be stopped.
7. An appropriate customs policy should be devised and implemented so that economic development helps the nation become self-reliant.

8. The invasion of imperialist and colonial culture should be banned. Vulgar Hindi films, videos and magazines should be immediately outlawed.
9. The invasion of colonial and imperial elements in the name of NGOs and INGOs should be stopped.

*Concerning people's democracy*

10. A new constitution should be drafted by representatives elected for the establishment of a people's democratic system.
11. All special privileges of the king and the royal family should be abolished.
12. The army, the police and the bureaucracy should be completely under people's control.
13. All repressive acts, including the Security Act, should be repealed.
14. Everyone arrested extra-judicially for political reasons or revenge in Rukum, Rolpa, Jajarkot, Gorkha, Kabhrc, Sindhupalchowk, Sindhuli, Dhanusa, Ramechhap, and so on, should be immediately released. All false cases should be immediately withdrawn.
15. The operation of armed police, repression and state-sponsored terror should be immediately stopped.
16. The whereabouts of citizens who disappeared in police custody at different times, namely Dilip Chaudhary, Bhuwan Thapa Magar, Prabhakar Subedi and others, should be investigated and those responsible brought to justice. The families of victims should be duly compensated.
17. All those killed during the People's Movement should be declared martyrs. The families of the martyrs and those injured and deformed should be duly compensated, and the murderers brought to justice.
18. Nepal should be declared a secular nation.
19. Patriarchal exploitation and discrimination against women should be stopped. Daughters should be allowed access to paternal property.
20. All racial exploitation and suppression should be stopped. Where ethnic communities are in the majority, they should be allowed to form their own autonomous governments.
21. Discrimination against downtrodden and backward people should be stopped. The system of untouchability should be eliminated.
22. All languages and dialects should be given equal opportunities to prosper. The right to education in the mother tongue up to higher levels should be guaranteed.
23. The right to expression and freedom of press and publication should be guaranteed. The government mass media should be completely autonomous.
24. Academic and professional freedom of scholars, writers, artists and cultural workers should be guaranteed.
25. Regional discrimination between the hills and the tarai should be eliminated. Backward areas should be given regional autonomy. Rural and urban areas should be treated at par.
26. Local bodies should be empowered and appropriately equipped.

*Concerning livelihood*

27. Land should belong to 'tenants'. Land under the control of the feudal system should be confiscated and distributed to the landless and the homeless.
28. The property of middlemen and comprador capitalists should be confiscated and nationalised. Capital lying unproductive should be invested to promote industrialisation.
29. Employment should be guaranteed for all. Until such time as employment can be arranged, an unemployment allowance should be provided.
30. A minimum wage for workers in industries, agriculture and so on should be fixed and strictly implemented.
31. The homeless should be rehabilitated. No one should be 'relocated' until alternative infrastructure is guaranteed.
32. Poor farmers should be exempt from loan repayments. Loans taken by small farmers from the Agricultural Development Bank should be written off. Appropriate provisions should be made to provide loans for small farmers.
33. Fertiliser and seeds should be easily available and at a cheap rate. Farmers should be provided with appropriate prices and markets for their produce.
34. People in flood and drought-affected areas should be provided with appropriate relief materials.
35. Free and scientific health services and education should be available to all. The commercialisation of education should be stopped.

36. Inflation should be checked. Wages should be increased proportionate to inflation. Essential goods should be cheaply and easily available to everyone.
37. Drinking water, roads and electricity should be provided to all villagers.
38. Domestic and cottage industries should be protected and promoted.
39. Corruption, smuggling, black marketing, bribery, and the practices of middlemen and so on should be eliminated.
40. Orphans, the disabled, the elderly and children should be duly honoured and protected.

We would like to request the present coalition government to immediately initiate steps to fulfil these demands which are inextricably linked with the Nepali nation and the life of the people. If there are no positive indications towards this from the government by 17 February, 1996, we would like to inform you that we will be forced to adopt the path of armed struggle against the existing state power.

Thank you.

Dr Baburam Bhattarai  
Chairman  
Central Committee, United People's Front, Nepal

## **ANNEX II: Letter of Understanding Between The Seven Party Alliance and The Communist Party of Nepal (Maoists)**

[Unofficial translation]

The long struggle between absolute monarchy and democracy in Nepal has now reached a very grave and new turn. Establishing peace by resolving the 10-year old armed conflict through a forward-looking political outlet has become the need of today. Therefore, implementing the concept of absolute democracy through a forward-looking restructuring of the state has become an inevitable need to solve the problems related to class, caste, gender, region etc. of all sectors including political, economic, social and cultural, bringing autocratic monarchy to an end and establishing absolute democracy. We make public that, against this existing backdrop and reference in the country, the following understanding has been reached between the seven parliamentary parties and the CPN (Maoist) through different methods of talks.

