

Case Study on Nepal Observations and Reflections on the Peace and Constitution-Making Process

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Table of Contents

Chapter 1	Introduction	1
1.1	Setting the Context: Conflict Map and Conflict Actors	3
1.2	Evolution of the Peace Process	4
1.3	Relevance of the Peace Process	5
1.4	Peculiarities of the Nepalese Peace Process	5
Chapter 2	The Peace Process: Structure, Process and Outcome	6
2.1	Early Initiatives Preparing the Ground	7
2.2	Peace Talks 2001	9
2.3	Peace Talks 2002/2003	11
2.4	Royal takeover, Seven-Party-Alliance (SPA) and Peace Negotiations	14
2.5	The Decisive Fourth Negotiation Process	16
2.6	Constituent Assemblies	21
2.7	Dialogues Related to the Madhes-Terai Protests (2007 and 2015-2016)	25
2.8	NTTP: A Mechanism of Non-formal Dialogue Processes	26
Chapter 3	External support for the Peace Process in Nepal	33
3.1	Major External Actors Supporting the Peace Process	34
3.2	Support Provisions	44
3.3	External Contributions to the Peace Process	45
3.4	Public Perception of International Support for the Peace Process	46
3.5	Lessons from the External Engagement	48
3.6	Future Need of External Support	50
Chapter 4	Recommendations and Concluding Remarks	52
4.1	Recommendations	52
4.2	Concluding Remarks	53
Chapter 5	References, Annexes and Interview Sources	55
5.1	References	55
5.2	Annexes	59
5.2.1	Annex 1: Forty-point Demands of the Maoists	59
5.2.2	Annex 2: 2003 Ceasefire Codes of Conduct	62
5.2.3	Annex 3: 2003 Negotiation Agenda	63
5.2.4	Annex 4: The Maoist Agenda for the Negotiation	64
5.2.5	Annex 5: Twelve-Point Understanding Concluded Between the Seven-Party Alliance and the Communist Party of Nepal (Maoist)	67
5.2.6	Annex 6: Proclamation to the Nation by His Majesty King Gyanendra on 24 April 2006	69
5.2.7	Annex 7: Basic Operating Guidelines (BOGs) of Major Donors	70
5.3	Sources of Information from the Individual Respondents	71

List of Figures

Figure 1: Major Processes Covered in the Study (Designed by the Authors)	1
Figure 2: Visible Key Actors of Nepal's Peace Process (Designed by the Authors)	2

List of Tables

Table 1: Main Causes of the Armed Conflict of Nepal	4
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Chapter 1 Introduction

Nepal ushered in a constitutional monarchy and parliamentary democracy in 1990 after a People's Movement overthrew the thirty-year autocratic party-less Panchayat system controlled by an absolute monarchy. Within six years, the Communist Party of Nepal (Maoist), hereinafter referred to as Maoists, launched a 'People's War' in February 1996, with the aim of uprooting the monarchy, displacing the 'bourgeoisie' parliamentary democracy, and establishing a communist 'people's republic'. The armed insurgency killed approximately 15,000 people from the rebel, state and civilian sides, destabilized democracy, and caused destruction to property worth tens of million dollars. When the conflict was at a stalemate, with loss of life and property continuing, various actors showed a willingness to resolve the crisis through dialogue and negotiation. This was the background for the peace process.

A consensual approach, wider legitimacy, local ownership, an inclusive process and a role for specific groups (e.g. youth, women) are often referred to as defining features of a National Dialogue by the international community. In Nepal, however, they were all subject to different interpretations and therefore not all of these elements were explicitly present in the Nepali process. Although there were many key elements of National Dialogue present in Nepal's process, no explicit, official term 'National Dialogue' was used in the case of Nepal. Instead, terms such as peace talks, peace negotiations, high level talks, and dialogues were used, often in an inter-changeable way. As there was no single format of National Dialogue practiced in Nepal, it emerged more from the efforts and combination of different actors, factors, tools and techniques to end the armed conflict and to achieve peace, economic prosperity and political stability.

There was a wide range of actors engaged in different activities and processes, ranging from development assistance and humanitarian support to human rights protection, roundtables and national conferences for the purpose of promoting dialogue for restoring peace. These processes and activities were either self-organized or assisted by others. In this study, we have documented and analyzed the efforts of different actors in the given context to create a favorable environment, to facilitate peace talks and reach negotiation between the conflicting parties, and finally to achieve the aim of securing a durable peace and political stability in Nepal.

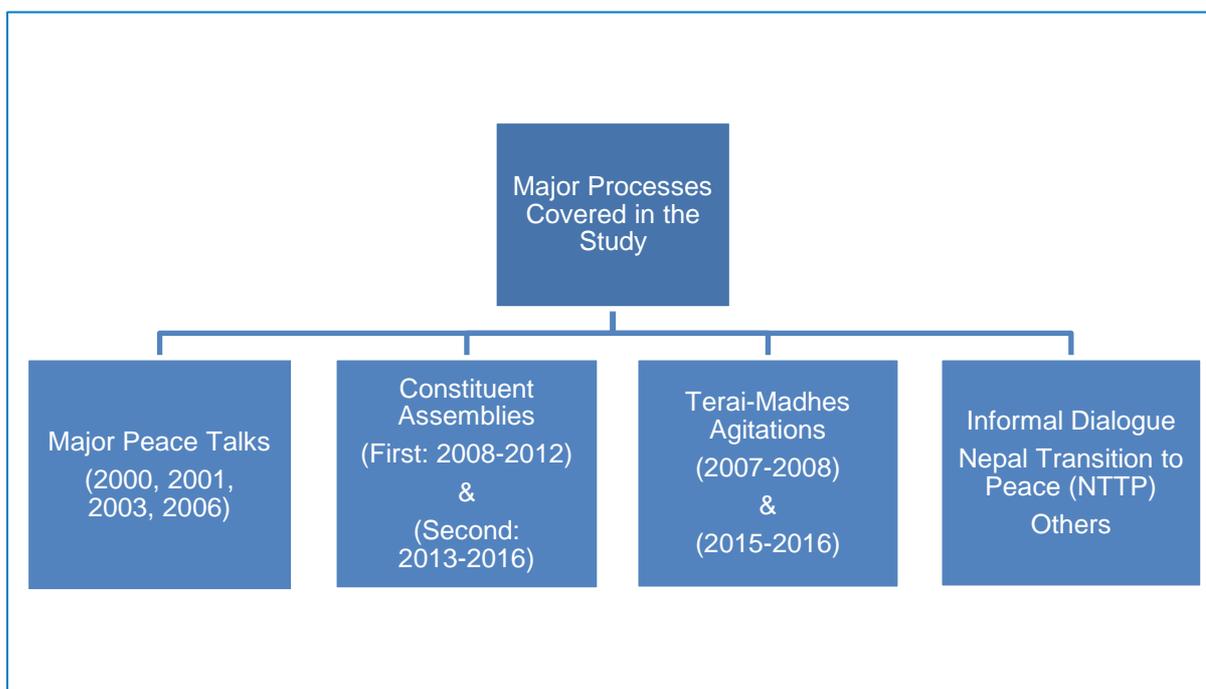


Figure 1: Major Processes Covered in the Study (Designed by the Authors)



Figure 2: Visible Key Actors of Nepal's Peace Process (Designed by the Authors)

The objective of this study is to provide a systematic reflection on the background and relevance of the process and its key challenges, and to generate lessons and best practices from Nepal's dialogue and peace process that will provide empirical evidence for the development of the 'National Dialogue Handbook - A Guide for Practitioners' and will constitute a part of the case study section in the Handbook.

In terms of methodology, this study has been developed using a combination of methods such as extensive consultation with the key actors engaged in Nepal's dialogue processes: one-to-one meetings, workshops; in-depth interviews with the facilitators, negotiators, political leaders; external actors, network organizations, researchers and analysts; review of the published and unpublished materials related to the assessment of Nepal's peace process, and reflections by the two authors of the study, who are actively engaged in contributing to the Nepal peace process through research, analysis and creating a favorable environment. One of the authors was the manager of the rounds of dialogue facilitated by the Nepal Transition to Peace (NTTP) Initiative for several years. The main findings were shared with the key actors engaged in the facilitation and negotiation of the process as part of the triangulation process. Comments on the draft paper were obtained from swisspeace, and were addressed in the revised version. Comments and feedback obtained from Nepali experts were also incorporated. Finally, after the incorporation of relevant comments, input, feedback and suggestions, the study was finalized.

1.1 Setting the Context: Conflict Map and Conflict Actors

For centuries, Nepal was a unitary, autocratic, centralized state. The age-old feudal socio-economic system, horizontal inequity and skewed distribution of land and other resources, persistent bad governance, a prolonged period of absolute poverty and exclusion were some of the factors that created fertile ground for political revolt and agitation in Nepal (Onesto, 2005; Upreti, 2004; 2006; Dixit, 2011). Recent Nepali history has thus seen several revolts or periods of agitation (e.g., 1951, 1971, 1980, 1990, 1993, 2006) of which the aim was to change the unequal socio-political power relations and economic system in the country. The armed insurgency waged by the then Communist Party of Nepal (Maoist) from 13 February 1996 was one of them. Intense, long-lasting and prominent, it formally ended on 21 November 2006 with the signing of the Comprehensive Peace Agreement (CPA) between the Maoists and the government (Dixit, 2011; Pokharel & Rana, 2013).

On 4 February 1996, the United People's Front (UPF)¹ submitted a 40-point demand to the Prime Minister Sher Bahadur Deuba of the Nepali Congress government with the ultimatum that a 'people's war' would be waged if the government did not respond to the demands within 15 days (See Annex 1). However, Prime Minister Deuba left on an official visit to India without responding to the demands. The UPF (the Maoists) started the armed insurrection on 13 February 1996, two days before the deadline, attacking a police post at Holeri in Rolpa and Thibsikot in Rukum district. The insurrection continued for a decade, with increasing intensity (Hutt, 2004; Upreti, 2004).

After the establishment of multi-party democracy in 1990, the governments formed had failed to fully address Nepal's long-standing structural problems. The Maoists made use of the mismatch between people's high expectations of change and the slow pace of the delivery of change in order to advance their armed insurrection (Upreti, 2010). The Maoists were fairly successful at mobilizing the frustrated and socio-economically deprived rural populations against the government and multi-party political system, attracting them to their slogan of uprooting the 'feudal' political system (Mathew & Upreti, 2005). Furthermore, from 2001 they used ethnic and identity politics to advance their insurrection, thus garnering broader support in plural ethnic communities (Einsiedel et al., 2012; Upreti, 2015).

The main actors directly engaged in the conflict were the government and the Maoists. Further key actors were the Maoists' sister organizations; the state security forces (Police, Armed Police Force, Nepal Army, and National Investigation Department), some ministries (Home, Finance, Defense), and the palace. Other major actors were local government offices, political parties and their sister organizations, and parliament, followed by business people and local communities. The major external actors of the conflict were India, the US, the UK, EU member states and China, all of which were directly and/or indirectly engaged in the armed conflict. Table 1 shows the main causes or sources of the armed conflict in Nepal.

1

Later the name was changed to the Communist Party of Nepal-Maoist (CPN-M).

1. Structural causes	2. International sources	3. Triggers and catalysts
<p><u>Political</u>: political power struggles and tensions between the political parties, palace and political parties and within individual parties</p> <p><u>Socio-economic</u>: discrimination based on sex, caste, class, religion, geography, social inequalities; rampant poverty and widespread unemployment and under-employment; social exclusion</p> <p><u>Geographical isolation</u>: marginal areas, remote areas, areas with weak political representation</p> <p><u>Constitution and legal</u>: selective implementation of rule of law (laws had to be respected by the weak, but were violated by the powerful)</p> <p><u>Ideological</u>: democratic v/s communist</p> <p><u>Governance</u>: corruption, bureaucracy and favouritism</p>	<p><u>International context</u> (e.g., terrorist attack on the Twin Towers in New York on 11 Sept. 2001, expansion of radical communists and insurgents in India, change in power relations (government) in India/the US</p> <p><u>Interests of powerful nations</u> (political, economic: natural resources, water and forest; historical legacy; religious; strategic and military). For example, the constant engagement of India in Nepal (alleged shelter to Nepali Maoists, arms supply to the army, etc.)</p> <p><u>Competition between international actors in Nepal</u>: strategies of India, China, the US, the UK to expand their influence in Nepal, bringing in political parties loyal to them, etc.</p>	<p><u>Vested interests</u>: specific interests of domestic and external actors in Nepal's armed conflict</p> <p><u>Specific circumstance</u>: the 1 June 2001 royal massacre (which changed the entire political landscape in Nepal and marked the beginning of the end of more than 200 years of monarchy</p> <p><u>Specific role of certain influential people</u>: for example, the two deputies of King Gyanendra during his takeover in 2005</p> <p><u>Psychological factors</u>: mentality of revenge and retaliation, fear and mistrust, threats and insecurity, denial and resistance</p>

Table 1: Main Causes of the Armed Conflict of Nepal²

Table 1 shows that the reasons for the rapid expansion of Nepal's armed conflict were fairly complex and interrelated. It was caused not only by poverty, inequality, social and political exclusion, gender, caste and ethnic discrimination, skewed distribution of production resources and corruption and bad governance, but also resulted from the effects of the geopolitical and strategic interests of India and other powerful nations, as well as the contribution of factors that had suddenly emerged and may be grouped into 'triggers and catalysts'.

1.2 Evolution of the Peace Process

Although there were numerous formal and informal negotiations and peace talks before 2004, there were no significant visible achievements. However, the political situation and the dynamics of the armed conflict and the negotiation process changed entirely when the then King staged a bloodless coup on 1 February 2005. The political landscape was completely changed and the triangular conflict (between the parliamentary parties, the palace and the Maoists) turned into a bi-polar conflict (the king and his supporters on one side and the Maoists and parliamentary parties on the other). Hence the seven major parliamentary parties formed an alliance called the Seven-Party-Alliance (SPA) and forged a common understanding with the CPN (M) to fight against the king. In this way they organized the popular people's movement that defeated the king in April 2006. Several informal and non-formal dialogues were taking place behind the scenes, helping to reach the 12-point understanding that finally led to the end of the decade-long armed conflict with the signing of the Comprehensive Peace Agreement (CPA) in November 2006.

During the peace process no single format or approach was used, since so many actors at the national level were directly and/or indirectly involved in facilitating the different dialogues and

² Source: Synthesized from Upreti (2010; 2004; 2006; 2012); Hutt (2004); Karki & Seddon (2003); Mathew & Upreti (2005); Baechlor et al., (2008).

negotiations. Though a precise humanitarian approach in negotiations³ (Hugh & Bessler, 2006; Mancini-Griffoli & Picot, 2004) was not the dominant framework, several core principles (e.g., humanity, neutrality and impartiality) were part of the processes in Nepal.

1.3 Relevance of the Peace Process

It is important to look at processes, outcomes and lessons from the experience of Nepal's dialogue and peace process. This will provide details of peculiarities and specificities, best practices and lessons in dialogue and negotiation. Understanding the concept of National Dialogue can help potential domestic and international actors in dealing with power asymmetries, engaging with difficult actors and facilitating a needs-based and effective support for peace processes. In the context of Nepal, it could also help to examine the most contested issues such as settling conflicts related to the constitution produced by the second constituent assembly, decentralization and federalism, unresolved issues of dealing with the past, inclusion of excluded groups such as youth and women and creating space for the engagement of domestic facilitators and observers.

In this context, once the effects of armed conflict began to be felt in Nepal, the public, human rights communities and concerned groups exerted pressure for negotiation and dialogue as a means to end the conflict. Several human rights activists/NGOs, civil society leaders, scholars and intellectuals and the business sector became involved on different levels and scales⁴ in facilitating discussions between the warring parties to end the insurrection and restore peace through negotiation and dialogue.

1.4 Peculiarities of the Nepalese Peace Process

Though there is a range of opinion regarding Nepal's peace dialogue and negotiation process, it is largely understood as a home-grown, domestically-led and managed process. Some critics, especially those who disagree on the outcomes (such as the country becoming a republic, secular state, federal system, etc.) of the political process in the past two decades believe that the entire change process was orchestrated by those who do not want to see a stable Nepal as it used to be (monarchy, Hindu, unitary state). However, the large majority believes in the uniqueness of Nepal's peace process (Martin, 2010; Dixit, 2011; Upreti, 2010; Pokharel & Rana, 2013).

In this context, one of the negotiators from the government side and a senior leader of CPN (UML) said:

"The Nepalese peace process was (and is) basically a home-grown process. Although we got the goodwill of the international community, and this goodwill played an important role in making the peace process successful, the good offices provided by India during the 12-point understanding, and the United Nations Mission in Nepal (UNMIN) are noteworthy in this regard. However, they were unable to avoid questions and controversies. The instrumental factor in the success of the Nepalese peace process was the realization by both sides that a military solution is not possible and that we should seek an alternative. The Maoist rebels started their violent activity assuming that they could seize power in the state down the barrel of a gun. Despite significant success in a short span of time, it was quite impossible to achieve the goal in the given context. Later on, they faced severe casualties in confrontations, deepening internal rifts and increased spontaneous resistance from ordinary people. If they had not been wise enough to gauge the situation, they would have faced a serious crisis. On the other hand, the state had its own limitations. After the coup by King Gyanendra, the security forces lost political backing. Democratic forces were fighting against autocracy. And

³ Humanitarian negotiations are a tool to enable, facilitate and sustain humanitarian action, and therefore they must be undertaken in accordance with the three core principles of humanity, neutrality and impartiality that underpin all humanitarian actions (Hugh and Bessler 2006, p.2).

⁴ Local NGOs and CSOs organized peace rallies, mass meetings and public events in different parts of the country to exert pressure on the conflict parties to enter into dialogue and negotiation.

for the success of the democratic movement, they needed to put forward a roadmap for peace.”⁵

However, one of the vehement critics of the ongoing change process once wrote,

“We all know it - Nepalese rulers, under the patronage of foreign forces have been institutionalizing anarchy and draining the state coffers by provoking fear and using the threat of weapons. Because of these guilty political elements, the Nepalese nationality, royal family and democracy are wounded, and sovereignty is in peril.”⁶

Despite such criticisms, the stakeholders of the negotiations and dialogues were open, flexible and willing to forge agreements and accommodate the interests of others.

Chapter 2 The Peace Process: Structure, Process and Outcome

When on 4 February 1996 the Maoists submitted a 40-point demand to the Nepali Congress government, led by Sher Bahadur Deuba, not many actors, including the government, took it very seriously. There were reasons behind this. First of all, the radical communist faction had not accepted the 1990 democratic change as sufficient. For a long time they had said that what was needed was a “revolution” through armed struggle (Upreti, 2009) to change the corrupt governing system (Thapa, 2002). However, no one had actually taken up arms in an organized manner. Initially, therefore, this seemed to be another rhetorical stunt. The second reason was that the Maoist party did not have great organizational strength. When their earlier incarnation participated in the 1991 parliamentary elections, it gained a meager nine seats in the 205-seat house.

The Maoists launched what they called a “People’s War” even before the end of the deadline given to the government to address their demands. In fact, it was obvious that it was impossible for the government of the time to address these demands because they involved critical and fundamental political differences with the government. A brief summary of their demands, consisting of 40 points in different categories, is as follows: the first category was concerned with nationality (the most notable demands were: abrogation of treaties, including the 1950 Nepal-India Friendship Treaty, closure of Gurkha Recruitment, a ban on Indian vulgar magazines and films and vehicles with Indian number plates; a work permit system had to be introduced for foreigners, and the work of NGOs/INGOs stopped). The second category of demand concerned popular democracy (a new constitution was to be written by elected representatives, all special privileges of the king and the royal family were to be abolished, civilian control of the army, the police and the bureaucracy to be introduced, all repressive acts, including the Security Act, to be repealed, Nepal to be declared a secular nation, patriarchal exploitation and discrimination ended, etc.). The third group of demands was related to people’s livelihoods: land was to be confiscated from landlords and distributed to the poor and landless, the property of middlemen and comprador capitalists nationalized, and employment was to be guaranteed for all (see Annex 1 for the details of the 40-points demands).

The government, as expected, did not respond in any significant political way to the demands. Within a few months of the start of war through attacks on rural police posts in Gorkha and Sindhuli, the insurgency began to draw the attention of the public. The second parliament, elected in 1994 in a mid-term election was a hung one, with no party having a majority. This gave way to the formation of unstable governments. In the four-year period from 1994-1998, five governments were formed. The rise of corruption, the use of horse trading in parliament to form and topple governments, and lack of delivery from the government had all shown the ugly side of the parliamentary system. This had led to

⁵ Interview with Mr. Pradeep Gyawali on 14 Feb 2016.

⁶ See <http://reviewnepal.com/articles/nepalese-cultural-nationality-is-in-danger.html> (Sagarmatha media network’s Review Nepal, dated 24 January 2016 and entitled “Nepalese Cultural-Nationality is in Danger” written by Mr. Dirgha Raj Prasai, Kathmandu, Nepal) for details.

many becoming disillusioned with the whole system. The Maoists capitalized on this seeming failure of the parliamentary system to meet the expectations of the people. Even if the Maoists had only a small number of supporters in the early years, they found indirect support among the disillusioned educated, urban population. The Maoists' talk of radical change appealed to many people.

Unlike most other conflicts, Nepal is an interesting exception in that people began to talk about holding dialogue to resolve the conflict within a couple of years of the start of the civil war. In an interview⁷, Mr. Daman Nath Dhungana, one of the first two facilitators of formal dialogue, sees this as a distinct phenomenon of Nepal's peace process. Mr. Padma Ratna Tuladhar, the key contact and the other of the two trusted facilitators, says that although Nepal's peace process was never really much like dialogue in the true sense of the word, it is true that the actors, both the government and Maoists, took dialogue seriously from the beginning.

The formal and/or non-formal peace process is discussed in the following sections, with a special focus on processes, limitations, agenda, legitimacy and ownership, inclusiveness strategies and tactics and challenges.

2.1 Early Initiatives Preparing the Ground

For the first time, Lokendra Bahadur Chand's government formed a task force⁸ to put forward possible ways of resolving the Maoist armed conflict. The task force suggested a political solution for the Maoist insurgency, as it was a political problem to be addressed through reform in the governing system and socio-economic sphere.

The third parliamentary election gave the Nepali Congress a majority in the parliament. Mr. Krishna Prasad Bhattarai became Prime Minister in May 1999. Soon after he assumed the post on 6 January 2000 his government formed a 'High Level Commission' to be chaired by former Prime Minister Sher Bahadur Deuba⁹. This was another important step towards understanding and addressing the Maoist insurgency as a political conflict. The Deuba commission's mandate was not to initiate any dialogue with the Maoists. Therefore, it was not a dialogue initiative. However, it was of important political symbolic value that the government had formed a commission under a former Prime Minister to study the Maoist conflict. There was much talk and discussion of what the commission would do or could do. It was of some political benefit for the government that it was serious about understanding and addressing the issue. This was the first political initiative per se to create a foundation for engagement with the Maoists. The Commission submitted its final report to the government on 7 November 2000, with the conclusion that the Maoist problem was not caused by the failure of democracy, but because of weaknesses in the state governance system, frequent changes in government, poverty, discrimination, injustice and exclusion, and could be solved by addressing these causes and through peace talks.

Mr. KP Bhattarai resigned as Prime Minister after a few months because his party president, Mr. Girija Prasad Koirala, wanted to lead the government himself. Together with the change in government, the Deuba Commission too lost relevance, because the new Prime Minister would not trust Deuba with the responsibility. However, it was Mr. Deuba who initiated the first serious dialogue in 2001 when he took over from Mr. Koirala as Prime Minister (Upreti, 2006). The Deuba-led government's dialogue will be discussed in sections to follow.

⁷ Interview with Mr. Daman Nath Dhungana, 28 January 2016.

⁸ In April 1997 the government formed a Task Force on the Study of the Maoist Problem and Solution under the leadership of Member of Parliament Mr. Prem Singh Dhimi. Other members of the Task Force were Mr. Yogesh Bhattarai, Mr. Praddep Samser Rana (Inspector General of Police), Mr. Devi Ram Sharma (National Investigation Department), and Mr. Krishna Murari Sharma (Ministry of Home Affairs) as Member Secretary.

⁹ Mr. Sher Bahadur Deuba – Convenor, with Mr. Ram Chandra Poudel, Mr. Sushil Koirala, Mr. Chiranjibi Wagle, Mr. Khum Bahadur Khadka, Mr. Purna Bahadur Khadka, Mr. Govinda Raj Joshi, and Mr. Chakra Bastola as members and Dr. Prakash Sharan Mahat as Member Secretary.

2000 – Talks about Talks

The last of the five governments during the hung parliament was led by Nepali Congress President Mr. Girija Prasad Koirala. By this time, the Maoist war had been going on for three years, and was escalating. In many rural areas the conflict was increasing in influence, with Maoists dominating certain districts, and it therefore became a national concern. In this context, Deputy Prime Minister and Home Minister of the Koirala government, Mr. Ram Chandra Poudel, initiated the first talks with the Maoists in 2000, termed by Mr. Padma Ratna Tuladhar¹⁰ "talks about talks".

How the process worked: Deputy Prime Minister and Home Minister Mr. Ram Chandra Paudel contacted Mr. Padma Ratna Tuladhar to inquire about the Maoists' willingness to engage in talks. He asked Mr. Tuladhar to convey his message to the Maoist leadership. Following this, Tuladhar spoke with the Maoist chief Mr. Pushpa Kamal Dahal (better known as Prachanda) to convey the message of the home minister and nominate someone to engage in the talks. Prachanda gave him the name of Mr. Rabindra Shrestha, who was a central level leader of the Maoist party and was responsible for the party's Kathmandu valley activities. Mr. Tuladhar knew Mr. Shrestha, and the two met for the purpose. According to Mr. Tuladhar, both sides were genuinely interested in meeting with each other and exploring the possibility of initiating a dialogue. Mr. Tuladhar himself organized the first ever "formal" dialogue between the government and the Maoists, represented by Mr. Paudel and Mr. Shrestha respectively. The dialogue date and venue was confidential, but it was publicly known that the dialogue was taking place.

