

Breaking the barriers and building a bridge: A road map for structuring negotiation and peace process in Nepal

(A discussion paper)

[Paper presented in the Seminar on Management of Conflicts in Nepal: A Preparation for Negotiation organised by Centre for the Study on Democracy and Good Governance and Friedrich-Ebert-Stiftung (FES) on 2 December 2003 at Kathmandu]

Bishnu Raj Upreti
PhD Conflict Management
Kathmandu, Nepal
2 December 2003

Breaking the barriers and building a bridge: A road map for structuring negotiation and peace process in Nepal

"You don't make peace by talking with your friends; you have to talk to your enemies"
-Nelson Mandela

1. Context:

In this paper, I am discussing negotiation and peace process related to the Maoist conflict. Before proceeding to the main issues, I would like to offer a basic operational understanding of negotiation and peace process. Negotiation is one of the fundamental forms of conflict resolution. Essentially in the context of Nepal, it should involve the Maoists, the parliamentary parties and the government working together to examine their interests and needs, and working out a solution that will give the best possible outcome to both sides. This can be done cooperatively, as in principled negotiation, or it can be done in a competitive way, as of typical distributive bargaining.

Box 1 Defining peace:

Peace is a state of wellbeing that that is characterised by trusts, compassion, and justice. In this state people can be encouraged to explore as well as celebrate diversity and search for good in each other without the concern for personal pain and sacrifice.

Peace is not merely the absence of war but the [presence of justice, of law, of order-in short of government, once said Albert Einstein.

The war history shows that often the UN peacekeeping teams initiate peace-building activities in war torn countries (Salla, 2000). The other frequently used terminology in the peace process is peace-keeping, which involves putting neutral intermediaries between fighting factions to physically keep them apart (Miall, 2001). This can cool down a conflict enough to allow for successful peace making through the development of a settlement agreement and long-term peace-building through the re-establishment of normal relations. In many countries the UN is performing this role with its peacekeeping forces. Another phrase used in the peace process is 'stable peace' (Galtung, 2000; Sandy and Perkins, 2002). Stable peace is a situation when two parties do not even consider war to be an option, no matter what conflict occurs between them. For example, we can say that there is stable peace in Scandinavian countries or the West European countries (Salla, 2001). Conflict transformation is part of all these peace efforts. In the recent conflict discourse, focus is shifting to transform conflict rather than to resolve it. Transformation refers to a change in the nature of the relationship between the disputing parties, not just a settlement of interest-based differences (Barnes, 2000; Miall, 2001). The ultimate goal of conflict transformation is reconciliation, a return to normal relations between disputing groups where each side accepts the legitimacy of the other's identity and aspirations, apologizes for and forgives the other for past aggressive or violent acts.

Nepal is at a crossroads now. Nepal is heavily suffering from the violent conflict since eight years. There are sufficient documented evidences that the major causes of conflict are political

failure: structural inequalities, rampant poverty, geographical disparity, and injustice¹. There is also overwhelming agreement that the protracted conflict in Nepal cannot be addressed without resolving these structural causes (Thapa, 2001; Upreti, 2003a&b, 2002a&b, Philipson, 2002; Mackinlay and Upreti, 2003; Kumar 2000; Hachhethu, 2001; Hogger, 2001; Goodhand, 2000; Dixit, 2002; Dahal *et al.*, 1999; Kusum, 2003; Pyakurel, 2003; Kievelitz, and Polzer, 2002; Kumar, 2000). Since the inception of the Maoist conflict different approaches were used to resolve it (e.g., police operation, military mobilisation, integrated security and development, cordon and search, state of emergency, use of special terrorist control act, ceasefire and peace talks, etc.). However these approaches were not successful to resolve the conflict. Among these efforts unilateral ceasefire by the Deuba government in July 2001 and subsequent 3 rounds of peace talks until 23 November 2001; and the second time ceasefire on 29 January 2003 and subsequent 3 rounds of peace talks until 19 August 2003 were the most appreciated endeavours. However the high expectation of the Nepalese people to achieve negotiated settlement from the peace talks was swept away, when the Maoists unilaterally broke down the seven months long ceasefire on 27 August 2003.

After the second time ceasefire break by Maoists security forces are more pro-active than before, but arguably not able to dominate or guarantee security outside cities and DHQs. General impression is that security forces are being pro-active in trying to take the battle to Maoist units. However, they are weak to provide a framework of security or law and order. Security forces are obviously concerned to reduce own casualties that may cause slow down to have rapid response to an incident or threat. This emphasis on destroying Maoists, at the expense of extending the rule of law, they may not gain the confidence of villagers.

World's conflict history has shown that peace process is complex, sensitive, delicate and very fragile (Barnes, 2002). Our own two time experiences of the peace talks have also proved that negotiation is not simple as it looks. The experience of the third round of peace talks has proved that ceasefire and peace talks could break at any time by stalemate in some resolvable procedural issues too, if there is no genuine commitment and sincere efforts of the negotiating parties.

2. A brief review of negotiation efforts to restore peace in Nepal

2.1 Ceasefire, negotiation and failure of peace talks in 2001

When the then most controversial Prime Minister Girija Prasad Koirala stepped down and paved the way to S.B. Deuba, a man most welcomed by the Maoists, to lead the government in July 2001, Prime Minister Sher Bahadur Deuba unilaterally declared a ceasefire. The Maoists welcomed the ceasefire because they were hopeful of a truce with the Deuba government for a negotiated settlement. Consequently three rounds of peace talks were held in 3 months time. These efforts were very much welcomed by the general public. However, on 23 November 2001 the Maoists suddenly and unilaterally called off the negotiation. The main cause of the break down of the ceasefire was the stalemate on the issues of constitutional assembly and republican state. Then the Maoists proclaimed National People's Government and started violent attacks in different parts of the country (e.g., Dang, Syanga and Solukhumbu). In response, on 26th of November, the King declared the State of Emergency (SoE) exercising the Article 115 of the constitution. Consequently, constitutional rights² of Nepalese people were suspended except the

¹ For extensive background of the conflict see Upreti 2002, Nepal: A Nation in Search of Peace and Development. Berne: Swiss Association for Development and Cooperation, International Crisis Group Research No 50 Nepal Background: Ceasefire-Soft Landing or strategic Pause, 10th April 2003 and ICG Asia Report No 57 Nepal Obstacle to Peace.

² freedom of opinion and expression, freedom to assemble peacefully, freedom to move throughout the Kingdom and reside in any part thereof, freedom of any profession, or occupation; freedom of press and publication rights; rights against preventive detention; right to information; right to property; right to privacy and right to constitutional remedy.

right to file habeas corpus. The Terrorist and Destructive Activities Control and Punishment Ordinance also executed. The government declared Nepal Communist Party (Maoist), its sister organisations and supporters as 'terrorists'. Royal Nepal Army came to battlefield and fighting continued until January 2003 with serious casualties. Human rights violations, censorship on media and suspension of civil rights were the main concern during the SoE. Many human rights organisations and activists had asked warring parties to respect the Hague Convention regarding the basic rules of war and Universal Declaration of Human Rights. The parliament has approved the SoE for the second term with the support of the CPN-UML and the Terrorist Control Ordinance approved and became an act for another two years.

2.2 Ceasefire, negotiation and failure of peace talks in 2003

The second time ceasefire in the history of the Maoist rebellion came on 29 January 2003. It was said that Sagar Chhetri (on behalf of the Maoists) and Minister Narayan Singh Pun (on behalf of the government) signed a ceasefire agreement but it did not come to public notice. There was a unique background to this ceasefire. On the 4th of October the King assumed executive power. After few days a new cabinet was formed under the leadership of Lokendra Bahadur Chand nominating 'clean (?)' ministers either from non-political background or from small political parties or people from politically sidelined status. All major political parties opposed the Chand government. Restoring ceasefire and bringing rebels to the negotiation table would be a visible and great success for the government and therefore it made utmost efforts and succeeded to resume ceasefire and negotiation talks. Minister Narayan Singh Pun played a crucial role in this process.