### **Points of Understanding**

1. Today, the main desire of most Nepalis is to have democracy, peace, prosperity, social upliftment and an independent and sovereign Nepal. Toward that end, we fully agree that the main obstacle is an autocratic monarchy. Without an end to the autocratic monarchy and establishment of complete democracy we are clear that there will be no peace, progress and prosperity in the country. Therefore, we have reached an agreement that all forces against autocratic monarchy will step up their movement to end the autocratic monarchy and establish complete democracy.
1. The agitating seven political parties are fully committed to the plan to reinstate parliament whose decision will lead to the formation of an all-party government, hold talks with the Maoists and go for an election to a constituent assembly. They identify this as the way to end the present conflict and restore sovereignty to the people. The Communist Party of Nepal (Maoist) has made the commitment to organise a national political convention of democratic forces. The meet should decide on the formation of an interim government and hold elections for a constituent assembly to achieve the agreed goal. The seven political parties and the CPN (Maoist) will engage in dialogue and explore a consensus on procedural matters. It has been agreed that People's power is the only alternative to meet the goals.
2. The country wants a positive solution and a permanent peace. That is why we are committed to these goals and an end to the armed conflict through the end of autocratic monarchy, elections for the constituent assembly and the establishment of absolute democracy. The CPN (Maoist) expresses its commitment to move ahead in a peaceful new political current through this process. There has been an understanding on keeping the Maoists' armed forces and the Royal Nepali Army under the supervision of the United Nations during the elections of the constituent assembly, conduct elections in free and fair manner, and accept the results of the elections—all these after an end of the autocratic monarchy. We also expect the involvement of reliable international interlocutors in our dialogue process.
3. The CPN (Maoist) makes public its commitment to clearly institutionalise the values of competitive multiparty system, civil and fundamental rights, human rights and the rule of the law.
4. The CPN (Maoist) has made the commitment to let the leaders, activists, and the people who were displaced during the armed conflict to be resettled in their homes. It has also committed that all land, houses and property seized unjustly will be returned. This will create an environment where people will be allowed to freely conduct their political activities.
5. Through self-criticism and self-evaluation of the past mistakes and shortcomings, the CPN (Maoist) is committed not to repeat those mistakes.
6. The seven political parties have realised they made mistakes when they were in parliament and in government and have committed that they will not repeat those mistakes.

7. Human rights and press freedom will be respected while moving the peace process ahead.
8. The talk of municipal elections and parliamentary polls is to trick the people and the international community and to legitimise the illegitimate and autocratic rule of the king. We will boycott these polls in our separate ways and urge the people to make such elections unsuccessful.
9. The people and their representative political parties are the real guards of nationalism. We are fully committed on the self-reliance, sovereignty, territorial integrity and national unity. It is our common duty to have friendly relations on the basis of the principle of peaceful co-existence with all the countries of the world, especially with our neighbours India and China. We urge all patriotic people to remain alert about Mandale nationalism that the king and the monarchists are preaching to the people. We also appeal to international powers to support the democratic movement against autocratic monarchy through all possible ways.
10. We urge civil society, professionals, people of all caste, communities and areas, the media, intellectuals and general Nepalis to actively participate in the people's movement that will be conducted on the basis of our agreement that has democracy, peace, prosperity, progressive social change, freedom, sovereignty and integrity of the country as the cornerstone.
11. Past misbehaviour of the parties will be investigated, and action taken against those found guilty and the findings made public. Any problems arising will be sorted out at the concerned level or through discussion at the leadership level.

## **ANNEX III: Unofficial translation of the Comprehensive Peace Agreement 2006**

### **Preamble:**

Respecting people's mandate for democracy, peace and progress expressed through repeated historic people's movement and struggles since 1951,

Reaffirming commitments to the 12-point and 8-point agreements, and 25-point code of conduct between the seven parties and the Maoists; decisions taken during the meeting of the top leaders of the seven parties and the Maoist on November 8 along with other agreements, understandings, code of conducts and letter sent to the United Nations stating identical viewpoints by the Maoists and the Nepal government,

Pledging for progressive restructuring of the state by resolving prevailing problems related with class, ethnicity, regional and gender differences,

Reiterating commitments to competitive multiparty democratic system, civil liberties, fundamental rights, human rights, complete press freedom, rule of law and all other norms and values of democratic system,

Pledging commitments to Universal Declaration of Human Rights 1948 and other international humanitarian laws and values and principles of the human rights,

