

Process Towards Building Stable Peace in Nepal

(A national seminar jointly organized by Nepal Foundation For Advanced Studies (NEFAS) and Friedrich Ebert Stiftung (FES) in Kathmandu on December 15, 2011)

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Nepal is standing on the cusp of unprecedented political and structural transformations. The works are on war footing to strike consensus on the contentious issues of new republican statute and conclude faltering peace process. Nonetheless, qualms on the prospect of inclusive constitution and durable peace still persist because of eroding credibility of Nepalese political leadership that is under intense pressure from the common public, civil society and the international community, to accomplish the historic tasks. The nation formally entered the peace building process some five years ago when the rebel Maoists agreed to embrace open, peaceful and competitive politics, by agreeing to lay down their arms. But, a lasting peace is yet to realize with the key political actors still struggling to find common ground of everything from federalism to the army integration. Sustained economic growth, ensuing stability, transitional justice and structural reforms are necessary not only for addressing the residues of conflict but also ensuring a functional democracy and prosperity of the people.

Against this backdrop, Nepal Foundation For Advanced Studies (NEFAS) in coordination with the Friedrich Ebert Stiftung (FES) organized a national seminar on '*Process Towards Building Stable Peace in Nepal*' in the capital on December 15, 2011 with the objective of providing fresh insights on the ongoing developments in constitution and peace building front. The one-day meet saw two working papers by experts of the field with the participants from cross-cutting section of society commenting on them. Braving the cold morning, a considerable number of participants turned up in the programme and showed their enthusiasm in the two-way debates on the contemporary issues. Divided into two parts- opening and paper presentation – the seminar drew and grew the interests of audience till the final moment.

Opening Session

Call for enough homework for federalism

Speaking at the opening session, NEFAS executive director Ananda Shrestha said that the country's situation was deteriorating each passing day as the incumbent leadership had been unable to handle the transition period properly.

"Every sector be it health or economic or education is in shambles and the successive governments has failed to deliver on their promises," Shrestha said.

Touching upon the ongoing debate on the federalism, Shrestha said that there had not been enough homework on federalism and widespread misgivings were that whether it would succeed given the incompetence leadership.

Stating that a viable economy was needed to address the challenges in the post-conflict society, he called for speedy reconstruction to heal the wounds of conflicts.

On the constitution writing process, he said that doubts still persisted whether the new statute would be framed within the extended tenure of Constituent Assembly (CA).

"It is extremely difficult to muster consensus of all on the new statute. No one can guarantee that some, who are not satisfied with the new constitution, will not rush to burn it immediately after its promulgation," he cautioned.

FES Programme Officer CD Bhatta said that real stakeholders should be able to enjoy the dividends of peace and made involved in the peace building process so that they would develop loyalty towards the state.

Bhatta said that transition period was unwillingly being protracted and people's concerns had not been addressed appropriately.

"We have seen political changes several times in the last more than sixty years but the achievements of the past revolutions could not be institutionalized in the absence of proper political management and democratic culture," he said

He also pointed out the need to bring the political actors into constitutional framework and put pro-people governance in place to enable the given political system to deliver goods to the citizens.

Holding a critical approach towards the political leadership, he said that those who preached democracy and human rights hardly practiced them.

"Since the robust economy is the key to the sustainable peace, there was urgency to bring about economic transformation. Sad to say, the country's 3.5 per cent economic growth is unlikely to meet the requirements of the post-conflict recovery."

Bhatta said that the gap between the haves and have-nots had increased and so were the scenario of between the winners and losers in the new republican set up.

First Session

Noted economist Guna Nidhi Sharma chaired the first session. Khagendra Katuwal, a lecturer at TU, presented his working paper '*Post Conflict Recovery of Nepal: Challenges and Way Ahead.*

Sharma said conflicts were not always created but they were also inherited. He said that the efforts to systematically address the post-conflict situation started only around 50 years back and Nepal was a late comer to manage the various types of conflicts.

Stating that many mechanisms were brought into place to solve different types of conflicts, he was of the view that appropriate political, social and economic structures needed to be devised for the better conflict resolution. "If the designed mechanisms fail to work, the system is likely to collapse."

He said Katuwal's paper was comprehensive and provided insights to understand the dynamisms of post-conflict recovery.

Create secure economic environment: Katuwal

In his working paper, Katuwal presents six suggestions that the newly established authorities should follow for the sustainable economic recovery in the post-conflict situation.