Mr. Padma Ratna Tuladhar recounts the experience of organizing these historic talks as a hilarious experience.¹¹ Just a day prior to the said first ever talks, Mr. Shrestha proposed to postpone them for security reasons, fearing that even if the Home Minister was honest, there might be others willing to sabotage the talks. Mr. Tuladhar did not agree, saying that his credibility as a facilitator was at stake – he had given his word to Mr. Paudel. Mr. Prachanda then called him to postpone. He refused. Then Mr. Baburam Bhattarai called him to postpone, and again he refused. He said "I had the confidence that even if Shrestha was arrested during the talks, I would go on hunger strike and get him released personally". Finally, all agreed. Mr. Tuladhar got his own son to act as driver, asked the Home Minister to come to a point without a bodyguard, and picked up Deputy Prime Minister Poudel in his car. Then he picked up Mr. Shrestha, and took the two to a friend's room in a location which has not yet been made public. The first talks were between the two men only. Both had a mandate from their respective organizations. Although they did not have any written documentation, this was an important initiative as it held a large amount of symbolic value. After a certain time, Mr. Tuladhar left the two alone to have a one-on-one talk. Both were happy with the talks, and they agreed to meet again with the facilitation of Mr. Tuladhar. The latter quietly dropped off both the leaders in their respective locations. Not much headway was made during the talks in setting up a dialogue process, but it bore considerable political significance at the time. It sent the message to the people in general that there might possibly be some respite from violence. It also sent the message that dialogue might be the best way to resolve the conflict, and it was possible to do so peacefully. In this dialogue the Maoists' demand was that some of their detainees should first be released. The government representative asked the Maoists to cease from violent activity, and engage in dialogue.

Limitation of the process: Though this initiative was important in Nepal's dialogue process, it was just an exploratory dialogue initiative, according to Mr. Daman Nath Dhungana,¹² because there was not much preparation from either side. Only one individual on each side was involved, plus the facilitator. No trust building measures were employed at the wider Maoist party and government level. There were people within government and in the party of Deputy Prime Minister Poudel who did not want him to "become a hero" by bringing the Maoists to dialogue. They thus, according to Mr. Tuladhar,

¹⁰ Interview on 15 January 2016 at the NTPP Secretariat, Kathmandu.

¹¹ Interview on 15 January 2016 at the NTPP Secretariat, Kathmandu.

¹² Interview on 15 January 2016 in Kathmandu.

orchestrated to bring the detained Maoists into the public eye¹³ in a humiliating way without Mr. Poudel noticing. This ended whatever trust was being built at the level of the two negotiators, and the dialogue initiative ended abruptly.

2.2 Peace Talks 2001

By the year 2001, the Maoist conflict had escalated to new heights, with the rebels taking control of more rural areas in different districts, especially in the hills of the mid-west and far west. Ending the conflict through dialogue thus became top of the national agenda. Though every government since 1998 had talked about addressing the Maoist conflict through negotiation and dialogue and restoring peace and order in society, genuine dialogue was still elusive.

Meanwhile, there was a royal massacre in June 2001 in which the king, queen, crown prince, princess and their relatives were killed. This unprecedented and tragic national event obviously had an impact on the course of politics, although the monarchy was constitutional. The new king, Gyanendra Shah, had a reputation of not being happy with the democratic change of 1990, which was later demonstrated in his dictatorial ambitions and activities. Soon after the royal massacre, the Maoists tried to undermine the monarchy with arguments that the former king, who was relatively democratic, was murdered in a conspiracy, and that it was time to get rid of the monarchy for good. The then Royal Nepal Army gained more powers, with the backing of the new king. This was a new political climate, more volatile and insecure than before, with many people feeling as if they had lost their guardian in the late king. In the wake of these events, in a controversial episode when the national army reportedly refused to be mobilized to take action against the Maoists in Rolpa, Prime Minister Girija Prasad Koirala resigned.

Ceasefire before oath of office: After the resignation of Mr. Koirala in July 2001, Mr. Sher Bahadur Deuba of Nepali Congress was elected by parliament to be the new Prime Minister, for the second time. In a dramatic turn of events, the newly-elected Prime Minister announced a ceasefire even before taking his oath of office. The Maoists reciprocated with a ceasefire announcement of their own, thus creating national hope that maybe the peace process would begin in earnest.

The government formed a dialogue team led by Mr. Chiranjibi Wagle, with Mr. Chakra Prasad Bastola, Mr. Mahesh Acharya and Mr. Bijay Kumar Gachchedar as members. The Maoists also formed a dialogue team, under the convenorship of Mr. Krishna Bahadur Mahara. This was the first formal dialogue, with teams officially nominated by both the government and Maoists. The first round of dialogue was held on 30 August 2001 at Godavari in the Kathmandu Valley, the second in Thakurdwara in the Bardia district of western Nepal, and the third in Godavari again. Mr. Daman Nath Dhungana and Mr. Padma Ratna Tuladhar were the official facilitators, accepted by both the sides, but the facilitators were never appointed as mediators during the entire period of the peace process even if for some time the term 'insider mediators' may have been used by some people. However, the dialogue and negotiation did not go smoothly, since the government negotiators were not able to address the demands of the Maoists. On leaving the negotiations, they attacked, for the first time, an army barracks in Dang on 23 November 2001 and took large amounts of arms and ammunitions that were being stored for supply to the other barracks of the region. In reaction to this, the government declared a state of emergency on 26 November and mobilized the army.

Legitimacy, ownership and inclusiveness: The dialogue teams on both sides had a mandate from their respective constituencies. The dialogue was structured in the sense that there was a venue and date proposed and agreed, and it had two facilitators. The two facilitators were witnesses and observers of the dialogue process, who also helped to build confidence between the two sides. As one of the facilitators, Mr. Tuladhar, explained, when there was a need to contact the Maoist leaders on the part of the government, political parties and international actors, he was the person they approached to make a connection. Because of his leftist background, his social public standing as popular mass

¹³ The government displayed the arrested Maoists cadres in public and insisted on talking to them about the insurgents, presenting the insurgency very negatively, which the Maoists understood as an orchestration from the government to humiliate the Maoists.

leader during the Panchayat era, his personal relations with all the senior Maoist leaders and their trust in him, he was the sole contact point. For the government he was the only source who could reach out to the rebels, and therefore he was given this role¹⁴. Daman Nath Dhungana was from a democratic background and was close to the Nepali Congress Party. He was a vehement advocate of the Constituent Assembly and Speaker of the first Parliament, and was highly praised by all for his role as Speaker. The two were also voluntarily working hard to bring the parties together in a situation of severe mistrust. However, as both the facilitators state clearly, they also had their limitations, especially because of their clear public stance on some of the issues (e.g., Mr. Dhungana was a promoter and advocate of the constituent assembly from the very beginning, while Mr. Tuladhar was a strong advocate of ethnic rights)¹⁵. Therefore, those who were not in favor of the constituent assembly or ethnic issues questioned the neutrality and independence of the facilitators. The dialogue, however, was perceived as legitimate, with the involvement of facilitators from civil society adding legitimacy to the dialogue process. The dialogue teams were not, however, inclusive, because they did not, for example, have any women members from either side. The process was led from the top down, as there was little consultation on the agenda among the wider stakeholders. One of the most important reasons was the perceived urgency of ending the process as soon as practically possible, to avoid any possible acts from the king and/or his external and internal supporters.¹⁶

Agenda of talks and limitations: It was both strategically important and advantageous for both the government and the Maoists to become engaged in talks. The temporary ceasefires gave people a respite from the ongoing violence. The government was able to create some hope in people that it could perhaps bring the Maoists into peaceful politics through negotiation. The ceasefire provided space for the Maoists to directly engage and discuss their agenda with civil society, and to strategically re-organize their combatants and show the international community that they were committed to engaging in a negotiation process if the government was ready for the same.

However, both the government and Maoists knew very well that the process would not go any further. Some of the Maoist demands of the time included asking the constituent assembly to write a new republican constitution. Although the government had rhetorically all the executive powers, the then Royal Nepal Army was in practice loyal to the monarchy, and the latter was a powerful indirect determinant of political negotiation to safeguard the interests of the palace. The government would not be able to even discuss a new constitution, never mind a republican constitution. Therefore, the process was inherently limited. The government formed under the 1990 constitution, which featured a constitutional monarchy, could not constitutionally talk about republicanism.

The process: This process was not very systematic or structured, and was not comprehensive enough to look at the role of youth and women, because the negotiations concerned the immediate core political issue. Trust-building measures were weak, and no specific efforts were made by either party. Process documentation was neglected. The facilitators were kept away and their role limited to that of witnesses only. The concerns of civil society were given insufficient consideration in the content, process and structures of the dialogue. One of the main reasons for not incorporating the concerns of civil society related to the parties' perception of the role of civil society. They viewed civil society as their opponent because it often criticized their violation of human rights during the conflict.

The change of the venue of the talks had some political value. Since the first round of talks took place in Lalitpur in the Kathmandu valley, the Maoists proposed that the second round should take place in Thakurdwara in the Bardia district in the mid-west of Nepal, a place under the influence of the Maoists. The government delegation agreed. This helped to build some trust in the process, and gave the Maoists recognition, since the area was known to be Maoist-influenced, and the government had agreed to hold talks outside Kathmandu. In such a process, a small trust-building gesture can have significance beyond its size. This was one such case.

¹⁴ Interview with Mr. Tuladhar on 17 March 2016 at the NTTP Institute Office.

¹⁵ Interview with both facilitators (Mr. Dhungana and Mr. Tuladhar) on 17 March 2016 at the NTTP Institute Office.

¹⁶ Mr. Daman Nath Dhungana highlighted this issue and Mr. Vidyadhar Mallik and Mr. Tuladhar agreed on it during the round table discussion on 17 March 2016 at NTTP-I.

This was the first time that the two sides had sat down to prepare, in teams, and with considerable media and public attention. Though the talks collapsed due to invisible influences, they laid the foundation of a formal process, an experience that would benefit future processes. Some of the stakeholders in the armed conflict were benefiting from the continuation of conflict (for example, those who gained commission on arms sales, or those who held particular positions and exercised specific authority and had the use of resources, people active on the black market or illegal trade etc.) and were therefore not interested in solving the conflict. These people tried their best to sabotage the peace negotiations. In an interview one of the two facilitators, Mr. Padma Ratna Tuladhar, said, "There was no experience of formal dialogue before. Prachanda asked me to be a facilitator, and I agreed". Likewise, another facilitator, Mr. Daman Nath Dhungana, said, "I was asked by Prime Minister Deuba to be a facilitator and I agreed". It seems the two facilitators were proposed from the Maoist and the government side respectively. There was no experience of such formal negotiation, and no documentation of the process or the outcomes of the negotiation. The facilitators said they did not even have available for reference the 40-point demand put forth by the Maoists before going to war.

2.3 Peace Talks 2002/2003

After several intense attacks and counter attacks between the fighting parties, public pressure mounted on both sides to settle the conflict through negotiations. Hence, the Maoists announced the formation of a central delegation on 3 December 2002 under the convenorship of Dr. Baburam Bhattarai, a well-known Maoist intellectual. The other members of the team were senior leaders, including Mr. Ram Bahadur Thapa *aka* Badal, Mr. Krishna Bahadur Mahara (who was the convener of the delegation in 2001), Mr. Dev Gurung and Mr. Matrika Yadav. Similarly, the government team was first headed by Deputy Prime Minister Mr. Badri Prasad Mandal, and five other ministers. Mr. Shailendra Kumar Upadhyay and Mr. Karnadhwaj Adhikari were added to the team of two previous facilitators in keeping with the interests of the royal palace. It was obvious that the palace wanted to balance the team of facilitators. From the point of view of the palace's ownership of the process, it was also a good step to have palace-trusted facilitators in the team. The teams also submitted written agenda whereby both the parties proposed to organize a 'roundtable conference' (see Annex 3 and 4 for the agenda submitted by the Government and the Maoists respectively). However, the proposed 'round table conference' never materialized during the entire period of the peace process. The bottom line from the government side was popular sovereignty, multi-party democracy and a constitutional monarchy, whereas the Maoist agenda demanded the writing of a new constitution through a Constituent Assembly.

Political agenda and alteration in power balance: In October 2002, King Gyanendra sacked Mr. Sher Bahadur Deuba from the post of Prime Minister on the pretext that he was not able to conduct the parliamentary elections as announced. The Maoist conflict was escalating, and on the basis of a multi-party decision Mr. Deuba had postponed the elections indefinitely. The king, using a controversial provision in the constitution, took over the power of the Prime Minister in a largely illegitimate way. However, he had the backing of the army, which was traditionally loyal to the monarchy. A few days after sacking Mr. Deuba, he appointed his loyal politician, Mr. Lokendra Bahadur Chand, the new Prime Minister. The Chand cabinet had other royal loyalists as members. The mainstream parliamentary parties took to the street to protest against this unconstitutional move by the king to sack the elected Prime Minister and handpick a new one. The parliament was dissolved with a view to holding new elections, but this was deemed impossible. As a result, there was no mechanism for appointing a new Prime Minister after Mr. Deuba was removed. The king argued that he was the rightful institution to do so. The 2003 peace talks therefore took place at a time when the king was all-powerful, and the major parties of the previous parliament demanded a restoration of the dissolved parliament so that the constitutional course might be corrected. During the 2003 round of dialogue, there was a change of government, but the king continued to exercise real executive power, although he appointed Prime Ministers who had a direct impact on the dialogue.

Maoist strategic engagement and tactics: The Maoists had expanded their influence throughout the country from 2001. On one hand, they claimed that they were fighting for a "people's republic". On the other, they were looking for their own political space. They thus became engaged in peace dialogue with the royal government. Soon after the royal massacre of June 2001, the Maoists argued that it was

time for the country to become a republic. In this context, writing in the Kantipur national daily, Dr. Baburam Bhattarai revealed that they had had a certain amount of working unity with the assassinated King Birendra. However, he wrote, the new king was a dictator, and now was an opportune time to go for republicanism. But within two years, they formed a dialogue team to hold talks with members of the royal government under Mr. Lokendra Bahadur Chand. This was a largely strategic move by the Maoists to further sideline the major parliamentary and moderate Marxist parties, develop relations with the palace, make their way into their political space by engaging in dialogue, and if possible enter mainstream politics. Though some analysts saw this as ideological confusion on the part of the Maoists (Dixit, 2011; Upreti, 2010), one of the facilitators of the dialogue process viewed it differently. "The Maoists wanted to see if there could be a safe landing. The palace wanted to use the rise of the Maoists in its favor" according to Mr. Daman Nath Dhungana.¹⁷ Both the palace and the Maoists tried their best to tactically use one another for their strategic advancement, which is not uncommon in negotiation (Bush & Folger, 1994; Upreti 2006).

Ownership and legitimacy: This was a long process of negotiation, starting on 2 December 2002 and lasting until 27 August 2003. As the palace was exploring all options to strengthen its power, changing Prime Ministers was a common tool for this purpose. Hence, on 4 June 2003, Mr. Surya Bahadur Thapa, another royalist known for tactical manipulation and strategic maneuvering, was appointed as Prime Minister to strengthen the position of the palace. The ongoing process continued, even though the government had changed. The new government changed the members of the delegation, replacing the ones appointed by the previous government, with Mr. Prakash Chandra Lohani as convener and Mr. Kamal Thapa as a member. In response, the Maoists also reformulated their delegation, with Dr. Baburam Bhattarai again as chief negotiator and Mr. Krishna Bahadur Mahara as a member. Both parties had two members each to negotiate.

In terms of ownership, some analysts and researchers (Sharma, 2013; Upreti, 2006) have argued that the formal negotiations of 2003 were dubious because they were seen by many as a ploy and a strategic move by the royalists and Maoists against the mainstream political parties, who were excluded from the process. The king's intentions, other than dictatorial, were never clear. No wider consultations with the political parties or even within the members of the cabinet from the government negotiators' side were observed, on either agenda or procedure. Outside the negotiators, many members of the cabinet were unaware of the negotiations. The government negotiators were entirely guided by the strategic interests of the palace, and therefore a serious question remained as to the legitimacy and the government's genuine ownership of the process.

Although civil society raised concerns regarding settling armed conflict through negotiation, its voices were largely ignored by both sides. Civil society in Nepal was introduced after 1990 mainly through international engagement, and over time it was loosely used to denote a wide range of actors. Basically the concept was introduced by foreign actors, and therefore it was later criticized by analysts for its being a foreign concept. Further, once leaders of political parties, business people, NGOs, retired bureaucrats and security forces and sometimes even INGO staff started claiming that they were civil society members, the concept itself was criticized and lost its essence, since it became contested. Once self-claimed civil society leaders started supporting or opposing a particular party or government, its credibility and legitimacy was in question.

The involvement of women, half of the country's population, was deliberately ignored by both sides. The government included one woman in its negotiating team but she was not observed to play a visible role. Even when the government changed its negotiating team, women were not included. The Maoists, who in their rhetoric advocated for equal rights and the inclusion of women, also never included women in their negotiating teams in any of the talks. Once when noted women from different professions and political parties raised the concern with the Maoists' chief negotiator and asked him to include women in the negotiation team to justify the claims of the Maoists, he refused the request and publicly said that his team, even if it had no women, was capable of raising the concerns of women and there was therefore no need to include women in the team, as they were communist and there is no discrimination against women in the communist system. The studies conducted by Ariño (2008);

¹⁷ Interview with Mr. Dhungana on 10 January 2016 at his residence in Kathmandu.

Upreti (2008) and United Nations Women [UN Women] (2012) clearly demonstrated that women's inclusion in Nepal's peace process has been very poor.

In terms of mandate, the Maoists had sent a senior delegation. The government had also sent senior ministers, but because the king had the real power, it was not possible for the government delegation to decide on the Maoists' major political demands without the king's consent. Around this time, the agenda of writing a new constitution through an elected constituent assembly had become the main demand of the Maoists, an issue on which the government negotiators were unable to decide and in which the palace was not interested.

The first and second rounds of the 2003 negotiations took place at Hotel Shankar in Kathmandu in April and May. The third round, which started on 17 August 2003 with new negotiators appointed by the government led by Mr. Surya Bahadur Thapa, was held, at the proposal of the Maoists in Hapure Village in the Dang district, a place under the full influence of the Maoists. Again, this was a kind of trust-building measure. However, the spoilers mobilized, and on the same day of the negotiations the famous Doramba incident took place, where the army killed 17 unarmed Maoist activists gathered in a meeting and two civilians. This caused the Maoists to severely mistrust the good intentions of the government towards the process, and they pulled out. As a consequence, on 27 August the Maoist Chairman Prachanda issued a statement to the press announcing their withdrawal from the negotiation process, arguing that there was no point in continuing the process as no result could be expected, and that the killing of the Maoists was planned. He also said there was no point in continuing with the ceasefire. The negotiations collapsed, the ceasefire ended and the country again lapsed into violence.

How the process worked: The negotiations of 2003 had some interesting elements. Written agenda points were shared by the negotiating teams on both sides. The effectiveness of the ceasefire was monitored, and the negotiations continued even after the new Prime Minister took office. The ceasefire started on 29 January 2003 (see Annex 2). It was monitored during the three rounds of formal negotiations on 27 April, 9 May and 17-19 August 2003, which ended without result on 27 August 2003. A woman member was involved as one of the five negotiators from the government side in the first and second rounds of the 2003 negotiations. However, no woman was included when the negotiating team was reformulated. There was no structural mechanism for collecting the citizens' feedback for the negotiation team, mainly for two reasons. First, there was a feeling that political decision-makers were capable of including citizens' concerns, and that they were the ultimate authority to do so. Second, they were in a hurry to complete the negotiations as soon as possible, and establishing a formal mechanism for collecting citizens' voices would take time. However, they were receiving feedback informally from different sources such as individuals or small group meetings.

The infamous Doramba killings happened during a ceasefire and at a time when the negotiating teams from both sides were ready to end the conflict. On the day after the incident, the chief Maoist negotiator handed the government's chief negotiator a protest letter condemning the Doramba killings and requesting punishment for the killers. However, there was no action from the government for ten days. Afterwards, when they perhaps realized that the talks would not lead to any substantive breakthrough, the Maoists decided to withdraw from the talks on 27 August 2003.

Stumbling blocks, challenges and limitations of the process: Although this was a formal process, the 2003 negotiations had a series of stumbling blocks. The negotiation for peace was happening in a situation when the democratic institution of parliament was dissolved, and major parliamentary political parties were forced to remain out of the mainstream. The government was formed of nominees loyal to the king instead of being fully committed to the restoration of peace through dialogue and negotiation; they thus lost the credibility and trust of the people. There was weak international support for the peace process, and strong resistance from the army once the second round of formal negotiations resulted in the decision to restrict the movement of the army to a radius of five kilometers of the barracks. If the parliament had been active, some of the core issues could have been debated in parliament, which would have helped exert positive pressure or given a broader mandate to the government to settle the problem through negotiation. Similarly, political parties as a fundamental component of multi-party democracy could increase the legitimacy and enhance ownership of the

negotiated settlement. However, they were totally ignored and marginalized and there was therefore an issue of outcome ownership, even if there was a formal process.

Furthermore, the real bottom lines for both the monarchy, represented by the then government, and the Maoists were never clear, and the general public was in the dark as to what they were. The key Maoist demand, at least as far as the public knew, had been the election of a constituent assembly which the palace was not ready to accept, fearing that the new constitution would be written by directly-elected representatives without much scope for the monarchy.

Similarly, another stumbling block or challenge was a suspicion among the major political parties that an alliance had been formed between the monarchy and the Maoists to take up all the political space, strategically sidelining the parliamentary parties, although these still represented large sections of people and political ideologies. It should be recalled here that these parties had taken to the streets against the dictatorial moves made in October 2002 by the king to take over executive powers for himself and to appoint the Prime Minister himself in the absence of a Parliament.

The role of the facilitators was never clearly spelled out. It was ad hoc in most cases. There were rarely any preparations with the facilitators on the conducting of the process, the organizing of the setting and other logistics. The facilitators' role was at times reduced to that of an observer. In the second round of formal negotiations, the delegations reached an understanding to limit movement of the then Royal Nepal Army to within five kilometers of the barracks, but the army was furious – as, perhaps, so was the king – and severely resisted. Consequently, the government delegation was forced to say that there was no such understanding at the negotiation level. Interestingly, until then there had been no formalization (documentation and signature by the delegation) of the understandings reached between the delegations. However, the facilitators said publicly that no understanding had been reached. This caused a severe setback for the negotiations, because mistrust mounted.

Mr. Padma Ratna Tuladhar recounts the Hapure negotiations as an occasion when there was a huge amount of curiosity both within the country and outside as to how things were developing and how they would go. He recalls the reality on the ground from the process point of view as having been fairly amusing. When the Maoist leader Dr. Baburam Bhattarai presented the Maoist position and demands to the government team, they had to make several corrections by hand on a printed paper. The government team had its response hand-written by a member of the team, Mr. Narahari Acharya. This clearly reflected how poor preparations were, as there was no computer and printer to print the corrected and agreed final version of the document. Hence, there were no minutes or documentation of the discussions, which would have been important for a variety of reasons.

When asked how they would facilitate the negotiations, after the experiences of two failed ones, the two facilitators – Mr. Dhungana and Mr. Tuladhar – agreed that they would have done many things better, including thorough preparation, proper documentation of the outcomes, and so on.¹⁸

When the Maoists called off the truce and pulled out of the process, the national political scenario underwent a shift that ultimately led to the founding of a new joint People's Movement, the beginning of a new level of the peace process, the election of a constituent assembly and the country becoming a republic. These major shifts are discussed in the sections that follow.

[2.4 Royal takeover, Seven-Party-Alliance \(SPA\) and Peace Negotiations](#)

After the king took over power through the controversial October 2002 sacking of Prime Minister Sher Bahadur Deuba, he was the de facto ruler, although there were Ministers heading the cabinet. When street protests escalated, demanding the restoration of parliament, the king appointed Mr. Sher Bahadur Deuba Prime Minister again. The CPN-UML, the second largest party after the Nepali Congress, joined the Sher Bahadur Deuba government. Mr. Deuba was president of the splinter Nepali Congress (Democratic). When Mr. Deuba became Prime Minister in 2002, he recommended the dissolution of the parliament, although his party, Nepali Congress, did not approve it. The party

¹⁸ Interviews with Daman Nath Dhungana and Padma Ratna Tuladhar, 15 January 2016, in Kathmandu.

thus expelled him, and as a consequence he formed his own Nepali Congress (Democratic) when he was still Prime Minister, before being sacked in October 2002. Mr. Deuba, having being restored as Prime Minister with the CPN-UML as a partner in government, called for dialogue with the Maoists in September 2004. He formed a High Level Peace Committee at the Peace Secretariat which had been created under the previous Thapa government. However, the Maoists questioned the legitimacy of the government, and negotiations were not possible. The Peace Secretariat was a dedicated formal structure created by the government under the initiative of political parties to create a favorable environment for settling the ongoing conflict through negotiation. The major political parties sent their representatives to the Secretariat, and the Secretary was deputed by the government.

The main Nepali Congress was permanently in the street after the king dissolved the parliament on the recommendation of his own Prime Minister. Its key demand was the restoration of the dissolved parliament, which many thought was an impossible demand at that time. But the Congress continued with the protests, supported by only two other smaller parties – the Nepal Peasants and Workers Party and the Nepal Sadbhavana Party. However, things took a dramatic turn when the king organized a bloodless royal coup by sacking the Deuba government again on 1 February 2005. The king declared a 'state of emergency', suspended all civil and political rights, and arrested the main leaders and other civil society actors who had protested. All media, including newspapers, televisions and radios, passed into army control. It was a royal dictatorship imposed through a coup. Even the telephone and mobile phone lines were shut down for the first few days to prevent people from organizing in protest at the coup. Finally, the king did what was most feared he might do – he decided to chair the cabinet himself, appointing two loyalists and former aides as his deputies. Both of them had represented loyalty to the monarchy over the 30 years of the autocratic regime until 1990.