Guaranteeing the fundamental rights of the Nepalese people to cast their votes in the constituent assembly polls without any kind of fear,

By putting democracy, peace, prosperity, progressive social and economic transformation, independence, integrity, sovereignty and prestige of the state in the centre-stage, implement the commitments made by both the sides to hold the election to constituent assembly by mid June 2007 in a free and fair manner,

Declaring the end of armed conflict prevailing in the country since 1996 and beginning the new era of peace and co-operation as per the understanding reached between both the sides for guaranteeing the sovereignty of the Nepalese people, progressive political solution, democratic restructuring of the state and social, economic and cultural transformation of Nepalese society through the constituent assembly,

Committing to transforming the ceasefire between the Nepal government and the Maoists into permanent peace, the following comprehensive peace agreement has been reached between the Nepal government and the Communist Party of Nepal (Maoist).

### **1. Preliminary**

- 1.1. This agreement shall be called 'Comprehensive Peace Agreement, 2006'. In short this shall be called peace agreement.
- 1.2. This agreement shall come into effect through public announcement by both the government and the Maoists
- 1.3. Both the sides shall issue directives to all the agencies under them to follow and implement this agreement immediately and shall implement it
- 1.4. All agreements, understandings, code of conduct and decision taken by the government, the Maoists and the seven parties enlisted in the appendix shall be inseparable part of this agreement
- 1.5. The agreements and understanding to be signed later to implement this agreement shall also be regarded as part of this agreement

### **2. Unless the subject or context otherwise requires, in this agreement:**

- a. Ceasefire shall mean restriction of all kinds of attacks, abduction, disappearance, imprisonment, mobilisation and strengthening of the armed force, attacking or armed actions targeted against each other between the Nepal government and the Maoists and any form of destructive, provoking or inciting activities in the society.
- b. 'Interim constitution' shall mean the 'Interim Constitution of Nepal 2006' to be promulgated and exercised until a new constitution is written through Constituent Assembly.
- c. 'Interim cabinet' shall mean the council of minister formed as per the interim constitution.

- d. 'Both Parties' shall mean Nepal government and the Communist Party of Nepal (Maoist).
- e. 'Prevailing laws' shall mean the interim constitution and other existing Nepalese laws that are not inconsistent with this constitution. However, this definition shall not affect the existing legal system in the country before the announcement of the interim constitution.
- f. 'Verification' would mean the preparation of the detailed situation of the army, combatants and arms by the United Nations after verification.

### **3. Political, social, economic transformation and conflict management**

Both parties have agreed to formulate following programmes and policies for political, social and economic transformation and management of the existing conflict through positive means:

3.1. Based on the decision taken by the meeting of the top leaders of the seven parties and the Maoists (schedule 6) on November 8, guarantee progressive political, economic and social transformation.

3.2. Form the interim legislative – parliament, as per the interim constitution, the interim government shall hold election to constituent assembly elections by mid-June 2007 in free and fair manner and make the Nepalese people feel their inherent sovereign right.

3.3. No rights of state administration shall remain with the King. Bring the properties of late King Birendra, late Queen Aishwarya and their family members under the control of the Nepal government and use it for the welfare purposes through a trust. All properties acquired by King Gyanendra by the virtue of him being the King (like palaces of various places, forests and conservation areas, heritage having historical and archaeological importance) shall be nationalised. Determine the fate of the institution of monarchy by the first meeting of the Constituent Assembly through simple majority vote.

3.4. Promulgate the political system that fully comprehends with the concepts of universally adopted principles of fundamental human rights, multiparty competitive democratic system, sovereign rights inherent in the people and supremacy of the citizens, constitutional balance and control, rule of law, social justice and equality, independent judiciary, periodic elections, monitoring by the civil society, complete press freedom, right to information of the citizens, transparency and accountability of the activities of the political parties, people's participation, fair, able and uncorrupted administrative mechanism.

3.5. End the existing centralised and unitary state system and restructure it into an inclusive, democratic progressive system to address various problems including that of women, Dalits, indigenous community, Madhesis, oppressed, ignored and minority communities, backward regions by ending prevailing class, ethnic, linguistic, gender, cultural, religious and regional discrimination.

3.6. End all forms of feudalism and prepare and implement a minimum common programme of socio-economic transformation on mutual understanding.

3.7. End feudal land ownership and formulate the policies for scientific land reforms.

3.8. Adopt policies for protection and promotion of national industries and resources.

3.9. Adopt policies for establishment of civil rights in education, health, shelter, employment and food security.

3.10. Adopt policies to provide land and socio-economic security to backward groups like landless, bonded labourers, tillers, Haruwa-charuwa and other such groups, which are socio-economically backward.

