

# The Remake of a State

Post-conflict Challenges and State Building in Nepal



**Edited by**

Bishnu Raj Upreti

Sagar Raj Sharma

Kailash Nath Pyakuryal

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**Dedicated to the people investing their  
relentless efforts to re-engineer  
the society we live in.**

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## Preface and acknowledgement

State building has been a ubiquitously debated topic in these days. Be in war-torn Iraq or conflict-ridden Afghanistan, or in the countries suffering from instability, this issue is becoming vital in terms of physical reconstruction, socio-economic transformation as well as in academic discourse. It is more so in the case of South Asia now, especially amidst the two diversely transforming aftermaths of conflict viz., those of Sri Lanka and Nepal. Amidst this context, the present book is basically an outcome of the contributors' observation, points of view and analysis over the issues pertinent to the state building in post-conflict Nepal.

Most of the authors incorporated in this volume are the active discussants at the national and international forums and are experts in the respective areas. Several of these authors are also researchers involved in the collaborative works between the HNRSC of Kathmandu University and the Swiss National Centre of Competence in Research (NCCR North-South).

We anticipate that this book with chapters on conceptual framework, review of national and international experiences and relevant case studies in state building will serve in promoting post-conflict state building in Nepal. We also hope that the book will be equally useful to the societies in similar situations, and to the researchers and practitioners of development.

Our sincere gratitude goes to all who helped us during the course of preparing this volume. Even though it is the least possible to mention all of them, we would like to name a few whose support remained crucial in bringing this volume into this shape. The foremost acknowledgement is allocated to the tireless efforts of all the chapter contributors who agreed to write on the respective issues. We share especial credit with Dr Bharat Pokharel, Dr Bimala Rai Paudyal, Dr Jane Carter, Dr Prabin Manandhar and Dr Ramji Neupane who have contributed their chapters even amidst the tightest datelines. Other contributors inside our research collaboration are also hard to forget while thanking. Thanks are due to the team of the HNRSC in the School of Arts, Kathmandu University and South Asia Regional Coordination Office of the NCCR (North-South). The editors

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Last but not the least; we are much obliged to you, the valuable readers, who have chosen to go through this book with your best interest. We are looking forward to getting valuable comments and suggestions from you which would serve as the critical forces to make us continue what we are doing.

**The Editors**

**June 2010**

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## Acronyms and abbreviations

|         |                                                            |
|---------|------------------------------------------------------------|
| ACAP    | Annapurna Conservation Area Project                        |
| AI      | Amnesty International                                      |
| ATT     | Armed Trade Treaty                                         |
| BS      | Bikram Sambat <sup>1</sup>                                 |
| CA      | Constituent Assembly                                       |
| CFUG    | Community Forest User Group                                |
| CIA     | Conflict Impact Assessment                                 |
| CJS     | Community Justice System                                   |
| CPA     | Comprehensive Peace Agreement                              |
| CPN     | Communist Party of Nepal                                   |
| CRA     | Conflict Risk Assessment                                   |
| CRV     | Control Room Vehicles                                      |
| DAGs    | Disadvantaged Groups                                       |
| DDC     | District Development Committee                             |
| DDR     | Disarmament, Demobilisation and Reintegration              |
| EIA     | Environmental Impact Assessment                            |
| FDI     | Foreign Direct Investment                                  |
| FECOFUN | Federation of Community Forest Users, Nepal                |
| FNCCI   | Federation of Nepalese Chambers of Commerce and Industries |
| GDP     | Gross Domestic Product                                     |
| GHT     | Greater Himalayan Trail                                    |

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<sup>1</sup> Bikram Sambat is a system of marking years as per lunar calendar and is practised in Nepal widely by the government and other media. It is 56 years advanced than the Gregory one.

|       |                                                        |
|-------|--------------------------------------------------------|
| GO    | Governmental Organisation                              |
| GPS   | Global Positioning System                              |
| HAN   | Hotel Association of Nepal                             |
| HDI   | Human Development Index                                |
| HNRSC | Human and Natural Resources Studies Centre             |
| ICC   | International Criminal Court                           |
| IDP   | Internally Displaced Person                            |
| IGP   | Inspector General of Police                            |
| INGO  | International Non-governmental Organisation            |
| MDG   | Millennium Development Goals                           |
| MPB   | Metropolitan Police Bureau                             |
| NATO  | North Atlantic Treaty Organisation                     |
| NBI   | National Business Initiative                           |
| NCCR  | National Centre of Competence in Research              |
| NGO   | Non-governmental Organisation                          |
| NRN   | Non-Resident Nepali                                    |
| NRs   | Nepali Rupees                                          |
| NSP   | National Security Plan/Policy                          |
| NTB   | Nepal Tourism Board                                    |
| NTNC  | National Trust for Nature Conservation                 |
| OECD  | Organisation for Economic Co-operation and Development |
| PCIA  | Peace and Conflict Impact Assessment                   |
| PPP   | Purchasing Power Parity                                |
| PQT   | Partnership for Quality Tourism                        |
| PRSP  | Poverty Reduction Strategy Plan                        |
| R&R   | Reconciliation and Reintegration                       |
| RRA   | Remote Rural Area                                      |