The royal takeover created a favorable environment for the three parties led by Nepali Congress and the four parties of the Deuba government to come together. They formed a Seven-Party Alliance (SPA) against the takeover of the king. According to Mr. Vidyadhar Malik, Secretary of the then Peace Secretariat, “A sense of purpose, urgency, and having the king as our common enemy were the key elements behind the success of the dialogue between the Seven-Party Alliance and the Maoists”.¹⁹ The Maoists had previously engaged in negotiations under the king’s loyal governments led by Mr. Lokendra Bahadur Chand and Mr. Surya Bahadur Thapa. But after the coup, the Maoists said there was no hope from the king, who had only dictatorial designs. In the next few months from February 2005, the SPA and the Maoists began to engage with each other through informal channels and meetings of leaders on an individual basis to fight against a common enemy. This was a crucial step in changing Nepal's political landscape. During this time, the Maoists had their famous Chunbang meeting in Rolpa, at which they decided to forge an alliance with the SPA, indicating that they would accept multi-party democracy and join the peace process together with the SPA to fight against the king. After rounds of back-and-forth as a means of trust building, the SPA and the CPN-Maoists signed the historic “12-point understanding” (see Annex 5) in Delhi on 21 November 2005 with the support of India (Sharma, 2013). The essence of the 12-point understanding was that the Maoists would accept multi-party democracy, and the SPA would agree to elect a Constituent Assembly, to write a new constitution, and get rid of the “dictatorial monarchy”. Getting rid of the “dictatorial monarchy” had an ambiguous meaning. It could mean aiming for a republic, or just for a ceremonial or constitutional monarchy. The ambiguity was kept on purpose, because it satisfied both groups. One of the points of the understanding was that the dissolved parliament would be restored.

The members of the SPA, as the legitimate political forces, began to intensify their protests on the streets. Civil society was very much willing to mobilize to fight against the dictatorship of the king. In fact, on many occasions civil society led the protests and the parties followed it. The Maoist forces (terrorists to the state) intensified their insurgency from underground and the SPA supported their acts to weaken the palace. Ultimately, the second People’s Movement was created, starting on 6 April and achieving its goal on 26 April 2006. The king surrendered all his powers (see Annex 6), the parliament was restored, and the SPA returned to power under the leadership of Nepali Congress President Mr. Girija Prasad Koirala. Extra seats, equal to the second largest party in parliament, were given to the

¹⁹ Interview with Mr. Malik on 7 February 2016 in Kathmandu.

Maoists in the restored parliament. The restored parliament decided to curtail all the powers of the king, and the government prepared the ground for another round of negotiations with the Maoists.

2.5 The Decisive Fourth Negotiation Process

The second People's Movement is also known as the April Uprising, which played a historic role in ending the Maoist civil war and initiating the formal peace process. By this time, there had been more than 13,000 deaths altogether, including those of Maoists, civilians and security personnel (Informal Sector Service Centre [INSEC], 2008).

The 12-point understanding created a political wave against the dictatorship of King Gyanendra. On 6 April, the SPA declared a non-violent movement, which would be supported by the Maoists in a peaceful way. On 24 April, the 19-day-old mass movement forced the king to engage in a series of confidential dialogues with the SPA representatives that ultimately led to an understanding that the king would give up all executive powers and restore the dissolved parliament, thus restoring the people's power in the parliament (see Annex 6 for the King's proclamation). Within two days, on 26 April 2006, the Maoists had unilaterally declared a three-month ceasefire. On 28 April, the leader of the SPA Mr. Girija Prasad Koirala took an oath of office as Prime Minister. The parliament, or House of Representatives, declared a Constituent Assembly would be elected to write a new constitution. The government reciprocated by declaring a ceasefire. On 10 May 2006 the CPN-Maoists announced a negotiation team under the leadership of Mr. Krishna Bahadur Mahara, with Mr. Dina Nath Sharma and Mr. Dev Gurung as members. On 19 May the government formed its negotiation team under Home Minister Mr. Krishna Prasad Sitaula, with two other ministers, Mr. Pradeep Gyawali and Mr. Ramesh Lekhak, as members. This was the formal beginning of the 2006 process leading to the restoration of peace.

Mandate and legitimacy: The 2006 negotiations were based on the trust built between the Maoists and the SPA during their joint strategy and struggle against the dictatorship of the king, as spelled out in the 12-point understanding, which had wide domestic and international support at the time. The joint movement provided a broader political mandate and legitimacy to the dialogue. The April movement saw the largest number of people on the streets mobilized to protest against the king, with some estimating the number of supporters on the Kathmandu Ring Road at up to two million. This broad and historic movement was not only against the dictatorship of the king but it was equally meant to create pressure for negotiations and the restoration of peace. Broadly, it was a citizens' movement for peace and democracy, which had a very strong and effective leadership role in civil society. According to Professor Birendra Mishra, coordinator of the committee that monitored the 2006 ceasefire code of conduct: "There were many good things about the process. Many good agreements were made. It was the honesty on the implementation of many agreements, which was an issue later."²⁰

Key actors of the process: The government delegation had the full trust of the political leadership in the coalition government. Home Minister Mr. Krishna Prasad Sitaula, the chief negotiator from the government side, was a confidante of the powerful Prime Minister, Mr. Girija Prasad Koirala. The two other ministers represented the next two largest political parties, the CPN-UML and Nepali Congress-Democratic. The ministers represented their parties well in the process. The Maoist delegation head, Mr. Krishna Bahadur Mahara, was a confidante of the Maoist chairman Mr. Pushpa Kamal Dahal, "Prachanda". The other two members were also senior leaders within the party and represented different political constituencies.

The top actors in the negotiation process were the Prime Minister and the heads of the major political parties. Whenever the delegations reached a stalemate or failed to make breakthroughs, or when the process was stalled, the top leaders met to resolve the issues. The leaders would come to an understanding, mostly in principle, and the delegations would then work out the details. There were numerous back-and-forth discussions between the top leaders and their teams. There were occasions when trust between the two teams plummeted, and there were moments when there was a highly

²⁰ Interview with Prof. Mishra, Gahanapokhari, Kathmandu, on 5 January 2016.

cooperative spirit on both sides. In all, however, the delegations played relatively successful roles in leading the peace negotiations (Upreti, 2010; Dixit, 2011).

Role of observers and civil society: Though the role of civil society was crucial to the success of the 2006 April people's movement, its role in the negotiation was not significant. The main reason was the open environment brought by the people's movement, which meant that the rebel leaders and the leaders of the SPA/democratic parties could meet and discuss directly without the support of others. The political parties of the SPA and the CPN-Maoists agreed to appoint a five-member team of 'observers' for the process. This time their role was downgraded – whereas in past talks they had been 'facilitators', in these talks they were 'observers'. Two continued from the earlier peace processes, with the additional three observers being Mr. Laxman Prasad Aryal, Dr. Mathura Prasad Shrestha and Dr. Devendra Raj Pandey. The five members broadly represented the spirit of the April 2006 movement. According to Mr. Dhungana, "from 2001 to 2005 our role was key and our contribution counted for much in forming the SPA. But after the successful people's movement, our role decreased".²¹ Mr Tuladhar fully subscribed to the observations of Mr. Dhungana. In terms of the structure of the negotiations, they were mostly determined by the two teams, with the blessings of their respective leaderships. The role of the observers was to act as witnesses to the process, and to provide civil society legitimacy to the agreements made. This largely worked to legitimize the negotiation process and outcomes. During the previous rounds of failed negotiations there had been facilitators, but their role was more that of observers or witnesses. In the 2006 negotiations there were no facilitators but only observers, which was closer to the role given to them or expected from them by the political party leaderships.

Participation of youth and women: Even though different models of participation in peace processes are discussed in the literature (Paffenholz, 2014), in practical terms they were not fully applicable in the case of Nepal, above all because of the specific context (both parties made an alliance against the king, defeated him and then negotiated peace together). They thus felt empowered to represent the youth, women and other stakeholders.

As such, young people and women were not formally assigned any role in the negotiation process. However, there were different layers and levels of the process where different types of people were engaged. At the top, the negotiation process was led by the most senior leaders (heads) of the political parties and therefore in terms of structure they were elderly politicians. However, the foundation of the process lay in the people's movement, in which significant numbers of young people and women participated. In fact, it was the youth participation in the street protests that showed the amount of power the struggle had, forcing the king to hand over power to the people. Numerous informal forums and loose structures were created at the time of the April people's movement. As the peace negotiations were started after some months, people's voices and opinions were gathered at these forums and structures, and passed to the negotiation teams through individual meetings, collective delegations, through the media or through the organization of public events and gatherings. Young people played a key role in the process, and some members of the delegations were relatively young politicians. However, if one examines the composition of the formal teams engaged in the negotiations, there was no representation of women and that was one of the constant weaknesses of Nepal's whole peace process. From a consultative and participatory point of view, the process was also criticized for not being able to make the negotiation inclusive by bringing youth, women, and other key actors into the negotiation teams, and for not creating and utilizing formal structures and mechanisms that were accessible to all concerned (even though the Peace Secretariat was operational, it was difficult for ordinary people to access it because of its location inside the highly guarded Singhdurbar). However, the most important outcome was the representation of women in the Constituent Assembly, which was one of the most important outcomes of the negotiation process. In the first CA almost a third of the members were women, 197 out of 601, and there was a sizable number of young members, too.

²¹ Interview with Mr. Dhunagana on 17 March 2016 at the NTTP-I Office.

Limitations of the process: Though not explicitly related to the 2006 negotiations, a common criticism of Nepal's peace negotiation was that the political negotiation was top-down and exclusive, since crucial issues of public concern were often decided by few people (the heads of the big political parties and their close circles). The broad mandate for the restoration of democracy and the launch of a peace process came from the participatory people's movement, backed by civil society. But the other key details were at times negotiated between two leaders – Mr. Girija Prasad Koirala and Mr. Pushpa Kamal Dahal “Prachanda”. This led to the stalling of the process on a number of occasions. The second largest coalition partner from the Seven-Party Alliance, the CPN-UML, complained on occasion that they were not adequately consulted before decisions were taken. This created a risk that the process might be disrupted half way through. In the context of creating an interim legislature parliament by transforming the old restored parliament, the CPN-Maoists were given 83 seats in the parliament without an election. This number was exactly what the UML had gained in elections, and the UML had serious objections to the proposal, because it was agreed between Congress leader Koirala and Prachanda alone. It also created suspicion that the Congress and Maoists were jointly trying to undermine the UML, which was not conducive to the success of the process.

Mr. Dina Nath Sharma, Maoist spokesperson and then a member of the delegation, points to the limitations of the process:

“We did not have any experience of managing a good dialogue process. There was a lot of pressure on dialogue teams from those who did not like the change. Political parties too were more concerned about their own interests than national interests.”²²

The other example of the limitations of a top-led process is the number of former Maoist combatants who were integrated into national security agencies. Mr. Girija Prasad Koirala used to confide to his close aides that there was a tacit understanding between him and Prachanda to integrate between three to four thousand combatants only. However, when the Maoists became the largest party in the election to the first Constituent Assembly, they wanted all 19,603 UNMIN-qualified combatants to be integrated into the security agencies. Due to the disagreement on the number that should be integrated, the creation of the constitution was disrupted during the first CA for a fairly long time.

Further, several key informal understandings were not documented and signed by concerned leaders. When trust was low or there was disagreement on one key issue, there would be distrust and disagreement on all other issues, despite the earlier understandings, since such understandings were not properly documented. This resulted in the Maoists pulling out of the interim government twice before finally agreeing on the CA election date. The CA election was thus postponed twice, delaying the whole process at a cost that is still being paid by the country.

Mr. Vidyadhar Mallik, who managed the Peace Secretariat in its initial phase of organizing talks, summed up the weaknesses of the process:

“The dialogue process was not rigorously followed, many of the texts were left vague on purpose, and agreements were made in a great hurry, only to enter troubled waters later, as we see now. During negotiations, thorough analyses of the root causes of conflict and their diagnosis or probable optimal solutions were never worked out. Only patching-up work was done, either to keep immediate trust intact or because there was a hurry to come out of the transition as soon as possible. Maybe also because there was nervousness regarding facing immediate events too. Even if that meant working on only ad-hoc structures for conflict resolution.”²³

The negotiation process was not sufficiently well-structured to discuss all the key issues in a consultative way with larger stakeholders. The level of civil participation was inadequate. Had the process been sufficiently consultative and participatory, some of the weaknesses could have been addressed, and there would have been wider ownership of the outcomes. Mr. Ishwor Pokhrel, General

²² Interview with Dina Nath Sharma on 16 February 2016 in Kathmandu.

²³ Interview with Vidyadhar Mallik on 7 February 2016 at Gahanapokhari, Kathmandu.

Secretary of the CPN-UML, who was actively engaged at different levels of the negotiations as a representative of his party, stated that:

“There was a tendency not to discuss any issue with the seriousness it demanded. On most occasions, agreements were reached in a superficial manner. The psychological aspects of the stakeholders were not taken into account. The shallow understanding of issues, and rushed agreements were major weaknesses.”²⁴

Too many agreements, too little implementation: The Comprehensive Peace Agreement (CPA) and the Agreement of the Monitoring and Management of the Arms and Armies (AMMAA) were the two most important agreements in addition to several small understandings and agreements reached during the negotiation process. However, they have not yet been fully implemented. Even with respect to those aspects that have been implemented, in the case of many key issues, this came much too late. Many of the agreements and understandings were less relevant and not suitable to be implemented (as they were self-contradictory and mutually exclusive), but still they were deliberately signed, simply to avoid violence on the day and to continue with the major tasks. Implementation of some of these agreements was not practically feasible and for some of them there was even a lack of political will. The Local Peace Committees (LPCs) were created to address the effects of armed conflict at local levels (for reconciliation, to resolve local differences, promote communal harmony and assist in the implementation of the provisions of peace agreements). Further, provisions were made for a High Level Peace Commission that would provide national oversight to the LPCs and facilitate the monitoring and implementation of peace agreements, but it was never formed. Instead, the Ministry of Peace and Reconstruction (MoPR) was created. Some of the important functions carried out by the MoPR are to provide support to the management of cantonments, the reconstruction of infrastructure damaged during the armed conflict, to develop a database of conflict-related effects, distribute relief to people affected by the conflict, to help set up and manage the Truth and Reconciliation Commission (TRC) and the Commission on Investigation on Enforced Disappeared Persons (CIEDP), develop a National Action Plan (NAP) on UN Security Council Resolutions 1325 and 1820 and a National Action Plan for the Rehabilitation and Reintegration of Children Affected by Armed Conflict, establish the NPTF as a government managed Trust Fund, and assist in peace negotiations and agreements with political parties, agitating groups and others.

It was agreed in the CPA that the TRC and the CIEDP would be formed within a few months. In reality, however, they were not formed until 2015. Even now, both commissions complain of a lack of support from the government to help them successfully carry out their work.²⁵

The Maoist conflict ended in November 2006 but the transitional justice issues are yet to be addressed. Only in 2015 were the TRC and the CIEDP established, but this, too, was not without controversy, especially regarding the mandate of the TRC on amnesty provisions. According to Dr. Prakash Sharan Mahat, leader of the then Nepali Congress and former foreign minister and one of those actively engaged in the negotiations:

“Even those agreements that we were able to make easily have not been implemented. We formed the Truth and Reconciliation Commission and Commission on Disappeared Persons through consensus, but even these mechanisms have not been able to work well. People are beginning to doubt that the victims of conflict will get any justice. This is a key weakness of the peace process.”²⁶

In the experience of Dr. Mahat, some agreements contradicted each other. In this context he said:

“With the aim of concluding the peace process, we just went ahead and signed agreements. Some agreements were made just to avert the protests. There were issues with the integration and rehabilitation of the Maoist combatants too, and it was not handled well”.

²⁴ Interview with Ishwor Pokharel on 7 February 2016 in Dhapasi, Kathmandu.

²⁵ See for details: the Interim Report published by the TRC on 7 February 2016.

²⁶ Interview with Dr. Prakash Sharan Mahat, 14 February 2016, Bansbari, Kathmandu, Nepal.

As discussed elsewhere in this paper, many of the agreements were developed in a consensual way among the negotiators and their respective party leaders, but the implementation was either selective or deliberately delayed through a strategy of inaction.

Although the peace process may have had some important outcomes through engagement, some groups within the Maoists feel dissatisfied with the process. Mr. Dev Prasad Gurung, member of the negotiation team from the then Maoists, and now in the splinter CPN-Maoists, said: “As long as we were fighting feudalism internally, we were successful. But as soon as we began to fight against the imperial forces after the peace process started, our top leaders began to surrender gradually. Then we lost all the gains.”²⁷

Mr. Pradeep Gyawali, Secretary of CPN-UML and a member of the 2006 government delegation as a cabinet minister, describes the limitations of the negotiation process as follows:

*“There are three key weaknesses of the Nepalese peace process. There was a lot of focus on the 'good intention' of the leaders, and there was no focus on institutionalizing the process. This created unexpected ups and downs when the 'mood' of the major leaders fluctuated. The model of the management of former combatants was not sustainable and far-sighted. Maoist leaders who opted for voluntary retirement insisted on cash payment. It was not a sustainable solution. This led to the current frustration, desperation and involvement in criminal activities by some ex-combatants. Transitional justice was very often underestimated or had a low profile. So, even after one decade of the process, victims are still unable to get justice and reparation.”*²⁸

Whenever the talks were at a deadlock on one issue or another, the top leaders would become engaged in a series of informal talks, and they would end up coming up with a new set of agreements. Those agreements would sometimes contradict earlier agreements. Commentators have noted that Nepal's peace process has probably had the largest number of bullet points in the agreements, or the largest number of agreements following the 12-point understanding and CPA. It has been rich in agreements but poor in their implementation. This is a major flaw of Nepal's negotiation process, and one of the reasons why the peace process has never been fully completed. The Maoists have split four times since the signing of the CPA, new conflicts have arisen, and agreement and implementation on federal restructuring continues to be a challenge even today.

Strengths of the 2006 process: Nepal's negotiation process does have several strengths, however. Some of the important ones are discussed in this section. Mr. Pradeep Gyawali reflects on the work of the CA that:

*“After the first CA election, with its unexpected outcome, Maoists assumed that they could redesign the peace process on their own. They breached the previous agreements. On the other hand, mainstream political parties [the Nepali Congress and CPN-UML] focused on curtailing Maoist intentions. Leaders frequently forgot about the complexity of the peace process, which led to a phase of distrust and friction. This situation led to the dissolution of the first elected CA, which created a major vacuum. However, the situation changed after the second CA election, and the Nepalese process succeeded relatively fast. The new constitution is the most valuable outcome of this process; it comprises the values of republicanism, universally accepted democratic norms, inclusion, social justice, federalism and secularism.”*²⁹

Mr. Dev Prasad Gurung, the Maoist delegation member who later joined the breakaway party claiming that Maoist Chairman Mr. Pushpa Kamal Dahal “Prachanda” and Dr. Baburam Bhattarai were surrendering to feudal powers, agrees: “The peace process was able to overthrow the monarchy as an institution representing feudalism. This was a major success.”³⁰

²⁷ Interview with Dev Prasad Gurung, 14 February 2016, Buddhanagar, Kathmandu.

²⁸ Written responses obtained from Mr. Gyawalin Sun, 14 Feb 2016 at 6:27 p.m. via email.

²⁹ Interview with Pradeep Gyawali, 16 February 2016, Kathmandu.

³⁰ Interview with Dev Prasad Gurung, 14 February 2016, Buddhanagar, Kathmandu.

Although the process was overstretched, transitional justice issues were not properly addressed, rebel parties were split, and new forms of conflict arose due to the protracted nature of the process. The process was nevertheless able to manage the fundamental issues: the integration and rehabilitation of the Maoist combatants, the writing of a new constitution and the mainstreaming of the Maoists. In the eyes of another Maoist dialogue team member and current spokesperson Mr. Dina Nath Sharma:

“The flexibility and trust between top leaders of the major political party was one of the strengths of our process. There was mutual respect between the two dialogue teams, and they showed flexibility as and when it was critical to do so.”³¹

According to General Secretary of CPN-UML and former Deputy Prime Minister Ishwor Pokharel:

“The most important strength of Nepal’s dialogue process of 2006 is that it was a homegrown process. It was successful because it was homegrown. In addition, aspects of the socio-cultural behavior of Nepalese society - talking to each other, respecting each other despite differences and showing flexibility - were other strengths of the process.”

Dr. Prakash Sharan Mahat of Nepali Congress sums it up: “The dialogue process transformed a violent struggle into political mainstream, and we were able to do it all in legitimate ways through agreements and elections. This is a key milestone.”³²

2.6 Constituent Assemblies

The Constituent Assembly as a mechanism for dialogue and negotiation: The CA was the key mechanism for institutionalizing the agenda for change agreed among the actors, documented in the CPA and legalized through the Interim Constitution. Its role was further envisioned as settling all the unsettled and contested issues through debate and discussion among the elected representatives of the people. In principle, therefore, the CA was expected to be an important mechanism for facilitating dialogue and creating a publicly owned, legitimate constitution. The different structures of the CA (the committees and sub committees, secretariats, expert groups, support mechanisms, etc.) were developed with this spirit. Hence the CA became the most remarkable feature of Nepal’s peace process and a space for dialogue.

The first two rounds of negotiations in 2001 and 2003 had failed primarily because of the Maoist demand for a new constitution, to be produced by a directly-elected constituent assembly. The historical genesis of the constituent assembly in Nepal is that the Nepali Congress, when it fought to establish democracy in 1951, demanded the production of a new constitution through such an assembly (Pokharel & Rana, 2013). Once the king was restored to power with the overthrow of the Rana oligarchy, he did not accept the constituent assembly because it would undermine the powers of the monarchy. The Congress had become flexible enough to accept a parliamentary election instead of a constituent assembly at that time. The Maoists revived this demand through their armed insurrection (Upreti, 2006).

The constitution-making process, and the challenges and outcomes of the CA are discussed in the section below.

The First Constituent Assembly

After several rounds of negotiation on thorny political issues related to the CA’s election, the political forces agreed on the election of a CA and finally, on 10 April 2008, the election of the CA was completed and the new CA, a dream of more than 6 decades, came true. The first meeting of the CA on 28 May 2008 made the historic step of announcing the end of the 239-year old monarchy, and declared Nepal a republic. The general public had high expectations of the first CA.

As the CA was the most important instrument of the peace process in terms of institutionalizing the pro-change agenda into the new constitution, it was much hyped from the beginning (Pokharel & Rana, 2013; Upreti et al., 2013). However, once the jumbo 601-member CA was elected, problems

³¹ Interview with Dina Nath Sharma, 16 February 2016, in Kathmandu.

³² Interview with Dr. Mahat on 14 February 2016.

started. No party commanded even a simple majority in the CA. The agreed rule in the interim constitution was that the new constitution would be drafted by a two-thirds vote in the assembly. Therefore, although the Maoists had 238 seats and were the largest party, the Congress and UML combined numbered close to that, and the Madhes-based parties were the fourth largest force. The elected assembly represented all the diverse ethnic communities of the country, had one third women members, and also a significant number of young members. In a true sense, it was a political rainbow reflecting the diverse ethnic, gender and ideological landscapes of the country. However, people had not given a two-thirds majority (and therefore an absolute mandate) to any political party to draft a constitution. Consequently, this composition of the CA provided a foundation for dialogue to arrive at an agreement and to achieve a two-thirds majority. As a result of the vested interests of major political forces inside and outside, however, the CA failed to come up with the eagerly awaited new constitution, since the meaningful dialogue and negotiation were lacking or underemphasized and the vested interests were embedded in the modality (ethnic v/s non-ethnic v/s geographical states; interpretation and accepting/rejecting right to self-determination, prior rights v/s equal rights) and the number of federal provinces (Upreti, 2015; Jha, 2014) that ultimately led to the failure of the CA itself.

In the first CA there was one constitutional committee and ten thematic committees. The committees in the first CA were: 1) Constitutional Committee; 2) Committee on the Preservation of the National Interest; 3) Committee to Decide the Form of the Legislative Body; 4) Committee to Decide on the Basis for Cultural and Social Commitments; 5) Committee on the Division of Natural Resources, Financial Rights and Public Revenue; 6) Committee to Decide on the Structure of the Constitutional Bodies; 7) Committee on the Judicial System; 8) Committee to Determine Forms of the Governance of State; 9) Committee on Restructuring the State and the Distribution of State Power; and 10) Committee on the Protection of the Rights of Minorities and Marginalized Communities. These committees extensively discussed the respective issues and prepared individual reports related to the proposed content of the constitution. These committees provided ample spaces for dialogue and a consultative and participatory process of constitution writing. The composition of these committees was largely inclusive (representation of all major ethnic/caste groups, women in all committees).

These committees thus became an important platform for a dialogue on nuanced issues of difference coming from the opposite political ideologies represented by the parties. An example of this is the discussion on whether to include the word “pluralism” in the constitution or not. The Maoists and other Marxists were not in favor of it, whereas the Nepali Congress wanted to keep it. Finally, through rounds of discussion, the parties agreed to mention it as “a society with pluralistic features”. The agenda of each session of the CA was decided by a consultative meeting of the Chief Whips of the political parties present in the assembly. Once the issues had been discussed and agreed in the thematic committees, the agenda then went to the full house for discussion. There were different caucuses including indigenous peoples' CA members, women CA members, etc. The position of the caucuses could be rigid and not convincing to the political decision-makers.³³ There was also a resource center (library) in the CA, and teams of external experts were appointed by the CA in addition to one NGO (Nepal Kanun Samaj) to help on subject matter. The CA was further assisted by the UNDP-created Constitutional Dialogue Centre (CDC).

Nevertheless, most of the key negotiations on the political content of the constitution, especially the highly contentious issues such as the number and naming of provinces, the rights of the centre and the provinces etc., took place outside the CA. Mr. Khim Lal Devkota, one of the members of the drafting committee of the Interim Constitution and a Maoist representative in the first CA, confirms this observation:

“Most of the negotiations would happen at the party leaders’ level. We second-tier people would provide constitutional and legal expertise, and fill in the details based on the understanding at the top leadership level.”³⁴

³³ For their position, see the position paper of the Indigenous People’s Constituent Assembly Member’s Caucus, translated by International IDES.