3.11. Adopt policies to take strict actions against the people who have worked in government positions and have amassed huge amount of properties through corruption.

3.12. Prepare a common development concept that will help in socio-economic transformation of the country and will also assist in ensuring the country's economic prosperity in a short period of time.

3.13. Follow policies ascertaining the professional rights of workers and increase investment on sectors like promoting industries, trade and export and increase employment and income generating opportunities.

#### **4. Management of armies and arms**

To hold the election of constituent assembly in free, fair and peaceful environment and democratisation and restructuring of the army, the following works shall be done as per the 12-point and 8-point agreements, and 25-point code of conduct, 5-point letter sent to the United Nations and decisions taken during the meeting of the top leaders on November 8:

##### **Relating to Maoist army –**

4.1. As per the commitments expressed in the joint letter sent to the United Nations by the Nepal government and the Maoists on August 9, the combatants of the Maoists would remain in the following temporary camps. United Nations would do their verification and monitoring.

1. Kailali, 2. Surkhet, 3. Rolpa, 4. Nawalparasi, 5. Chitwan, 6. Sindhuli 7. Ilam. There would be three smaller camps located in the periphery of each of these main camps

4.2. All the arms and ammunitions would be securely stored in the camps except those needed for providing security of the camp after the Maoist combatants are sent to the cantonments. They will be put under a single lock system and the concerned side would keep the key of this lock. For the UN to monitor it, a device with siren as well as recording facility will be installed. When there is need to examine the stored arms, the UN would do so in the presence of the concerned side. Prepare the details of technology including camera for monitoring as per the agreement among the Nepal government, the Maoists and the United Nations.

4.3. On completion of cantonment of the Maoist combatants, Nepal government would take up the responsibility for providing ration and other facilities to them.

4.4. The interim cabinet shall form a special committee to carry out monitoring, integration and rehabilitation of the Maoist combatants.

4.5. Make arrangement for the security of the Maoist leaders as per the agreement with the Nepal government.

##### **Relating to the Nepali Army**

4.6. The Nepali Army would be confined to the barracks as per the commitments expressed in the letter sent to the United Nations. Guarantee that its arms would not be used for or against any side. Keep similar quantity of arms of the Nepali Army in the store, seal it with single-lock system and give the key to the concerned side. For the UN to monitor it, a device with siren as well as recording facility will be installed. When there is need to examine the stored arms, the UN would do so in the presence of the concerned side. Prepare the details of technological arrangement including camera for monitoring as per the agreement among the Nepal government, the Maoists and the United Nations.

4.7. The cabinet would control, mobilise and manage the Nepali Army as per the new Military Act. The interim cabinet would prepare and implement the detailed action plan of democratisation of the Nepali Army by taking suggestions from the concerned committee of the interim parliament. This includes works like determination of the right number of the Nepali Army, prepare the democratic structure reflecting the national and inclusive character, and train them on democratic principles and human rights values

4.8. Continue the works of the Nepali Army such as border security, security of the conservation areas, protected areas, banks, airport, power house, telephone tower, central secretariat and security of VIPs.

#### **5. Ceasefire**

5.1. End of armed rebellion and mobilisation of armed forces:-

5.1.1. Both parties commit not to carry out the following activities:-

- a. Acts of attacking or using arms directly or indirectly against each other
- b. Seizing or raiding places where the arms of other side has been stored as per the mutual understanding, with or without arms

- c. Acts that would cause mental pressure or loss to any individual person
- d. Acts to place ambush targeting each other
- e. Actions involving killing or violence
- f. Acts of abduction, arrest, imprisonment, disappearance
- g. Destruction of public, private, governmental or military properties
- h. Aerial attacks or bombarding
- i. Mining or sabotaging
- j. Acts of spying each other's military activities

5.1.2. Both parties shall not carry on further recruitments, shall not transport the arms and ammunition or pose difficulties militarily against each other.

But the interim cabinet shall mobilise the security forces for search and patrol to stop the acts like illegal transportation of arms, explosives or their parts or raw material in borders or customs points.

5.1.3. No individuals or groups shall travel with arms, ammunition or explosives

5.1.4. Both parties shall inform each other about the demarcation and storage of ambush or mines planted during the war period within 30 days and help each other to diffuse or dispose them off within 60 days.

5.1.5. Armies of both parties shall not appear with arms or combat dresses in any civil meeting, political gathering or public programmes.

5.1.6. Nepal Police and Armed Police force shall continue to work for maintaining peace and investigation into the criminal activities as per the spirit and content of the peace agreement and prevailing laws.