They are – creating a secure environment for economic development and growth, establishing a macroeconomic policy regime, diversifying public investment, reconstituting social and human capital, fostering decentralization and establishing the rule of law.

He offers a long list of recipe for the post-conflict recovery in the country:

- **Achieving rapid economic growth, providing peace dividends to the Nepalese and creating conditions for generating jobs through increased and efficient investment and immediate priorities.**
- **Conclusion of peace and constitution writing processes in time to attain predictability and build confidence in the business community and civil society.**
- **Encouraging private sector to invest in productive sector by enhancing business climate and reforming the regulatory system, tax, trade policy and labour market.**
- **Giving priority to agriculture production and productivity**
- **Easing strategic infrastructure bottlenecks (power, transport and irrigation)**
- **Ensuring social and economic inclusion in all development and economic strategy. Basic service delivery (health care, roads, schools) to the disadvantaged people**
- **Ensuring food security to the food-deficit region through poverty reduction programmes**
- **Giving incentives for service and industry in the rural areas.**
- **Launching targeted poverty alleviation programmes for the marginalised groups.**
- **Devising federal structure with devolution of power**

- **Basic financial services –deposit-taking and lending – must expand to financially unserved rural areas to integrate more informal economic activities and actors into formal economy.**
- **Diversification of exports in terms of market abroad.**

In his concluding lines, Katuwal noted that the national actors should take the long-term lead in pulling together a system for political and economic governance.

"In the short-term, international actors often take the lead in providing both relief and assistance. While this might be necessary, it is critical that the national actors must acquire the capabilities for making key decisions on economic reforms and allocation resources," he added.

He stressed on building an 'infrastructure for peace at national and local levels, supporting the key stakeholders in acquiring the relevant process skills, strengthening economic management, the capacity of communities to sustain local economic initiatives and providing for alternative adjudication of disputes while judicial reforms is undertaken.

"Emphasis must, therefore, be placed, from the beginning on building the national capacities to initiate and sustain economic recovery," he said.

Comments from the floor

A large number of participants commented on Katuwal's paper. Many of them said that the paper offered general picture and lacked clear focus on the subject under discussion.

"It is just like a thesis paper that a student has submitted to teacher," some of them said.

While some others appreciated the writer's for his hard works to bring in the paper, encompassing a wide range of contents pertaining to the post conflict recovery.

Intellectual Prakash A Raj asked the paper presenter whether federalism was possible without decentralization and vice-versa. He also expressed his doubt over the success of ethnic-based federalism.

He said that the French model of government was being emulated here but the irony was that France followed the unitary system.

One woman participant said that it would have been better if the paper had mentioned data in regard with the cost of destruction of infrastructures as well of the reconstruction.

She said that the paper failed to mention three-year interim plan devised to carry out the post conflict recovery programmes.

KD Mishra said that there had been a lot of works in the last three years however poverty and inequality continued to rise.

Stating that poverty and inequality are the two facets of the same coin, Mishra said that the case of inequality was more serious and the civil society should come up to deal with it.

Sita Maiya Singh Thapa said that the paper lacked focus and presented a general scenario.

Stating that a handful of people caused damages to the nation, Thapa said that the nation must evaluate as to who pushed the nation to this phase.

She also pointed out the need to specify the areas of priorities and reforms for economic growth and sustainable economy. Thapa also called for identifying the comparative advantages for the value added exports abroad.

Padma Chandra Poudel said that the paper kept mum about the main reason behind the conflicts. Poudel said that many of conflicts arose from the disproportionate handling of the resources.

"About 90 per cent people have been denied their access to resources and the means in the country. Without justice and equality, conflict continues to surfaces," he added.

Man Bahadur Chhetri said that the paper included many things but could not offer practical ideas to address the post conflict-situation.

"Economic viability should be the basis for federalism. If this has been focused in the paper, it would have been weightier," he added.

Surendra KC said that 90 per cent factories had been shut down and the rest of them were facing various instabilities, and prices of every goods were being doubled in the near future. "In such a situation, how can the country attain economic recovery?" he questioned.

He said that the money generated from remittance was used to buy expensive vehicles

KC said that all the indicators showed that the country was heading to Middle Age. "But, ironically, this precarious situation does not shake our economists."

One woman participant said that there was not clarity about how the suggestions made in the paper were implemented.

"The public is fed up with the behaviour of the leaders and the government. The people think that their life runs without the government and the ministries," she said.

