

Strength and Weaknesses of the Nepalese Peace Process

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Peace Process

By and large, Nepal remained a peaceful kingdom for more than two centuries. The country witnessed armed revolution twice by the Nepali Congress in between 1950 and early 1960s. The first succeeded in throwing out the Rana regime that ruled the kingdom for 194 years, while the other did not. Maoist people's war was third in sequence that necessitated a peace process. Basically, a Peace process can be understood as a social phenomenon, which acquires political overtone, when initiated to resolve an armed conflict carried out between the state on one side and the armed outfit, on the other, to restore peace finally. It is necessitated in an explosive situation when innumerable lives and properties are destroyed and many more innocent people's lives are threatened with no possibility of subsiding of the flare-up in sight. It may be set in motion and facilitated by the concerned parties themselves, or other affected sides and their well-wishers. It may begin with the declaration of the cessation of hostilities or ceasefire by the conflicting sides. The armed conflict may have different forms such as, political, social, cultural, ethnic, religious etc. In the process, several stages have to be undergone for building mutual confidence between the parties in context in order to re-establish the normal relation between them to reach the final goal.

The Insurgency

The Samyukta Morcha Nepal, the legal front of the Nepal Communist Party of Nepal, Maoist (CPN-(M), had submitted on February 4, 1996, a charter of forty demands to Prime Minister Sher Bahadur Deuba, who was heading the coalition government, with a deadline of February 17 to fulfill the demands failing which they would wage war. But four days ahead of the expiry of the time limit, the CPN (M) started its People's war by attacking and looting a bank in Gorkha and three police posts in Rukum on February 13, 1996.

Previously, it was roughly estimated that about 13000 people lost their lives during the ten-year period of insurgency. The second task force formed by the Ministry of Peace and Reconstruction under the leadership of former secretary Govind Panday put the death tolls at 16,278. The toll figure has been based on reports collected from 73 districts that were greatly affected by the insurgency. The districts most affected by the insurgency were Rolpa, Rukum and Achham in terms of death toll. Manang and Mustang were found as marginally affected districts.

The report, submitted to the ministry, accepts that 5,640 people were injured during the insurgency and the number is likely to increase, as there is no record of injured persons who received monetary help from the Health Ministry. According to the report, 1,221 are still missing. Since more reports are reaching, the government has constituted a third task force led by CPN UML cadre Moti Paudel of Parbat district to collect additional data on death, the number of injured, destroyed property, number of abductions, internally displaced and other damages caused by insurgency (The Kathmandu Post, September 22, 2009).

Post Insurgency Conflict

After signing of the Comprehensive Peace Accord on October 22, 2006, Nepal continues to remain a conflict state as a total of 1,284 deaths, 2100 abductions and mushrooming of over 100

underground-armed outfits, reports INSEC. According to the INSEC findings, around 33 per cent of them are committed by armed groups. While the Maoists and the state allegedly killed a total of 31 and 112 people respectively, 1141 people were killed by new armed groups. While the Maoists YCL killed 10 and abducted 336 people, UML's Youth Force killed one and abducted 13. (Ibid)

Preliminary Negotiations

The government adopted the policy to contain insurgency through arms considering it a law and order problem. The policy continued with the recommendation of Prem Singh Dhami committee formed by Chand Government in 1994. There were changes of guard thrice till next general elections was held in May 1999 in two phases for the first time in view of the spreading insurgency. In the election, the NC secured working majority and formed the government under the Prime Ministership of K.P. Bhattarai. Since the government was increasingly facing difficulty in containing the insurgency and maintaining the political and administrative existence of the government, it called the Maoists for negotiation with forming a High-level committee headed by S.B. Deuba. Deuba kick-started negotiation with the Maoists. The negotiation resulted in the release of some of the Maoist leaders like central committee member Dinesh Sharma, and Dinanath Gautam.

The First Negotiation

The peace negotiation got restarted with the reappointment of S.B. Deuba as next PM on July 25, 2001 as declared ceasefire within seven days of assuming his office and nominated a five-member negotiation committee, headed by Chiranjibi Wagle. Similarly, Krishna Bahadur Mahara headed a three-member Maoist team. The representatives of the government and of the Maoists sat for discussion at Godabari Village Resort in Laitpur on August 30, 2001.