5.1.7. Both parties shall instruct their armed forces directing them to stop telling or behaving with the other side's armed personnel as 'enemy'.

5.1.8. Both parties agree to prepare the details of the governmental, public, private building, land or other properties captured, locked or restricted from being used during the period of armed conflict and return these things immediately

5.2. Ways of normalising the situation:

5.2.1. There won't be cash or kind collection or tax collection against anyone's will or existing laws.

5.2.2. Both parties agree to publicise and release all the person kept under detention within 15 days.

5.2.3. Prepare the details of the disappeared persons or those killed in the conflict with their real name, surname and residential address and publicise it within 60 days from the day of signing this agreement and inform the family members of concerned persons.

5.2.4. Both parties agree to form a national peace and rehabilitation commission to initiate process of rehabilitation and providing relief support to the persons victimised by the conflict and normalise the difficult situation created due to the armed conflict.

5.2.5. Both parties agree to form a high level Truth and Reconciliation Commission on mutual understanding to conduct investigation about those who were involved in gross violation of human rights at the time of the conflict and those who committed crime against humanity and to create the situation of reconciliation in the society.

5.2.6. Both parties vow to renounce all forms of war, attacks, counter-attacks, violence and counter violence existing in the country and commit to guarantee the democracy, peace and progressive changes in the Nepali society. It has been agreed that both parties shall help each other for maintaining peaceful situation.

5.2.7. Both parties guarantee to withdraw accusations, claims, complaints and under-consideration cases levelled against various individuals due to political reasons and immediately publicise the status of those imprisoned and immediately release them.

5.2.8. Both parties express the commitment to allow without any political prejudice the people displaced due to the armed conflict to return back voluntarily to their respective ancestral or former residence, reconstruct the infrastructure destroyed during the conflict and rehabilitate and socialise the displaced people into the society.

5.2.9. Both parties agree to take individual and collective responsibility of resolving, with the support of all the political parties, civil society and local institutions, any problems arising in the aforementioned context on the basis of mutual consensus and creating an atmosphere conducive for normalisation of mutual relations and for reconciliation.

5.2.10. Both parties express the commitment not to discriminate against or exert any kind of pressure on any member of the family of either side on the basis of them being related to one or the other side.

5.2.11. Both parties agree not to create any kind of obstacle and allow any kind of obstruction to be created in the independent travelling, assuming of duties and executing of work by the Government of Nepal and public bodies' employees and assist them in their work.

5.2.12. Both parties agree to allow unrestricted travelling as per the law within the state of Nepal to the personnel of the United Nations, international donors agencies and diplomatic missions working in Nepal, national and international non-government organisations, press, human rights activists, election observers and foreign visitors.

5.2.13. Both parties commit to operate publicity campaigns in a decent and respectable manner.

## **6. The end of war**

6.1 On the basis of the historic agreement between the seven political parties and the Maoists on November 8<sup>th</sup>, giving permanency to the ongoing ceasefire between the government and the Maoists, we declare the end of the war that has been going on since 1996.

6.2 The decisions made by the meeting of the senior leaders of the seven political parties and the Maoists on November 8 will be the principal basis for the establishment of permanent peace.

6.3 After the Nepali Army is placed in the barracks and the Maoists' combatants are contained in the cantonments, possession of arms, display of arms, creating terror, use of weapons or such acts against the agreement or law will be punishable by the law.

6.4 The army on both sides shall not be allowed to campaign in favour of any group or shall not be allowed to express their support towards any of the sides but they shall not be deprived from their rights to vote.

## **7. Human rights, fundamental rights and following humanitarian laws**

Both parties express their commitment towards universal declaration of human rights 1948 and international humanitarian law and basic principle and values of human rights.

### **7.1 Human Rights**

7.1.1 Both parties reaffirm their commitment to respect and protect human rights and international humanitarian law and accept that no individual shall be discriminated on the basis of caste, gender, language, religion, age, ethnic groups, national or social origin, property, disability, birth or any other status, thoughts or conscience.

7.1.2 Both parties have agreed to create an environment where the Nepali people can utilize their civic, political, economical, social and cultural rights and are committed to create an environment in which these rights will not be violated in the future under any circumstances.

7.1.3 Both parties express their commitment and state that necessary investigation will be undertaken against any individual involved in violating the rights mentioned in the agreement and action will be taken against ones that are found guilty. Both parties also ascertain that they will not protect impunity and along with it, the rights of the people affected by the conflict and torture and the families of the people who have been disappeared will be safeguarded.

7.1.4 Both parties shall not be involved in activities like torturing civilians, abducting, forcing them to work and shall take necessary action to discourage such activities.