³⁴ Interview with Mr. Khimlal Devkota on 4 February 2016, Kathmandu.

The reasons why important dialogues and negotiations were held outside the CA even when the top leaders of all political parties were present in the CA was to avoid the pressures from caucuses and/or to openly discuss the most sensitive issues in small groups instead of doing so in a huge assembly of 601 members with different and contradictory positions (opponents and supporters of ethnic federalism, for example). Understandings developed at leaders' confidential meetings and were then taken to the CA for formal discussions and approval, wherever relevant.

Even though there were various provisions, structure/infrastructure and mechanisms to facilitate the CA process (especially regarding the content and inclusivity of the process, the agenda-setting and documentation process), the first CA failed mainly due to the rigid positions of political parties on the federalism issue, because of differences in understanding and also the pressure from the Indigenous Peoples' CA Members Caucus. Consequently, Prime Minister Dr Babu Ram Bhattarai from the Maoist Party-led government dissolved the CA on 28 May 2012 after an original and extended term totalling 4 years, and declared a new date of 22 November 2012 for another CA election. However, due to vehement opposition to the decision from other political parties, he was not able to conduct the elections and had to resign from his post.

The Second Constituent Assembly

Political parties, after so many months' debate and going through options, finally agreed to appoint the sitting Chief Justice Mr. Khil Raj Regmi as Chair of the interim government to conduct the election of a second CA. He was sworn in on 14 March 2013 and had a small cabinet composed entirely of former bureaucrats (no one from political parties, although the major parties nominated the ministers). The sole responsibility of the Khil Raj Regmi government was to conduct the CA election, which was successfully completed in November 2013.

Interestingly, the composition of the second CA was entirely different from the first CA. The Maoists, the largest political party of the first CA, became third, the Nepali Congress (second in the first CA) became the largest party in the second CA and the UML the third in the first CA became second largest in the second CA. The Nepali Congress and the UML were close on many issues in the first CA, with Maoists and other parties sticking together. Once the NC-UML became the decisive force in the second CA, the debate also shifted and they were able to garner a majority to promulgate a new constitution that was almost in line with their position in the first CA, which was of course different to what the caucuses of the first CA and the Maoists had wanted. In this context, the CA meeting of 21 March 2014 finalized the new CA regulations, whereby the CA now formed five committees to make the constitution-drafting process simple and effective. These five committees were: 1) Constitution-drafting Committee, 2) Constitutional-Political Dialogue and Consensus Committee, 3) Constitutional Records Study and Determination Committee, 4) Committee on Citizen Relations and Public Opinion Collection, and 5) Capacity Building and Resource Management Committee. Even though the second CA took ownership of the reports of the thematic committees of the first CA, many contentious issues (related to forms of government, judiciary, federalism and electoral system) contained in these reports were subject to interpretation, and severe differences were observed in the CA. The tension between these parties mounted and at one point turned violent, when the Maoist lawmakers started attacking the ruling party leaders and CA members from other parties during the CA meeting and vandalized the CA's property. This incident soured relations between Maoists and other political parties. However, the major earthquakes on 25 April and 12 May 2015 changed the situation. The Maoists and the NC-UML came together to settle their political differences and promulgate the new constitution. Since nearly half of the population was affected by the earthquake, there was pressure on the major parties to end the transition and concentrate on recovery work.

The second CA was somewhat more effective. There was a Constitutional Political Dialogue and Consensus Committee (CPDCC) led by the then Maoist senior leader and former Prime Minister Dr. Baburam Bhattarai. The CPDCC conducted rounds of dialogues with political members, civil society, experts and ethnic groups to try to generate a consensus on contentious issues in the constitution.

This was a good example of the CA showing itself to be a space for National Dialogue, according to Mr. Daman Nath Dhungana, former speaker of parliament, a facilitator and a constitutional lawyer.³⁵

When discussing 'inclusivity', we have to look at the nature and mandate of the CA. The CA being a forum of the elected representatives of the people, inclusion in the CA was largely determined by the result of the election. Under the Interim Constitution, there was a provision requiring certain numbers from certain groups to make the composition of the CA inclusive. However, these provisions were misused by political parties who nominated their own kin or those who funded them. Commenting on the issue of inclusiveness, Ms. Stella Tamang, a known women's activist, ethnic leader, Member of the High Level State Restructuring Commission, and a facilitator at NTTP is of the opinion that:

*"The dialogue process, which is just talk as I said, was not inclusive at all. People talked a lot about inclusivity. They used the word inclusive a lot. However, in substance it was not inclusive. What I have observed is that the actors involved in the dialogue/talk did not internalize the meaning of the word inclusivity."*³⁶

Some of the civil society leaders like Ganesh BK are critical of the inclusion issue in Nepal's peace and constitution writing process. He said:

*"Each party has ethnic wings, women's wings, youth wings etc. If the parties were consultative within themselves, they could represent an inclusive agenda. But in the case of Nepal's peace process, this did not happen. The political leaders could not do this."*³⁷

Again, the issue of 'local ownership' was interpreted differently by different people. As the constitution was being produced by nationally-elected representatives the negotiations made in the CA had local ownership. Others say that crucial issues such as secularism or the Hindu state and the fate of the institution of the monarchy were decided by few leaders and therefore have no broad local ownership. Some CA members argue that they went to the people to collect their opinions about what to include in the constitution, and therefore there is considerable ownership by the people. Andries Odendaal, a South African scholar and practitioner engaged in helping develop the Local Peace Committees, sees the issue of ownership thus:

*"There has been, in Nepal, a highly valuable emphasis on local ownership; not allowing foreigners to control the processes of dialogue and negotiations. This is priceless. On the other hand, though, there has not been a concomitant and equally strong emphasis on ensuring effective and productive processes and procedures in negotiations. One of the successes of the South African process was the manner in which both these objectives were met, with the one not excluding the other. One had the impression that, in Nepal, all rested on the personalities of the top leaders and the chemistry that existed (or was absent) between them. This is not a sufficient guarantee for successful and productive processes."*³⁸

In talking about 'legitimacy', the most important element is people's acceptance and acknowledgement. Often CA members argue that they are elected by the people and therefore the issues agreed in the CA have the highest legitimacy.

Looking at the activities of the two CAs, these dialogue processes were highly relevant for the development of state-people relations, the creation of a new 'social contract', strengthening of CA institutional mechanisms, forging of common understanding on key contentious issues, and the development of mutual trust as well as the development of common ground for further dialogue and debates to settle the contentious issues. Hence, the CA was a relevant arrangement for promoting dialogue and settling the conflict through a negotiated arrangement.

³⁵ Interview with Mr. Daman Nath Dhungana on 7 February 2016, Kathmandu.

³⁶ Interview with Mrs. Tamang on 25 March 2016 at the NTTP-I Secretariat, Kathmandu.

³⁷ Interview with Mr. BK on 1 April 2016.

³⁸ E-mail interview with Dr. Andries Odendaal, received on 12 March 2016.

2.7 Dialogues Related to the Madhes-Terai Protests (2007 and 2015-2016)

Earlier, the Nepal Sadbhavana Party had been known as a Madhes-based party, which had been represented in parliament since 1990. Ideologically, it was a democratic party, and was one of the actors of the Seven Party Alliance. In the parliament elected after the restoration of democracy in 1990, it spoke out against discrimination against the the Madhesi community. The Maoist party was mainly strong in the mid-west, far-west and other hilly districts but it did not have a huge influence in the Terai/Madhes districts during the early years of insurgency. However, it had mobilized its Madhesi cadres to give voice to the discrimination by the state. The Maoists had promised to give autonomous states/provinces to major ethnic groups when their “People’s War” was successful. This included a promise to Terai/Madhes too.

When the Maoists entered the peace negotiations following the movement of April 2006, they were not keen to pursue the agenda of federalism. A negotiated interim constitution was promulgated in January 2007 after the agreement between the SPA and the Maoists. It had a strong “pro-change” agenda but it did not mention that the country would be federal, through a new constitution to be written by a CA scheduled to be elected in a few months. There was dissent from the Madhes-based actors, mainly from Mr. Upendra Yadav-led Madhesi Janaadhikar Forum (MJF), hitherto a non-government organization. Mr. Yadav and a few other Madhesi leaders burnt a copy of the interim constitution at Maitighar Mandala in Kathmandu as soon as it was finalized. The protesters were arrested and detained. There was a spontaneous reaction in the Madhes districts against the interim constitution, demanding that it include a provision for federalism.

Informal dialogue process: The movement picked up, with several deaths and injuries, in the Terai region, from east to west. There was demand for the resignation of the home minister as a pre-condition for any dialogue. However, there were several rounds of secret informal dialogues which created some trust for a formal negotiation. Ultimately the government agreed to include “federalism” in the interim constitution, and the agitation subsided. The CA election was not held according to the original schedule because there was distrust between government and the Madhesi leaders across parties beyond the Madhesi Janaadhikar Forum. A new Madhesi party – the Terai Madhes Democratic Party (TMDP) – was formed by Mr. Mahantha Thakur, a senior Nepali Congress leader. Some key Madhesi leaders from the Nepali Congress and UML joined the Madhes-based parties, mainly the TMDP and MJF. The Sadbhavana Party was already there as a partner in the movement. Dialogue thus became more complicated together with the emergence of several small political parties in Terai-Madhes.

Dialogue with Madhes-based parties: The dialogue with Madhes-based parties first took place in January 2007, when federalism was included in principle in the interim constitution. The Constituent Assembly was elected, and its tenure extended from two years to four. There may have been bigger political reasons, but the first CA was dissolved apparently because of the parties’ inability to develop an understanding on the modality of state restructuring. The government of Prime Minister Girija Prasad Koirala had signed an agreement with the Madhesi parties mentioning that there would be an autonomous province in Madhes. Like many other clauses of other agreements, it was fairly vague.

The Nepal Transition to Peace (NTTP) played a key role in hosting three rounds of confidential dialogue with the Madhesi forces led by Upendra Yadav in January and February 2007. The confidential dialogues were organized at the Shangri-la Hotel at Lazimpat, Kathmandu. Although the MJF-Nepal’s official position was that it would not engage in dialogue with the government until the Home Minister resigned, the government was represented informally by the senior leaders of the Nepali Congress and UML as well as the secretary of the peace ministry. According to Mr. Vidyadhar Mallik, former Secretary of the Peace Secretariat of the government,³⁹ this created an environment of trust, and paved the way for a formal settlement.

The Madhesi parties had sought a single autonomous Madhes province under a federal structure covering most of the plain Terai region. The other parties’ argument was that there would be more than one autonomous Madhes province, like other autonomous provinces depending upon the

³⁹ Interview with Vidyadhar Mallik, on 7 February 2016, Gahanapokhari, Kathmandu.

interests of the local population. This controversy was the trickiest agenda for Nepal's constituent assemblies. The first one died without producing a constitution. The second one produced a constitution, with a provision on federal structure with a Madhes province passed by more than 90% of the members of the CA. However, the Madhes-based parties thought it was unfair and against the spirit of past agreements. The Madhes-based parties and Maoists lost in the second CA election, and so the agenda of the CA shifted with the change of the power relations. The Nepali Congress and the UML had a near two-thirds majority in the second CA. Although the new constitution has been promulgated, Nepal's Terai region has remained tense, with over 50 deaths in the protracted movement protesting at the new constitution.

From a technical point of view, Nepal's peace process may have been over because the former combatants have been integrated, and a new constitution written. However, from a conflict management perspective, it has not been able to manage the conflict that has been there from the early days of the peace process. Federalism has been the stickiest issue in the writing of the constitution, and in recent times it has been the biggest cause of conflict, especially in the Terai region. Even though the parliament has amended the new constitution to incorporate two of the three demands of the Madhes parties, the situation is still not resolved. The big three parties have engaged in dialogue with the Madhesi front by officially forming dialogue teams on both sides, but it has not resolved the problem of the demarcation of the federal units.

Decentralization and federalism: The restoration of democracy in 1990 opened the path to decentralization. A good Local Self-Governance Act (1999) was promulgated, and three local elections held in the 1990s. The process of decentralization and participatory democracy had got off to a relatively good start. The Maoist insurgency from 1996 onwards gradually made it difficult for local bodies to operate. This was because the insurgency was based in rural communities, mostly at local government level, and one of their strategies was to make the local government dysfunctional so that the Maoists could maneuver in the power vacuum. The local government bodies were dissolved in 2002, and since then local elections have yet to be held again.

Meanwhile, the federalism discourse entered into the peace process as one of the interests of Maoists and the Madhes-based parties (Upreti et al., 2013). Madhesi parties were most passionate about getting a single autonomous province in Madhes through the process of state restructuring. Ethnic communities, too, began to see federalism as the best peace dividend and hence federalism was accepted. However, major political actors were deeply divided on the modality of the federal provinces, their number and boundaries, especially when one section of society preferred them to be ethnic-identity based and the Madhesi parties wanted Madhes to be one province. The first constituent assembly was dissolved due to a deadlock on the issue of the federal model, as discussed in earlier sections.

2.8 [NTTP: A Mechanism of Non-formal Dialogue Processes](#)

Several actors from different sectors (diplomatic, the private sector, civil society and human rights, the development sector, politics) were engaged directly and/or indirectly in supporting, facilitating and creating a favorable environment for a negotiated peace settlement. Nepal Transition to Peace (NTTP) is one of the most active mechanisms of this kind, and is therefore discussed in this section. NTTP has been supporting the national peace and political process since 2005. As described in the sections above, the two negotiations (2001 and 2003) had failed without making much progress on substance. There were two civil society leaders acting as facilitators in both negotiations. However, once the king took over power through a coup in February 2005, there was no initiative for talks. In this situation, through the support of the international community, a national non-formal dialogue platform was set up in the form of the NTTP, at the initiative of the two facilitators engaged in earlier formal talks between the government and the Maoists.

From the beginning, NTTP facilitated the participation of all major national and regional-based political actors. The two former facilitators of the peace negotiations had co-facilitated the dialogue processes at NTTP. The political representation at NTTP consisted of second-tier politicians, but they were often also members of formal delegations, and some of them were cabinet ministers at different times from 2005 to the present. Even now, NTTP convenes actors to develop common ground on contentious

issues, to generate options when the national negotiation is at a deadlock, which is often the case in Nepal's national process, and contributes to the national process through its political members. On occasions when the peace process was in serious crisis, the facilitators even engaged with first-tier leaders, including with the Prime Minister, party chiefs and senior leaders.

Besides the core NTTP forum of senior leaders with national facilitators (one is a former Speaker of parliament, another a former cabinet minister and a three-term parliamentarian), there are thematic forums on youth leaders, women, Janajati (ethnic groups) and Madhes. The NTTP-facilitated 'youth leaders' forum' contains most of the influential youth leaders from the major parties, and other thematic forums have influential members from their respective constituencies. These thematic forums discuss contentious and contemporary issues, develop common understanding and provide inputs (formally and informally) to the senior leaders. As these forums are informal in nature, their inputs are voluntary.

Evolution of NTTP: For any peace process to begin, the warring parties need to have come to a point where either both sides, or one side, intend to genuinely engage, and transform the conflict into another situation. The temporary ceasefires that these processes offered were a relief to ordinary citizens, a political stunt for the governments and strategic points for the Maoists during which time they could reorganize their army, openly engage with broader society to explain their cause and gain legitimacy as rebels from the international community. From 2004 onward, when the king already had ambitions to be a dictator, informal channels began to work between the Maoists and the parliamentary parties to quietly explore the possibility of genuine talks. There was still a lot of distrust, and it was also a strategic dilemma for the parliamentary parties and the Maoists to seriously engage in a process that would eventually lead to a peace agreement. However, the king staged a bloodless royal coup on 1 February 2005. This helped the democratic and moderate Marxist parties (or the parliamentary parties, as they were commonly referred to), and the Maoists to fight against the autocracy of the king. Hence, NTTP was conceptualized in mid-2004 as a confidential space for the political parties to explore the possibility of peace talks with the underground rebels, but also to develop joint strategies to deal with the monarchy in the situation of the conflict.

Exploring potentials for a non-formal dialogue: There were specific elements in Nepal's conflict and its actors that showed ample potential for a non-formal dialogue approach to work in an effective way. While the Maoists and the parliamentary parties (although not yet the monarchy) had reached the point of realization, for varying reasons, that it really was time to engage in talks and chart out a strategy for a peace process, there was no mechanism, nor a trusted channel for them to engage with each other in a confidential manner. This would include, to begin with, knowing each other personally and politically, understanding each other, exchanging positions, and knowing each other's interests, fears and other basic information to establish some level of trust for dialogue. But this required courage, an ability to think out of the box, a 'progressive' forward-looking mindset, sufficient clout within the respective party constituencies, good relations with the party's top leaders and some degree of trust and credibility in the eyes of the other parties, primarily the Maoists. Second-tier leaders with the above qualities could influence both the party members as well as leaders, and gradually prepare the parties as a whole to engage in the peace process.

The Maoists, being an underground communist party, had many more organized ways of communicating with the second-tier leaders from the mainstream parties of the Alliance. Since the Maoists had realized that they needed to engage with the mainstream parties to begin to work out a model for the peace process, they showed a natural willingness to talk, communicate and engage in exchange with their counterparts in the other parties. But the two sides would not always trust each other at all levels of exchange and there was no effective mechanism to make these efforts mainstream.

Setting up the non-formal dialogue: Then comes the role of NTTP as an all-party informal, confidential mechanism for dialogue and negotiations, with a central role being played by two well-respected 'independent' and trusted civil society individuals. It took several months for the process to take some shape as a real mechanism which had evolved, over the years, to become a party-owned, independent and sustained mechanism for dialogue, owned by the parties and with government participation. It developed step by step, and grew in two years to become a credible non-formal

dialogue platform. NTTP comprised two facilitators, influential and forward-looking second-tier leaders from the major parties, and international community representatives, based in Kathmandu. All persons engaged were committed to working for the agenda of peace and the value of the NTTP mechanism. The international community provided support (financial, technical and moral) and brought technical expertise to NTTP from comparative international experiences of peace processes. The international expert Mr. Hannes Siebert, who had first-hand experience from the peace process in South Africa and other countries, was a key facilitator in helping to develop principles and a framework for the NTTP process, as well as providing technical expertise. Professor John Paul Lederach provided direct technical guidance from 2009 onwards. The participation and support of the United Nations Mission in Nepal, and, when the UNMIN was no more, the UN, plus the Swiss and the US added value to the NTTP in a variety of ways.

Pre-condition and preparation for the process of the dialogue: The NTTP process was not specifically based on any similar process in other countries. Besides, as the dynamics of the conflict can always change and the roles of the particular actors within an organization may change too, it may not have worked in the same way if it had been tightly designed at the beginning. One of the great advantages of NTTP was its flexibility. This flexibility meant that the facilitators could add new members from a certain party, when needed, through the consensus of the existing members. The US, Swiss and British were willing to technically assist the facilitators in their ongoing work and to develop it into some sort of process, leading to what evolved into the NTTP. As the process, under the technical leadership of Mr. Hannes Siebert, was beginning to take shape, Mr. Daman Nath Dhungana and Mr. Padma Ratna Tuladhar constantly reached out to other constituencies for peace on their own, and would inform the NTTP of their findings. On occasion, the facilitators also reached out to the top leaders on their own, but in consultation with NTTP members, and sometimes together with them. This required the facilitators to engage separately with some key international community members, including the UN (and UNMIN in particular whenever the mission was there), European countries, the US and India. Since India was a big player among the internationals, the facilitators engaged with India in a well-calibrated manner.⁴⁰ The Peace Secretariat of the government, which was later upgraded to the Ministry of Peace and Reconstruction, was made an important member of the process. The head of the institution and Chief Secretary of the government has played different roles during different periods of conflict. While the king was in power, the Chief Secretary had a significant role to play as a messenger between the parties and the monarchy.

The NTTP Forum typically had, from the beginning, two core members, each from the major political parties. In the later stages, with the various dimensions of the peace process, the process added a few more members from the major parties. The second-tier members ranged in rank, all the way up to secretary-general level leaders in their parties. It was often this group of politicians who played key roles in the official mechanism such as the various task forces formed to assist the top leaders on matters of the peace process and constitution writing, different committees in the CA, and the Special Committee for the integration of the Maoist combatants. On average, the NTTP forum consisted of 15 members at the dialogue table, which was the core process.

Linkage of the non-formal with the formal: The NTTP as a dialogue had several incarnations in its life. Weeks before the election of the CA in 2008, the coalition government led by the late Girija Prasad Koirala transformed the NTTP mechanism into an officially mandated Peace and Conflict Management Committee, with the two NTTP facilitators as its joint chairs and the existing NTTP members as the members of the Committee. The Committee played basically the same role as the NTTP, but with an official mandate both from the cabinet and the top leadership of the major parties. In another instance, when the Peace Secretariat was upgraded to Ministry for Peace and Reconstruction, there was some apprehension that the Ministry would have structural difficulties in being politically inclusive as it had to be led by an individual, who was naturally a member of a party. In order to give the Ministry an inclusive dimension, a Consultative Committee was formed to advise and guide the Ministry in its work related to peace and reconstruction. It was again the NTTP that was basically there as the Consultative Committee. The NTTP facilitators themselves had chosen to withdraw from these formal

⁴⁰ Interview with Mr. Padma Ratna Tuladhar on 10 January 2016, NTTP Secretariat, Kathmandu.

positions later, as their roles could be more effective than the NTTP itself in the normal situation. In addition to the above changes in its form, some of the NTTP members were members of key task forces assigned to work on areas of the peace process and constitution. Over the years, the changes that NTTP underwent strengthened it so that it evolved into an effective forum for non-formal dialogue, despite its specific limitations.

Role of the NTTP in the formal negotiations: The NTTP has played the role of gauging indicators of peace on a regular basis and helping the parties to develop common strategies to deal with the crisis that was imminent at the time. Nepal has had certain formal transitional peace and political structures including the Interim Constitution, the CPA, CA and MoPR. However, the CA and the Ministry have not been able to provide a space for informal, confidential negotiations because they are formal structures and leaders go there with often inflexible positions, which have already been formed by their respective parties. Besides, an important feature of Nepal's peace process has been that most of the crucial negotiations on key issues have taken places behind-the-scenes beforehand, informally and confidentially. The risk of such informality is that once mutual trust is broken, what has been agreed at the informal level can be lost at any time. The NTTP as the non-formal dialogue not only had the advantage of being informal and confidential but also, since it has been a facilitated process, there were some guarantees in relation to what had been agreed. If any of the sides faltered from what was agreed, the mechanism of NTTP had the skill to bring the parties back to the table, renew the commitments and take them to the official or top levels for finalization. On a number of occasions, when the parties did not talk to each other due to serious differences, the NTTP proved to be a mechanism for the parties to quietly reach out to each other without having to compromise on their immediate official positions of not talking to the other side, and the issues of ego associated with this. The NTTP may not have always been the only venue that has helped the parties stay in the process but it has proved a safe and valuable venue for parties to engage with each other to talk through the details of contentious issues, generate and regenerate trust and develop some understanding to create an environment for official negotiations. Although several other actors at different levels have engaged in facilitating the dialogue process, the role of the NTTP has been more visible and prominent because of its structure and acceptance of its activities by political parties.

NTTP process experiences: The NTTP as a process worked as a continuum over many years. During a decade of its work as a mechanism that has experienced numerous highs and lows in the national peace process, certain experiences with the NTTP explain how this mechanism has worked. While as a process it has been an ongoing one, and there are moments where it simply carries out a small role like helping the parties maintain an environment of trust, encouraging them to engage in constant dialogue, bringing them together and keeping them engaged despite their positions in the government as ruling side and opposition, the NTTP has had to rise to the occasion and this is what the following representative experiences will examine. The NTTP facilitators used to meet with leaders from the political parties where needed, convene bilateral and multi-lateral meetings between three to four leaders regularly, depending on the situation, and host the NTTP Forum meeting an average of once a fortnight. The facilitators have taken the group of politicians on an overnight retreat when there have been issues to be dealt in a comprehensive manner and when critical negotiation was needed. Besides these working modalities, there were occasions when they had to invent any approach that might work to keep the process going and save it from total collapse. These activities involved hosting top leaders' meetings, asking the president to quietly convene top leaders' meetings and various other approaches. The sections below examine the important elements of the NTTP as Nepal's non-formal dialogue.

Process design: In mid-2004, Nepal's Maoist insurgency looked eternal. Past failed attempts at peace were a sad reminder of the reality that even if there was a new ceasefire and negotiation, it would lead nowhere. Amidst such general gloom, and at a time when the constitutional monarch was already contemplating a coup, the two individual facilitators were working with underground Maoists and mainstream party leaders to explore the possibility of a genuine engagement in negotiations and of launching a peace process. Mr. Tuladhar was the only individual from civil society who had access to the Maoist headquarters. If anyone needed to establish contact with the Maoists, he was the go-to person, not only within the country itself, but also for those from abroad. Regardless of the international organization, be it, for instance, the Geneva-based Humanitarian Dialogue Center or the

US-based The Carter Center, it was invariably Mr. Tuladhar that people would approach. It was widely believed at the time that he was in contact with the Maoists on a day-to-day basis, something later confirmed by Mr. Tuladhar himself.⁴¹ When a government toppled or there was a change in government, including the one led by the king himself, the new cabinet would request Mr. Tuladhar to help it initiate talks with the Maoists. On the other hand, the Maoist leaders were in touch with Mr. Tuladhar, looking for an opportunity to engage with the mainstream parties and talk to the international communities through the facilitator. Mr. Dhungana had been championing for the election of a CA to write a new constitution despite the fact he was himself one of the drafters of the 1990 democratic constitution. Mr. Dhungana and Mr. Tuladhar were considered acceptable individuals in the role of facilitators.

Mr. Tuladhar and Mr. Dhungana were gradually being institutionalized during the NTTP dialogue process. After the king had taken over all powers, Nepali Congress, the Communist Party of Nepal- Unified Marxist Leninist (CPN-UML) and others from the SPA were gearing up to talk with the Maoists. Given the king's dictatorial manner, the international community, including India, was supportive of this new focus. In order to help the role of the facilitators to become institutionalized and effective, the NTTP had a fully-fledged secretariat funded by USAID, which provided technical support and other resources from the Swiss and other European countries, as and when needed. While the facilitators and politicians would work in an independent way, the secretariat would help them on technical matters of the peace process, and give them input on facilitation from an international experience perspective. The NTTP secretariat has had a number of national and international technical experts and personnel who have provided institutional support in non-formal dialogue.