Former Speaker Daman Nath Dhugana and former minister Padma Ratna Tuladhar were nominated as facilitators of the Peace negotiation. The meeting lasted for one-day discussing three main subjects- Republic, new constitution and interim government. Since there was ceasefire, the Maoists started holding meetings at several places in the country in army fatigue. They got a kind of recognition

The second meeting took place at the Tiger Top Resort of Thakurdwara in Bardia on September 3, 2001, which lasted for two days. Although, the government appeared ready to accept their demand for interim government, there was clear difference on meeting the rest two demands. The third meeting was held again at Godabari Resort in Lalitpur on November 21, 2001. The negotiation could not proceed further and the Maoists walked out of the negotiation and they attacked the Army and police posts in Dang, Pyuthan, Syangja and some other districts on November 23, 2001.

The Second Negotiation

After dismissing the elected PM S.B. Deuba, the king appointed L.B. Chand PM on October 11, 2002. Both sides declared ceasefire on January 29, 2003. For facilitating the negotiation, Shailendra Kumar Upadhyaya and Karnadhwaja Adhikari were included in the team.

The first meeting took place at Shankar Hotel in Kathmandu on April 27, 2003 between the government six-member team under the leadership of Dy. PM Badri Prasad Mandal, and the Maoist led and the Maoists four-member team headed by team, consisted of Dr. Baburam Bhattarai. The Maoist team submitted a 24-point demand. The second meeting, organized on May 8, 2003, lasted for two days. A controversial decision in the meeting on limiting the movement of the army within 5 kilometres of the barracks proved fatal for the Chand government.

The Third Negotiation

Surya Bahadur Thapa was appointed PM on June 4, 2003. He nominated Dr. Prakash Chandra Lohani and Kamal Thapa as the negotiators. In response to the letter of invitation by Kamal Thapa, the Maoists demanded commitment of the government on the implementations of the previous decisions including the release of 300 Maoist cadres from detention. In the negotiation started at Nepalgunj on August 17, 2003, government, put up a road map regarding many issues raised by the Maoists, leaving the core issues of Republic and Constituent Assembly untouched. Later on, the meeting was shifted to Hapure of Purandhara VDC in Dang district, which failed to reach any consensus. In the mean time, the killing 18 Maoists and 2 civilians, by the army at Doramba in Ramechhap closed the chapter of negotiation.

S.B. Thapa resigned on May 6, 2004 and S.B. Deuba was reappointed PM on June 2, 2004. He also could not move ahead as no negotiation had taken place during his second tenure. The king finally dismissed him also and took the reign of the country in his own hands on February 1, 2005.

Failure of the Peace Negotiation

Any negotiation is challenging, but more challenging is a Peace negotiation, as two warring sides have to reach an honourable settlement that meets most of their demands. Some of the causes of the failure can be enlisted:

1. Lack of sincerity, understanding, strategic overview, preparation and skills in each actor at every stage of negotiation. Ironically, almost all of these were lacking from the beginning.
2. There was continued internal bickering in the Nepali Congress who remained in the driving seat of the government for most of the time.
3. One side was trying to weaken the other side strategically to be more powerful.
4. The Maoists' interest was in broadening their public relation and sphere of political influence, and also in getting their captives released from the jails and expansion of their military might.
5. Technically, the government failed to create an atmosphere of understanding and confidence before going in for negotiation. (Upreti, Bishu Raj, 2061 BS)⁴
6. The first negotiation at Godawari provided opportunity to know each other. In fact, there was no agenda for the talk and no preparation was made from both sides. It is reported that there were no paper and pencil even to note down the agenda.
7. It was obvious that the Maoists were not at all serious about the negotiation and they had treated it as a strategy of legitimacy of their insurgency as they started holding their public meetings at different places in the country in their combatant fatigue from the very next day.

⁴ . Nepalma Maovadi Dwandwa: Karan, Asara ra Samadhanka Prayasharu, (p-169)

8. The government failed to utilize the opportunity, as it could not evolve a common agenda for negotiation even before the second negotiation started at Thakurdwara. It remained centered round the theoretical side of the issues. It was more or less a position-based meeting devoting time on showing the weaknesses of one side by the other.
9. The Maoists were casual in their dealing as on the demand made by the government-side to have the written demands from the Maoists, they submitted their demands in hand-written form.
10. The government-negotiators (GN) failed to conceive objectively the political demands of the Maoists. The GN agreed to have the participation of the Maoist in the government and remained convinced that the problem would be solved with their inclusion in the government without having proper understanding of the thinking and planning of the Maoists. The Thakurdwara-discussions were concentrated on the agenda of conflict resolution. Ten hours were devoted in all in three days of negotiation at two different places. Interestingly, a team member of Maoist-side Agni Prasad Sapkota disclosed later on that they used the negotiation as a strategic step towards the political balance (Sharma).
11. The negotiations taken place during the regimes of Chand and Thapa were not fruitful as the demands of having a CA and abolishing the monarchy were such that could not be met at any cost as both were king's nominees and had no power to accept any thing against the wishes of the king. Even Deuba had neither power nor guts to accept such demands. Hence, the negotiations were destined to fail.
12. Apparently, the attack on army barrack in Dang on November 23, 2001, was pre-planned, as it was strategic for the Maoists to acquire all sophisticated arms stored there to be used against them even by looting. It was, therefore, believed that the Maoists walked out of the negotiation strategically in the pretext of the failure of the negotiation as they were informed about the storage of the arms and ammunitions that they wanted to capture.
13. The soft approach of the RNA towards the Maoists occupied the minds of the political parties which allegedly got exposed as it did not take proper efforts to recover the looted arms and ammunitions. There was clash of interest of the political parties and the Monarchy.