The 29 January 2003 ceasefire and the subsequent three rounds of 'peace-talks' on 27 April, 9 May and 17-19 August 2003 between the government and the Maoists were by far the most acknowledged efforts to establish lasting peace in Nepal. Both parties forwarded their agenda for the peace talks. However, hope to attain peace in Nepal has been shattered due to the rigidity of both parties, as they did not demonstrate flexibility in talks and stuck to their own agenda. Though, Nepalese people were enthusiastically optimistic and ambitious after the declaration of cease-fire this enthusiasm has been changed to fear, worry and frustration after the 27 August ceasefire break. The stalemate on the issue of constitutional assembly on the third round of the peace talks in the Hapure village of Purandhara VDC, Dang district could be managed if both sides had shown flexibility. There could be several routes to resolve this stalemate through non-violent means. One of the most promising ways would be to go to people (referendum). However, both parties abused the term 'people' but none of them have respected the supremacy of people and therefore they were not ready to listen plea of people for peace. Lack of trust, fear and feeling of insecurity in both sides had severely constrained the progress in the negotiation.

Delay in formation of the government's Peace Talks Committee, mode of representation of facilitators and individual members on the Code of Conduct Monitoring Committee, controversy in execution of the agreed issues from the second round of the peace talks, non-compliance in the agreed code of conduct, controversial expression by the Talks committee members, ministers and the rebel leaders, non-cooperative attitude of the parliamentary political parties indicated that no one of the major players genuinely wanted peace in this country, except ordinary Nepalese people. Foreign interest has added another complication in the Nepalese conflict. It is astonishing that the foreign diplomats give their definitive (right or wrong, good or bad) judgement and dictate in the issues of Nepalese concern before Nepalese people, political parties and the government. This factor has contributed to the break down of the ceasefire.

The January 29 ceasefire was non-transparent and came with surprise and therefore many analysts suspected that the rebels and the government (representative of the Monarchy) could have already agreed on main issues. The five parliamentary parties, who were in deep conflict with the King, had also suspected that the ceasefire might be a grand design between the two gun powers to cease democracy. However, that proved wrong when the Maoists broke the ceasefire. The 26 September 2003 letter of Babu Ram Bhattari to John Harris, Advisor of the President of the International Crisis Group clearly indicates that Maoists are not eager to sit in negotiation table immediately. However, the recent expression of Prachanda on their commitment to democracy opened some avenues for further peace efforts.

It took a long to start the peace talks after declaration of the ceasefire. The 7 months duration of the ceasefire was said to be undemocratic peace, as important democratic institutions such as parliament was not functional, political parties were out of the mainstream politics and all the nominated people, with weak public support were governing the country. There was a huge pressure from civil society, human rights activists, conflict experts and international community to formulate and sign the CoC and institute CoC Monitoring Committee. The worry of the civil society organisations was the possibility of resumption of war and human rights violation. There were continued complaints from the human rights activists that the Nepalese government was not sufficiently respecting the international human rights treaties and accords, where the state is signatory. Only on 13th March 2003, Code of Conduct (CoC) was signed between the representatives of the government and the rebels. They also agreed to institute the CoC Monitoring Committee (CoCMC) under the convenorship of the National Human Rights Commission (NHRC). However the CoCMC was not functional because the government and the Maoists did not formally issue letter to NHRC to do the job and both the parties did not respect the CoC.

The first official peace talks started in Shankar hotel at Kathmandu on 27 April 2003 where the Maoists handed over their agenda to the government team. The talks concentrated on procedural issues and ended after 4 hours. Interestingly the Maoists' demand list muted their earlier claim of establishing a republic and abolishing monarchy. Five members from the government (Deputy Prime Minister Badri Prasad Mandal, Ministers Ramesh Nath Panday, Narayan Singh Pun, Upendra Devkota and Minister of State Anuradha Koirala) and five members of the Maoists (Dr Baburam Bhattarai, Ram Bahadur Thapa-Badal, Krishna Bahadur Mahara, Dev Gurung and Matrika Yadav) took part in the talk.

The second round of peace talk was started on 9 May 2003. This meeting was also limited to the procedural issues. However, the most controversial issue of limiting the movement of the Royal Nepal Army within the radius of five kilometres was agreed in this meeting. Another important issue agreed was the release of three central leaders of the Maoists from the jail. This controversial topic of limiting RNA mobility became one of the main causes of the collapse of the Chand government. Then the peace talks fell into limbo. Prime Minister Chand resigned on 30 May 2003 after massive protests of students and a controversy created by the second round of peace talks on the issue of constraining the movement of the army. At different programmes and rallies, five parliamentary parties spoke aggressively against the monarchy that could have also some implications on the resignation of Chand.

On June 5 His Majesty King appointed Mr Surya Bahadur Thapa as the new Prime Minister. The new Prime Minister appointed two ministers Prakash Chandra Lohani and Kamal Thapa as members of the government peace talks team. In comparison to the previous government's peace

talks team, this team did more homework, clarified procedure, established peace secretariat, organised informal consultative meetings and produced the government's agenda. However, the Maoists were already suspicious of this government and repeatedly asked to implement the agreement made in the second round.

The third round of talks in the Maoist stronghold area (Hapure Village of Dang district) ended without any achievement. The negotiators directly entered into the political agenda, which was most controversial. Consequently, the negotiation failed. As has been discussed in the preceding section, the stalemate on the issue of 'unconditional constitutional assembly' became the cause of the ceasefire break down. The four fundamental provisions existing in the current constitution were the bottom line of the government. These bottom lines were: sovereignty inherent in the people, constitutional monarchy, democracy and the safeguarding and strengthening of the national territorial integrity and unity. However, both sides used 'sovereignty of people' only to justify their own arguments rather than to really give people to exercise their sovereign rights. Its real meaning was blurred, as the sovereignty of Nepalese people to elect representatives to write the constitution was denied by the state in the negotiation. There was a real fear to the government to agree on constitutional assembly before clearly spelling out the existence of constitutional monarchy in this process. The Maoists had accepted the King as one of the three powers (the Maoist, the King and the parliamentary parties). In this respect there should not be any problem to proceed further through negotiation. Unfortunately, instead of exploring different possibilities and modalities of the 'constitutional assembly' the Maoists resumed the war. Then the government promptly stepped up to retaliatory action declaring them as 'terrorists'. This war has severely threatened the already weakened nation. Looking at the aggressive war strategy of both sides it can be easily predicted that this country is facing unprecedented crisis. If the parliamentary political parties, the government and international community do not act urgently to ease the situation civil war is unavoidable. The George Bush style of 'either with us or against us', response in the negotiation (either accept or we will leave the negotiation) perished in the collapse of the peace talks.

2.3 Basic causes of the ceasefire break down

Following are some of the basic causes of failure of negotiation and breaking of ceasefire:

1. Basically, the two fundamental reasons are cited to be the fatal causes of the breaking of the ceasefire. They are:
 - a) One point demand of the Maoists for the unconditional constitutional assembly. The Maoists were not ready to compromise in their unconditional constitutional assembly demand.
 - b) The mandatory basis put forward by the government which are sovereignty vested in the people, constitutional monarchy, multiparty democracy, and preservation of and promotion of the national integrity and unity. The government was not ready to go beyond the mandatory bases for the negotiation
2. Non-transparent and suspicious agreement on ceasefire. The content of this ceasefire letter signed by Sagar Chhetri (Maoists' representative) and Narayan Singh Pun (Government's representative) is not publicly known.
3. The preparation, especially from the government side until second round of the talks was very poor,
4. Some basic principles of negotiation process were ignored,
5. Parties in conflict were reluctant to develop and agree on Code of Conduct. With severe pressure from international community and civil society the government representatives and the Maoist leaders agreed to issue Code of Conduct but they did not respect it.