During this difficult phase under the king's direct rule, it was extremely risky to try to get in touch with the Maoists, who were officially declared "terrorists". Therefore, the facilitators reached out to Prachanda every time other parties wanted to send him a message. In December 2005, the two facilitators went via Sri Lanka to New Delhi, India to meet with Prachanda. Mr. Tuladhar was earlier arrested at Kathmandu airport while trying to fly to New Delhi on suspicion that he was going to meet with Prachanda, which was indeed true. On a separate occasion, in March 2006, Mr. Tuladhar had to fly to New Delhi via Bangkok. This was at a time when the Maoists were already working with the SPA. The then Swiss Foreign Ministry peace-building advisor based in Kathmandu, Dr. Guenther Baechlor, who was assisting the NTTP as a technical advisor, accompanied Mr. Tuladhar to this meeting. While Prachanda had the opportunity to speak in detail with Mr. Tuladhar about the general scenario for peace, the international community's response to recent developments, and on related issues, Mr. Tuladhar had the opportunity to speak with Prachanda about the road map the SPA was working on. The NTTP meetings with the seven parties in Kathmandu had prepared Mr. Tuladhar for this. Because of access like this, the NTTP members in Kathmandu were confident about the value of the dialogue even before the Maoists came above ground after their 'terrorist tag' was removed and they were formally able to participate in the process.

NTTP facilitation in Madhes agitation and dialogue with government: During the height of the first Madhes movement in the winter of 2007, led by the Madhesi Janaadhikar Forum, immediately after the introduction of the interim constitution, the Forum took the public position not to engage in dialogue with the government until the home minister resigned. Because the resignation of the home minister was a pre-condition for the talks to go ahead, there was a stalemate and the situation deteriorated. The Girija Prasad Koirala-led government was not in a position to again sacrifice its powerful Home Minister Krishna Sitaula, who was also head of the government delegation with the Maoists. After a few days, the Madhes party realized that the home minister was not going to resign, but it was a matter of saving face for the party.

The NTTP facilitators convened secret meetings between Mr. Upendra Yadav, Chairperson of the Forum, and his deputies, and the ruling parties' leaders. It became politically and psychologically easier for the Forum leaders to meet with ruling party leaders than with the government members. It took three days of meetings at the Shangri-la Hotel in Kathmandu to convince the Forum to participate in formal negotiations with the government. Of course, actual negotiations had already taken place at

⁴¹ Interview with Mr. Tuladhar on 7 February 2016.

an informal level. This meant that the Madhes leaders could avoid meeting the government's chief negotiator and Home Minister Mr. Sitaula and instead, were able to engage with other members of the coalition parties. For Yadav, the NTTP facilitators Mr. Tuladhar and Mr. Dhungana guaranteed a reputable negotiation and made it possible for both sides to engage in talks.

NTTP-facilitated Steckborn negotiations: The NTTP took second-tier leaders on retreats to Pokhara, Gokarna and Godavari on a number of occasions between 2006 and 2013. One of the objectives behind such retreats, which involved two-hour to half-day meetings, was to get the leaders to structure themselves into a negotiation process. In moments of crisis, or whenever there was a need to do so, leaders at various levels met to come up with an ad hoc solution. Such a solution would not be long-lasting as it did not address the core issues, and was merely designed to resolve current tensions in the short term. The NTTP has argued and lobbied for a structured negotiation, with a permanent team of negotiators from each major party, with each team working on finding solutions to the contentious issues of the peace process and the constitution. However, it has not been possible to host such negotiations for more than two to three days at a time.

As part of a long-term plan, in February 2011 the NTTP was able to take a group of nine senior second-tier leaders to Steckborn, a quiet place on Lake Constance near Zurich in Switzerland. They stayed there for a week to exclusively discuss the three most contentious issues at that time. This was the first time in Nepal's peace process history that senior leaders had spent one whole week on structured dialogue alone. The three interlinked issues were the integration and rehabilitation of the Maoist combatants, the most contentious issues for the drafting of a new constitution (state restructuring and form of government), and the principles for power-sharing during the transition. In addition to a structured dialogue, negotiators were able to consult with top leaders and the Prime Minister back home via a hotline before coming to an agreement on seriously contentious issues, and in situations where they were unable to fully represent the party at their level. Although the negotiations were unique, the idea was not that they would sign an agreement at Steckborn itself. In order to avoid the perception of coming to an agreement in a foreign country, they would agree on something in the form of an understanding, which would then be finalized back in Nepal, following renewed consultation with the top leaders.

Indeed, Steckborn was where the leaders discussed the possible forms of government and arrived at a form that is similar to the French model. It took them some additional effort back in Nepal to convince all sides within their respective parties, but the original understanding was arrived at in Steckborn. On the issue of integration, they had agreed to accept a "new set of standard norms for integration", a phrase that addressed the Maoists' refusal to accept the existing security forces' norms and the Nepali Congress and UML concern that norms be accepted.

A process for actors to fall back on: The value of the NTTP has been that it is always readily available to leaders when they have failed to resolve matters through formal spaces. The NTTP has played an important role in the various ups and downs of the process, but especially at times when no other process was working or seemed even possible. During such times politicians have found it a comfortable mechanism for re-starting negotiations. Sometimes the parties have had to engage in public posturing and have refused to enter into dialogue with a certain party until certain conditions have been met. However, there is an underlying feeling that they really need to, at least, be talking to each other in some way but it is embarrassing for them to do so openly due to public posturing. During different phases of the peace process, the parties have not been confident enough to understand each other's internal bottom lines for negotiation. There is confusion, with multiple signals coming from different factions of another party. In such cases, one of the parties has requested that the NTTP convene bilateral meetings, and on other occasions the facilitators have helped to gauge actual positions and ascertain where there is room for maneuver or flexibility on the part of the other party and then communicate their findings to the party that has made the request.

When nothing else has worked, politicians, who are members of the NTTP, have requested that facilitators meet with top leaders. This has happened on a number of occasions and even in cases where nothing concrete has been achieved, the facilitators have met with the president, and requested him to quietly convene an informal meeting of the top leaders, in the presence of the facilitators or otherwise, and asked the leaders to quickly initiate negotiations.

Limitations of the NTTP: The NTTP as Track 1.5 was not designed exactly to be the process it later evolved into. When the NTTP initiative was institutionalized to support the launch and smooth management of the national peace process, it was difficult to gauge how the parties would own the NTTP process, how this process would remain neutral, but still play its role of facilitator, and a number of related issues. The NTTP was in itself a learning curve and numerous adjustments were made on an ongoing basis to keep the process useful, productive and relevant. For example, during the Madhes movement, new Madhes actors and political parties emerged who were included in the NTTP process at a later stage. There were instances where younger generation NTTP leaders were more effective in forming public opinion than senior leaders. Also, another limitation of the NTTP was that some members would become ineffective over time in their own parties, and their role at the NTTP would have thus been weak.

At times of extreme bitterness at top leadership level, and when the formal process is stuck, the NTTP has also often had to struggle to get people to sit down together in the first instance. It is only after numerous individual pursuits that the leaders of the disgruntled party have even agreed to meet, and only on condition that they meet alone with the facilitators first. After a number of such individual meetings, they may be persuaded to sit down with the others, but again, the initial meetings are not always cordial and productive, except in the sense that they have actually agreed to sit down together again and begin to talk about talks.

If a major party does not fully participate in a certain meeting – which can be due to an unavoidable situation – the other parties get a sense that the talks were not given priority and that they should not have turned up at the negotiation either. The parties also have a problem if only a relatively junior member of the NTTP from a major party is available to attend a meeting. In some instances, when tensions are high between individual members of the NTTP, who have perhaps bitterly argued over certain issues, such poor interpersonal relations have a direct adverse impact on the functioning of the NTTP. This has occurred on quite a number of occasions. The facilitators have managed to overcome such infighting in a variety of subtle ways, but it can be very time-consuming.

An inherent weakness of the NTTP process is that the facilitators are not professionally trained peace facilitators, or mediators for that matter. They are, in fact, both former politicians and activists. Both of them had drifted away from direct politics, and have been involved in human rights and peace advocacy since the late 1990s. While their backgrounds have given them unique convening powers to bring together all the relevant actors, including top leaders, it has also been limiting in terms of their role as practical facilitators in the NTTP process. On some occasions, the facilitators themselves had a tendency to drift away from the agenda. On other occasions, when politicians drift away from the agenda, they also get carried away. A facilitator in the practical sense of the word would have to conduct negotiation sessions in a properly facilitated manner. But this is what is lacking. The NTTP has often had to rely on Mr. Vidyadhar Mallik and Professor John Paul Lederach to provide guidance to the facilitators in order to make their roles as ‘facilitators’ effective.

The facilitators have tried to maintain a politically-neutral position because of the NTTP. However, there are certain issues in the peace process on which they have strong opinions. Sometimes, these opinions, which are bound to please one party and displease the others, get aired and this has consequences. It has happened that some members of the NTTP have expressed reservations about even participating in the NTTP because they have a problem with the facilitators’ strong opinions on certain issues. Given that the facilitators are senior and respected figures, the party members tend not to take it seriously for long and have continued to be a part of the NTTP process. This issue has, however, sometimes slowed down proceedings at the NTTP.

The NTTP has been supported by the international community right from the beginning. Not only did the international community provide financial resources for its operation, including funding its secretariat, it has also been providing technical and moral support to the NTTP. USAID was the primary donor in the initial phase of the NTTP, with occasional support from the Swiss and others. Despite the resources and technical support received from the international community, the NTTP Forum has always been a fully independent, Nepali-owned and Nepali-run process. Nonetheless, in terms of perception, the NTTP was sometimes viewed by some politicians as a donor-funded initiative, which could undermine its value to some extent. The NTTP and its secretariat manager, The Asia

Foundation/Nepal, have always been careful to maintain that the NTTP is and will be understood to be a fully independent Nepali Track 1.5 and NTTP members have understood it in the same spirit.

Another limitation of the NTTP is that it is sometimes unable to keep up the momentum of NTTP-generated peace process and bring it to a meaningful conclusion. Once the NTTP has generated a specific momentum on a certain key issue of the peace process, more senior leadership gets involved in the issue, and this creates an opening for the official process to begin. But then when it reaches that official level, involving different factions of the parties with varying positions, the NTTP becomes too weak to keep the momentum going and hold the process intact until it yields some concrete results.

The NTTP's main challenge has been how to translate the NTTP-level understandings or agreements into the official decisions of the parties and government at the Track 1 level. Sometimes, the NTTP lacks the skill and capacity to follow up until the end of the process. Even when there is follow up, there is no guarantee that the top leaders will remain serious.

Chapter 3 External support for the Peace Process in Nepal

Different international actors were engaged at different levels during different time periods in a variety of ways in Nepal's peace process. The international actors engaged in the process can be divided into two groups. The first group of actors was Nepal's development partners, who provided support to Nepal through development partnership and by assisting peace-sensitive development. The second group who supported peace in Nepal was those engaged in the process through the diplomatic and political framework. Of the key external actors engaged in Nepal's peace process and non-formal dialogue process, India always remained in the forefront (Sharma, 2013; Dixit, 2011), often taking a unique (stand-alone) approach compared to other major external actors. India either complained or kept its distance when the issue of involvement of external actors in the peace process came up, but dominated, nonetheless, all key events such as reaching a 12-point understanding, holding the CA elections, Terai issues, etc. (Jha, 2013; Upreti, 2015). On one occasion in 2004, while debating the need to bring in the UN to assist in settling Nepal's armed conflict, the then foreign minister of Nepal indicated that India and China would not agree to accept the UN as a mediator. This indicates the importance of India's influence. The situation changed, however, once the king took over power on 1 February 2005. India subsequently slightly softened its resistance towards UN assistance, agreeing to a minimal level of engagement, which was also indicated in the 12-point understanding, largely sponsored by India. However, the UNMIN was unable to take India into its confidence during its operation in Nepal (Upreti, 2015).

Although an informal process of dialogue started early on, international support was minimal. Up until 2000 many international (political and development) actors had adopted a strategy of avoidance and had operated in a 'business as usual' fashion instead of engaging in the peace process. Nevertheless, after 2000, once the insurgents had begun to target or threaten the continuity of development programs funded by the international actors and increased the safety and security risk to their local staff, they shifted strategy and focused instead on a multi-track approach (Upreti, 2009). Hence, they became active on both fronts. On the development front, they started developing Basic Operating Guidelines (BoGs) (see Annex 7 for details) to be endorsed by both warring parties. They also refined their development program and made it more conflict sensitive, peace supportive and inclusive, etc. On the political front, they began meeting the insurgents and state officials and exerting pressure on them to commence negotiations with a view to finding a settlement to the conflict. It was more extensive after the takeover of power by the king on 1 February 2005, when the UK, India and other European countries engaged in closer cooperation against the royal coup as discussed in Section 2 above. Although the US did not support the coup, it initially took a relatively softer stance than others. However, China was largely silent regarding the king's takeover and remained in the sidelines during any formal and non-formal dialogue process until after the first CA election in April 2008 (Upreti, 2010).

3.1 Major External Actors Supporting the Peace Process

Several international actors supported Nepal's peace process directly and/or indirectly through financial resources, knowledge and exchanges, and even by facilitating events and processes. The degree and intensity of their engagement varied, though. UN Agencies (UNMIN, UNDP, UNHCR, UNOCHA), Switzerland, Norway, India, the US, the UK, Denmark, Germany (and other organizations supported by them such as International Idea, The Forum for Federations, The Centre for Humanitarian Dialogue, The Asia Foundation, etc.) were some of the major external actors that supported the diverse processes (Martin, 2010; Pokharel & Rana 2013; Jha, 2014; Upreti, 2010; Dixit, 2011; Einsiedel et al, 2012). Even the major development partners took a proactive role in developing the 'peace and development strategy 2011-2015' for the country (NPC, 2011) This covered some of the important aspects highlighted in the World Development Report (WB, 2011), such as supporting confidence building and assisting in the transformation of institutions by promoting accountability and risk management.

Some respondents in this research were of the view that powerful international actors were directly engaged in the internal affairs of Nepal in the name of resolving the conflict and restoring peace. They added that Nepal's political leaders themselves had provided fertile ground for external forces to be engaged in internal affairs, and that national leaders had even compromised on national interests for petty personal benefits and to gain access to power.⁴² One of the important conclusions of the discussions by government officials responsible for the peace-related strategies in their respective ministries was that although there is a long history of engagement by the international community in the development sector of Nepal, their contributions in addressing the structural causes of the conflict and achieving stability and peace has been less effective. This opinion was also supported in the work of several other analysts (Bhattari, 2004, Pandey, 2005; Upreti 2006; Sharma, 2013). However, when asked specifically about the contribution of international actors to the peace process, only few respondents were informed about their concrete engagement and the majority was only informed about the general, visible role of large countries such as India, the US, the UK, etc.

“India has consistently supported multi-party democracy and constitutional monarchy enshrined in Nepal’s Constitution as the two pillars of political stability in Nepal” (Press release of the External Affairs Ministry of India on 1 February 2005).

“We strongly support constitutional monarchy and multi-party democracy in Nepal, and want to see a sustainable peace-process” (Jack Straw, the Foreign Secretary of UK on 14 February 2005).

“We remain deeply troubled by developments in Nepal. King Gyanendra’s dismissal of the government, declaration of a state of emergency and the suspension of fundamental constitutional rights is a step away from Nepal’s path toward democracy. The King needs to move quickly toward the restoration of civil liberties and multi-party democratic institutions under a constitutional monarchy” (Press statement Richard Boucher, spokesman in Washington, DC, on 14 February 2005).

Source: Compiled by authors

Box 1: Commitment of major powers on twin pillar theory

Further, it was observed that the specific roles of some of the external actors in facilitating the peace process, especially in the later stages, was contested (Upreti, 2015; Jha, 2014), though largely appreciated until the signing of the CPA⁴³ (Dixit, 2011; Pokharel and Rana, 2013).

Experiences of other conflict-ridden countries have demonstrated that external engagement in conflict and peace negotiation is not new (McCartney, 1999; Armon & Carl, 1996; Armon & Philipson, 1998; Barnes, 2002; Hendrickson, 1998; Lucima, 2002). Often the interests of powerful nations are among

⁴² This viewpoint was rigorously discussed by panelists at the roundtable discussion held at the South Asia School of Reconstruction (SAR) on 10 February 2016. One of the authors of this paper was also on the panel.

⁴³ Meeting and discussions of one of the authors of this report with the more than two dozen Under Secretaries of different ministries and security forces officials responsible for ensuring the integration of peace related activities in their respective offices (focal persons) on 16 February 2016 at Hotel Yellow Pagoda (Jamal) from 9:30-11:30.

the main reasons for external involvement in armed conflict and civil wars (Misra, 2002; Tate, 2004; Dixit, 2011). Nepal is no exception to this trend (Lohani, 2005; Pandey, 2005; Bhattarai, 2004; Upreti, 2006). Some of the respondents highlighted that the role of international actors in Nepal's conflict was contradictory, i.e., supplying arms and ammunitions to government security forces whilst demanding a peaceful settlement to the conflict. Some scholars (e.g., Onesto, 2005) were critical of the role of dominant international actors, as some of the diplomats were visiting military barracks and criticizing the rebels or making sensitive comments on internal political issues, and/or were supplying arms to the state that ultimately contributed to an escalation of the conflict. However, some others were positive (e.g. Martin, 2010) about international support and efforts for peace negotiation.

Some international actors were very actively engaged in the informal mediation of the armed conflict. Assessing international support for peace and democracy in post-civil war Nepal, Grävingsholt et al., (2013, p. 2), states that:

"To date, Nepal's peace and democratization process has focused mainly on politics at central government level and has lacked strong local institutions. In general, our research suggests that the impact of donor engagement in the crucial area of local politics has not attained its full potential. Although donors supported two government programs addressing local politics, these proved deficient in many ways. Crucially, donors failed to encourage local elections, which would have addressed a serious bottleneck at the local level. There are two reasons for the weak impact of donor engagement: first, a lack of concerted effort and second, too strong a focus on stability, which hampered democratization."

Powerful bilateral countries were not directly accepted by the rebels as lead actors in non-formal dialogue and negotiation because of their formal position against them. However, the rebels were very confidently engaged with India even when they were publicly denying it. They strongly opposed the US engagement, questioning its neutrality as it was directly opposed to the CPN (M) and supported the Nepali army. Maoists opposed those who supported the 'twin pillar theory' (i.e., constitutional monarchy and multi-party democracy) (see Box 1). Hence, even when the US remained influential among the international actors in Nepal's decade-long armed conflict, its role in the process was contested and disguised, especially prior to the king's takeover. However, the situation changed after the royal takeover on 1 February 2005. After that, the US began to facilitate the process in a more structured manner through the NTTP. US support for non-formal dialogue at the NTTP through USAID has been discussed above.

Another important and wide-ranging peace mechanism supported by international actors was the Nepal Peace Trust Fund (NPTF). The NPTF is a multi-donor, state-owned basket fund mechanism intended to support post-conflict peace-building programs from the financial support of international aid agencies. It was founded in February 2007 (MoPR, 2011) to support post-conflict Nepal. The four major clusters of activities supported by the NPTF were:

1. Managing cantonments and rehabilitating and reintegrating the Maoist ex-combatants,
2. Supporting IDPs and others affected by the conflict by providing cash payments, grants, training, psychological counselling,
3. Strengthening security (rebuilding police stations, clearing mines) and jurisdiction (transitional justice initiatives, such as establishing a truth and reconciliation commission), and
4. Promoting the peace process by supporting the Constituent Assembly, Local Peace Committees and the Peace Secretariat (by providing financial resources).

Numerous formal and informal dialogues were carried out under these four components of the NPTF.

UN: The United Nations became directly engaged in Nepal's peace process at a later stage. The UN was fairly concerned and the then UN Secretary-General Mr. Kofi Annan repeatedly highlighted the worsening security and human rights situation in Nepal during the time of conflict. Therefore, he appointed a special political officer to work on the Nepal issues, who frequently visited Nepal with messages from the Secretary-General and held several meetings with political and security officials. After the Beni (headquarters of Myagdi district) attack by the Maoists, UN Secretary-General Mr. Annan once again expressed his deep concern about the situation of Nepal and offered UN assistance should the parties to conflict want it. The CPN (Maoists) immediately welcomed the UN

offer. However, the Nepal government rejected this offer due to fears of possible problems with big neighbors, India and China. After the 1 February royal takeover, the Secretary-General sent his senior political advisor Mr. Lakder Brahimi to assess the situation in Nepal, who met with many political leaders, civil society, military officers, government officials and the king. During his visit, Mr. Brahimi repeated the UN offer of help but the government stuck to its original position of not accepting any UN involvement in the conflict in Nepal.

National and international pressure mounted on the Nepal government when human rights abuses escalated and members of the UN High Commissioner for Human Rights passed a resolution and pressurized the Nepal government to open an UNHCR office in Nepal, which the king's government was forced to accept. Hence, in 2004 the OHCHR (Office of the United Nations High Commissioner for Human Rights) and the government made an agreement to establish an OHCHR office in Nepal which was tasked with submitting periodic analytical reports on human rights violations committed by either side of the conflict to the Commission, the General Assembly and the United Nations Secretary-General. Mrs. Louise Arbour, High Commissioner for Human Rights, appointed Mr. Ian Martin on 25 April 2004 to lead the Office in Nepal, after which Mr. Martin was heavily engaged in discussions with a wide range of actors. Later, after its Nepal office closed, OHCHR produced a comprehensive report entitled "Nepal Conflict Report 2012: An analysis of conflict-related violations of international human rights law and international humanitarian law between February 1996 and 21 November 2006" in which it has documented the human rights violations monitored during the time of civil war in Nepal (OHCHR, 2012).

Later, in the spirit of the 12-point understanding, the Maoists and the government sent identical letters to the UN requesting its support in Nepal's peace process. The United Nations Mission in Nepal (UNMIN) was established on 23 January 2007 at the 5622nd Meeting of the Security Council with the unanimous adoption of Resolution 1740. The resolution was presented by the UK to the Security Council, after reaching an informal agreement with India and China. However, the trade-off between European countries on one side and India and China on the other was intense at the time of establishment of the UNMIN and later during negotiations for its extension. European countries led by the UK were interested in expanding the UNMIN's role, but India and China did not agree and the UNMIN was limited to its original restricted role only. Hence, the UNMIN had the following four mandates (UNMIN, 2008; Martin, 2010):

- Monitoring the management of arms and armed personnel of the Nepal Army and the Maoist army, in line with the provisions of the Comprehensive Peace Agreement,
- Assisting the parties through a Joint Monitoring Coordinating Committee⁴⁴ in implementing their agreement on the management of arms and armed personnel,
- Assisting in the monitoring of ceasefire arrangements,
- Providing technical assistance to the Election Commission in the planning, preparation and holding of the election of a Constituent Assembly in a free and fair atmosphere.

Once Ian Martin was appointed Chief of the UNMIN, he became very actively engaged in a wide range of dialogue in an informal way. The timeframe that was first agreed was extended several times to accomplish the integration and rehabilitation task. However, the UNMIN's work was contested frequently especially on the issues of the management of cantonments dealing with the Maoist ex-combatants. Commenting on this, Dr. Prakash Sharan Mahat said: "There were issues with the integration and rehabilitation of the Maoist combatants too, and it was not handled well. Even the United Nations Mission in Nepal (UNMIN)'s role was not that satisfactory towards the end."⁴⁵

In this context, Kul Chandra Gautam, former Assistant Secretary-General of the UN wrote in his recent book:

"In September 2010, UNMIN had prepared a report of the Secretary-General to the Security Council (S/2010/453) on the status of Nepal's peace process recommending further extension of UNMIN's mandate. This report was so unbalanced and objectionable that four former

⁴⁴ See the decision (SC/8942) of the 5622nd Meeting (PM) of the UN Security Council for details.

⁴⁵ Interview with Dr. Prakash Sharan Mahat, 14 February 2016, Bansbari, Kathmandu, Nepal.

Foreign Ministers of Nepal coming from different political parties – KP Sharma Oli, Chakra Bastola, Ram Sharan Mahat and Prakash Chandra Lohani – wrote a joint letter of protest to Secretary-General Ban Ki-moon. As former foreign ministers, and strong supporters of the United Nations, they registered their objection to the tone and content of the whole report and pointed out several specific paragraphs which were against the letter and spirit of Nepal's Comprehensive Peace Accord and related agreements. They objected the report's treatment of Nepal's national army on par with the former rebel force, whose members were in temporary cantonments awaiting integration and rehabilitation. They also objected the report essentially treating the Government of Nepal on par with the Unified Communist Party of Nepal (Maoist)." ⁴⁶

According to Jha (2013), UNMIN was criticized on three fronts: for allowing Maoists to get away with not registering all the weapons in the cantonments, verifying thousands of combatants who had never been part of the PLA, and failing in its task of supervising the cantonments. However, Maoists were more positive towards UNMIN. In this context, Mr. Dina Nath Sharma, one of the negotiators for the Maoists, who was actively engaged in the formal and informal dialogue and negotiation process said: "The flexibility and trust between top leaders of the major political party was a strength of our process. Also, the support of the international community especially that of the UNMIN, was positive too."⁴⁷ The major source of trust was their frequent and intimate engagements in settling many contentious issues, frequent private visits and meetings, etc. For example, the close relationship between late Prime Minister Girija Prasad Koirala and Maoist leader Pushpa Kamal Dahal helped a great deal in reaching crucial decisions (e.g. holding of CA elections).

During its operation, UNMIN faced mistrust⁴⁸ and criticisms on several fronts: its interests and engagement in dealing with Terai agitation beyond its mandate, favoring one party against other, and for being slow and bureaucratic in its response. Even its activities were viewed as biased towards Maoists.⁴⁹ Finally the government ended its four-time extended tenure on 15 January 2011.