Conditions leading to the peace initiatives

There had been a five-decade old history of conflict for power between the people and the Monarchy since 1940s. It continued till 1990 people's movement carried out by political parties. Although the then king Birendra accepted the constitutional monarchical status, he could not reconcile with the changed condition totally. In 1996, the armed outfit known as CPN-Maoists entered the political arena and started people's war when there was an elected government. During the period between February 1996 and June 2001, the main targets of the Maoists' insurgency were police installations, cadres and supporters of the NC and the CPN-UML as the government headed by political parties, directed police operations against them. After October 2001, the RNA too became their target as it was deployed to quash the insurgency by declaring the state of emergency.

Thus, there were three political actors in the Nepalese political conflict - the monarchy, the political parties and the Maoist insurgents. It is interesting to note here that the monarchy and the mainstream political parties viewed the third actor, the insurgents differently. Since the Maoists were weakening the political strength of the political parties at their grass root level, the monarchy was not interested in wiping out the Maoists. The Monarchy was taking the Maoists as an opposite force to the political parties as it found them to be their viable opponent. The Maoists too were interested in weakening the political parties for their political gain since they wanted to capture state power even with the help of the monarchy. Baburam Bhattarai, had accepted a kind of “working understanding” with the slain King Birendra through his article in “Kantipur”¹ a national daily.

To gain power, five political parties started grouping together. Ultimately, seven parties came together to oppose the direct rule of king Gyanendra. Although, the Seven-Party Alliance (SPA), and the Maoists were opposing each other, they appeared to have some sort of conciliatory mind-set.

The Maoist leaders were almost confirmed that it was not possible for them to capture the state machinery completely with their existing military might. It was, therefore, a challenging job for them to keep their young cadres in the war like situation. Secondly, they had succeeded in mobilizing support from the rural masses on the one hand and had alienated themselves from the urban masses, on the other. Thirdly, the morale of the combatants was comparatively getting down as their final goal was far away to be attained. Fourthly, their young cadres were getting old and losing their zeal with the passing of time as their fighting stamina was gradually declining. Fifthly, the Maoists were feeling difficulty in getting the new cadres recruited as youths from the hill areas were fleeing to India to avoid conscription into the Maoist army. However, they continued their pressure on the RNA forcing it to remain confined to its barracks.

The mindset of the political leaders was in no way better than that of the insurgents. They too were disheartened as they were kept out of political power by the king. Many senior leaders were found restive for power when the king invited applications for the post of PM. The political cadres were also getting frustrated as their leaders were out of power and they were deprived of the various faculties they were accustomed to enjoy during their regimes. The main political parties, which had begun the agitation against the king, were hardly four to five in number. Some parties even joined the government leaving other parties agitating in the streets.

The main political leaders were under tremendous pressure from their followers on the one hand and from the Maoists as well as from the king's side, on the other. It was hard for them to survive politically. Hence, the SPA under the leadership of G.P. Koirala of the NC decided to go jointly with the insurgents to oppose and oust the king from power.

The political pressures of the international community including India have to be considered as well. Since the groundwork for peace process was done in India by way of agreement reached between the SPA and the Maoists to oppose the monarchy by peaceful movement with the signing of the 12-point Understanding. India played its role in providing facilitation and other formalities for the meeting and forging alliance to go ahead jointly. The presence of some influential ambassadors to Nepal in Delhi at the time of signing the agreement is believed to have some significant role in the 12-point understanding.

Beginning of the Peace Process

¹ Naya “Kotaparva” lai manyata dinu hundaina. June 6, 2001.