6. Facilitators and individual members of the CoC Monitoring Committee were selected representing the interests of two parties that raised serious questions of neutrality. Some time they were publicly arguing on the behalf of one party.
7. CoC Monitoring Committee was not functional because both the parties did not support the Committee
8. Role of political parties became controversial. They just wished for the success of peace talk but did not constructively engage in the peace process. Neither have they initiated any contributory actions that could lead to peace.
9. The government and the Maoists used period of ceasefire as a strategic pause to strengthen their military capabilities. The military thinking on both sides dominated the political side and therefore civilian solution get less attention.
10. International community played ambiguous role. If India, USA and UK were really willing to resolve this conflict it could be easily solved. Particularly the role of India was very ambiguous and controversial. India also blocked to bring international mediators (such as UN, EU or other relevant actors),
11. There was great mistrust and suspicions between the government and the Maoists. They were suspecting each other that seriously hampered the negotiation.
12. After the third round of Hapure talks the Maoists became seriously suspicious about the unprecedented potential military action from the government: the controversial Doramba incident where 17 Maoists and two civilians were killed and the Maoists blame the security force for killing unarmed Maoists and their supporters having a meeting where as security force has claimed that they were killed in combat. The independent inquiry team set up by the National Human Right Commission to investigate the incidence submitted its report, which claims that the security forces had unlawfully killed the unarmed Maoists and local people.

The National Human Rights Commission, in consultation with national and international human rights organisations, had developed a human rights accord and sent to both parties to sign. But both parties were not ready to sign it. If both parties agreed this accord, it could have prevented the collapse of peace talks and breaking down of ceasefire.

The letter (26th September 2003) of Babu Ram Bhattaria to John Norris, Special Adviser to the President of the International Crisis Group (see annex 5c) explains their current position and immediate strategy. However, it is difficult to believe on their responses, as they have broken the promises made to public. Both sides are more aggressive in these days. Even the government rejected the proposals from UN and EU to get their help in resolving conflict in Nepal.

3 A future roadmap to settle conflict

Nepal has to opt for alternative dispute resolution approaches (ADRA) (i.e., non-military option-beyond the present constitutional framework) if we want to fully resolve the Nepalese conflict. Military intervention is not an appropriate solution (it can only be an immediate option to minimize extreme escalation of bloodshed and violence). Similarly, the existing constitution cannot deal with this conflict as the context is going far beyond its scope. There is only the political option left to settle the bloody conflict and the constitutional assembly is one of the best options.

ADRA is a broad framework of soft intervention, often named as 'multi-track' approach (Galtung, 2000). It makes efforts at different levels by different actors with different mandates. First track (or track one) approach is the efforts of the government to deal with negotiation, which is not sufficient to address the current crisis. The second track (or track two) approach is the efforts of INGOs/NGOs, humanitarian agencies, religious groups, advocacy group, development

organizations, scientific institutions, and creative individuals to settle the conflict. The multi-track approach is the combined efforts of civil society, the government, religious groups, professional organisations, peace activists and networks, diplomatic community (Baechler, 2002). In the Nepalese conflict we definitely need to opt for multi-track approach. Global conflict management experiences have shown that multilateral, bilateral and unofficial interventions offer many creative avenues for peaceful settlement of conflict between the government and the rebels and post conflict transformation (SEF/KSI, 2000). This requires systematic, inter-subjective, inclusive and multi-level political approach (Dahal, 2003). Conflict management based on Gandhian and Buddhist philosophy is increasingly emerging as an alternate approach in intellectual debates (Dahal, 2003). Achieving lasting peace in Nepal needs combination of all alternative approaches of negotiation for peace process.

As discussed elsewhere in this book negotiation is a conflict resolution method that includes any instance in which disputing parties (or their representatives) meet face to face and communicate with each other for the purpose of influencing each other's decision, to reach a mutually acceptable solution on the conflict issue and to resolve incompatible goals. Negotiation can be assisted by third party mediators or happens without external mediation. Negotiation clarifies conflict situations and therefore it is part of the problem solving processes (Warner, 2001). However, negotiation is not an easy task. It often fails. Research on mediator-assisted negotiation has shown that in the world 54.4 percent conflict mediation have failed, 42.1% conflict mediations have been partially settled and only 3.5 % mediated negotiations are fully settled (Baechler, 2002). So it is a very tough task. Negotiation involves several stages; i.e., ceasefire, building confidence and trust for negotiation, creating negotiation environment, pre-negotiation, formal negotiation and implementation of negotiated settlements. Achieving peaceful settlement of conflict and restoring lasting peace in Nepal requires a clear roadmap with the following strategies:

3.1 Short-term strategies

Considering the geopolitics of Nepal, growing international concerns and desire of Nepalese people, there is no option other than a peaceful resolution of conflict through negotiation. Military intervention cannot solve the problem. If we want to prevent external military and political interventions in Nepal we need to resolve this conflict ourselves. Experiences from around the world have amply demonstrated that outsider intervention is inevitable when the host country is not able to handle conflict. Benin, Ivory Cost, France, Nigeria, Ghana and Nigeria had intervened in Liberia. Even now USA is sending its 2000 troops to Liberia. USA, Panama, Mexico and Venezuela were active in the Guatemalan conflict. Tanzanian military were active in the conflict of north Ghana. Sudan, Congo and Kenya were also much influential there. Russia was much active and influential in the conflicts of Georgia and Tajikistan. Indian Peace keeping force intervened in Sri Lanka. These evidences suggest that we need to immediately start negotiation to resolve the conflict. There are easy ways for international community to intervene conflict-ridden county. They use two logics: 1) failed state and 2) security risks to them. There is an international understanding that powerful countries have obligations to assist failed state. This is an easy way to intervene. The second reason is security risk from the conflict-ridden country to their homeland security. The peace talks is failed, ceasefire is broken down and country is entering into war, Nepal some time soon will be declared as a failed state that gives both logics for international intervention. Therefore, immediate start of the third ceasefire and resumption of peace talk with the following strategies is essential:

3.1.1 Formation of broad based interim government

A consensual government is essential to successfully accomplish the acceptable negotiation and durable peace in Nepal. The recent situation further strengthens this argument. Experiences of past few months have clearly indicated that it would not be possible to deal with Maoists without a broad-based consensual government. However, it seems that there would be very difficult to have a consensus between the parliamentary parties and the King on suitable person to give the responsibility to lead the government. The parliamentary parties are seriously questioning the legitimacy of the present Thapa government. Even Rastrya Prajatantra Party formally asked the Prime Minister Thapa to resign to give way for the broad based government. This is an opportunity to start fresh effort for the peace process if new government is formed. The Maoists break the ceasefire with this government means it is less likely that they will sit again for the peace talk with the Thapa government. When there is such a tension, pragmatically it is hard to settle the Maoist conflict. New conflict arose, new situation developed and new complication mounted. However, this crisis has also brought an opportunity to form a consensus-oriented government.

It would be logically or theoretically very good if an all-party consensual government under the leadership of one of the main political parties were formed to deal with this crisis. But the King seems not yet ready to accept this option because of fundamentally glaring differences between saying and doing of the parliamentary political leaders. Parliamentary parties are also not ready to accept the nominees of the king, if their recommendation is not given proper hearing. Thapa government wants to continue its tenure with strategically bringing impractical relevant issues such as holding election and it is, I think, getting full support from India. At this complex situation, there are no other pragmatic avenues than to form a consensual government. That will also help to build trust among all political actors and give a reflection of the commitment to implement the future negotiated settlements. There will be no long-term peaceful solution of conflict by ignoring parliamentary parties. Likewise, the king should play a constructive, assertive and visible role to resolve this bloody conflict in Nepal. Therefore, the success of the negotiation completely depends upon the collaborative efforts of the king, the political parties and the Maoists.

If all party interim government is not feasible by any reason in the current situation, an alternative option could be to form interim government headed by the Chief Justice of the Supreme Court or other neutral and mutually acceptable personality that should be endorsed and supported by the King and all political parties. This interim government should get clear mandate from the King and agreed by the parliamentary parties to declare ceasefire, resume negotiation with the Maoists and settle issues in professional manner and bring a situation to have round table conference and form a broad based government to work further for state reform through constitutional change and socio-economic reform. This government should thoroughly consult all the political parties and incorporate their concerns in the government agenda, revise it and start talks with the Maoists. While forming the interim government representatives from all parliamentary parties must be included. This government should hold the election for constitutional assembly or referendum or any other agreeable models.