7.1.5 On the basis of secularism, both the sides shall respect social, cultural and religious sensitivity, and shall respect the religious conscience of a religious place or an individual.

### **7.2 Right to live**

7.2.1 Both parties shall respect and protect the right of an individual to live. No one shall be deprived of this basic right and no law including capital punishment shall be formulated.

### 7.3 Individual prestige, freedom and freedom of movement

7.3.1 Both parties shall respect the right of individual prestige and freedom. In this context, even the people who have been legally deprived from enjoying their freedom shall also not be subjected to torture or punished with inhumane behaviour or disrespectful behaviour. The right of privacy of an individual shall be protected legally.

7.3.2 Both parties, respecting the individual's freedom and right to security shall not place anyone under whimsical or illegal detention and shall not abduct or imprison any individual. Both parties shall release the details of the condition of the people who have been disappeared or have been kept captives and an agreement has also been reached to inform about their status to their family members, legal consultant or any other authorised person.

7.3.3 Both parties shall respect and protect the individual's freedom to move freely and right to choose a place to reside within the legal periphery and also expresses commitment to respect the right of the people who have been displaced to return home or to live in any other place they choose.

### 7.4 Civil and political rights

7.4.1 Both parties express their commitment to respect and protect an individual's freedom of opinion and expression, freedom to form unions and associations, freedom to assemble peacefully and shall work against exploitation.

7.4.2 Both parties shall respect the right of every individual to participate in public matters directly or through representatives, right to vote and be elected and the right of equality to enter public service.

7.4.3 Both parties are committed to respect the right of the people to be informed.

### 7.5 Socio-economic rights

7.5.1 Both parties are committed to respect and protect an individual's freedom to practice any profession.

7.5.2 Both parties are committed to respect and guarantee the people's right to food security. It also ascertains that the issues like food, food production, utilisation of food, its transportation and distribution shall not be interfered with.

7.5.3 Both parties accept the need to respect and protect the health rights of the people. Both parties shall not disrupt the supply of medicines, assistance and health campaigns and also express its commitment towards treatment of the people who have been injured due to the conflict and shall also initiate rehabilitation process.

7.5.4 Both parties accept the need to respect and guarantee the right of education to all and express commitment to maintain adequate educational environment in educational institution. Both parties have agreed to ascertain that the right to education is not violated. An agreement has been reached whereby, incidents like capturing educational institution, using these institutions, abducting, detaining or disappearing teachers and students shall be stopped immediately and military barracks shall not be constructed near schools and hospitals.

7.5.5 Both parties have agreed not to illegally seize or capture anyone's private property.

7.5.6 Both parties believe in not disrupting the industrial environment of the country and to continue production, protect the right of group bargaining in industrial institution and respecting social security intends to encourage resolving the disputes between the labour and the industrial institution peacefully and respects the right to work determined by the International Labour Organisation (ILO).

### 7.6 Rights of women and children

7.6.1 Both parties completely agree on the need to specially protect the rights of women and children and the need to stop all forms of sexual exploitation and other forms of misbehaviour on women and child labour and other violent act against children and not to include children below the age of 18 in any form of military force. The children who

have already been affected shall be rescued immediately and adequate provisions shall be made for their rehabilitation.

#### 7.7. Right of Individual Liberty

7.7.1. Both parties agree to the freedom of opinion and expression; freedom to assemble peaceably and without arms; freedom of movement; freedom to practice any profession, or to carry on any occupation, industry or trade; press and publication rights; the freedom to take part in peaceful political activities; the right of equality before the law; and to implement and have a tolerable system of justice implemented.

### **8. Dispute Settlement and Implementation Mechanism**

8.1. Both parties agree to become responsible and accountable in an individual and collective manner and not repeat in future mistakes committed in the past and also correct these mistakes on a gradual basis.

8.2. The National Peace and Rehabilitation Commission shall be set up as per the need for making the campaign for peace successful. The composition and working procedures of the Commission shall be as determined by the interim Council of Ministers.

8.3. Both parties are committed to settle all kinds of present or possible future mutual differences or problems through mutual talks, understanding, consensus and dialogue.

8.4. Both parties express commitment that the interim Council of Ministers shall constitute and determine the working procedures of the National Peace and Rehabilitation Commission, the Truth and Reconciliation Commission, the High-level State Restructuring Recommendation Commission and other mechanisms as per the need to implement this agreement, the Interim Constitution and all the decisions, agreements and understandings reached between the Seven-party Alliance, the Government of Nepal and the CPN (Maoist).