The decade-old armed conflict took a decisive turn with the signing of the 12-point understanding on November 22, 2005 by the Seven-party Alliance (SPA) and the Chairperson of the Communist Party of Nepal (Maoist) for calling for a peaceful agitation against the autocracy of the king and also for holding election to a Constituent Assembly (CA). Although the king sought the legality of his autocratic rule and approval from the international community by holding municipal elections on February 8, 2006, the whole electoral exercise ended in fiasco due to the opposition of the Maoists and the SPA. (Mishra, B.P., 2007, Rebuilding Nepal, p-118-9)

Accordingly, SPA in cooperation of the Maoists launched a people's peaceful movement, lasting for nineteen days participated by millions of people through out the country apart from the capital, paralyzing the state machinery forcing the king to make his midnight proclamation on 24 April 2006 relinquishing the executive power of the state which he had usurped violating the provision of the constitution and restoring the sovereignty to the people, reinstating the dissolved House of Representatives (HoR) and forming a democratic government to run the state.

Declaration of Ceasefire

The Maoists declared three-month ceasefire on 26 April. The newly formed government reciprocated the Maoists' move by declaring indefinite ceasefire on 3 May. The government and the Maoists formed their Negotiating Teams (NT) consisting of six persons, three from each side including a coordinator.

1. Krishna Prasad Sitaula, (Minister) Co-coordinator, Government side,
2. Pradip Gyanwali (Minister) and
3. Ramesh Lekhak (Minister) as members;
4. Krishna Bahadur Mahara, Coordinator from the Maoist side,
5. Dina Nath Sharma and
6. Dev Gurung as Members.

The NT signed 25-point Code of Conduct for Ceasefire on 26 May. Subsequently, the NT formed the National Monitoring Committee for Ceasefire Code of Conduct (NMCC) on 15 June that was reconstituted on 26 June. The NT finalized the Terms of Reference and Power of the Monitoring Committee and it also approved the working procedure of the Committee, prepared by the Committee on 5 July 2006.

Significantly, the NMCC that consisted of 24 members including a coordinator had most of its members drawn from the Ceasefire Civil Monitoring committee formed in September 2005. Dr. Birendra Mishra, the writer, was nominated as the Coordinator. There were 23 members in the Committee. Other members were - Dr. Om Gurung, Prof. Kapil Shrestha, Dr. K B Rokaya, Keshav Bhattarai, Chandiraj Dhakal, Charan Parasai, Tara Nath Dahal, Padma Lal Bishwokarma, Prof. Dr. Bhupati Dhakal, Malla K Sundar, Madhab Baskota, Raman Shrestha, Dr. Ram Man Shrestha, Wanchhe Sherpa, Vishnu Nishthuri, Vishnu Pukar Shrestha, Shanta Shrestha, Shiva Gaule, Shushil Pukurel, Eng. Saroj Devakota, Dr. Sudha Sharma, Subodha Pykurel and Sushil Chandra Amatya.

Observation and Facilitation by Civil Society

As discussed earlier, since any dialogue required some facilitators/observers, the NT signed the agreement on June 15, 2006 nominating, Laxman Aryal, Devendra Raj Panday, Padma Ratna Tuladhara, Daman Nath Dhugana and Dr. Mathura Shtesths as observers to the negotiation to be held between the government and the Maoists. Interestingly, the observers were not allowed to express their views during the negotiation between the SPA and the Maoists.

There was hardly any facilitation of the peace dialogue in the true sense of the term. Of course, there were some civil society leaders who silently advised the parties. Some foreign experts too were playing certain constructive role behind the scene for the successful completion of the peace dialogue. But there were no formal facilitators.

Monitoring the Ceasefire Agreement

The main function of the NMCC, as the very name suggests, was to monitor the activities of the warring sides - the government and the Maoists and to submit its fortnightly report to NT. These activities were enlisted in the 25-point Ceasefire Code of Conduct (CC). It obtained its direction and strength from three sides

1. The 25-point Ceasefire Code of Conduct (CC)
2. The preamble of the CC, and
3. The Terms and Reference and Power of the NMCC.

It is significant to mention that the NMCC had to transcend the limits set by the 25 points as its very preamble affirmed that the CC had been issued with a view to transforming the Ceasefire into lasting peace and solving the problems through dialogue. In the preamble, the Negotiating Teams (NTs) had expressed their commitment to the Universal Declaration of Human Rights, 1948, International Humanitarian law and human right and other fundamental human rights principles and norms and had also confirmed their full commitment to 12-point Understanding. The NTs had asked the NMCC in and through its Terms of Reference and Power to monitor the CC in accordance with the spirit of the 12-point Understanding, 8-point agreement and any agreement signed in future.

The NMCC had to go beyond human rights monitoring as it had to see that in any case the ceasefire agreements were not breached to allow the two armies to resort to guns again and spoil the peace process by stalling the peace dialogue. However, there were human rights organizations both national and international to monitor the human right violations reducing the responsibility of the NMCC on this score. The NMCC could submit only three reports incorporating the weaknesses of the government and the Maoists to the NT. .