3.1.2 Remove pervasive mistrust- barrier for peace process

Distrust is pervasive in the present Nepalese politics. It is destroying political process and fuelling endemic conflict. Principally, cognitive, emotional, and behavioural trusts shape society and democracy (Kasperson *et al.*, 1999). Cognitive trust is based on level of knowledge people have about others in relationship in question, which is used to judge trustworthiness. In this respect,

faith is an important aspect of trust. Emotional trust provides basis for building and using cognitive trust. Behavioural trust is more active if uncertain future course of actions were certain and predictive. Trust can be interpersonal as well as system trusts. Interpersonal trust prevails in small and intact societies or within political parties, where as systemic trust prevails in broader society levels and political system (Cvetkovish and Lofstedt, 1999). However, in Nepal all forms of trusts have eroded, especially in the political sector.

Basically, trust is a firm belief on credibility of political parties and leaders, which is developed over time by critically watching their saying and doing. Trust building is a process of winning the heart and head of people and their confidence. On the contrary, when people suspect attitude and intentions of individuals under scrutiny, feeling of mistrust develops. At that stage people's perception becomes negative towards individuals or groups under assessment. Mistrust often develops when saying of the individuals or groups distinctly differs from their actions and they attempt to cover up or justify that difference with a logic or argument, which either does not have legitimate basis or the general public simply does not believe them. In such a situation even the existing trust quickly erodes and mistrust develops (Cvetkovish and Lofstedt, 1999). This can be vividly observed in the current political circumstance in Nepal. Nepalese people are not ready to believe what politicians say and commit, as their saying and actions are often contradictory. Political parties do not trust the king's repeatedly reiterated commitment to multi-party democracy and constitutional monarchy, the king does not trust the major political parties. So nobody trusts any one and every body suspect each other. This is very dangerous for peace process and negotiation.

Nepalese people have firm ground to mistrust major political players, political parties and the government as they have persistently failed (either unable or unwilling) to deliver what they promised in the past (ICG, 2003a&b; Upreti, 2003a&b). Their saying and doings are often inconsistent, contradictory and confusing. The political process failed to control corruption, reduce poverty, and ensure security. Major political actors in this country are directly or indirectly associated with corruption, bad governance and exploitation. Consequently, public perception toward them has changed and has helped to develop deep mistrust (Dahal *et al.*, 1999). Centuries old exclusionary practices, discrimination, marginalisation, poverty is still pervasive, despite the fact that the Constitution of Nepal 1990, the government's policies, and the manifestos of all the political parties have made promises to eliminate these social anomalies. Instead, political leaders are wasting their time in inter and intra party power struggles. Hunger for power is guiding political actions. The government machinery and party structures are abused to fulfil their vested interests. If the previous governments had taken appropriate action based on the report of the Parliamentary Investigation Committee (headed by ex-MP Mr Pari Thapa), or sincerely executed the highly appreciated report of the 'Mallik Commission', this crisis of confidence could have been averted. This glaring failure to taking appropriate actions against wrongdoers provided fertile ground to develop negative public perception and mistrust.

Putnam (1993) in his book entitled 'Making Democracy Work' highlights the fundamental roles of trust in democratisation process. Social trust in the context of democracy is one of the most important elements of social capital. Social capital is an important feature of society reflected in social network, norms, trusts and faith. It is essential to promote civic engagement, public participation, mutual learning, concerted action to achieve negotiation and political stability.

The current conflict between the king and the five parliamentary parties proved that trust is very fragile. Building trust takes considerable time and efforts. However it can be eroded by a single mistake and in some cases lost trust may never be rebuilt. Trust is a binding force of civil society building and functional democracy. But the poor performance of political leaders and subsequent

conflict has taken away the trust that existed in Nepalese societies. Decades of repression, hostility, fear and distrust have been combined with political failure, which has severely impaired the ability of civil society organisations for collective action. When the civil war had pitted Nepalese people against each other, hostility and suspicion were rife. Restoring mutual confidence is therefore a difficult yet extremely essential task. Confidence is needed on all sides to overcome distrust, to promote broad participation, and to move away from old strategies of confrontation to new strategies of engagement and co-operation and to restore lasting peace in Nepal.

The great danger for the peace process and negotiation in Nepal is the increased distrust. The escalated distrust has contributed to the collapse of the peace process and country has almost entered into civil war. Observing the wrong procedure in the peace talks I had elaborated the potential danger of failing the peace talks earlier³. Even if the conflict had ended with peaceful negotiation, the post-conflict or transitional period could have been one of the most fragile and precarious. When a peace agreement is not sensitively and honestly interpreted and implemented it can lead to a return to war. Demobilization can only be effective when there are peaceful solution of conflict and proper incentives in terms of finance, work programmes, and training provided to rehabilitate ex-combatants. Substantial incentives are one of the best ways to convince unemployed fighters to give up the armed plunder, which is their only means of the livelihoods. African experiences show a dilemma of amnesties to victim of war crimes and reconciliation in post-conflict peace building for durable peace. Some people argue that South Africa-style of Truth and Reconciliation Commission may be needed to build trust and to help heal the pain of victims of human rights abuses and to build a relationship of forgiveness through an acknowledgement of the crime and the payment of reparations to its victims.

Now priority of the King, the civil society actors and the parliamentary parties must be to rebuild trust through collaboration, dialogue and collective action⁴ and bring the rebel group into mainstream politics. The Maoists must end violence and resume ceasefire for peaceful negotiation. Confrontation and mistrust cannot solve the current crisis of Nepal. One of the best options in the next round of peace talk is to agree on constitutional assembly election (by redefining the existence of the constitutional monarchy), as the Maoists have already recognised one of the three main forces is monarchy and therefore it is a pragmatic option. Now all three major actors are deeply suffering from perceived risk. The palace supporters have perceived risk of possibility for republican state if the constituent assembly election is agreed. Parliamentary political parties have developed perceived risk of being sidelined by the Maoists and palace. The Maoists have developed perceived risk of possible suppression by the collective efforts of parliamentary parties and palace. Consequently, none of them are willing to inter into constructive dialogues to resolve the conflict.

3.1.3 Promote people's participation in peace process

War and peace history has shown that general public have tremendous potentiality and firm ability, far more than any one else, to enhance peace process. Unquestionable reality is that creating and maintaining peace require an active engagement of all actors of society, from

³ See Bishnu Upreti, *The Peace Process at the Cross Road*. The Kathmandu Post 24 May, 2003 for details.

⁴ See Bishnu Upreti, *Rebuilding trust for democracy and lasting peace in Nepal*. The Kathmandu Post 3 June 2003 for more information on the importance of the distrust in negotiation.

ordinary citizens, security actors to politicians. However, civic engagement in peace making and peacekeeping in Nepal is not getting enough attention. It is very hard to realise any genuine efforts to promote public participation in peace process in our country. Pragmatically, peace making and keeping is more than ending the armed rebellion. It goes beyond to address root causes of conflict and political and social transformation process (focus on structural change in governance, security and development, human rights policies and practice).

If and when public engagement in peace process is ignored, the success is rare. Even if, by any chance, success is achieved, it is temporary. General public may not own elite-guided peace negotiation, if people have not actively participating. If the peace talk is brought into public sphere, it promotes transparency and accountability, enhances constructive dialogue and gets public support and ownership. African examples in war and peace sufficiently tell us that peace in war torn society is seldom permanent when real civic engagement is not promoted. Achievement of viable and lasting peace is only possible when capacity of local people are utilised and complemented to the efforts of government, parliamentary political parties, Maoists, human rights organisations, media and other peace actors.

In South Africa, conflict transformation and peace building was the outcome of genuine collaboration between religious people (churches), businessmen, politicians, and civil society (Barnes, 2000). The resolution of conflict in Guatemala was the outcome of sincere efforts of Citizen Assembly composed of several civic organisations, churches, indigenous unions, women's groups, and business people. The Citizen Assembly was able to offer agenda for negotiation between the guerrillas and the government. In Northern Ireland women from different community formed a strong 'Northern Ireland Women's Coalition', which had greatly contributed to achieve the 1998 Belfast Agreement (popularly known as Good Friday Agreement). UK, one of the power centres of the world, was not able to solve the Northern Ireland conflict without engaging local people. One of the elements of John Major's 'Triple Lock' was people's approval of the agreement through referendum (Barnes, 2000). This indicates that even 'western', 'democratic' government cannot resolve conflict and maintain peace if they ignore civic engagement. In Philippines indigenous people, churches and local community made marvellous efforts to build peace. They have declared some territories as peace zone where citizens' rights were respected. Local communities also made similar efforts in Columbia.