India: As discussed in other parts of this study, of the international actors active in Nepal, India is the most extensively engaged because the trajectory of the insurgency was heavily influenced by cross-border links and the long history of Indo-Nepal relations (Sharma, 2013; Rajan, 2003; Bhattarai, 2004; Mishra, 2004). Some analysts argued that Nepal's Maoist insurgency had direct implications for India (Pandey, 2005; Lohani, 2005) and therefore India had a direct stake in Nepal's armed conflict (Dixit, 2003; Jha, 2013, 2014).

India's engagement in dealing with the Maoists conflict in Nepal is complex, contested and widely viewed at times as giving patronage to the Maoists at certain phases of the conflict. Indian engagement in Nepal's conflict and peace negotiation was guided by strategic interests such as security, the border, India's own Maoist insurgency, among other issues (Rajan, 2003; Bhattarai, 2004; Dixit, 2003). Some critics even strongly argued that India had influence in all quarters during the conflict and political transition. Sharma (2013) was one of those who cited numerous evidence on the

⁴⁶ Gautam Kul Chandra (2015), *Lost in Transition: Rebuilding Nepal from the Maoist Mayhem and Mega Earthquake*.

⁴⁷ Interview with Mr. Daman Nath Dhungana, 7 February 2016, Kathmandu

⁴⁸ Mr. Aditya Adhikari in the October 2008 issue of the *Himal South Asian* writes "Over the past year and a half, UNMIN has played a crucial role in some aspects of Nepal's peace process. But it was also constrained in many other ways by fear and suspicion – on the part of Nepal's political parties, as well as New Delhi and Beijing" (see: <http://old.himalmag.com/component/content/article/904-shackled-or-unleashed-unmin-in-nepals-peace-process.html> for details).

⁴⁹ For example, the disagreement between the Nepali Congress and the UNMIN was on the perceived bias of the UNMIN towards the Maoists. Mr. Rajan Pokharel writing in the *HimalayanTimes* (26 August 2009) in an article entitled "UNMIN again bails out erring PLA fighters" wrote: "'Time and again the PLA combatants violated law and breached the political agreements, but UNMIN always comes to their rescue, preventing the law enforcement agencies to perform their duty', alleged Nepali Congress leader Dr. Ram Sharan Mahat. 'UNMIN has not been effective in monitoring arms and combatants,' Dr Mahat alleged, questioning the UNMIN's mandate" (see <http://thehimalayantimes.com/opinion/unmin-again-bails-out-erring-pla-fighters/> for details).

way in which India influenced the armed conflict and peace process in Nepal.⁵⁰ The main reasons for India's extensive engagement were:

- Political influence and utilizing Nepalese ruling elites for its own strategic interests;
- Security and other concerns related to more than 1,800 km of Indo-Nepal porous border;
- Nepal's water for India's water and energy needs (Upreti, 2010; Bhattarai, 2004; Mishra, 2004);
- Formation of the Coordination Committee of Maoist Parties and Organizations in South Asia (CCOMPOSA) on 1 July 2001, and the escalation of Maoist insurgency in different Indian states;
- Strategic interests to keep Nepal in its security umbrella.

Hence, all India's activities during the peace process were guided by these five strategic interests (Upreti, 2015).

As discussed above, India was a key facilitator – albeit informally– in reaching the 12-point understanding between the Maoists and the SPA. It invited several political leaders, security officers, civil society leaders and bureaucrats to Delhi to discuss specific issues related to the peace process. Several envoys, government officials and Indian politicians visited Nepal and engaged in dialogue with Nepali counterparts. Indian influence was very strong in many of the political decisions taken, and remains so even today, as reflected in its unofficial blockade (September 2015 to February 2016). For instance, India was pressing to include the demands of Madhesi parties in the new constitution which it believed were not incorporated in the final constitution. In reaction to this, India indirectly imposed an unofficial blockade against Nepal immediately after the promulgation of the new constitution by more than 90 percent of CA members. The blockade heavily affected the lives of the people, resulting in an estimated 20 billion dollars in losses and a reduction in economic growth of 1.5 percent. Highlighting India's strategic interests in the political affairs of Nepal, Daman Nath Dhungana, one of the facilitators, said:

"India wants to be the sole power to influence Nepal's affairs due to geopolitical reasons. India obstructed initiatives started by other international actors. India has played a role to make the Maoists the largest party in the first CA and only the third party in the second CA. India has also played a role in splitting the Maoists, in escalating Madhes agitation and forming the government under the Chief Justice. So any international actors willing to support Nepal's peace and democracy has to engage with India to be successful. If and when India senses it has been bypassed, it will not allow anyone to succeed." ⁵¹

China: Unlike other dominant international actors, until the people's movement of April 2006, China was publicly silent, despite its concerns about Nepal's armed conflict. China had traditionally supported the monarchy until its abolition as a stable and reliable political force in Nepal that would safeguard its interests, more than any other government. At the time of the armed conflict, China had expressed dismay when the CPN (M) used the name of their Chairman Mao. From 2008, China became more overtly active in Nepal's political affairs and engaged in overt and covert dialogue, especially in case of any possible activities affecting Chinese interests. In this context, Jha (2013, p. 353) wrote:

"The turning point in China's approach to Nepal came in March 2008 in the run up to the Beijing Olympics when the "free Tibet" protest rocked Tibet as well as Kathmandu. Protest continued for almost a month, and the international media, which has little or no access to Tibet itself, descended on to Kathmandu to report the extent of discontent. China was furious with the Nepali government, led by the Nepali Congress for not swiftly reining in the protest. For Beijing, it was the proof that that western influence in Nepal has grown and that the increasingly strong Indo-US strategic partnership meant that Delhi was no longer a reliable partner when it came to keeping international actors out of the region. China felt that the open

⁵⁰ For the most comprehensive documentation of the incidences and activities of Indian engagement and influence in Nepal's politics in general and the armed conflict and peace process in particular, including dates, times, venues and actors, see the book written by Mr. Sudhir Sharma (Chief Editor of the Kantipur Daily Newspaper) entitled '*Prayogshala: Nepali Sankraman ma Delhi Darbar ra Maobadi* (Laboratory: Delhi Palace and Maoists in Nepal's transition). Published in 2013 by FinePrint.

⁵¹ Interviewed on 17 March 2016 at NTTP Office.

border between India and Nepal was a major problem because Tibetans could use it not only to flee to exile but also to return to foment protest in Nepal and Tibet."

Hence, the active engagement of China in Nepal's political process and peace negotiations was guided by concern over the risk of the use of Nepal's land for Tibetan-focused anti-Chinese activities sponsored by western powers as indicated above by Jha (2013). Further, China felt that the decisive engagement of India and the US in Nepal's armed conflict and peace process would mean more anti-Chinese activities in Nepal. Therefore, China became more alert, active and even vocal at the later stages of the conflict, especially after the first CA election.

During the entire period of conflict, China kept a close eye on the involvement of India and western powers in Nepal's affairs (Upreti, 2010). China was alert to the risk of Nepal being used by India for its strategic interests and also the Indo-US alliance which could jeopardize Chinese interests. Hence China engaged at a high level with Nepal's political forces, including several high-level visits of Chinese delegates to Nepal, invitations to senior Nepali political leaders (e.g., Mr. Barsha Man Pun, Mr. Krishna Bahadur Mahara and others) in order to engage with them in a series of confidential dialogues, the issue of periodic statements from the Chinese Embassy on the political issues of the peace process, and active engagement in the UN Security Council during the setting up the UNMIN.

The US: The US was one of the key external players in the conflict and peace process in Nepal. It was not only actively engaged in supporting the government to prevail over the rebels during wartime, but it was also involved in the informal dialogue process, as set out in this statement:

*"USAID supports an informal forum that creates a space for confidential dialogues, helping political parties to build trust and confidence. The Nepal Transition to Peace Forum is used extensively by the parties to negotiate compromises on challenges to the peace process."*⁵²

The US was engaged in peace-related activities through different projects such as: a) Community Initiatives for Common Understanding Project; b) Inclusive Resource Management Initiative (IRMI) Project, c) Sajhedari Bikaas – Partnership for Local Development, d) Conflict Mitigation through Community Mediation Project; e) Nepal Peace Support Project (NPSP), f) Sambad: Dialogue for Peace; g) Singha Durbar (The Lion's Palace): A Media Program and Creating Role Models for Good Governance, and h) Strengthening Political Parties, Electoral and Legislative Processes Project.⁵³ In addition to their core thematic focus, they were involved directly and/or indirectly in supporting dialogue processes.

The US was fairly active in mobilizing selected actors from civil society to promote peace dialogue. To this end, the US sent several key people to the US under their international visitors program or organized special programs that helped them to engage in dialogue upon their return. The US, through its different projects, brought several international experts on conflict management, security sector reform, peace negotiation, dialogues, electoral process, etc. to the country. After the CPA, the US Embassy also organized informal high-level security sector reform group meetings including selected high-profile individuals from the security forces, civil society, research, second-tier leaders from political parties (including the Maoists), and hosted regular interaction and thematic discussions with international experts. This had helped the process of integration and the rehabilitation of Maoist ex-combatants.

The US took a strong anti-Maoist position in Nepal's armed conflict when the Maoists killed Mr. Ranindra Shrestha, a senior officer working in a USAID-funded project in Rapti, and also later when a security guard working at the US Embassy in Kathmandu was murdered. Further, the US position became resolute after the terrorist attacks in the US on 11 September 2001. Unlike India, the US was not in favor of bringing Maoists and political parties together against the 2005 royal takeover and tried to prevent collaboration between the SPA and the Maoists. The then US Ambassador Mr. J. F. Moriarty visited Delhi before and at the time of the culmination of the 12-point understanding. Unlike many European countries, the US was lenient, even after the royal takeover of 1 February 2005. On

⁵² See the website of the USAID (<https://www.usaid.gov/nepal/democracy-human-rights-and-governance>) for details.

⁵³ See <https://www.usaid.gov/nepal/democracy-human-rights-and-governance> for details.

25 February 2005, Mr. Richard Boucher, Spokesperson of the US Department of State said, “we think that the king needs to move quickly to reinstate and protect civil and human rights, to release those who are detained under the state of emergency, and to begin a dialogue with the political parties intended to restore multiparty democratic institutions under a constitutional monarchy.” The US referred frequently to its sole commitment to the twin pillar theory, i.e., multi-party democracy and constitutional monarchy. However, the US failed to prevent the signing of the 12-point understanding between SPA and Maoists, and the situation in the country changed. However, after the success of the people's movement and the signing of the CPA, the US, too, supported the national process.

In the early years, there were two sides to the potential engagement of the US in the peace process. On one hand, it was supplying arms and ammunitions to the Nepal government, training the security forces on counter-insurgency, and providing intelligence and financial resources to strengthen the security forces. On the other, it was also emphasizing the need of a dialogue process. Once the US started to support the Nepal government, the Maoists saw this as a negative development, ultimately limiting the scope of the peace negotiations. Hence, prior to the royal takeover, US engagement was either limited to providing indirect support through different development projects or to supporting other countries' initiatives which were less contested. However, after the king's takeover, the US position changed slightly towards supporting the government, but it did not change its approach towards the Maoists.

The UK: The United Kingdom was another major visible external actor in Nepal's armed conflict and peace process. The UK was one of Nepal's largest development partners and was also very active on the political front because of the link between the monarchies of the two countries and the Gurkha recruitment arrangement. The DFID was one of Nepal's largest development donors and funded several projects to address the root causes of the conflict and to achieve peace. Since the middle of the conflict, the DFID, in collaboration with GTZ (now GIZ), established a Risk Management Office (RMO) to analyze the potential risks of the conflict to their development program and possible ways of minimizing them. Similar to the US, the UK also followed the same twin-pillar theory even after the king's takeover. Following the royal takeover the UK government released the following statement:

*“We strongly support constitutional monarchy and multi-party democracy in Nepal, and want to see a sustainable peace-process. We continue to call upon the Maoists to end their violence and for both sides to return to the negotiating table. But we were very clear, when the King dismissed his Prime Minister, that we regarded this as a backward step which undermined Nepal's democratic institutions and risked further instability. In this serious moment, it is appropriate for us to recall our Ambassador so that we may reflect with him, and with our international partners, on the way forward.”*⁵⁴

The UK had provided military aid to Nepal's Army to weaken the Maoists in order to facilitate peaceful negotiations. It had also provided development aid to address the root causes of the conflict, sent special envoys (e.g., Sir Jeffry James visited a couple of times to facilitate the dialogue and negotiations) and attempted to engage with local Maoists. However, following the takeover by the king, the UK changed its approach towards its dealings with Nepal. The UK government suspended its planned package of military aid (a 1.3 million pound package of equipment including vehicles, night-flying helicopters, improvements in communications and bomb disposal equipment) to Nepal which helped the agitating SPA and the Maoists to fight against the King. It also supported several civil society initiatives to promote peace, to facilitate local-level dialogues through its development projects which focused on addressing the causes and effects of conflict and promoting peace. However, some of its support to identity-based ethnic organizations was sharply criticized⁵⁵. One of the highly publicly

⁵⁴ UK government press note. See the following site for details:

http://www.gov-news.org/gov/uk/news/british_ambassador_in_nepal_recalled_to_london/20598.html

⁵⁵ Referring to the DFID funding to specific recipients, a report entitled "Politicians, donors question donor neutrality in Nepal" written on 26 Feb 2013. "Dissent in Nepal over the role of ethnicity in a post-conflict state has put donor agencies under increased scrutiny, with politicians and analysts accusing them of meddling, taking sides and circumventing the government to push an agenda of "social cohesion". This report further highlighted the quote of head of the DFID Nepal: "We got a lot of criticism from all sides. We took the brunt [from all sections of society including marginalized groups, citizens, media and

contested DFID funding was to NEFIN. Responding to a question on the present status of DIFID's collaboration with NEFIN, DFID Nepal Chief Dominic O'Neill said, "They had not resumed funding. Since they were involved in general strikes, we were unable to fund NEFIN."⁵⁶

Other European countries: Though less influential compared to the powerful external actors discussed in the preceding sections, the European Union (EU) was active in helping to resolve Nepal's conflict through dialogue and negotiation. The EU sent high-level delegations, which they called the 'Troika' (a special EU mission that is always composed of 3 member states). In one of the press statements, the EU said: "The EU calls upon all constitutional forces in Nepal to work closely together in support of a common strategy for achieving a comprehensive and inclusive settlement in the country, based upon multiparty democracy and constitutional monarchy" (15 December 2004).⁵⁷ Again, after the royal takeover, the troika visited Nepal and discussed the political situation. The troika said, "We believe there may be a role for third party support for brokering and monitoring the arrangements for a formal ceasefire agreement" (6 October 2005).⁵⁸ Though EU was engaged on different levels to reach a negotiated settlement, it was not in the center of influence during the negotiated settlement of the conflict.

Switzerland, Norway, Germany, Denmark, the Netherlands and other European countries largely pursued a collaborative approach of engagement (a pattern and structure of interaction among the directly related actors to facilitate the process that would lead to resolving conflict in a positive way) in Nepal's armed conflict. Their responses during the time of armed conflict were focused on compromise and accommodation. Once the king took over power, Denmark, Switzerland and other European countries strongly opposed the move and suspended part of their aid to Nepal.

The Swiss engagement in facilitating the peace process in Nepal was at two levels.⁵⁹ First, implementation of conflict sensitive development interventions to address the root causes of the conflict. Switzerland was one of Nepal's long-term partners in development cooperation. In the development sector, Switzerland, together with other development partners, has played a proactive role since 2003 by developing and executing a conflict sensitive program management approach, the Basic Operating Guidelines (see Annex 7), and by promoting gender and social inclusion in development programs and projects. Second, direct engagement of its peace advisor in the political settlement.⁶⁰ The peace advisor Dr. Günther Bächler, who was deployed by the Swiss government (May 2005-November 2007), played a crucial role in facilitating dialogue among the parties in conflict. Dr. Bächler and his successor Mr. Markus Heiniger were highly appreciated in Nepal for their successful role as mediators and facilitators. Dr. Bächler helped the SPA and the Maoists to forge the peace agreement, provided technical assistance to the peace secretariat, provided technical assistance to the Nepali facilitators and assisted with the ceasefire and technical matters to prepare for the election of the new CA. Similarly, Mr. Heiniger played an important role at the political level. He supported the constitution-making process, provided expertise on federalism and facilitated security sector reform, in addition to creating an environment conducive to dialogue and resolving differences. He also assisted the Maoists and government negotiators in key contested issues arising after the CPA, supported human rights promotion, the OHCHR, as well as the integration and rehabilitation of the ex-combatants, coordinated with UNMIN. Furthermore, he provided capacity building to civil society, facilitators and political actors through seminars, study tours, research and documentation, all of which was much appreciated. However, gradually the role of Switzerland on the political front diminished. It was even contested in some of the projects funded. Finally, the role of the peace

political parties] saying we interfered or didn't do enough" (see the details at: <http://reliefweb.int/report/nepal/politicians-donors-question-donor-neutrality-nepal>).

⁵⁶ See for details: <http://kathmandupost.ekantipur.com/printedition/news/2012-06-27/duncan-stands-behind-aid-for-ethnic-groups.html>

⁵⁷ See <http://www.ambafrance-np.org/EU-Troika-Press-release-Kathmandu> for details.

⁵⁸ See <http://www.ambafrance-np.org/Visit-by-EU-Troika-of-Regional> for details.

⁵⁹ See <http://www.css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/CSS-Analysis-125-EN.pdf> for details.

⁶⁰ See http://www.nepalmonitor.com/2007/07/the_swiss_strategy_in_nepal_-print.html for details.

advisors who followed became increasingly less significant. The roundtable panelists surmised that until 2010 the role of Switzerland was viewed as neutral and therefore its engagement as facilitator of informal dialogue was easily accepted. In this context Daman Dhungana said, "The role of Hannes Siebert (South African expert under USAID support), Gunther and Markus were important in Nepal's peace process. We even did not notice contributions of other peace advisors working in different donor agencies."⁶¹ Swiss engagement in development is appreciated as it is focused on addressing the root causes of the conflict, gender and social inclusion, geographical marginalization, etc.

Norway was another country actively engaged in Nepal's peace process. Once the role of Norway was appreciated in Sri Lanka in 2003, Norway's proactive engagement in Nepal was also valued. Norway supported the implementation of the CPA and provided civil society support to facilitate awareness and dialogue for long-term peace in Nepal.⁶² The Norwegian special advisors and diplomats were formally and/or informally engaged and assisted the conflict parties in identifying common issues for negotiation. They held unofficial confidential meetings with the Maoists and government authorities to build confidence and create a conducive environment for talks, developing and projecting a greater sense of their own efficacy and potential to resolve conflict. However, Norway became controversial amidst allegations surrounding Norwegian funding. On 17 April 2014, CA members from the UCPN (Maoist) raised concerns over about six hundred thousand dollars granted by the Royal Norwegian Embassy to the South Asia Trust for the Himal South Asia magazine. It was alleged that the Norwegian funds were misused to campaign against the ongoing peace process. Subsequently, the Norwegian Embassy issued a press statement refuting the allegations:

*"The Royal Norwegian Embassy has not funded any anti-peace activities in Nepal. The embassy supports programs and projects aimed at fostering rural development, renewable energy, human rights, gender equality, democracy, peace and reconciliation in Nepal."*⁶³

Germany was another important European country which supported Nepal's peace process and engaged in development cooperation. It focused on: a) sustainable economic development and trade; b) renewable energy and energy efficiency, and c) health in addition to d) support to the peace process (since all GIZ projects take into account the post-conflict situation as a cross-cutting issue). Furthermore, the German Civil Peace Service (CPS) is implementing several measures to support the peace process in cooperation with both Government and civil society partners.⁶⁴ In addition, the German Embassy in Kathmandu provides small-scale funds to support local organizations. In this context, an internal interim evaluation conducted by GIZ in 2010 on its support to 'Strengthen the Peace Process', concluded that: "The German Government should explore ways for a more pro-active engagement in the peace process by exploiting the opportunities offered through the experience gained by STPP/NPTF" (Zürcher and Manandhar, 2011, p. 10). This means that GIZ considered German engagement in the peace process to be inadequate so far.

In addition, some international NGOs, religious and philanthropic agencies such as Action Aid International Nepal, ICRC, Amnesty International (AI), Care International Nepal, Mercy Corps, Lutheran World Federations, Doctors without Borders, International Alert, Search for Common Ground, International Crisis Group (ICG), Human Rights Watch (HRW), International Commission of Jurists (ICJ) also directly and indirectly engaged in peace related small activities such as documenting cases, helping communities and promoting grass roots peace through their development activities.

Amnesty International (AI) was very active during the armed conflict and repeatedly called upon the warring parties to sign a Human Rights Accord and to give the National Human Rights Commission

⁶¹ Interview with Mr. Dhungana on 17 March 2016. Mr. Padma Ratna Tuladhar, who was also present during the interview, also subscribed to Mr. Dhungana's statement.

⁶² See http://www.norway.org.np/Norway_and_Nepal/Development-Cooperation/Projects-We-Support/#Peace_Reconciliation for details.

⁶³ See <http://kathmandupost.ekantipur.com/news/2014-04-18/norwegian-embassy-denies-aiding-anti-peace-activities.html> for details.

⁶⁴ See http://www.kathmandu.diplo.de/Vertretung/kathmandu/en/05wi-wz/development_cooperation/neu_seite_schwerpunktthemen_ez.html for details.

(NHRC) a mandate to monitor the human rights situation. Amnesty International, Human Rights Watch and other human rights organizations played an instrumental role in influencing the 52 members of UNHRC to pass Agenda 19 in the 2004 Geneva meeting which forced the government of Nepal to sign the agreement to establish the OHCHR in Nepal. AI and other human rights organizations forcefully demanded the conflicting parties to abide by the principles of the Geneva Conventions of 1949 and strongly opposed the State of Emergency (SoE).

International Crisis Group (ICG) was another INGO active since 2004. The ICG's engagement and contribution was its in-depth analysis of the conflict situation. The ICG had contributed to the settlement process by making the crisis in Nepal known at international level, mainly through its critical analysis and periodic quality reports, based on which many international actors exerted positive pressure.

The International Commission of Jurists (ICJ) was another active international stakeholder. Its teams regularly visited Nepal and met different key domestic actors of the conflict and urged the warring parties to respect the human rights of people. On 30 November 2004 Nicholas Howen, ICJ Secretary-General said,

"We are deeply concerned about the escalating and gross human rights abuses being committed by both sides of the conflict in Nepal... urgent steps can and must be taken to protect non-combatants, halt the spiraling descent into lawlessness and build the confidence for a political process... It is tragic that so many of the abuses and the failure to obey the Nepali Constitution and laws, which the ICJ observed when it visited in 2003, persist or have worsened."The ICJ delegation expressed its dissatisfaction with the armed forces saying:

"It saddens us that the Royal Nepalese Army (RNA), which has a reputation for professionalism and discipline in United Nations peacekeeping operations, must now face up to daily reports of unprofessional and undisciplined behavior of soldiers in their own country."

The ICJ claimed that both parties had engaged in serious secret, unlawful and arbitrary detention and committed extra judicial killings, enforced disappearances, torture and gross violation of international humanitarian law.

Human Rights Watch (HRW) was another external actor actively involved in monitoring the human rights situation of Nepal. The decision of US Congress to tie its military assistance to Nepal with human rights was a result of the lobbying of HRW. HRW played a crucial role in informing and sensitizing the US about the violation of human rights in Nepal. It regularly monitored the human rights situation and lobbied internationally for protecting human rights in Nepal.

Other international non-governmental organizations engaged in resolving Nepal's armed conflict through dialogue and negotiation were The Carter Centre, Doctors without Borders, Search for Common Ground, International Alert, Safer World, The Asia Foundation, The Academy for Educational Development (AED), International Idea etc. The roles played by International Idea in constitution making and The Carter Centre in election monitoring were most visible.

Some international actors were supporting the Maoists. The Revolutionary Internationalist Movement (RIM) supported the Maoist armed conflict in Nepal. Close ideological links between the Maoists and the RIM was the main factor behind this support. Highlighting the support of the RIM, the ICG (2007, p. 8) states, "RIM played an important role in encouraging the Maoists to go ahead with their people's war strategy." When the Maoists started their armed struggle in February 1996, the RIM issued a press statement entitled "From the Andes to the Himalaya, Peoples war is the only way to liberation" and praised the start of armed conflict in Nepal. In an interview given to Mrs. Lin Onesto of the "Revolutionary Worker", Prachanda revealed that there was constant international involvement in finalizing the launching of the people's war (Onesto, 2000). Ideological and political exchange was the main form of international support given by the RIM to the Nepalese Maoists.

Similarly, World Peoples Resistance Movement (WPRM) supported the Maoists. WPRM organized meetings, discussions and interactions in Europe and in other parts of the world to garner support for Nepal's Maoists. The ICG (2007) also points out that during the later stages of the armed conflict,

(November 2005 onwards), WPRM also sent three groups of volunteers to work on the Maoist road-building project in Rolpa District.

Considerable support for Nepal's Maoists was also obtained from within South Asia. The CCOMPOSA supported the Maoists in Nepal with the expectation to help expand revolution in the entire South Asian region. Hence, they formed the CCOMPOSA (Upreti, 2006). The Maoists were one of the founding members of the CCOMPOSA and it became an important support base for Nepalese Maoists physically, morally and ideologically. Furthermore, outside the CCOMPOSA, the Maoists had received moral, physical and intellectual support from communist parties and leftist outfits based in India.

However, the majority of Maoist supporters were largely not in favor of dialogue and settlement of the conflict through negotiation but wanted to advance the insurgency for a Maoist victory over the Nepali state.

The nature, pattern and issues/content of international engagement drastically changed after the successful people's resistance movement of April 2006 and after the Maoists entered the reinstated parliament. After this, the Maoists became the main focus of international actors. It was at this point that the well-established twin-pillar theory (constitutional monarchy and multi-party democracy) – advocated for a long time by international actors as essential for Nepal's democracy and prosperity – was abandoned.