Agreements Signed Under the Peace Process

Apart from signing the 25-point Code of Conduct (CC) for Ceasefire on 26 May 2006 by the NT, there were more than a dozen agreements signed by the SPA and the Maoists on the one hand and between the government and the different political and social outfits including the Maoists on the other from time to time. The total number of points covered in the agreement comes to 282.

Slow Progress of the Peace Process

In reality, the peace process took a definite direction with the signing of the Comprehensive Peace Accord on November 22, 2006 replacing the Ceasefire Code of Conduct signed by NT of

both sides on May 26, 2006. It took nearly six months to sign the epoch making CPA with which the peace process began to move forward. Initially, as per the agreement reached by the eight parties on November 8, 2006 (at 1.15 AM) the CPA was to be signed by November 16, the Interim Government (IG) to be formed by December 1, the Interim Constitution (IC) to be finalized by November 21 and the Interim Legislature (IL) to be formed by November 25. Regretfully, all these could not happen as stipulated in the agreement.

Delayed Implementation

To implement the rest commitments, the dates were rescheduled. As per agreement reached between the SPA and the Maoists, the due date for dissolving the HoR and the formation of the Interim Legislature was November 26, 2006. However, after waiting for more than forty-five days the Interim Constitution (IC) was promulgated by the reinstated HoR and approved by the Interim Legislature (IL) on 15 January 2007 with immediate effect. The Interim Government was formed on April 1, 2007. But, holding election to the Constituent Assembly (CA) was getting delayed as the UN involvement in the monitoring of armies and arms was taking time.

The problem of constituting the Interim Legislature was solved with their decision to go in for an extended House by including all the sitting members of the HoR and the NA totaling 209 in the proposed interim House except those who opposed the People's movement during agitation. Since it was agreed upon to include the Maoists in the interim government to hold CA elections, it became obligatory to include the Maoists in drafting the Interim Constitution and the Interim Legislature. Their number was fixed at 73 at par with the CPN-UML, neither more nor less than the seats occupied by the CPN- UML arbitrarily.

Accordingly, the first stage of peace process commenced with the constitution of an IL, the second was the adoption of the IC and the last was the formation of the IG. As stated above, the first two stages were completed on January 15, 2007, one after another about one-and-half months behind the schedule as the eight-party alliance could sign the IC only on December 16, 2006. The leaders of the 8-party alliance formed the Interim Government (IG) three months later on April 1 2007 after signing of a Common Minimum Programme (CMP).

Preparations for the declaration of Republic and the CA election

To fulfill the people's aspirations to declare Nepal a republic, another significant 23-point agreement was reached between the SPA and the Maoists on December 23, 2007, envisaging several important amendments to be made to the IC for declaring Nepal a Federal Democratic Republican State by the first meeting of the CA, increasing the number of seats to be contested under PR component from 240 to 335, allowing the Council of Minister to nominate 26 members instead of existing 17 members, forming various commissions including a high-level Committee for monitoring the effective implementation of the CPA and other agreements concluded earlier, providing relief to the families of those who were killed during the armed conflict by mid-February, 2008, returning of the private and public buildings and lands occupied by the Maoists during the armed conflict to the concerned individuals and agencies within one month, releasing of all the Maoist prisoners currently in jails by January 14, 2008, and holding CA election by mid-April, 2008.

Yet another understanding was reached on June 25, 2008 between the political parties to facilitate constitution Amendment and peace process in respect of election of President and Vice-President, Prime Minister, and Chairperson and Vice Chairperson on the basis of the simple majority. Changes were also made to reschedule the time frame to implement the

agreements. It was decided to terminate the paramilitary functioning and activities of the CPN (M)'s Young Communist League (YCL). All public, government and private buildings and lands under its control to be vacated and returned to the respective owners within 15 days. A monitoring committee comprising of representatives from the political parties, human-rights defenders and local administration was to be formed within 7 days under the auspices of the local administration. Various national commissions as per IC were to be constituted within one month on the basis of political consensus. Interestingly, most of these commitments remained unexecuted till now.

Constituent Assembly Election and the Peace Process

From the very beginning, to initiate the peace process, the insurgents and the government accepted the election to the CA as their meeting point. Originally, it was to be held by mid-June 2007. Later on, it was changed to June 20. Since there was no sufficient preparation for conducting election, the eight-party alliance meeting held on May 31, authorized the government to fix a date by December 15, 2007. However, the government failed to fix date. In between, Madhes agitation cropped up and the number of CA members to be elected under Proportional Representation system; a component of the Mixed electoral system, enhanced and ultimately, April 10, 2008 was fixed for polling.