In long term, only social justice-based approach of conflict management can lead to peace (Miall, 2001). Peace cannot be built and maintained without creating and promoting social infrastructures of peace, people's ownership on peace process and abolishing obstacles (Barnes, 2002). A widely held misperception in Nepal is that peace will be achieved when the Maoist and the government negotiate and sign peace agreement. But this will not be the case. There will be numerous obstacles to implement the agreement, if (and when) there is an agreement. So the successful negotiation between the government and the rebels will be only a beginning of peace. It is only a minimum condition. Restoring political tolerance and coexistence, indispensable elements of peace, will be a major unsolved challenge in Nepalese peace process. Unless people own the peace process and be ready to develop feeling of tolerance and coexistence it will be meaningless optimism to restore lasting peace.

At theoretical level three approaches of civic engagement can be envisioned in the peace process. They are representative participation, consultative participation and direct participation (Galtung, 2000; Barnes, 2000). These different types of participations bring interests, aspirations and values of peace constituencies to peace negotiation. In representative participation political parties represent their constituencies in negotiation. In consultative participation civil societies raise views and formulate recommendations for negotiation. In direct participation all stakeholders in

peace making are involved in developing and implementing negotiation, which was adopted in South Africa and Northern Ireland. In representative participation there is always risk of elite domination. Another direct mode of participation can be referendum where general public is directly involved in decision process. The National Unification Commission and Civil Society Assembly of Guatemala and Philippines were also part of representative participation. In Columbia Regional Peace Committees were directly involved in localised peace making. Same thing happened in South Africa. In these countries local leaders had facilitated process of involving all interested community members in peace process. In Mali community decision process has contributed to peace making. In civic participation, churches, religious leaders, business community, media and local leaders played crucial role in war-torn countries to build peace. However, these modes of peace building efforts are not prominently seen in Nepal.

The important question is how to promote people's participation in Nepalese peace process. One of the potential answers would be to promote peace advocacy/lobbying and massive campaigns at local level in a non-partisan way. Essentially, creating a mechanism of local participation is essential to achieve that objective. The impacts of such local efforts could be far more than the westernised, ritualised techniques of five star hotel conferences and seminar in Kathmandu with domination of few elites. Real resources flow to community for peace campaigns would be more meaningful than fashionable, elite-biased, formality-focused, target oriented conferences in cities attended by same faces in many star hotels.

3.1.4 Establishment of Peace Resource Centre

Another practical strategy is to establish an independent Peace Resource Centre having full authorities, responsibilities and resources. This must be legally constituted with an autonomous status and fully endorsed by the government, the Maoists, and the parliamentary parties. It should have full authorities to work in peace process and negotiation. This organisation can have the mandate to facilitate civic participation, collect public voices and concerns, propose facilitators and mediators to the government and the Maoists, conduct research, design code of conduct and monitor it, and monitor the implementation of negotiated agenda. This Centre should facilitate all activities related to peace process and post conflict transformation. It is very hard to achieve real peace from the current approach and practice. There is a need for a total paradigm shift in peace process.

Many issues of conflict need further analysis from the negotiation perspective. What are the elements of agreement, how they can be addressed in what way and with what institutional structures and process need to be thoroughly examined to give firm basis for negotiators to negotiate. That analysis has to be coordinated by the Centre. This Centre should focus on the following broad areas:

Research, Studies and Analysis:

On poverty and structural inequality: Several research and studies have been conducted and findings are documented in the issue of poverty and structural inequality as fundamental causes of the current conflict. However, very little has been done on how to address these issues at the negotiation table and after the successful negotiation for conflict transformation, what structures and mechanisms will be required to address these fundamental causes in a non-coercive ways, which area and activities should get immediate priority and what can be long term programme, who has to take lead and who should support. A Task Force is essential to come with very clear proposal to initiate a wider debate and help negotiators to make negotiated agreement.

On administrative and bureaucratic reform: This is another area to be addressed by the Peace Talks Committee and subsequent governments. Several high-level task forces of the government; independent researchers and donor community have amply highlighted the need of bureaucratic and administrative reforms. But the new challenge is how to adjust this with the changing circumstances. A team of experts need to look on this issue and come up with a clear input.

On autonomy and regionalisation⁵: A thorough study on the procedure, potentials and limitations of autonomy and regionalisation is essential to feed to the Talk Team. Without fully understanding the complications and opportunities associated with autonomy and regionalisation it is very difficult to negotiate. How it should proceed, in what structure and framework it has to happen, how to minimise potential risks and problems and how to promote national interest and how to make the issue of self determination a politically and socially stable one are some of the pertinent questions to be answered before reaching to a definitive negotiation.

On post reconstruction, rehabilitation and reconciliation: A complete inventory of the current state of the conflict impacts (economic, social, and psychological) is essential to take conflict transformation decisions such as building mutual confidence through constructive engagement, to define strategies to overcome a feeling of injustice, resentment, hate, revenge and retaliation among the victims of war, to overcome other terminal effects, to enhance political accommodation and peace enforcement. At the current level of information it may be very difficult to take any pragmatic decision for future actions. Such studies have also to focus on civil society building through maximising the role of media, NGOs, local religious and opinion leaders and human rights activists. Mechanisms for intimate ethno-political dialogue need to be fully explored.

The studies have to give basis for negotiation on disarmament, demobilisation, rehabilitation, reintegration, reconstruction, and reconciliation (D₂R₄). Answers to promote D₂R₄ need to seek on what (activities), how (process) to do, who has to be involved, with what time-frame and from which resources.

Monitoring of negotiation and peace process

This Centre should coordinate with all actors (the government, the rebels, civil society, international community, UN agencies, etc.), develop Codes of Conduct in collaboration with other concerned actors such as human rights organisations, monitor it and feed the negotiators with the needed information, findings of study and external expertise. It should work closely with national commissions (Human Rights, Women, Dalit, Ethnic Commission, etc.)

Strategic planning for the post conflict transformation

As a specialised body, this centre should take lead role in the post conflict activities on disarmament, demobilisation, rehabilitation, reintegration, reconstruction, and reconciliation (D₂R₄). This role is crucial and needs specialised agency to work with. International co-ordination, coordination with national service organisations (such as road, drinking water, irrigation, agriculture, health, education, cottage industries, electricity, telephone, etc.) and channelling resources through a single gate and monitoring field implementation of the D₂R₄ must be it's some of the important functions.

External support and involvement

⁵ Sse Pyakurel, 2003 non-territorial federalism for detail.

We need to involve expert facilitators from neutral countries like Switzerland, Sweden, Norway or many other African countries to support the negotiation process and develop capacity and skills of national facilitators. We should also involve neutral organisations like UN, EU or ICRC in the mediation process that helps to keep the process on track, prevents negotiating parties from running away and also to ensure their financial commitment for the post-negotiation reform and conflict transformation, as we need extremely huge resources to implement the agreed social change. There are many ethical, experienced professional mediators who can help our facilitators and negotiators. I do not see any logic not to involve outsider experts if we have no such expertise. Though deeply committed, the Nepalese facilitators are not yet experienced enough to professionally facilitate the negotiation process. The external facilitators could work as co-facilitators to help them to gain experiences. Despite the frequently reiterated rhetoric by politicians about our own ability to deal with the conflict, by now it is clear that we are not able to negotiate conflict and therefore we need external mediators. Many military and intelligence experts from foreign countries are coming and involved in training in Nepal. Unnecessary foreign experts (in fact, many of them are inexperienced, unrelated, generalist, and having tourist motive) are working in this country and influencing all development policies and strategies but neither the government nor the political parties did critically look to involve these so-called development experts. But when there is a request on need of involvement of experienced outsider facilitators or mediators to resolve the bloody conflict all in one voice say we do not need them.

Nepal must invite UN to mediate this conflict. Kofi Anan, Secretary General of UN, had repeatedly expressed his concerns over Nepal. He has third time expressed his willingness to assist Nepal in his speech while addressing the General Assembly of UN in New York on 17 September 2003. But Nepalese government flatly denied it (Government's senior Minister Prakash Chandra Lohani, in an interview with Radio Sagarmatha on 27 September flatly rejected my proposal to invite UN to mediate the Nepalese conflict. On the way to attend the UN General Assembly Bhes Bahadur Thapa, the special envoy of the government) has also rejected the UN's role in conflict resolution while answering the questions of journalists in Tribhuvan International Airport).