### **9. Implementation and Follow-up**

Both parties have agreed to make the following arrangements for the implementation of the understandings mentioned in this agreement and for their follow-up –

9.1. Both parties agree to give continuity to the task of monitoring of the human rights provisions mentioned in this agreement by the United Nations Office of the High Commissioner for Human Rights, Nepal.

9.2. Both parties agree for the monitoring of the management of arms and the armies by the United Nations Mission in Nepal as mentioned in the five-point letter send to the UN earlier and in the present agreement.

9.3. Both parties agree to get the United Nations supervise the election to the Constituent Assembly.

9.4. The National Human Rights Commission shall also carry out works related to the monitoring of human rights as mentioned in this agreement together with the responsibility assigned to it as per the laws. In connection with carrying out its works, the Commission can take the help of national and international human rights organisations after maintaining necessary coordination with them.

9.5. Both parties agree to accept the reports submitted by the above-mentioned bodies, to provide the information requested by them, and to implement the suggestions and recommendations given by them on the basis of consensus and dialogue.

### **10. Miscellaneous**

10.1. Both parties agree not to operate parallel or any form of structure in any areas of the state or government structure as per the letter of the decisions of November 8 and the spirit of the peace agreement.

10.2. Both parties accept to sign any complementary agreements, as necessitated, for the implementation of the present agreement.

10.3. This agreement can be revised any time with the consent of both parties. Both parties agree to provide to each other prior written information if they wish to make any change. The amendments could be made to the agreement with the consent of both parties after receiving the information. The provisions to be made by such an amendment would not be below the minimum standards of the accepted international human rights and humanitarian laws.

10.4. If any disputes arise in any interpretation of this agreement, a joint mechanism comprising both parties shall make the interpretation on the basis of the preamble and the documents included in the schedule of this agreement, and this interpretation would be final.

10.5. The concept of 'two parties' as mentioned in this agreement would automatically cease to exist after the constitution of the Interim Legislature -Parliament. Thereafter, all the responsibility of implementing the obligations stated in this agreement shall be as per the arrangements made by the Interim Council of Ministers. It would be the duty and responsibility of all the political parties to extend cooperation in the compliance and implementation of the agreement.

10.6. We heartily appeal to one and all to extend cooperation for resolving their problems and demands through talks and dialogue and for holding the election to the constituent assembly and maintaining the law and order, at a time when the entire country is focused on the main campaign of the election of the Constituent Assembly.

10.7. We heartily appeal to the civil society, the professional groups, the class organisations, the media, the intellectual community and all the Nepali people to actively participate in this historic campaign of building a new Nepal and establishing lasting peace through the election of the Constituent Assembly by ending the armed conflict.

10.8. We heartily urge all the friendly countries and the United Nations, as well as the International Community to extend support to Nepal in this campaign of establishing full democracy and lasting peace.

Cognizant of the responsibility of the future of the country and the people, and becoming fully committed to this comprehensive peace agreement, we, on behalf of the Government of Nepal and the Communist Party of Nepal (Maoist), hereby make public this comprehensive peace agreement after signing it.

Prachanda  
Chairman  
Communist Party of  
Nepal (Maoist)