The results of the CA election had both negative and positive implications. Negatively, from the traditional parliamentary point of view, it could not give majority to one party in the CA for paving the way for one party rule, making the elected House a hung House. Positively, it forced the political parties to form a coalition government and cooperate with each other in the CA to frame the constitution. Interestingly, the political parties appeared to have contested elections on the pattern of parliamentary elections, where as, voters gave their verdict in the polls along the lines of CA in which only consensus among the parties matters.

Present State of the Peace process

Election to the CA, which was only a part of the peace process, was mistaken to be the panacea for all the ills the country had to suffer all the years of insurgency and also in the period of transition to peace. In the peace process, the Maoists (as insurgent) and the SPA were two opposite parties till the CPA was signed. They fought the CA election separately. With a lot exercise a coalition government led by the Maoist leader Pushpa Kamal Dahal "Prachanda" was formed after three months. The Maoists got the ministry of Defence, Peace and Reconstruction to look after the peace process. On the issue of reinstating the Chief of the Army Staff by the President on May 3, the government resigned on May 4 2009 that worked for nine months. On the issue of Presidential action, the Maoists have been disrupting the Legislative-Parliament for more than two months. There is a new coalition government led by Madhav Kumar Nepal of CPN-UML since last four months. Ironically, when no constitution can be written without the support of the Maoists as two-thirds majority is required for passing the constitution, they have been pushed in opposition having more than 240 members in the House of 601. It is interesting to note that all major issues are almost left unattained so far. The process of adjustment of the PLA, which is in limbo, is likely to move forward with the reconstitution of the special committee having nine members a few weeks ago.

With regard to the drafting the new constitution, there is little progress on this score. Out of eleven thematic committees only six have submitted their reports so far. However, these are not unanimous. The post of chairmanship of the Constitutional Committee, lying vacant with its chairman Madhav Kumar Nepal becoming Prime Minister, has recently been fulfilled by the

election of Nilamber Acharya to this post. The new constitution has to be passed within two years, i.e, by May 18, 2010.

The Armies

Management and monitoring of People's Liberation Army (PLA), and the National Army (partially), being yet another side of the peace process, are being carried out by the United Nations Mission in Nepal (UNMIN). It was established by the UN Security Council through its resolution 1740, with an initial 12-month mandate on January 23, 2007. Ian Martin was appointed Special Representative of the Secretary-General and head of UNMIN. Its mandate has been extended to January 23, 2010.

The registration of Maoist army arms and combatants began on January 17, 2007 at the main cantonment sites in Chitwan and Nawalparasi, even before the formal mandate of UNMIN. The process was completed within one month, and on March 8 UNMIN reported the results to the JMCC: 31,252 personnel and 3,475 weapons registered. From April 10-13, UNMIN registered and stored 2,855 Nepal Army weapons at the Chawani Barracks in Kathmandu and maintained 24-hour monitoring.

UNMIN began the second phase of registration of Maoist army personnel on June 19. Despite the political stalemate in late 2007, the second-phase registration verifying the details of registered Maoist army personnel, was completed on December 23, 2007.

Of the 32,250 total registered Maoist army personnel:

1. 19,602 were verified as meeting the criteria agreed between the parties, comprising 15,756 men and 3,846 women;
2. 8,640 personnel did not appear for verification interviews in the second phase and were automatically disqualified;
3. 4,008 persons remained to be discharged from cantonments after the total of absentees had been taken into accounts: 2,973 of this total were assessed to be under the age of 18 on May 25, 2006.¹⁶

Under the agreement, the Maoist combatants have been placed in 28 cantonment sites including 21 satellite sites and seven main sites, where weapons are stored (as per CPA). As per agreement, equal number of armed personnel and arms of the Nepal Army have been kept under the UN supervision. Since the then Maoist PM and the ministers were insisting on the immediate integration of their PLA to the Nepal Army (NA), the process could not proceed further due to resistance from other parties

Other Armed Outfits

Apart from the two armies, there is a large number of armed groups operating in Tarai area, which are spoiling the peace process. Some of the names are worth mentioning, Madheshi Mukti Tigers, Madhes Virus Killer, National Defence Army, National Defence Army (Trisul), Jantrantik Mukti Morcha (Rajan Mukti), Janatrantik Mukti Morcha (Jwala Singh), Janatrantik Mukti Morcha (Goit), Jannatrantik Mukti Morcha (Ranabir), LTTE, TMMM, Tarai Army, TMM,