UN is yet interpreted in Nepal as similar to other independent nation states and its involvement is treated as the involvement of USA or UK or any other independent country in conflict resolution. But this is not the case. Nepal is the member state of UN and therefore UN should have concerns over the problem of its member state. Any member state could seek support from UN. UN has tremendous experiences of conflict resolution across the world and Nepal could benefit from that experiences. In addition, Nepal can benefit from UN involvement when there is negotiated settlement, as post-conflict transformation needs tremendously huge amount of resources and UN could fund, uses its expertise on post conflict transformation process, and help to bring resources from other member countries.

Resident Representative of the European Union has also expressed willingness of EU to involve in the mediation of Nepalese conflict. Even it is understood that EU has sent written proposal to the Nepalese government but the EU is not yet getting any response. Nepal must not miss these opportunities. Otherwise, Nepal may have to accept the intervention of powerful independent states like USA or UK or India, which is far more costly than the involvement of more independent organisations like EU or ICRC or UN.

3.2 Long-term strategies

The phrase 'social reform' has been a sweeping political jargon used by failed Nepalese politicians over the last 5 decades and used as icon of attraction to academia and journalists. For frustrated Nepalese realists, it may be a never ending, vague and fuzzy paradigm, about which every one talks but no one really acts. But an important question arises here. Is there any better alternative other than radical political, social and administrative reforms to establish lasting peace in Nepal? This may be unbearable choice to some (who are privileged from the failure) and wishful thinking to others (observers of the failed system) but what next? How long Nepalese people have to bear bloody battle, social exclusion, humiliation, and discrimination for the benefit of tiny fraction of society. East Asian history tells us very successful examples of social reform in changing unequal power/property relations and exclusionary social order (Crow, 1992). Salutary opportunities to change exclusionary social order often arise at times when there is upheaval like the present situation of Nepal. Social reform requires changes in nature of State itself. In this context Crow (1992:259) writes, "*In all three of Asia's biggest success, Japan, South Korea and Taiwan - the groundwork for both fast growth and the income equality that eased the social strains of development was laid by a radical land reform*".

Social reform in this paper refers to radical change in existing administrative, regulatory and political frameworks to ensure representation of pluralistic society in decision making and governance processes that address the root causes of on-going conflict and to establish lasting peace in Nepal. The following could be done:

3.2.1 Broad constitutional and legislative reform

Nepal has now been entered into a big constitutional debate. Many lawyers, constitutional experts, politicians, political scientists have argued in favour and against the constitutional assembly. Same thing is happening within the political parties. Leaders in all political parties are divided on the issue of constitutional assembly election. But all agree on the need of radical change in the existing constitutional framework. It cannot address the emerging problems faced by the country. Even those who drafted this constitution are divided. There is only controversy in the methodological issue, how to do it. The government is ready to rewrite without changing fundamental elements of the present constitution, i.e., multiparty democracy, constitutional monarchy, and national integrity. The Maoists, in their agenda, accepted the multiparty democracy and sovereignty resting in the people but the agenda is silent in the existence of the constitutional monarchy. The most controversial issue within the constitutional assembly is the position of monarchy. The government fears that constituent assembly election could potentially go for republican option and therefore resisting the constitutional assembly election. However, the Maoists have already accepted that monarchy is one of the important powers in this country. Therefore it is not possible for them to completely ignore the existence of monarchy. In this case the conditional constituent assembly with redefining the role of monarchy would be a pragmatic option. This will also give a face saving ground for all major players in this conflict.

The current constitution, in its substance, structure and values, is not sufficient to address the country's political and socio-economic needs. It should be reformulated in line with the present situation of fundamental change in the power balance of the country and aspirations of the Nepalese people. The new constitution should ensure participation of all Nepalese people to create environment for self-promotion and development. Any constitution unable to address inequalities, discrimination, exploitation and promoting the role of certain power centres can not sustain. The constitution should promote national unity, territorial integrity, freedom of expression and speech; create opportunity for self-development of citizens, economic development, and harmony. The current constitution is not fully able to address many problems

related to ethnic groups, women and dalit and political representation. A new Nepalese constitution needs to address all these issues.

Different lawyers and experts have amply highlighted that our existing laws and regulations are contradictory, insufficient and even retrogressive to promote social inclusion. The entire administrative system is based on control and punishment rather than being a state representative for facilitating positive social change and reconciliation. Change in attitude and practice in administrative system is essential. Change in administrative structures and process and new orientation and training to administrators are equally essential. The Guatemalan experiences tell us that the violence and insecurity have not disappeared even after the negotiation of 36 years of conflict between the government and the guerrillas on 29 December 1996. The main reason for this situation was the weak political commitment for a proper reform of administrative, security and judicial systems (SEF/KSI, 2000). Because of violence, privatisation of security was increased, which posed another threat to state security.

Diversification of government's departments and central offices across the country is essential. The centralised administration, market mechanisms and agricultural institutions exclude large mass of rural people. Experiences of conflict-ridden countries around the world have demonstrated that centralised administrative and security systems have contributed to escalate the conflict (SEF/KSI, 2000). The security sector plays a crucial role in deciding which way the conflict develops. In post war situation, support of security sector in implementing the peace agreement is crucial. In the long-run, professionalisation of security personnel and their civilian control⁶ and more transparent allocation of resources in security sector are crucial to transform society. The Panama experience demonstrates that better trained police force and police-community and civil-military relations play crucial role in social change (ibid.). Establishment of reliable judicial procedures, rule of law, civil protection and fostering institutional structures for conflict settlement in a violence-affected society are equally important.

Federal agenda: State restructuring in a federal system is becoming an important and one of the most debatable agenda. A lot has been discussed on the need for political reform and redesigning the state structures to address the current problems. The debate is whether to opt for federal structures or to limit in decentralised autonomous regions. Some political scientists have proposed regions of full autonomy with the rights of self determination and others have proposed mini-self governed structures under the decentralised governance system. The basic purpose of these structures or self-governed decentralised regions is to properly represent plural social and diverse ethnic issues in the governance systems. Given the complexity of caste, ethnicity, religions, languages and cultures of Nepal it may not be realistic to opt for the rights of self-determination proposal. A pragmatic approach would be to opt for fully self-governed mini-structures in line with the 25-districts proposal put forward by Harka Gurung (Khanal, 2003).

3.2.2 Social inclusion and addressing root causes of conflict

Social exclusion includes systems, mechanisms, processes, attitudes and practices that exclude individuals, groups, or communities from political and economic decision making process, basic means of livelihoods, social security and freedom that individuals have to have in a given social

⁶ There is always tendency in security force in most developing countries to aspire autonomy from the government, they are reluctant to accept civilian authority and government can not impose control over them because survival of many government relies upon security forces (SEF/KSI, 2000).

setting to organise and control their life (Nayak, 1998). Therefore, this system must be reversed to make Nepalese polity more inclusive. Similarly, centralism is a political phenomenon of concentrating all socio-economic, political and policy decision making in certain power centres (government structures, party structures or social structures) that must be changed through broader reform to promote social inclusion. To promote social inclusion and to overcome centralism a very first step is to overcome distrust. Distrust is the lack of trust of ordinary citizens, ethnic minorities and marginalised groups toward political system, process and leadership due to the glaring difference in their saying (commitments) and actual actions (practices).

One of the major reform agenda must be to eliminate the root causes of the conflict. This requires drastic shift from current perspective, regulatory and development frameworks, bureaucratic responsiveness and actual practices. Such reforms could mean breaking vested interests of political and bureaucratic elites, which is not possible unless major constitutional and civil reforms are introduced. Resistance from these elites based on false imagination and ambiguous logic, which has already been observed, is obvious in this transformation process. For example, radical land reform to provide means of livelihood for landless people can be one of many agenda for social change.