The international community played an important role in reaching the CPA on 21 November 2006, and later the Agreement on Monitoring of the Management of Arms and Army (AMMAA) between the Government of Nepal and the CPN (M) on 29 November 2006. During that period, engagement by the international key actors with the negotiators and political decision-makers was fairly strong and frequent.

International financial institutions such as the World Bank, the International Monetary Fund and the Asian Development Bank were influential external actors working to address the conflict through the development and economic sectors (economic development assistance such as economic policy reforms, trade promotion, and investment in basic services such as education, health, drinking water, and rural infrastructures development, promotion of private investment, etc.). However, analysts argue that their economic engagement was not sufficiently prominent to positively impact Nepal's armed conflict (Pyakuryal, 2013; Pyakuryal et al., 2008).

In the concluding remarks on the engagement of the major external actors who supported the peace process it can be said that, in general, international actors and factors had a significant impact on the dynamics and outcome of Nepal's armed conflict and peace process (Upreti, 2010; Jha, 2014; Einsiedel et al., 2012; Pokharel & Rana, 2013; Gautam, 2015; Pyakuryal, 2013). The formal objective of the engagement of key international actors was to help Nepal to resolve its armed insurgency, and to restore and strengthen democracy and lasting peace. Initially, they worked hard to defend the twin-pillar concept (i.e., constitutional monarchy and multi-party democracy) and therefore concentrated on ensuring power sharing among politicians and the palace. However, after the royal takeover they were unable to pursue the strongly advocated twin-pillar concept.

The degree and intensity of external engagement at development and political levels was mainly shaped by their strategic interests, political orientation and humanitarian commitment. International actors used both confrontational and cooperative approaches of engagement in dealing with the armed conflict and peace process in Nepal. Though their engagement was crucial, inconsistencies and duplicity were often observed in the peace process (e.g., ambiguous on dealings with the Maoists as a terrorist or political force, rejecting or accepting the 12-point understanding, supplying arms and providing training to Nepal's security forces etc.). Different countries opted for different approaches during specific phases of the armed conflict and peace process, so external engagement in general largely employed a multi-track approach in dealing with the Maoist insurgency.

3.2 Support Provisions

At the earlier stage of the conflict (until 1998/99) the engagement of international actors was mainly limited to development and human rights issues with minimal political engagement (Upreti, 2010).

During the early stage, international actors were less clear about the nature, extent and strengths of the conflict and some of the key external actors viewed the insurgency as a law and order problem. But when the Maoists started targeting development projects and programs supported by international partners and threatened their staff, as well as intensified the destruction of development infrastructures, they then realized the complexity of the situation and began to deal with conflict-related challenges. Hence, they started providing different support such as the knowledge and skills required for conflict analysis, as well as introducing the 'do-no-harm' concept, conflict sensitive development, conflict risk assessment, and the concepts of negotiation and mediation. As part of this process, they brought in international experts and engaged Nepali scholars and analysts. Later, many of the countries that actively supported Nepal also recruited and deployed conflict management and peace-building advisors to assist in conflict analysis, facilitate dialogue, reorient development projects by ensuring that a conflict-sensitive approach is taken, and some of them were even directly engaged at the political level to assist the political actors towards a negotiated settlement. Another more visible role of the international community was the collective positive pressure exerted on the warring parties to resolve the crisis through dialogue and negotiation (Adhikari, 2014; Upreti, 2015).

The major western international development partners came together in 2003 to devise the "Basic Operating Guidelines (BOGs)" to implement their development projects. They proactively engaged with all actors (the warring parties, government, NGOs, donors, etc.) to respect the BoGs and finally, after some time, all parties accepted them and the BoGs became a powerful instrument for engagement in the core issues of the conflict (Upreti, 2010). However, the support of international actors to Nepal's peace process has been also questioned, for example, regarding their financial support to organizations which engage in ethnic and Madhes issues as such support can potentially contribute to the radicalization of ethnic groups (that contributed to collapse the first CA) and Madhesi groups (that fueled the Madhes Tarai agitation).⁶⁵

The US and later Switzerland, and others, supported the creation and operation of the NTTP initiatives that helped to facilitate the national peace process. Many donors also supported NGOs, the National Human Rights Commission, the Ministry of Peace and Reconstruction, the Constituent Assembly and others involved in human rights protection. Some donors had supported identity-based organizations that wanted to establish their rights. Such support was criticized at a later stage. Many donors had incorporated local level dialogue and negotiation in their development activities. Some international actors that engaged in Nepal, such as Switzerland, the UK, the US, Norway and Denmark, had either funded professional NGOs/individuals or had themselves organized dialogues or meetings with key political actors (their primary engagement involved inviting international experts or high-profile politicians and bureaucrats to Nepal and organizing meetings with the military, the police, bureaucrats, ministers, party leaders, negotiators, etc.). These experts and practitioners engaged in facilitating dialogues, managing conflict, dealing with arms and combatants, establishing a truth and reconciliation commission, facilitating security sector reforms. They also organized visits and learning events abroad for the Nepali actors who were engaged in conflict resolution, including leaders of political parties, the business community, journalists, analysts and civil society leaders, and the facilitators and negotiators of the peace talks.

3.3 External Contributions to the Peace Process

Some of the main contributions of international actors have been in bringing in the experiences of other conflict countries for comparative analysis and expertise. They provided comparative insights and knowledge on the dialogue process, institutional arrangements for dialogue, facilitation experience and technical expertise on specific issues such as forensic tests for investigations on alleged extra-judicial killings. The international actors active in Nepal were also active in past or present conflicts in other countries and therefore their experience was very important, since Nepal had no experience in dealing with such domestic armed conflict, although the security forces in Nepal (army, armed police and Nepal Police) had participated in UNPKO and obtained first-hand experience in specific issues

⁶⁵ This was one of the conclusions of the panelists discussing the 'role of international engagement in Nepal's peace process' on 10 February 2016.

related to peace-keeping operations. This was, however, entirely different to the role they had to play in their own country: the management of cantonments, the verification of arms and armies, the monitoring of ceasefires, human rights sensitive approaches for the security forces, the implementation of the 'do no harm' principle (Anderson, 1999) and conflict-sensitive development approaches were relatively new to Nepal and the contribution of the international community was important. Furthermore, international actors provided financial resources and some of them also sent experienced technical experts in the different areas of peace negotiation.

Similarly, Nepal-based international actors directly engaged with key Nepali stakeholders to develop common ideas and define or redefine concepts and methodological procedures for dealing at a political level to negotiate conflict (Baechler et al., 2008). The introduction of conflict-sensitive development tools and methodologies has greatly contributed to the reorientation of development implementation modalities. The envoys and special peace advisors deployed by some countries to directly assist in Nepal's peace process played a decisive role, since they actively worked in conjunction with national-level political actors engaged in the process, mediating on some issues and creating a conducive environment for dialogue.

3.4 Public Perception of International Support for the Peace Process

For several decades, especially after political change in 1990, bilateral and multilateral donors have played a dominant role in Nepal's development sector (Pyakuryal, 2013; Sharma et al, 2014), but only very few were visible and influential on political and strategic issues. However, the international actors engaged in Nepal are not free from criticism. The role of development partners has been criticized due to the failure of their development interventions to address the root causes of the conflict, despite the international support of more than six decades (Pandey, 1999; Shrestha, 1997; Upreti, 2010; Pyakuryal, 2013). Although international actors have contributed to Nepal's peace process in general, their specific activities, such as supporting ethnic radical issues, have been highly criticized.⁶⁶ In the later years, public perception towards donor neutrality was questioned (for example meddling, taking sides and circumventing the government to push an agenda of "social cohesion,"⁶⁷ as well as obstructing the constitution-making by taking the key political decision-makers on tours and visits at the time of the finalization of the constitution).⁶⁸

India was a very influential actor in Nepal and played decisive roles in important decisions like forging the 12-points understandings, forming the caretaker government under the leadership of the standing Chief Justice of the Supreme Court, bringing Maoists into the peace agreement, etc. However, public perception of the role of India is quite negative, especially after it imposed an informal blockade in protest against the new constitution, which was passed by more than 90 percent of the CA members but rejected by the Madhesi parties, most of whom were defeated in the election of the second CA. Some critics even argue that India has ill intentions against Nepal,⁶⁹ and others argue that Nepal's water is India's strategic interest for engagement in Nepal's internal affairs and that Nepal's political leaders are directly or indirectly helping India in this aim.⁷⁰

One of the main causes of negative public perceptions towards the international communities engaged in Nepal's peace and federalism process was their direct and/or indirect support to 'radical' ethnic issues. Dr. Sarba Raj Khadka, a member of the State Restructuring Commission, feels that one of the

⁶⁶ See <http://www.spotlightnepal.com/News/Article/-Nepal%E2%80%99s-diversity-is-much-greater-than-many-count> (Issue Name : Vol. : 05 No.-19 Apr. 20-2012 (Baishakh 08,2069), for details.

⁶⁷ See <http://reliefweb.int/report/nepal/politicians-donors-question-donor-neutrality-nepal> (26 Feb 2013) for a report on the relief web entitled "Politicians, donors question donor neutrality in Nepal".

⁶⁸ See the Kathmandu Post, 6 March 2013 (<http://kathmandupost.ekantipur.com/printedition/news/2012-03-15/accountability-of-donors-in-question.html>) for details.

⁶⁹ See <http://www.onlinekhabar.com/2015/11/353937/> for details on how one of the leading analysts Mr. Sadhya Bahadur Bhandari views India's role in Nepal.

⁷⁰ See Vol. 07, No. 14, 10 Jan. 2014 (Poush 26, 2070) of the New Spotlight, news magazine where Mr. Deepak Gyawali writes regular columns critiquing the different dimensions and interests of India's engagement in Nepal and with Nepali political leader.

causes of the complications in the management of Nepal's peace and political process is the direct and/or indirect external interference (posing different conditions, supporting the radical groups who are working against the state by undermining state legitimacy, introducing new and confusing issues, etc.).⁷¹ Ms. Susan Risal, ECO of Nagarik Aawaz (one of the leading NGOs engaged in peace-related work in Nepal) largely agrees with Dr. Khadka's observation. She said:

*"The international community has directly and or indirectly promoted some of the contentious issues such as secularism, ethnic federalism, the right to self-determination, that did not exist in Nepal earlier and once they were introduced they were not properly debated and therefore less understood, not internalized or even misunderstood by people at local level. These issues became a source of tension and political complications."*⁷²

The relatively positive public perception towards the international community before the dissolution of the first CA turned negative after the failure of the first CA, mainly due to the thorny issue of federalism. One noted economist, planner and analyst said that the radical issues supported from different angles had caused severe problems in the first CA and that this had led to its failure. The election of the second CA was a mandate against ethnic-based federalism. However, a positive contribution of the external actors was their support in vacating the cantonments and in the integration and rehabilitation of combatants⁷³. Media experts and analysts quietly engaged in assessing public perception of the role of international actors in peace dialogue and negotiation. Dr. Anoj Chhetri said civil society leaders, politicians, academics and domestic stakeholders failed to neutralize the externally-driven agenda of federalism that had implanted deep divisions in society. If the debate had been designed so as to connect the federal states (provinces) north and south, Nepal could have averted the tensions and agitation linked with the federalization that led to the failure of the CA.⁷⁴

Assessing public perception of international support in the process of Nepal's peace negotiation, Dr. Bimala Rai Paudel, a gender and social inclusion expert and former member of the National Planning Commission, reflects that despite the wide range of support from development partners in the peace negotiations, the handling of ex-combatants was poor and has therefore posed a constant threat to the fragile peace and political process to the present day. Another weakness of international support in Nepal's peace process was the promotion of the ethnic agenda instead of economic issues, causing deep social divides and political uncertainties. The rampant poverty and poverty-related issues are still the major concerns in Nepal and it is imperative that the international community focuses on addressing poverty as the root cause of the conflict. Nepal suffers daily power cuts of more than 15 hours due to a lack of electricity and this has a serious impact on industry, production, trade, as well as day-to-day living in general. Therefore, investment in hydropower infrastructure is the top priority for Nepal, and the international community should be active in supporting hydropower development and alternative energy promotion. These two weaknesses have thus contributed to the development of the public's negative perception.⁷⁵

Since the public sphere in Nepal is fairly divided, often in line with the party politics, it is very hard to get a single or common public opinion or perception. However, on certain issues, a large majority has started to question the intention of some of the donors engaged in the peace process (in their reflections and articles in daily newspapers, their opinions on radio and television, their reactions in meetings and seminars, in the organization of public protests, the submission of protest letters to the relevant authorities, etc.). This was due to donor funds being knowingly or unknowingly used in radical activities that were against the rule of law (e.g. organizing violent general strikes and obstructing the rights of individuals to open their shops or move their vehicles) and even promoted hatred among different caste/ethnic groups to fulfil their demands.⁷⁶ Hence, the role of external actors on technical assistance to the actual process was overshadowed by these activities. Further, large sections of

⁷¹ Interview with Dr. Khadka on 10 February 2016 in Koteshwor, Kathmandu.

⁷² Interviewed on 20 March 2016 in Kathmandu.

⁷³ Interview with Dr. Dilli Raj Khanal, former member of the National Planning Commission on 10 Feb 2016 in Kathmandu.

⁷⁴ Interview with Dr. Chhetri at South Asia School of Rural Reconstruction, Kathmandu on 10 Feb 2016 in Kathmandu.

⁷⁵ Interview with Dr. Paudel on 10 February 2016 in Kathmandu.

⁷⁶ See the IRIN report (26 Feb. 2013) entitled "Politicians, donors question donor neutrality in Nepal" for details.

youth were excluded by the donor communities and were not recruited into their development projects in the name of balance and non-exclusion. Many youth groups organized protests, wrote directly to donors or protested in writing in the national newspapers. They even protested in front of UN House in Lalitpur.

The observations and perceptions of civil society leaders are mixed, with positive perceptions in some areas and negative ones in others. According to well-known political economy and governance analyst Dr. Netra Prasad Timsina who was Chair of the Federation of NGOs in Nepal during the peak period of political negotiation and dialogue and at the time of the first CA, and

*"support to local organizations for the promotion of social harmony at community level since the signing of the CPA in November 2006 is admirable, against the fear that communal tension would mount once the CPA is signed. However, creating parallel structures and weakening the national institutions can be observed vividly in the past two decades which by implication is weakening the state."*⁷⁷

Dr Padma Prasad Khatiwoda, demographer and political analyst, highlighted that the role of external actors in the peace process was not without criticism. Most contested was their reportedly biased approach in favor of a certain agenda or favoring one group over the other.⁷⁸

Based on the publications in the popular media, the views of political parties on the various issues, documented evidence, responses from key informant interviews and focus group discussions, expert participation in key events and meetings related to these issues, and based on interaction with expats working in Nepal, we conclude that there is no linear form of public perception on the external support for dialogue and peace negotiation. It is highly context specific, issue-based, and influenced by several factors. Further, the public perception is very much influenced by the engagement of international actors in socio-political issues related to power rather than their specific contribution to the peace process.

One of the important determinants of the contribution of international actors to the recipient country is the perception of domestic actors. Based on extensive discussions with a wide range of people engaged with international actors in Nepal, we have come to a common conclusion that the actions and/or responses of international actors on specific needs/contexts are either based on very superficial understanding/information, or partial/incomplete understanding, biased information or selective information/knowledge. Visitors from donor countries have limited time and several constraints (language barriers, difficulties accessing people in remote areas, being influenced by the elite, since they are usually their first point of contact, only meeting with purposively selected people, pre-conceived biases based on outdated information or sweeping generalizations in anthropological writings, etc.). Hence, they are unable to properly understand the context, attitudes and intentions of the key actors, the local dynamics and power relations. In this context, Mr. Vidhyadhar Mallik, former Minister, Finance Secretary, Secretary of the government's Peace Secretariat said:

*"The international community supporting Nepal did not understand the local dynamics, the causes of the ongoing conflict, they do not involve local actors, did not read the documents written by Nepali scholars, and consequently their responses, prescription and further engagement strategy do not meet the needs of the country. Hence, if any international actors are willing to support Nepal, they have to first properly understand the dynamics of local power relations."*⁷⁹

3.5 [Lessons from the External Engagement](#)

As discussed elsewhere in this paper, the role of international actors in Nepal's peace process is important, contested, controversial and contributive. There are several arguments for and against the contribution of international actors in the management of the peace process, constitution-making and

⁷⁷ Interview with Dr. Timsina on 10 February 2016 at the SAR Secretariat, Koteshwor, Kathmandu.

⁷⁸ Interview with Dr. Khatiwoda on 10 February 2016 at the SAR Secretariat, Koteshwor, Kathmandu.

⁷⁹ Interview with Mr. Mallik on 17 March 2016 at the NTPP office.

federalization of Nepal. Irrespective of the positive or negative contributions of international actors, there are several important lessons to be learned if donors and Nepali stakeholders want to learn from their mistakes and avoid them in the future, and expand their strengths, such as:

Opportunities

- The foremost opportunity for international actors is to collaborate with the government of Nepal, peace institutions (organizations devoted to teaching, research and practice), the private sector and broader civil society on the effective implementation of the constitutional provisions, as Nepali actors are largely open, flexible and willing to collaborate. However, international actors should avoid favoring one group over another; therefore respecting the principles of the Paris Declaration on Aid Effectiveness and the Accra Plan of Action, and the Busan Commitments by donors when implementing their support is crucial. The new constitution has opened wide avenues for the international community to assist Nepal, mainly through economic development.
- Integrating the national process for peace and the post-earthquake reconstruction process as both have a direct impact on the people of Nepal and both expect strong commitment from the international actors supporting Nepal.
- Flexible and open attitudes of the people, assertive civil society and accessible politicians are some of the most favorable bases for the engagement of international actors in peace and in bringing democracy and stability to any country. Interactive approaches (Fisher, 1997), empowerment and recognition of the key stakeholders in the process (Bush & Folger, 1994; Susskind & Cruikshank, 1987) creates a favorable environment to internalize these bases.
- Nepal is a priority country for many donors and is moving from fluid transition to political stability after the promulgation of the new constitution. This is a great opportunity for the international community to support the implementation of constitutional provisions that leads to peace, inclusive politics and economic prosperity.
- The role of civilians is crucial in resolving conflict and promoting peace (Baechler, 2002). Likewise, reconciliation is very important for sustainable peace building (Lederach, 1997). Hence, the support of international actors in Nepal's future engagement should focus on meaningful engagement with civil society and focus on reconciliation.
- The range of experience gained by the international development partners on how to link development with addressing the root causes of conflict and promoting peace, using 'do-no-harm' (Anderson, 1999) and 'do-good' (Upreti, 2015), applying tools and techniques such as conflict-sensitive program management, risk assessment and peace and conflict impact assessment are important and should be integrated into future development partnership arrangements and be institutionalized for future engagement.

Pitfalls/risks

- For a decade, ethnic and geographical radicalization has severely affected the community, society, politics and the donor mindset. The international actors must be judicious in their support of radical organizations that are active in widening the gap between the state and its people. If international actors fail to assess the gravity of the problem while supporting radicals, which affects state-society relations or threatens the national sovereignty, there is a clear risk of widening distrust in the donor-host country relationship. So far, international actors have not given enough attention to this.
- Another potential risk or pitfall is the possibility of creating parallel implementation structures (directly supporting organizations and bypassing government). If the state institutions are not enabled to perform well, and work is done through alternative arrangements, it will ultimately weaken the state and increase the possibility for a collapse in peace and the recurrence of violence. Hence, the international community must consider this aspect in their future engagement.
- Transparency is key and if the external actors are not transparent in their support, and do not assist the national priority of the government and instead unilaterally fund individual organizations or groups in non-transparent way, mistrust between the state and the external actors increases. Based on the documentation relating to the Asia-Pacific cases, Jandt and Pedersen (1996) argue that transparency, public engagement and respecting local specificity are key elements of

constructive conflict management. The past few years has already seen tensions between the state and donors on this issue.

- Direct and/or indirect engagement of international actors in internal politics and state affairs is not new to Nepal. But the continuation of such engagement may cause tensions between state and donor agencies. Hence, avoiding such practice is important.
- The international community must learn from its past activities that excluded recruiting qualified youths from certain caste or ethnic groups for the projects funded by them in the name of inclusion. This has implanted deep frustration and anger against the donors. Such behavior was interpreted by those excluded from the projects as a violation of the constitutional and legal provisions of Nepal which do not allow preventing certain caste or ethnic groups from gaining employment in the country in favor of particular ethnic groups. They feel it is racial discrimination by external actors.⁸⁰ Such strong sentiments on the part of large number of youths should not be underestimated, in order to minimize the risk of tensions and conflict.

What could have been done better

- Greater coordination with the government, non-governmental organizations and the private sector to maintain transparency and accountability.
- Periodic independent assessments of the effectiveness of their engagement in collaboration with the government and concerned stakeholders; sharing these findings with the public.
- Sending peace advisors and experts who are professionally and academically sound, competent and experienced to assist in the dialogue and peace negotiation instead of sending junior ones. In some cases, very inexperienced, less competent and academically less qualified junior individuals were sent as peace advisors. As a result, they were unable to access the key actors and were therefore not able to meaningfully engage in the processes.
- Avoid patronizing themes or issues (e.g., the tendency of donors to view the state as exclusionary and that the donors are also there to fix this). Establishing ethnic rights as the donors' sole responsibility, etc.⁸¹

3.6 Future Need of External Support

- Sharing the experience and knowledge garnered in other parts of the world is crucial (Hugh & Bessler, 2006) and therefore in the context of Nepal it is important, especially regarding the implementation of some of the provisions of the constitution.
- Developing competent national human resources in the areas of negotiation, dialogue and other components of the peace process. Therefore, it is essential to develop local capacity through national human resources training programs.
- Establishment of a national resource center on dialogue and negotiation, arranging resource materials such as books, manuals, documentaries and reports on negotiation and mediation in different war-torn countries. Gathering good practices and lessons learned as well as recently developed theories, models, tools and methodologies are of crucial importance.
- Support in designing a structured dialogue process rather than support for ad-hoc dialogue mechanisms, which mostly involved negotiation in the name of dialogue.
- Support to national peace structures to develop their competencies through engaging them in capacity-building activities, practice and reflections.
- Widening the dialogue process through participation and consultation in order to increase legitimacy (Galtung, 2000).
- Promoting a culture of peace, both horizontally and vertically, through the engagement of a wide range of actors both at central and local levels.
- Assisting political parties to develop their in-house competence in facilitating dialogue, mediation and negotiation.

⁸⁰ Interview with one of the leaders of a youth network on 5 February 2016. The informant has requested that he/she remain anonymous.

⁸¹ See http://www.myrepublica.com/portal/index.php?action=news_details&news_id=83544 for the debate on how the situation is developing in the Terai.

- The provision of Goal 16, Peace and Justice, of the Sustainable Development Goals of the UN (UN, 2015) provides a great opportunity to support the incorporation of the peace, development and justice agenda.

Chapter 4 Recommendations and Concluding Remarks

4.1 Recommendations

For those who are open to learning from past success and failures, there are several lessons to be learned from the peace process in Nepal over the past 15 years. Some of the potential lessons are:

- The importance of documenting the processes and outcomes in a systematic manner and sharing these experiences and learning from them. Based on the documentation of public participation in the peace processes in South Africa, Guatemala and Mali, Barnes (2002) argues that engaging the relevant people in dialogue and the peace process enhances the ownership and outcomes.
- One of the best ways of supporting developing nations is investing in human resources whereby competent national human resources are available to facilitate dialogue and accomplish successful mediation and negotiation that will ultimately minimize the sole dependence on external experts. Thus, the best way of supporting this in the long term is to develop local capacity. Providing academic courses/training on dialogue, negotiation and mediation will be one practical strategy in developing the national capacity.
- Resources are fundamental to facilitating any dialogue or negotiation. It is thus important to establish a national resource center on dialogue and negotiation (for example, documentation relating to all talks and agreements, video and film recordings, academic literature and state peace policies).
- The analysis earlier in this paper has demonstrated that coordination and collaboration among the wide range of stakeholders is crucially important in making any process successful, since it develops collective ownership. Hence coordination and collaboration with the government, specialized research institutes, non-governmental organizations and the private sector is essential and will not only enhance ownership but will also help to maintain transparency and accountability.
- It is very important that actors engaged in a process carry out an introspective assessment. Therefore, the external and domestic actors engaged in supporting Nepal's peace process have to make periodic assessments to determine their effectiveness.
- Deploy persons who are professionally sound, competent, mature, experienced and academically trained (in the discipline) to facilitate the peace process. Sending inexperienced and incompetent persons will totally undermine the process as well as the credibility of the organization sending such persons as peace advisors. Developing credibility requires a lot of effort and resources.
- The new constitution provides ample space and a framework for constructive dialogue and negotiation to implement its provisions. Hence, it is important to maximize the opportunity that the new constitution provides to change the context. To this end, international actors have to be open and flexible in their collaboration with the government of Nepal, peace institutions (organizations devoted to teaching, research and practices on various dimensions of conflict and peace), the private sector and wider civil society for the effective implementation of a broader National Dialogue.
- Integrating the national peace process with the post-earthquake reconstruction process is crucially important as both are directly related to the people of Nepal and complement each other. Hence, any international actors supporting Nepal need to consider this harmonization issue.
- Developing collaboration with the best available local institutions to widen the constituencies that form the basis for the engagement of international actors with national actors engaged in processes for peace, democracy and stability. Research must be an integral part of any process and therefore adequate attention must be given to generating evidence through research.
- Assessing the potential negative implications before funding any radical groups or organizations, since it could jeopardize the credibility of the funding agencies as well as planting mistrust, suspicion and hatred in the community, society, politics and national integration and weakening the state-people relationship. If international actors either ignore or undermine national concerns (state-society relations or national sovereignty), the risk of ruining the donor-host country relationship increases.