¹⁶ The United Nations and Nepal's Peace Process, p 76

TJKP, Tarai Camando Force, Tarai Cobra etc. Some of them have political leaning as well. The Youth Communist League of the CPN-M and the Youth Force of the CPN-UML are strong groups fighting with each other at times. Some of the outfits are splinter groups of the CPN-M. These groups are putting pressure on the peace process. However, the Maoist led government had formed a team under the leadership of the Minister of Peace and Reconstruction, which negotiated with some of these groups signed some agreements with them

Healing of the Wounds of Insurgency

Since peace process is also a healing process, the government has to act fast with the measures to heal up the wounds and shocks the common people have suffered during the pangs of insurgency. The committee headed by former Secretary, Shri Kant Regmi has enlisted the names of the killed persons to more than thirteen thousand. Similarly, thousands of people have been displaced and thousands have been critically wounded and made handicapped. The lists of the disappeared persons have not yet been made public from both sides for providing compensations to their relatives.

There have been hardly any compensatory efforts from the government. Interestingly, the criteria for financial help and compensation for the victims of the armed conflict have been evolved by the Ministries of Peace and Rehabilitation, Home and Finance jointly on April 1, 2008 (BS 2064/12/19), there was unusual delay in disbursing the amount by the government.

To console the victims that justice has been done to them, the perpetrators of the inhuman crimes should be brought to books, sooner the better. The culture of impunity has continued unabated and the condition of the displaced persons has hardly changed. Seized property has not been returned to the rightful owners. To meet these requirements, various national commissions that were to be appointed by the interim government have not yet been constituted. All necessary laws expected to be enacted have not yet been passed to ahead in healing the wounds of the victims.

Strength of the Peace Process

From the facts discussed earlier, progress of the peace process cannot be doubted. Though, it is slow, it is not obstructed. At times it seems that it is at the verge of getting disrupted. But at the eleventh hour, good sense prevails upon the leaders of the political parties and they get united to solve the problems.

The peace process has its own internal strength by way dire need of peace for all. It is required by all political parties, and by the insurgents, the Maoists. The common people who were the actual sufferers equally need it. The armies of both sides too are in need of peace, as they cannot fight forever. The civil servants and civil society want peace process to complete its course as early as possible. It was also needed by its neighboring countries as continued state of insurgency is not in their interests as it may affect them in the long run. Since it was fully backed by the international community, it provides enough strength to the peace process to survive and reach its final goal.

Since the peace process has been needed for all the stakeholders, they own it and try to save it at any cost. In fact, it is a national requirement. Since insurgency has affected the political and social and economical conditions of the common people, the peace process has succeeded in providing great relief to the peace-craving people.

Weakness of the Peace process

1. No interest in monitoring

It is interesting to add here that as per the terms and power of the NMCC, the NT had agreed to form a joint committee to study and act upon the reports of the NMCC. Regretfully, it was not formed till the last date of working of the NMCC despite its repeated verbal and written requests.

The Maoists were insisting on the implementation of the 8-point agreement saying that they would dismantle people's courts and stop abduction and extortions only after all political issues were settled. The government too was not acting upon the recommendations of the NMCC. Ultimately, the Committee members resigned en block on November 26, 2006 finding no provision for such an independent monitoring body in the Comprehensive Peace Accord (CPA) signed on November 21, 2006 to observe the peace process and the agreements/understanding signed by both sides from time to time. Subsequently, it was officially dissolved by the NT on November 30, 2006.

There was no provision for independent Peace monitoring body to monitor the Peace process in the CPA. However, it provided for monitoring human rights violations by the Nepal based United Nations Office of the High Commissioner for Human Rights and the National Human Rights Commission (Clause.9).

2. No Implementation of the Provisions of the CPA

From the very beginning of the peace process, it was being observed that agreements were never getting implemented. The ceasefire agreement can be cited for example. Coming to the CPA, we find that it has been mentioned in the CPA (clause- 8.4) that the SPA and the CPN-Maoists will constitute the National Peace and Rehabilitation Commission, the Truth and Reconciliation Commission and a High-level Recommendation Commission for the Restructuring of the State, Commissions on the cases of disappearances, Scientific land reforms etc have not yet been constituted.

Hardly any substantial relief has been provided to victims. Property has not been returned to the owner. Consensus is awaited on the bill regarding Truth and Reconciliation Commission, as a section of people want insurgents to be punished for their crimes, whereas, another section wants inflictors to be exonerated from their crimes. Such critical issues had to be dealt with by the Maoists, who headed the government for nine months.