Much has been said and written on decentralisation, representation, participatory democracy, people's rights, etc. but very little has actually been done so far. These concepts have to be translated into behaviour and action, which is not done yet in Nepal. This needs new mechanisms, new thinking (for example, public hearing to select senior people in constitutional position), new procedures and concerted actions. Positive discrimination could be one of the (short-term) approaches to break deadlock⁷ but it should not be patronised. The tremendous potentials existing among poor, minorities and worst-off population should not be undermined by spoon feeding solutions and pacifying their intellect and abilities. The current debate on the need of social re-engineering for social inclusion and affirmative action is a beginning of paradigm shift. Evidences from around the world have shown that social exclusion is not insurmountable (Nayak, 1998) when deliberate interventions are made at state and civil society levels.

At present, there are many power centres (within and outside political parties), who really do not want radical reform to happen in Nepal. They are creating confusion in general public and misleading reform agenda with baseless, imaginary and hypocritical arguments of political risk for multiparty democracy if there is fundamental reform in constitution and political practices. This argument is not more than a faded power hungry ploy. Their arguments to solve every thing from within the current constitutional framework and political practices have been proved wrong during these 13 years. Therefore, there needs to be fundamental reform in both constitutional and political level to address country's current problems and to let democracy function. Instead of creating unnecessary confusion, Nepalese people want to see their constructive role in negotiating conflict, conflict transformation and reform process.

Our common sense tells that state is not doing enough in social inclusion. The creations of different commissions (e.g., Dalit Commission, Women's Commission, etc.) alone are not sufficient steps for social inclusion. These institutions need to be placed in wider framework of social reform with full autonomy. Their symbolic existence within current framework will not be able to ensure rights of their constituencies. The Dalit, ethnic group and women should get especial reservation in all areas (politics, bureaucracy, education, etc.) at least for some years to

⁷ Distributive justice and reservations & privileges may contribute to weaken the centuries old exclusion and rigid hierarchy.

bring them in the mainstream. Proportional representation of women, dalit and ethnic groups in election (parliament to local bodies), cabinet, and other relevant administration is essential.

3.2.3 Conflict transformation

Conflict transformation is a process of guiding conflict towards constructive rather than destructive outcomes to ensure lasting peace (Galtung, 2000). The most important goal of conflict transformation is to facilitate the process of building confidence on different levels: insurgents, political parties, civil society, government, media, etc. In a country where the economy is shattered, political system has lost legitimacy, warlordism is widespread, people are murdered and internally displaced and society is fragmented, conflict transformation is a big challenge. In a conflict ridden society like ours, where different groups want to develop new order to capture power and privileges, an important question is how to promote internal forces working towards social reconstruction and peaceful transformation of society. Since betrayed attitudes need to be modified and softened, conflict transformation through building trust requires sustained efforts over a long period of time (Upreti, 2003a). Progress in building mutual confidence among the various parties must involve a national effort and priority. In post-conflict situations a shift from confrontation to constructive engagement is the most difficult task. Ethiopian experiences have shown that if proper attention is not given security/police and judicial systems operate along ideological lines after the negotiation of conflict to cater the needs of new regime (SEF/KSI, 2000).

If and when the peace talks between the government and the Maoists positively ends by negotiation, there will still be daunting tasks and challenges ahead to rebuild trust among the members of war torn society for lasting peace. Those people, whose family members have been abused, raped, humiliated, tortured and killed (Amnesty International, 2002; Dixit, 2002) by the rebels and the security forces could have strong feeling of injustice, resentment, hate and feeling of revenge and retaliation. That could remain for their life. It is not easy to overcome such psychological feeling and promote reconciliation. The arrogance of war has developed military thinking in Nepalese society. Harassment of civilians, forced recruitment and state repression has left an utterly bitter legacy. If negative effects of this conflict remain in latent stage it could emerge and escalate when time, context and space becomes suitable. In such a situation there is always great chance of re-escalation of conflict at local level as terminal effects. To overcome terminal effects three complementary strategies have to be adopted simultaneously. They are:

1. Transactional strategy: Efforts must be concentrated on local negotiation, and mediation (process of intervention in conflict situation, of an acceptable, impartial and neutral third party who has no final decision making authority but assists to negotiate an acceptable settlement of conflict) for the political accommodation and providing opportunity for peace enforcement (Galtung, 2000).
2. Structural strategy: Concentrate efforts on civil society building, especially in war torn villages/communities. Roles of media, NGOs, local leaders are very crucial. In this strategy local people and opinion leaders need mediation skills to develop accommodative behaviour to respect human rights and rule of law. This is particularly essential for ex-combatants. The Georgian experience teaches that if ethnic fears and aspirations are not addressed by involving them in the reform process, it makes conflict transformation extremely hard (SEF/KSI, 2000). Therefore, ethno-political dialogue is crucial in this strategy.
3. Transformational strategy: In all war torn communities it is absolutely essential to promote dialogue between different factions (of the past). Confidence building is a major challenge and efforts have to be concentrated to build confidence and trust to live

together in harmony. Peace education, reconciliation and rapprochement must be integral part of the social reform strategy.

The principal aim of all these three complementary strategies should be to promote trust, start economic reconstruction, establish social and political justice, promote demilitarisation and help in the realisation of full security and healing of traumatised societies,

In specific, long-term post-conflict transformation strategy should focus on D₂R₄ activities, i.e., Disarmament, Demobilisation, Rehabilitation, Reintegration, Reconstruction, and Reconciliation. The following are some examples of D₂R₄ activities:

- Improving livelihood of people in conflict zone
- Developing infrastructures (e.g., labour intensive infrastructure development, income generation, etc.) in conflict-ridden areas,
- Improve and expand support systems (e.g., psycho-social and medical care, legal assistance, etc.) for victim of conflict and victim of torture,
- Strengthen local and national capacity to manage lasting peace (e.g., encouragement of civil society in peace initiative,
- Enhance capacity of leaders and community to cope with conflict and peace challenges, which means local capacity to handle conflict) autonomously, non-violently and creatively.
- Rehabilitate ex-combatants, train them to integrate in society,
- Integrate ex-combatants in appropriate security structure of the state (to those who are capable and willing) and train on alternative income generation to those who do not want to continue in security sector,
- Other relevant activities

In summarising the section three: the roadmap for negotiation and peace process there needs to be at least four stages as follows:

Stage 1: Form broad-based consensual government → start dialogue among the major stakeholders: agree on minimum conditions that build trust and prepare to restart negotiation, organise round table conference and consultation, then

Stage 2: Form national consensual interim government including Maoists to constructively engage in negotiation process, decide mode of devising constitution (referendum, direct constituteint election or fundamental revision of the existing constitution) and agree to wider social, economic and political reform processes, mechanisms, structures, etc.

Stage 3: Start radical reforms in administrative, social, economic and political sectors addressing all issues exposed by the insurgency.

Reference

Amnesty International, 2002. *Nepal: Spiralling Human Rights Crisis*. AI-Index: ASA 31/016/200 04/04/2002

Barnes, C, 2002 (ed.), *Owing the peace process: Public participation in peace making*. Accord Series. London: Reconciliation Resources.