- Exercise caution when supporting any activities that create parallel implementation structures and bypass government systems and therefore undermine the state's legitimacy. If separate implementation provisions are needed, implement them in agreement with the government and under the supervision of a dedicated committee composed of government representatives, donors and civil society organizations that ensure the transparency, as well as prevent the risk of being manipulated on sensitive issues.
- Ensure transparency of funding and cooperation with local partners to minimize mistrust and suspicion among the concerned stakeholders.
- Do not fund any organization which violates the rights of others.
- It is important to help political parties to develop their in-house competence in facilitating dialogue, mediation and negotiation, to promote a culture of harmony and collaboration, and to produce a robust analysis and forge potential solutions.
- It is also important to develop the capacity of the private sector in promoting peace, facilitating dialogue and negotiation. So far, the private sector has only occasionally been engaged in Nepal's processes but has been unable to use its full potential. The National Business Initiative (NBI) was established in 2005 to contribute to the negotiated settlement of the armed conflict and to protect the interests of the business sector during times of conflict. However, it was not as effective as expected mainly due to a lack of capacity to facilitate a dialogue.

4.2 Concluding Remarks

The main objective of this study is to present the Nepal case to complement the National Dialogue Handbook. In doing so, we have attempted to systematically reflect on the causes of the conflict, the background, context, relevance, processes, and challenges, and to generate lessons and best practices to provide empirical evidence. During the research process we have combined different methods ranging from consultations with key actors, one-to-one meetings, mini-workshops, in-depth interviews with the facilitators, negotiators, political leaders, external actors, network organizations, and researchers and analysts. Further, we have reviewed the published and unpublished materials related to the assessment of Nepal's peace process and the reflections of the paper writers who are actively engaged in contributing to Nepal's peace process through research and analysis.

Although the dialogue process in Nepal does not strictly fall under the specific definition of National Dialogue used by international actors, it has several elements of a National Dialogue and it even brings new dimensions for characterizing National Dialogue processes. For example, the contribution of the international development sector has developed important tools to promote the peace and dialogue process that can be incorporated in conceptualizing National Dialogues. Therefore, we have not strictly termed Nepal's dialogue and negotiation process as a narrowly defined 'National Dialogue process', but instead we offer additional dimensions to the existing international understanding.

We have examined the evolution of Nepal's dialogue and negotiation process, its peculiarities, relevance, structures, processes and outcomes by critically looking at major components of Nepal's peace process as: a) peace dialogues and negotiations, 2001, 2002/2003 and 2006; b) the royal takeover of 2005, the Seven-Party Alliance and people's movement of April 2006; c) Constituent Assembly 1 (2008-2012) and Constituent Assembly 2 (2013-2015); d) Madhes agitation 1 (2007-2008) and Madhes agitation 2 (2015-2016) and one non-formal civic initiative (Nepal Transition to Peace, NTTP).

Looking back at the decade and a half of Nepal's peace process, it can be concluded that it has been a long, complicated and messy process facilitated and supported by multiple actors and factors. Therefore, it is not possible to find a quick fix solution to such a complicated problem. However, it is possible, effective and practical to opt for a dialogue process at different levels (formal, non-formal, informal, at local, district and national level). It is a cycle that involves a learning-reflection-practice process and requires a combination of knowledge and practice.

Innovations at the level of the development sector in addressing the structural causes of conflict and promoting dialogue and a negotiated settlement through adapting development projects and programs by 'working on conflict' (Goodhand *et al.*, 2005) approaches such as 'do-no-harm' (Anderson, 1999) and 'do-good' (Upreti, 2015), conflict sensitive program management, risk assessment and peace and

conflict impact assessment provide vast experience and lessons to be learned for those countries facing similar difficulties (e.g., civil wars).

One of the most important lessons of the international engagement in Nepal's peace process is that there is a need for international actors to properly understand the local dynamics, functioning of actors, processes and institutions. This is best achieved through engaging with local actors and studying the locally available documents, helping to avoid sweeping generalizations, partial understanding and the failure of their prescriptions.

Although there are different opinions on whether or not Nepal's peace process is a dialogue process, we have argued in this study that Nepal's peace process has several elements for it to be called a dialogue process. One of those most engaged in the process and also Chair of the Ceasefire Monitoring Committee, Professor Birendra Mishra argues that Nepal's peace process was a dialogue process:

*"The Nepalese peace process can safely be called a dialogue process. It was a formal dialogue process necessitated by both needy sides under constant pressure from external and internal determinants, which ultimately ignored and bypassed the monarchy, the third force of the conflict, culminating into a full-fledged peace process. It was however facilitated by both internal and external stakeholders but not conducted formally, nor observed formally, and still not monitored. The psychological gap between the warring sides was not filled during the process, leading to the extension of the transition, which affects finally the economic development and implementation of the new constitution, hurriedly adopted by both sides. Unfortunately, in the middle of the process, the Madhesi agitation erupted, compounding the complexities which still loom large, on the future of the country urgently needing another dialogue process to be kicked off to complete the unfinished task of the peace process."*⁸²

⁸² Interview with Professor Mishra on 25 March 2016 at the NTPP Secretariat, Kathmandu.

Chapter 5 References, Annexes and Interview Sources

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5.2 Annexes

5.2.1 Annex 1: Forty-point Demands of the Maoists

4 February 1996

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 the present Nepali Congress-RPP-Sadbhavana coalition. Instead of making progress, it is evident that the situation of the country and its people is deteriorating from the fact that Nepal now ranks as 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 the 60 per cent mark; the country is on the verge of bankruptcy due to rising foreign loans and a trade deficit; 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 the 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 privatization and liberalization to fulfil the interests 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 livelihood, either by itself or with others. But rather than fulfil those demands, the governments that formed at different times have violently suppressed the agitators and taken the lives of hundreds; the most recent example of this being the armed police operation in Rolpa a few months back. In this context, we would like to once again to present 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, since it is designed to conceal the disastrous Tanakpur Treaty and allows an Indian imperialist monopoly over Nepal's water resources.
3. The open border between Nepal and India should be regulated, controlled and systematized. All vehicles with Indian license plates should be banned from Nepal.
4. The Gurkha/Gorkha Recruitment Centers should be closed. Nepali citizens should be provided with 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 the people's control.
13. All repressive acts, including the Security Act, should be repealed.
14. Anyone 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 the 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 the 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 Terai 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 nationalized. Capital lying unproductive should be invested to promote industrialization.
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. Fertilizer and seeds should be readily 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 advanced healthcare services and education should be available to all. The commercialization of education should be stopped.
36. Inflation should be checked. Wages should be increased proportionate to inflation. Essential goods should be cheaply and readily 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 honored and protected.

We would like to request that the present coalition government 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 from the government that our demands are being met 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

5.2.2 [Annex 2: 2003 Ceasefire Codes of Conduct \(Unofficial Translation\)](#)

Dr. Baburam Bhattarai, Convener of the Negotiating Team of the Nepal Communist Party (Maoists) and Narayan Singh Pun, Convener, Negotiating Team of the Government signed the Code of Conduct on 29 Falgun 2059. The CoC contains:

1. Both parties shall be committed and make efforts to find a peaceful resolution through dialogue.
2. Both sides shall be committed and make efforts to find mutual agreement on matters of national importance.
3. Both parties will stop violent activities and will not deploy security forces that could ignite fear amongst the general public.
4. Both parties shall refrain from aggressive activities around high security areas.
5. Both sides shall gradually release prisoners.
6. Both sides shall work in the interest of the general public peacefully and without hindrance.
7. The ideas of both sides shall get fair and impartial treatment in the state media.
8. Both sides shall refrain from publishing comments that could mar the talks and peace process. Both sides shall remain civil while making comments.
9. Both sides shall refrain from forcibly taking money or goods as donations.
10. Both sides shall organize peaceful meetings and protests; there shall be no strikes, bandhs or transport strikes during the ceasefire.
11. Both sides shall refrain from searches, arrests and kidnappings.
12. Both sides shall help each other to maintain peace during the ceasefire.
13. No obstacles shall be created in the transportation of food, medicine and essential goods.
14. Both sides shall not obstruct the free movement of people.
15. No obstructions shall be placed by either side while exercising fundamental rights.
16. Both sides shall allow movement of negotiators without impediment.
17. Both sides shall help in the return home of displaced persons and their assimilation.
18. A monitoring team shall be formed with the mutual understanding of both sides.
19. Changes to the code of conduct can be made with mutual understanding.
20. Both sides shall amicably settle differences in the interpretation of the code.
21. The code of conduct can be terminated through mutual understanding.
22. This code of conduct shall come into effect immediately and shall be fully implemented within 3 weeks from the date of signature.

5.2.3 [Annex 3: 2003 Negotiation Agenda](#)

1. Roadmap for forward-looking reforms:
 - 1.1. Creating consensus through negotiations between the government and the rebel side on the objectives, contents, and process of the reforms.
 - 1.2. Organizing a roundtable conference with the participation of the political parties in order to establish the consensus reached as the national consensus document.
 - 1.3. Formation of an interim electoral government which would include the rebel side.
 - 1.4. Holding the election to the House of Representatives.
 - 1.5. Amending the Constitution in accordance with the national consensus document.
2. Bottom Line of the proposed reforms:
 - 2.1. Sovereignty vested in the people, constitutional monarchy and multiparty democracy.
3. Objectives of the reforms:
 - 3.1. Building a political system that can accommodate and ensure the participation of all Nepalese people.
 - 3.2. Creating equal opportunities for the self-development of all the Nepalese people.
 - 3.3. Developing a political system on the basis of contemporary balance among the political forces.
 - 3.4. Creating an egalitarian society by ending all kinds of inequalities, discrimination, and exploitation.
4. Proposed New subjects in the Reforms:
 - 4.1. Neutral electoral government to be formed three months before the general elections.
 - 4.2. System of proportional representation in elections.
 - 4.3. Upper house structure to include representation of ethnic groups, indigenous people, and Dalits in proportion to their population.
 - 4.4. At least 25% of seats in all representative institutions, including the parliament, to be reserved for women.
 - 4.5. Complete revamping in the local bodies with constitutionally guaranteed local self-governance with additional authority to local bodies.
 - 4.6. New structures to be created at the regional levels in accordance with the spirit of local self-governance.
 - 4.7. Provision of a national referendum on issues of national importance.
 - 4.8. Local bodies to be allowed to choose to use a second working language from among the national languages.
 - 4.9. Special provisions made for women, indigenous people, ethnic groups, and Dalits for a certain period in education, health, representative institutions, and employment sector.
 - 4.10. Open and liberal market-oriented economic policies to be adopted by the state.
 - 4.11. Parliament to be given a role in the appointments to the constitutional bodies.
5. There shall be agreement on several economic and social proposals put forward by the Maoists.
6. The concept of reforms may be reviewed on the basis of mutual understanding.
7. The government shall include the issue of the handing over of arms and ammunition held by the Maoists in the agenda.
8. The government shall include rehabilitation and reconstruction aspects in the agenda of the talks.
9. Suggestions for developing the agenda on the basis of the proposals of both sides.
10. Emphasis on not creating obstacles in government activities and the activities of the political parties.
11. Proposal for the expression of commitment from both sides not to break the ceasefire under any circumstances.

5.2.4 [Annex 4: The Maoist Agenda for the Negotiation](#)

A. Main political agenda

As the issue of regime is the key issue of the conflict, the political agenda should be the priority. The key issue shall be the formation of a new progressive regime and a new progressive constitution. Although there are some strong points in the 1990 constitution (such as multiparty competition, timely election, rule of law, press freedom, freedom of speech, etc.), there are some grave weaknesses and shortcomings (such as so-called unchangeable points, contradiction between the royal regime and sovereignty, dissolution of the true democracy of the poor and the oppressed groups, regions, castes under the British "formal democracy", etc.). Therefore, it is essential that the method of formation of a new constitution and the contents of the constitution be more progressive than was the case for the 1990 constitution.

a. The process or method of formulating a new constitution:

1. The leadership of the revolutionary party: with the consent of the revolutionary force and all the other parties, a broad roundtable conference shall be organized.
2. An interim constitution shall be formulated at the conference without curtailing the democratic rights enshrined in the 1990 constitution and reflecting a new political power balance, and an interim government shall be formed under the leadership of the revolutionary party.
3. The interim government shall conduct an election to a constituent assembly within six months. The CA shall be inclusive to incorporate different groups, castes, regions and communities. The CA will form a new constitution.

b. At the very minimum, the new constitution shall include the following:

1. The people shall be fully sovereign and the regime shall fall entirely into the hands of the people.
2. As supreme representative of the people, an elected People's House of Representatives shall be formed to include representatives from all sectors and groups, such as women, Dalits, Janajatis, ethnic minorities, linguistic groups, people of different religions, from regions, etc. All the organs of the regime shall be accountable to this House of Representatives. Accordingly, different groups shall also be represented in the government.
3. The provisions shall be such that with a two-thirds majority in the People's House of Representatives or by national referendum, any point in the constitution can be changed.
4. The Royal Nepal Army (RNA) and the People's Liberation Army shall be unified by making certain structural changes and the unified national army shall be brought under the control of the elected people's representatives.
5. Widely supported civil and democratic rights, such as multiparty competition, timely elections, the right to franchise, rule of law, freedom of press and speech, personal and human rights and civil rights shall be guaranteed.
6. A regional and ethnic self-governance system shall be implemented to give people the right to self-determination.
7. The country shall be made a fully secular state.
8. Education, health and employment shall be established as personal rights. All citizens shall receive free and readily available basic education and health services.
9. A new "land relation" shall be formed on the basis of "one who works for the land owns the land". A just land distribution law shall be enforced. Industrial development shall be geared towards the nation's self-sufficiency. A protection policy shall be formulated in order to protect the national capital and resources.
10. An independent foreign policy shall be implemented by abrogating the 1950 Treaty with India and all the other asymmetrical treaties and based on the principle of non-alignment and

Panchasheel (literal meaning: 5 traditional disciplines) A two-thirds majority in the People's House of Representatives shall ratify all the treaties with foreign countries.

c. We believe that the parties who believe in progressive political outlets can come to an agreement on same. However, it is impractical to forecast all the contents of the new constitution, as the Constituent Assembly shall be convened without any pre-conditions. We wish to clarify that the political forces can go to the people with their views before the election to the constituent assembly.

B. National and socio-economic questions:

1. All the treaties, agreements, military assistance, presence of foreign military personnel, and their activities in the name of counteracting terrorism shall be stopped immediately.
2. The open Indo-Nepal border shall be controlled and managed properly. A stop shall be put to all cross-border encroachments. There shall be a work permit system in place for the employment of foreigners.
3. Gurkha recruitment, a national black mark, shall be stopped and the Nepalese shall be given honorable jobs within the country.
4. The foreign monopoly on national industries shall be stopped. National industries and the local industrialists shall be promoted. Foreign debt shall be wiped out within a certain time period.
5. A stop shall be put to foreign encroachment and the internal destruction created in the name of NGOs and INGOs. The policies imposed by the international financial institutions shall be declared null and void.
6. A united and concerted water resources policy shall be implemented. The entire nation shall be electrified by giving priority to the small and medium-scale power plants.
7. The debt of all the landless and the poor shall be cancelled and they shall be provided with employment.
8. All landless people shall be rehabilitated and provided with land and employment. Kamaiya, Haruwa, Charuwa and such other discriminatory practices shall be abolished.
9. The farmers shall be provided with good quality seeds, irrigation and potential markets.
10. The abrupt and continual price hike of petroleum and other basic needs shall be controlled. The wages of labors and the salaries of employees shall be increased.
11. An effective instrument shall be formulated to quickly bring to justice those found guilty of corruption, as well as smugglers and those who receive grafts.
12. A national and advanced education system shall be implemented and a job-oriented education system formed. An immediate stop shall be put to the commercialization and privatization of education.
13. Free health services shall be made available, especially in rural areas.
14. Special services shall be provided to the disabled and the elderly.
15. All discrimination against women shall be eliminated.
16. Dalits shall be given equal rights by eradicating the problem of untouchability.
17. The minimum wage and fixed working hours (40 hours per week) shall be implemented effectively. Employees shall also be included in the management of the factories.
18. A concrete youth welfare program shall be implemented.
19. Intellectual independence and occupational protection shall be guaranteed to professionals, such as litterateur, doctors, engineers, etc. so that they can best deliver their services to the people.

20. The production and distribution of documents that disseminate western cultural pollution shall be abolished.
21. Infrastructure development in the villages shall be carried out rapidly.
22. The rights and privileges of Nepalese citizens working in foreign countries shall be safeguarded.
23. Those killed in the country's different revolutions shall be declared martyrs and the murderers shall be brought to justice.
24. All the pro-people demands put forward by the pro-people organizations shall be addressed immediately.

C. Issues of human rights, compensation and rehabilitation:

1. A high-level human rights commission shall be formed with the involvement of representatives of the human rights organizations to carry out an independent investigation into human rights abuses and to bring the perpetrators to justice.
2. The families of the martyrs shall be immediately provided with relief support and compensation.
3. Those injured in the civil war shall be treated free of charge.
4. Those displaced in the civil war shall be rehabilitated in their original neighborhood or elsewhere.

5.2.5 [Annex 5: Twelve-Point Understanding Concluded Between the Seven-Party Alliance and the Communist Party of Nepal \(Maoist\)](#)

The long struggle between absolute monarchy and democracy in Nepal has now taken a very grave and new turn. Establishing peace by resolving the 10-year armed conflict through a progressive political outlet has become the need of the day. Therefore, implementing the concept of full democracy through a forward-looking restructuring of the state has become imperative to resolve the problems related to all sectors including class, caste, gender, region, political, economic, social and cultural, by bringing the autocratic monarchy to an end and establishing full democracy. We hereby make it public that in current context, the following Understanding has been reached through negotiations between the Seven-Party Alliance within the Parliament and the CPN (Maoists).

Points of understanding

1. Democracy, peace, prosperity, social advancement and an independent, sovereign Nepal is presently the principal wish of all the Nepali people. We fully agree that the autocratic monarchy is the main obstacle to achieving this goal. It is our strong opinion that peace, progress and prosperity in the country are not possible until full democracy is established by bringing the absolute monarchy to an end. Therefore, an understanding has been reached to this end through a nationwide democratic movement of all the forces rising against the autocratic monarchy from their respective positions.
2. The agitating Seven-Party Alliance is fully committed to the fact that the existing conflict in the country can be resolved and that the sovereignty and the state powers can be vested completely in the people only by the establishment of full democracy by reinstating parliament through agitation and forming a powerful all-party government, negotiating with the Maoists, and on the basis of agreement, holding an election to the Constituent Assembly. The CPN (Maoists) is of the view that the aforementioned goal can be achieved through the formation of an interim government after a national political conference of agitating democratic forces and holding an election to the Constituent Assembly. The CPN (M) expresses its commitment. The agitating Seven-Party Alliance and the CPN (Maoists) agree to continue dialogue to seek agreement on the issue of procedural agenda. It has been agreed that the People's Movement is the only way to achieve this goal.
3. The country demands the establishment of a permanent peace along with a positive resolution of the armed conflict. We are, therefore, firmly committed to establishing lasting peace by bringing the existing armed conflict in the country to an end through the establishment of full democracy by ending the autocratic monarchy and holding elections to the Constituent Assembly. The CPN (Maoists) also expresses its commitment to move forward in the new peaceful political stream. In this context, we have agreed that the Maoist Armed Forces and the Royal Army remain under the supervision of the United Nations or a reliable international body during the elections to the Constituent Assembly to be held after the end of autocratic monarchy, to ensure free and fair elections to the CA. Both parties also agree to accept the result of the elections. We also expect the reliable involvement of the international community in the negotiation process.
4. The CPN (Maoists) has publicly and clearly expressed its commitment to move towards democratic norms and values, including the competitive multiparty system of governance, civil liberties, fundamental rights, human rights and the concept of rule of law.
5. The CPN (Maoists) has expressed its commitment to create an environment which will allow people, leaders and those who worked for political parties and were displaced during the course of the armed conflict, to return and live with dignity in their respective places of residence and to return homes, land and property that were seized in an unjust manner and allow people to carry out political activities without any hindrance.
6. Criticizing itself for past mistakes and weaknesses, the CPN (Maoists) has expressed its commitment not to repeat such mistakes and weaknesses in the future.
7. Following self-assessment of past mistakes and weaknesses while in government and parliament, the Seven-Party Alliance has expressed its commitment not to repeat such mistakes and weaknesses in the future.

8. To further the peace process, a commitment has been made to fully respect human rights principles and freedom of the press.
9. Deceptive rumors of parliamentary elections have been spread and, since they are backed by the ill-motives of deceptive individuals and the international community, whose intention it is to legitimize the king's autocratic and illegitimate rule, we appeal to the public to boycott the parliamentary elections and to declare them a failure.
10. The people and their representative political parties are the real guardians of the nation. Therefore, we are firmly committed to the protection of the independence, sovereignty, geographical integrity and national unity of the country. It is our common obligation to maintain friendly relations with all countries of the world according to the principles of peaceful co-existence, and to maintain good relations with neighboring countries, especially India and China. We request all the people to remain cautious of the false attempts by the King and the monarchists to create confusion among patriotic people by projecting the illusory ('Mandale') nationalism to prolong the autocratic and illegitimate rule of the King and to raise a question mark over the patriotism of the political parties. We also appeal to the international powers and communities to support the democratic movement against the autocratic monarchy in Nepal in every possible way.
11. We sincerely invite civil society, professional organizations, various community organizations, people of all communities and regions, the media, intellectuals and all Nepalese people to ensure the success of the movement by actively participating in the peaceful People's Movement launched on the basis of these understandings, while maintaining the core ideals of democracy, peace, prosperity, forward-looking social transformation, independence, sovereignty and the dignity of the country.
12. Regarding inappropriate conduct among the political parties in the past, a common commitment has been made to investigate the incidents and take appropriate action if guilt is established in such cases, and to make them public. An understanding has been reached to resolve any problems that might emerge among the parties in the future through dialogue and discussion at the relevant level or at leadership level.

S.N.	Name of leaders and parties signing the document
1	Nepali Congress President Girija Prasad Koirala
2	NCP (UML) General Secretary Madhav Kumar Nepal
3	Nepali Congress (Democratic) President Gopal Man Shrestha
4	Janamorcha Nepal Chairperson Amik Sherchan
5	Nepal Sadbhavana Party (Anandi Devi) Vice Chairperson Bharat Bimal Yadav
6	Samyukta Bammorcha Chairperson Krishna Das Shrestha
7	Nepal Majdoor Kisaan Party Member Prem Suwal
	22 November 2005, New Delhi, India

[5.2.6 Annex 6: Proclamation to the Nation by His Majesty King Gyanendra on 24 April 2006](#)

Beloved Citizens,

Convinced that the source of State Power of the Kingdom of Nepal is the Nepalese people, and that the sovereign state power of Nepal is inherent in the people of Nepal, cognisant of the spirit of the ongoing People's Movement, and to resolve the ongoing violent conflict and other problems being faced by the country, according to the road map of the agitating Seven-Party Alliance, we, through this Proclamation, reinstate the House of Representatives, which was dissolved on 22 May 2002 on the advice of the then prime minister in accordance with the Constitution of the Kingdom of Nepal 1990. We hereby call upon the Seven-Party Alliance to bear the responsibility of taking the country on the path to national unity and prosperity, while ensuring permanent peace and safeguarding multiparty democracy. We also summon the meeting of the reinstated House of Representatives at the Parliament House, Singha Durbar, on Friday, 28 April 2006 at 1 PM.

We believe that this House will contribute to the overall welfare of Nepal and the Nepalese people. We extend our heartfelt condolences to all those who lost their lives in the People's Movement and wish the injured ones a speedy recovery of their health and we express our confidence that the nation will forge ahead towards sustainable peace, progress, full democracy and national unity.

May Lord Pashupatinath bless us all!

Jai Nepal!

5.2.7 [Annex 7: Basic Operating Guidelines \(BOGs\) of Major Donors](#)

(Australia, Canada, Denmark, the European Commission, Finland, Germany, Japan, the Netherlands, Norway, the United Kingdom and Switzerland).

Based on principles agreed internationally and in Nepal, we the undersigned have adopted the following Basic Operating Guidelines for all development and, where necessary, humanitarian assistance in Nepal.

1. Our role in Nepal is to contribute to improving the quality of life of the people of Nepal. Our assistance focuses on reducing poverty, meeting basic needs and enabling communities to become self-sufficient.
2. We work at the freely expressed wishes of local communities, and we respect the dignity of the people, their culture, religion and customs.
3. We provide assistance to the poor and marginalized people of Nepal, regardless of where they live and who they are. Priorities for assistance are based on need alone, and not on any political, ethnic or religious agenda.
4. We ensure that our assistance is transparent and we involve poor people and their communities in the planning, management and implementation of programs. We are accountable to those whom we seek to assist and to those providing the resources.
5. We seek to ensure that our assistance tackles discrimination and social exclusion, most notably based on gender, ethnicity, caste and religion.
6. We recruit staff on the basis of suitability and qualification for the job, and not on the basis of political or any other considerations.
7. We do not accept our staff and development partners being subjected to violence, abduction, harassment or intimidation, or being threatened in any manner.
8. We do not work where staff is forced to compromise core values or principles.
9. We do not accept our assistance being used for any military, political or sectarian purposes.
10. We do not make contributions to political parties and do not make any forced contributions in cash or kind.
11. Our equipment, supplies and facilities are not used for purposes other than those stated in our programme objectives. Our vehicles are not used to transport persons or goods that have no direct connection with the development programme. Our vehicles do not carry armed or uniformed personnel.
12. We do not tolerate the theft, diversion or misuse of development or humanitarian supplies. Unhindered access of such supplies is essential.
13. We urge all those concerned to allow full access by development and humanitarian personnel to all people in need of assistance, and to make available, as far as possible, all necessary facilities for their operations, and to promote the safety, security and freedom of movement of such personnel.
14. We expect and encourage all parties concerned to comply strictly with their obligations under International Humanitarian Law and to respect Human Rights.

5.3 Sources of Information from the Individual Respondents

Interviews, focus group discussion, mini-workshops and roundtable discussions were major sources of information in the preparation of this document. Respondents included politicians, security officers, government officers, youth, women, business people, facilitators and negotiators of the peace process, civil society leaders, academics and researchers and others directly and/or indirectly engaged in Nepal's peace process. During our meetings and discussions many of the respondents have asked to remain anonymous due to the sensitive nature of the information. Hence, we have only included the names of those individuals who agreed (see footnotes) and the others have remained anonymous.

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