Neither the government nor the Maoists have made their lists of the disappeared persons public for which they have repeatedly confirmed to implement such obligations. The Maoists are perhaps, reluctant to release the names of persons abducted by them expecting people's criticisms for disappearing their kith and kin in course of insurgency. Similarly, the government appears to delay the publication of the list with the apprehension of getting many political parties leaders involved during the long period of insurgency. In any case, the issue, being very much humane, had to be addressed immediately. The plight of the Maoist combatants living in the cantonments still continues. They have to be adjusted and rehabilitated as per the CPA.

3. No execution of agreements signed

The interim government had signed agreements with the Indigenous Federation and the Madhesi political outfits. The government signed agreement with the MJF on August 30, 2007,

the outfit withdrew its agitation there upon. But hardly any demand has been met so far. Similarly, the government signed agreement with the Joint Madhes Democratic Forum on February 28, 2008. But none of the demands are addressed so far. The agreement between the government and the Indigenous Forum too has the same fate.

It is obvious that the government signed agreements with a view to pacifying the agitating parties to cool down the emotionally charged atmosphere in those regions to make it conducive to the peaceful CA election. Since the situation in those regions is comparatively calm, the government appeared not interested in meeting the demands of the regional political outfits. The new government which came to power after the CA election too did not appear to be responsive to their demands and overlooked the seriousness of the issues raised by them.

4. Selection of electoral process proved fatal for consensual politics

The politics of consensus continued till the election results came in. Mixed electoral system was chosen by the political parties for CA election. Under First-Past-the-Post (FPtP) system, 240 seats were to be filled and 335 seats were to be represented under Proportional representation (PR) System. The Maoists obtained more than fifty per cent of seats under FPtP and about thirty per cent of seats under PR. The Nepali Congress and the CPN-UML suffered humiliating defeats in the elections securing less than fifteen per cent of seats and hardly twenty per cent seats under PR component. These gloomy results jeopardized the politics of consensus. This upset the motion of the peace Process and the political parties have not yet recovered from the shock they had suffered during election and the present change of government frequently is the result of the last election.

5. Seats distributed among the Political Parties ignoring the role of Civil Society

The part played by some civil society leaders in the People's movement put moral pressure on the parties including the Maoists to give due share to them in the formation of the Interim Legislature (IL). 48 seats were kept to be nominated from eminent citizens and from civil society in consultation with the parties. However, later on they decided to share the seats among themselves. As per agreement, the NC, the CPN-UML, and CPN (M) got 10 seats each, the NC (D) got 6 seats, the Nepal Sadbhavana Party (A), Nepal Worker's and Peasant's party, Janamorcha Nepal, and United Left Front got 3 seats each.

The practice continued even after CA election as 26 seats meant in the CA for the eminent persons and civil society, were once again distributed among the political parties. The CPN (M) got 9 seats, the NC and the CPN-UML got 5 seats each, the MJF got 2, the TMDP, Sadbhavana Party, the CPN-ML, Janamorcha Nepal and the Nepal Sadbhavana Party (A) got one 1 seat each.

6. Failure in Maintaining Law and Order

The political position diametrically changed after the CA election, as the CPN (M) became the leading partner in the government. During its nine months tenure, it could hardly implement its commitments and improve the law and order condition. Since during insurgency its cadres perpetrated the unlawful activities by committing various crimes to terrorize the rural folks forcing them to toe its political line, it became difficult to control its cadres along with other outfits from committing such crimes.

Since the Maoists appear to have set its eyes on the next general elections, they are no longer enthusiastic executing like, returning of the land and property of the real owners captured by them during insurgency. Moreover, they are at the crossroads ideologically as they neither want to cede their revolutionary image nor to leave the middle path they have adopted as a coalition partner in the government.

The present government has come with a much talked about an ambitious national security plan. Since it is just at its initial stage, its effectiveness cannot be measured right now.

7. Failure in owning the Peace Process

Before the formation of the newly elected government, the responsibility of pushing ahead the peace process was the main responsibility of the then PM GP Koirala, the leader of the SPA. The political power had shifted to Puspa Kamal Dahal, Prachanda, the president of CPN-M. However, he failed to lead the peace process ahead. Since Madhav Kumar Nepal has taken over as the Prime Minister on May 25, 2009, it is his duty to own the peace process and lead it ahead.

8. Lacking in Consensus

But there are many obstacles on his way. The coalition government he is leading appears to be fragile. Then, there is dissension in his own party. Moreover, the Maoists have a huge number of members in the CA, which cannot be ignored practically.

The leadership has changed and a government minus UCPN-M is functioning. It is imperative for the government it include the UCPN (M) in the government so that the participation of the Maoist can be proportionately ensured also in the constitution making process. If it focuses on its policies and programmes beyond the time limit of the CA, it may fall into trap that may jeopardize the peace process and push the entire country back again in darkness

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