She said that without knowing the pre-conflict situation, the post-conflict recovery would not be possible. She said that peace building initiatives hit a snag as the land and properties had been again captured.

Ram Karki said that the main cause of conflict was inequality and there was the need to identify the resources and be distributed them equally for the creation of equal society.

He said that there was apparent contradiction in the ongoing debate. "Our society has caste-based character but we are seeking to build a class-based society."

Karki said that economic equality along with the social empowerment was necessary to handle the post-conflict situation.

One woman participant, who is a lecturer of law, drew the attention of the seminar to the gender equality.

"The peace process could not reach a logical end if women, who represent 50 per cent of total population, are not involved in it," she said.

She expressed her reservation that every sector had been marred by the politics of bhagbanda (sharing).

She asked the paper presenter to make it authentic by putting references and citations.

"It is like a story telling," she quipped.

Another participant said that a fierce debate should be launched whether the country should adopt federalism or not.

Narayan Manandhar denied the idea that Nepal was in a post-conflict condition.

Quoting a foreign scholar, he said that Nepal was in post-conflict with the Maoists and in conflict with Madhesis and ethnic communities including Limbuwan people.

A host of other participants queried about the future of federalism in Nepal.

"There is a rough agreement to frame the federative units on the basis of capability and identity. What kind of federal system will be born if these two elements were mixed together to slash the nation into federal braches," they added.

Some of them even argued that the people had not demanded federalism and the country lacked the economic basis to adopt it.

Katuwal's replies

In his response, Katuwal admitted that he drafted the paper in a hurry and references had been intentionally missed out. "I expected more comments from the floor," he said.

He said that ethnicity could be one factor for the federal set-up but it was the economic viability that counted the most. "In my paper, I have mentioned that skewed distribution of resources, power and lack of infrastructures cause various types of confliscts," he added.

When we are talking about sustainable peace, this means that the post-conflict situation has come, said the young economist. He said that there was lacking literature about the indirect cost of conflict.

He said that he would try to make the paper specific by incorporating the inputs from the seminar.

Conflict, a global phenomenon: Sharma

Wrapping up the first seminar, Sharma said that conflicts were global phenomena and sometime external factors played their role to breed conflicts at home.

Sharma said that there was general impression that a lasting peace was going to prevail in the nation.

"We are for a situation in which the country needs to be able to manage conflict by itself. For this, there should be triangle cooperation among the state, society and international community but here this relation is becoming unsystematic and clash of interests come to the fore," he added.

"Are our ties with the international community becoming unmanageable? We are in dilemma," he said.

Sharma said that it was economy that anchored everything. For conflicts to be reduced the market should be fair and private sector should be able to create jobs and resources.

He said that the country had become too dependent and wrong policy was to blame for this.

"If the flow of remittance goes down, the country's economy could collapse," he warned.

He also pointed out the need to brainstorm on the kind of economic model that the country should follow in the new political set-up. "It will be mixed economy or capitalistic economy or the socialistic one. This must be ascertained."

He also called for defining loktantrik republic in the economic term. "Is it with social justice or without it?"

"Like the political scientists, the economists are also not in a position to fix the correct economic direction," he claimed.

Second Session

Senior journalist P Kharel chaired the second session in which constitution expert Bhimarjun Acharya presented his working paper '*Constitution Making and Peace Process: Successes and Challenges.*'

‘Identity-based federalism brings disaster to integrity’

Highlighting the ongoing working pattern of constitution writing, Acharya said that ten thematic committees and Constitutional Committee under the CA were working out to write the new constitution but the missing part was that no committee had yet realized to form the technical committee to receive technical assistance for drafting the text of the constitution.

Stating that seven-point deal struck among the four major political forces – UCPN-Maoist, Nepali Congress, CPN-UML and United Democratic Madhesi Front – had generated a new hope for the timely conclusion of peace and constitution writing processes, he said that critical questions still persisted – will the nation get a democratic statute within the stipulated timeline? Will the integration of the Maoist combatants take place successfully? Will the country's integrity and harmony among and between the people be kept intact if the nation goes for the proposed ethnicity-based federal states?

Acharya, who practices constitutional law, is critical of political leadership as well as feasibility of the federal system in Nepal.

“Frankly speaking, our political parties have hardly had competence to write a federal constitution and implement it smoothly. For me, the total idea of federalism in Nepal (in particular federalism based on ethnicity) will be a disaster to the security, integrity and social harmony,” he said.