Girija Prasad Koirala  
Prime Minister  
Government of Nepal

Signed on November 21, 2006

## ANNEX IV: NEPAL CONFLICT TIME LINE (FEB 1996 TILL MAY 2008)

<b>1996</b>	The ‘peoples’ war’ is started by the Communist Party of Nepal (CPN-Maoists). This is the beginning of the Nepalese decade-long armed conflict.
<b>2000</b>	Koirala returns as prime minister, heading the ninth government in 10 years.
<b>2000</b>	K.P Bhattarai’s government forms a ‘High Level Committee’ to provide suggestions on how to solve Maoists problem convened by Deuba. It is cited as one of the most comprehensive one by a state-instituted body on how to resolve the armed conflict.
<b>2001 June</b>	Crown Prince Dipendra shoots King Birendra, Queen Aishwarya and other close relatives before shooting himself.
<b>2001 June</b>	Prince Gyanendra crowned King of Nepal.
<b>2001 July</b>	Sher Bahadur Deuba replaces Koirala who resigns as premier due to increased Maoists violence.
<b>2001 July</b>	Ceasefire declared between Maoists and government.
<b>2001 Aug</b>	First round of talks begin in the outskirts of Kathmandu and the Maoists make a political demand for the Constituent Assembly.
<b>2001 Nov</b>	Maoists break the ceasefire after 4 months. They embark on attacks on army and police posts.
<b>2001 Nov</b>	The government declares a state of emergency and deploys the army to counter the rebellion.
<b>2002 May</b>	The state of emergency come up for renewal. Prime minister Deuba against the wishes of party organization dissolves parliament and postpones elections slated for November.
<b>2002 Oct</b>	King Gyanendra dismisses Deuba, appoints 2-time prime minister Lokendra Bahadur Chand under an interim government and indefinitely postpones elections set for November.
<b>2003 Jan</b>	The royal regime and the rebels declare a ceasefire.
<b>2003 Apr</b>	First talks between the interim government and Maoists
<b>2003 Apr</b>	The US declares the CPN (M) a terrorist organization.
<b>2003 May</b>	Surya Bahadur Thapa is appointed new premier after Chand’s resignation.
<b>2003 Aug</b>	The seven-month ceasefire is broken by the rebels. Renewed violence rocks the country with Maoists carrying out bombings and assassinations.
<b>2004 May</b>	Weeks of street protests lead Surya Bahadur Thapa to resign as premier.
<b>May</b>	Seven opposition parties come together and start Movement for Democracy.
<b>2004 June</b>	King Gyanendra reappoints Deuba as PM with the task of holding elections.
<b>2004 Aug</b>	The government sets up a High Level Peace Committee (HPC).
<b>2005 Feb 1</b>	A state of emergency is declared by King Gyanendra after a royal coup.
<b>May</b>	NC, NC(D), UML, Janamorcha Nepal, NWPP,ULF and NSP come together and unveil the Seven-Party Alliance (SPA)
<b>Jul 28</b>	The Madhesi People’s Right Forum (MPRF) emerges as a party.
<b>Sep 3</b>	CPN (M) declares unilateral ceasefire for a three-month period.
<b>Nov 22</b>	The 12-point agreement signed between Seven-Party-Alliance (SPA) and Maoist in Delhi requesting the king to establish democracy.
<b>2006 Mar 19</b>	The 7-point agreement signed between SPA and Maoists in Delhi.
<b>April</b>	King agrees to reinstate parliament following weeks of massive strikes and Protests-“people’s movement”. Koirala is appointed as PM. Maoists call for a 3-month ceasefire.
<b>May</b>	Parliament unanimously curtails the king's political powers. Government and

	Maoists begin peace talks, the first in nearly three years.
May 26	A 25-point Code of Conduct (COC) governing ceasefire announcements agreed between the Government and the CPN (M).
June 16	Maoist leader Prachanda and PM Koirala hold talks. They agree on a 8-point agreement also signed by SPA.
Aug 9	A 5-point agreement is signed by the Seven-Party-Alliance and the CPN (M) seeking UN's assistance in establishing a peace agreement.
Oct	Date set for June 2007 for the Constituent Assembly.
Nov. 8	The Seven-Party Alliance and the Maoist CPN (M) hold Summit Meeting for a signed peace understanding.
Nov. 22	The Comprehensive Peace Agreement signed between the Government and the Communist Party of Nepal (Maoist). An end to the war is declared.
Nov. 28	Government and Maoists sign agreement on monitoring of the management of arms And armies, witnessed by UN.
Dec. 15	The SPA and the Maoists finalize a Draft Interim Constitution.
<b>2007 Jan</b>	The Maoists join the interim government. Violent ethnic protests erupt in the south-east Tarai region with groups demanding for autonomy and citing exclusion from the CPA.
Jan 9	UN Security Council resolution 1740 passed, creating the UN Mission in Nepal (UNMIN)
April 1	Former Maoist rebels join interim government (5 Ministers).
May	The November Constituent Assembly Elections are postponed.
July 7	20-point deal reached between government and indigenous groups (NEFIN).
Aug 20	CPN (M) advocates for changes in the electoral system and demands for the declaration of a republic prior to the CA elections.
Aug 30	A 22-point agreement is reached between government and MPRF.
Sept 2	Three bombs hit Kathmandu.
Sept	More violence is reported in the Tarai Region.
Sept 18	Maoists resign from the interim government demanding the end of the monarchy.
Oct. 5	The November CA elections are further delayed. MPFR demands for a fully inclusive electoral system.
Oct	The UN Secretary-General Ban Ki-moon asks Nepal's parties to resolve their differences to save the peace process.
Dec	The government agrees to the abolition of monarchy as part of peace deal with Maoists, who then re-join government.
<b>2008 Jan</b>	In the Tarai regions where demands for regional autonomy has been growing a series of bomb blasts kill and injure dozens of civilians.
Feb	SPA signs a 8-point deal with United Madhes Democratic Front (UMDF).
<b>2008 Apr 10</b>	The CA elections are held with former rebels -the Maoists- wining 37% of the votes. Election violence reported across Nepal.
May 28	The monarchy is abolished. Nepal officially becomes a Federal Democratic Republic.