- Baechler, G. (2002) (Ed.) *Promoting Peace: The Role of Civilian Conflict Resolution*. Bern: Staempfli Publisher Limited.
- Byrne, D (1999). *Social Exclusion*. Open University Press.
- Crow, B (1992). Rural Livelihoods: Action from Above. In: Bernstein, H. Crow, B and Johnson, H (1992) (Eds.) *Rural Livelihoods: Crisis and Responses*. Oxford: Oxford University Press. Pp 251-273.
- Dahal, D. R. 2003. *Conflict Resolution: A Note on Some Contending Approaches*. A paper prepared for the Seminar on Management of Conflicts in Nepal: A Preparation for Negotiation going to be organised by Centre for the Study of Democracy and Governance
- Dahal K. K., K. P. Acharya and D. R. Dahal (Eds.) (1999) *Development Challenges for Nepal*. Kathmandu: Nepal Foundation for Advance Studies.
- Dixit, K. 2002. Insurgent and Innocent: The Nepali Army's Battle with the Maobadi. *Himal South Asia*, Internet: <http://www.himalmag.community/2002/june/essay.htm>
- Galtung, J. (2000) *Conflict Transformation by Peaceful means*. Participants' Manual, Trainers' Manual. Geneva: UN Disaster Management training Programme.
- Goodhand, J. (2000). *Nepal Conflict Assessment, DFID Nepal*. Kathmandu: DFID-Nepal.
- Gore, A. (1992). *Earth in balance: Forging a new common purpose*. London: Earthscan Publications.
- Hachhethu, K. (2001). *State, democracy and insurgency: a case study of the Maoist insurgency in Nepal*. A paper presented in the conference "The Maoist Movement in Nepal: Context, Causes and Implications. School of Oriental and African Studies, London. 2-3 November 2001.
- Hogger, R. (2001). *Contributing to New Strength: an Analysis of Threats and Opportunities in the Development Co-operation between Nepal and Switzerland*. Bern: SDC
- International Crisis Group (ICG) 2003a. *Nepal Obstacle to Peace*. Brussels/Kathmandu: ICG. No 57.
- International Crisis Group (ICG) 2003b. *Nepal Background: Ceasefire-Soft Landing or Strategic Pause*, 10th April 2003 Brussels/Kathmandu: ICG. Research No 50
- Kasperson, R. E., Golding D. and Kasperson J. X. (1999). Risk, Trust and Democratic Theory. In: Cvetkovish, G and Lofstedt, R. (Eds.) *Social Trust and the Management of Risk*. London: Earthscan Publications, Pp. 22-41.
- Khanal, K. (2003). *Ethnicity and Autonomy: Some Issues for Consideration in Remaking the Constitution*. Paper presented at 'The Agenda of Transformation: Inclusion in Nepali Democracy' organised by the Social Science Baha, Kathmandu, 24-26 April, 2003.
- Kievelitz, U. and Polzer, T. (2002). *Nepal Country Study on Conflict Transformation and Peace Building*. Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH.

- Kumar, D. (2000) (Ed.) *Domestic Conflict and Crisis of Governability in Nepal*. Kathmandu: Centre for Nepal and Asian Studies, Tribhuvan University, 2000.
- Kusum, G. P. 2003. *Enabling Actions for Conflict Negotiation*. A paper prepared for the Seminar on Management of Conflicts in Nepal: A Preparation for Negotiation going to be organised by Centre for the Study of Democracy and Governance.
- Mackinlay, J. and Upreti, B. R. (2003). The King and Mao. *The World Today*. London: Royal Institute of International Affairs. Pp. 26-27.
- Miall, H. 2001. *Conflict Transformation: A Multi-Dimensional Task*. Berghof Handbook for Conflict Transformation. April.
- Nayak, P. (1998). *Economic Development and Social Exclusion in India*. Delhi: School of Economics/University of Delhi.
- Philipson, L. (2002). *Conflict in Nepal: Perspectives on the Maoist Movement*. Kathmandu.
- Putnam, R. D. (1993) *Making Democracy Work: Civic Tradition in Modern Italy*. Princeton, NJ: Princeton University Press.
- Pyakurel, S. 2003. *Developing Options for Negotiation*. A paper prepared for the seminar on Management of Conflicts in Nepal: A Preparation for Negotiation going to be organised by Centre for the Study of Democracy and Governance.
- Salla, Michael, E. 2000. Conflict Resolution, Genetics and Alchemy-The evolution of conflict transmutation. *The Online Journal of Peace and Conflict Resolution*, 3(3), June 2000.
- SEF/KSI (Development and Peace Foundation/Catholic Social Institute) (2000) *The precarious Transformation of War-Torn Societies. Human Security, Institutional Reform and Social Change: Experiences from Ethiopia, Guatemala and Georgia*. A Background paper.
- Thapa, D. (2001). Day of the Maoist (Essay). *Himal South Asia*. May 2001. Kathmandu: Himal Association. Pp 4-21.
- Upreti, B. R. 2003a. Social exclusion, centralism and conflict: Challenges for conflict transformation in Nepal . A paper presented at the International Conference “*The Agenda of Transformation: Inclusion in Nepali Democracy*” organised by Social Science Baha in Kathmandu from 24-26 April 2003.
- Upreti, B.R. 2003b. The origin of the Maoist insurgency in Nepal and its effects on the donor funded development programme. *Journal of Peace and Conflict Studies (USA)* (Under review).
- Upreti, B. R. (2002a). *Nepal: A Nation in Search of Peace and Development. A Country Assessment Report*. Berne: Swiss Agency for Development and Co-operation
- Upreti, B. R. (2002b). *Management of Social and Natural Resource Conflict in Nepal: Reality and Alternatives*. Adroit Publishers, New Delhi. ISBN 81-87392-32-0, Hbk, Pages 371.

Warner M. (2001). *Complex Problems-Negotiated Solutions: Strategies and Tools for Reducing Conflict as an Obstacle to Sustainable Rural Livelihoods*. London: Overseas Development Institute.

Acknowledgement:

I would like to thank Mahesh Banskota and Achut Raj Rajbhandari for their valuable comments to the earlier version of the draft. I highly appreciate the help of Subodh Pyakurel, Govinda Prasad Kushum and Dev Raj Dahal who send me their though provoking and interesting papers about conflict. I am indebted to Sushil Pyakurel for his critical review of the paper and to the participants of the seminar who gave me very constructive comments and suggestions.

Annex 1. Different Stages of negotiation

Negotiation is a process of reaching a conclusion acceptable to the government and the Maoists as well as parliamentary parties and civil society that have to restore lasting peace in Nepal. Negotiation has to pass through different stages to reach the final agreement. As we see in negotiation process in Sri Lanka, Palestine and other many conflicts around the world, negotiation is not a straightforward process. In any stage one or both parties want to maintain their strong position, show resistance, exert pressure (internal/external), which could lead to postponement, temporary suspension or break of negotiation. Success of negotiation depends upon the preparation, bargaining power, bargaining range (the difference between the maximum and the minimum settlement points on either or both sides), tactics (step by step method used to implement the strategy) and balancing transparency and confidentiality. From the current approach and framework negotiation seems less possible. It requires new ways of thinking, vision, commitment and radical reform agenda. The following are essential steps in negotiation:

Case-fire: Very first stage of negotiation.

Preparation: Preparation is a continuous process of searching, gathering information, agreeing general objectives and formulating overall framework of strategy. The informal discussion between the government and the Maoist leaders, and meetings and discussions with leaders of political parties and civil society members are part of the preparation stage.

Exploring: The second stage is exploring. Based on the outcome of the preparation, the Maoists and the government's negotiation team exchange their views, understand each other's views, they bunch or breakdown issues as appropriate. This stage concentrate to further discusses the three main conditions (i.e., golmech sammelan, interim government and election for constituent assembly) and 24 agenda proposed by the Maoists and counter proposals (if any from the government or political parties). Constructive attitude and behaviour from both parties is extremely essential in this stage to move further.

Singlining: Signalling is the third stage where the representatives of both the government and the Maoists explain their positions and indicate their willingness to make compromise and concessions. For example, if one party says 'we wouldn't agree to this', this means 'we could make an exception this time'. In this stage both parties have to be alert on use of confusing words and sentences carrying dual meanings. Parties sitting in the negotiation table should watch non-verbal communication (facial expression, signals, postures and gestures) to understand other party's signal of compromise.

Proposing: This is an important step in negotiation where both parties bring their concerns more vividly and concretely (e.g., 24 agenda of the Maoists). This is the crucial stage of advancing

negotiation. At this stage the parties in negotiation concentrate more on general principles and show flexibility on specific details. The negotiation could break in this stage if one party is too rigid.

Packaging: Packaging is a very crucial stage where both parties want to convincingly influence each other to get more from the deal. The main questions in this stage are who gets how much of what and when. They need to know concessions, bring as many options as possible and try to bridge the gaps and differences. The positive pressure from civil society, political parties and international community is extremely essential.

Bargaining: Everything up to bargaining stage is conditional. Either party could say 'if you were ready to ... (that and that) then we would be prepared to ... (this and this). This is again extremely fragile stage where negotiation could break when parties in negotiation are not ready for some compromises and concessions.

Closing: Closing is relatively easy and less risky stage of negotiation. In this stage negotiation reaches its end, outlining last concessions, summary of position, potential threats and risks, agreeing options and adjournment.

Agreement: Agreeing and signing stage is the final stage of negotiation where written agreement containing all conditions is made and signed by both parties. This stage also identifies if some sort of ratification is needed.