Acharya presented four recommendations to sort out the glitches facing the youngest republic of the world. They are - respect for the rule/role of law; guarantee of the issues

of inclusion; mustering sufficient consensus and judicious compromise and international support.

He noted that any critical problem can be solved through the legal process. “The political actors should understand that without recognizing the role of law and without sufficient respect for the rule of law, no dispute can be settled. We should know that Nepal is not just a democracy but also a constitutional democracy.”

Calling upon the leaders to show total sincerity towards the rule of law and past commitments, he underlined the need of holding pragmatic approach to take the peace to a logical end.

He said that the Nepalese people were determined to solve the existing problems relating to class, caste, region and gender through restructuring of the state.

The marginalized people have demanded the equal distribution of and the access to the decision-making powers, resources and their benefits in addition to the guarantee of basic human rights and civil liberty.

“However, we can not achieve the goal of inclusion unless we maintain and respect the essence of plural society,” he said and offered three premises to ensure pluralism and social, economic and political inclusion:

- ❖ **A minimum consensus of all groups on shared values,**
- ❖ **A minimum consensus of all groups on shared rules (for conflict resolution),**
- ❖ **A subsequent realization of the common good (that is best for all members of society).**

“The political actors need to work to that direction. Otherwise, there will be danger of degeneration of pluralism into particularism and particularism into factionalism,” he warned.

Stating that the constitution is ‘a bundle of compromises’, Acharya said that the people should take the ownership of new statute.

“Peace building is connected to addressing the conflict residues, improving the human rights situation, eliminating conflict-producing causes such as inequalities, poverty, unemployment, unbalanced regional development and social and political exclusion and drafting a rational social contract that guarantee the rule of law. For this, the political actors should have sufficient consensus and judiciously compromise among themselves to accomplish the aforementioned mandate of the people and the constitution,” he observed.

Comments from the floor

There were not many comments owing to the constraints of time. However, the participants praised Acharya’s paper for its to the point approach and precise size.

They commended his stance on federalism and sought his views on the topics under discussion in length.

Chandra Kant Poudel said that there was tendency to stretch the CA's term for the indefinite period. "However, the recent SC's verdict to cap the CA's term extension has reduced the risk of not drafting the new constitution," added Poudel.

KD Mishra said that it was wrong to mention the issue of ethnicity in the debate of federalism. "There are other many indicators for this. The people from Bahun and *Chhetri* castes are hesitant to go for federal set-up," he said.

He called for discussing capacity, not only the identity to slash the nation into federal units.

On the ongoing debate on the federal system, he said, "It seems the wrong people are in the right place."

Prem Sharma said that the interim statute had become defunct.

"While framing the interim statute, late justice of Supreme Court Laxman Aryal failed to include the perspective of judge in it," claimed Sharma.

He said that until there was good governance, it was useless to expect peace and stability.

Laxmi Keshari Manandhar doubted on the timely writing of statute despite the extension of CA's term.

Surya Lal Amatya said that the concept of five development regions and 75 districts was not developed by Panchayat system but it was the brainchild of late Harka Gurung.

Amatya said that the CA should be given option for the creation of federal units.

He said that the State Restructuring Commission had not been given right to devise the federal units. "It has been mandated to work within the boundary of the report of CA committee on the state restructuring."

He also expressed his doubt on the promulgation of the new statute within the extended deadline of CA.

Surendra KC said that there should be inclusive in the paper presenter and the moderator.

Stating that intellectual needed to raise the burning issues correctly, KC noted that the nation should go for federal set-up in a way it would have little risk in it.

Acharya's replies

In his response, paper presenter Acharya said no matter what name was given to it, the identity-based federalism could not work.

"The six-month time for the statute writing is enough. However, given the past trend, the parties could again violate the SC's verdict in regard with the CA's tenure," he said.

Asked about what will be the fate of constitution writing if the CA is dissolved, Acharya said that the parties could form a committee to draft the new constitution.

Conclusion

- **Ensure peace dividends to the real stakeholders**
- **Foster political culture and institutionalize past gains**
- **Carry out enough homework on federalism**
- **No to ethnicity-based federalism**
- **Robust economy key to speed up post-conflict recovery**
- **Inclusive economic growth indispensable for stability**
- **Reconstitute social /human capital and foster decentralization**
- **Ensure social/economic/political inclusion**
- **Respect the rule/role of law**
- **Write the new constitution within the extended deadline of CA**
- **Stress on shared values, rule and common good**