|       |                                                 |
|-------|-------------------------------------------------|
| SALW  | Small Arms and Light Weapons                    |
| SDC   | Swiss Agency for Development and Cooperation    |
| SLF   | Sri Lanka First                                 |
| SPCC  | Sagarmatha Pollution Control Committee          |
| SSR   | Security Sector Restructuring/Reform            |
| ST    | Sustainable Tourism                             |
| TRC   | Truth and Reconciliation Commission             |
| TRPAP | Tourism for Rural Poverty Alleviation Programme |
| UCPN  | United Communist Party of Nepal                 |
| UK    | The United Kingdom                              |
| UN    | United Nations                                  |
| UNDP  | United Nations Development Programme            |
| UNMIN | United Nations Mission in Nepal                 |
| UNWTO | United Nations World Tourism Organisation       |
| US    | The United States                               |
| US\$  | United States Dollar                            |
| VDC   | Village Development Committee                   |
| WB    | World Bank                                      |
| WCED  | World Commission on Environment and Development |
| YCL   | Young Communist League                          |
| YF    | Youth Force                                     |

# Post-conflict state building: Issues and challenges

*Kailash Nath Pyakuryal<sup>1</sup>  
Safal Ghimire<sup>2</sup>*

## 1. Introduction

In the global power dynamics, the frequent rise and fall of internal politics of different countries has also been affecting the international power equation and the world order at large. It is true for every country now that not only the strength of its own, but also the weakness of the other can be the source of serious problems. International relations are interconnected in such a way that no single country can prosper forward brushing aside the problems of another. Indeed, it answers the questions on why the US helps Haiti in earthquake, why European Union takes concern over the financial crisis of Greece, and why India and China care about the peace process in Nepal. Hence, state building has been a collective concern everywhere around the world.

Mostly, history involves power and exclusion for any history is always someone's history, told by that very someone from a particular point of view. The written history of Nepal for the last two and half century had simply remained accepted whereas the same is presently being challenged, as the history of Nepal has been also a history of blatant exploitation of the minorities, Dalits, women, ethnic groups and the likes. There still persists an extensive income inequality and an alarming rift between the sowers and the reapers of development.

Nepal is basically a rural country and agriculture is the mainstay of majority of the population. Nonetheless, land distribution in this country is highly skewed. A handful minority owns a major portion and the majority of the poor farmers has only a small share. Nepal is now progressing towards a federal structure. But its atlas is at stake as ethnic divides are more pronounced now than at any time in the past. The achievement of national

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unity and birth of Nepalism is an emerging ideology along with the debates on state building. In such a stage, the country is prone to face some new and critical challenges. To rekindle national unity and love for the country, to make people appreciate for true Nepali identity, to promote common values essential for nation building and to strengthen the existing and redesign the new government institutions deemed important for state building are the very jobs crucial at this phase.

Since 1769, after the unification of different principalities, attempts were made in Nepal to build a sense of national cohesion among diverse populations. The diversity is pronounced in the areas of ethnicity, geography, religion and language, to mention a few. Nepalese are categorised into scores of ethnic groups, each with its own language and/or dialect, and each with its own traditions and memories. This country in the past had attempted to unite its disparate parts in a way that would allow it to function as a modern nation-state. However, the economy is weak, wealth is concentrated in the hands of a few, millions live in desperate poverty, and a decade of civil war has destroyed countless lives and sapped the resources of the nation. Until recently, the Nepal Army fought civil war against the 'People's Liberation Army' of the then Communist Party of Nepal (Maoist). This was an armed resistance movement that had its roots in local grievances, landlessness, human rights abuses, feudalism, extreme poverty, income inequality and lack of people's democracy, which still show no signs of abating. This country is still being threatened by a long-term economic and social neglect and hopelessness. This has forced our youths to become economic immigrants all around the world.

As the condition worsened further by the civil war and previously existing crisis, frustrations cumulated. People got organised by the political parties leading to a drastic change in the political arena. This was the People's Movement-2006 that overthrew the two and half century-old monarchy and turned Nepal into a Republic. It aimed at the remake of the state that would transcend local, regional, family and ethnic loyalties, and shore up a noble purpose of rejuvenation of all the state institutions. However, with many people mired in poverty and dependent on foreign aid, this political change, though historical, has been in no sense leading to poverty alleviation.

Because development is a change in structure and quality, growth in itself does not lead to development. We have to accept development as a process of exchanging information with others, which means: development is not possible in a closed system. Each closed system is agreeable to those

who control the monopoly. Development cannot thrive in monopoly. The only thing that fosters in monopoly and exclusionary system is the prosperity of only a handful of people. Hence, if the overall political and economic freedom is not inclusive, development is not either. To enhance the inclusive transformation and democratic culture, a meaningful state building is deemed a must. At this phase, it is long awaited that the new constitution would give a frame for post-conflict state building that would lead people to rapid growth, peace and development.

## **2. Conflict in Nepal**

Armed conflict in Nepal erupted in 1996 and lasted for 10 years. Then CPN (Maoist)<sup>3</sup> waged this war as a struggle to emancipate people from exploitation and extreme poverty. In rural Nepal, feudal landlords were exploiting the poor. They were always supported by the state institutions run by those in power. Scores of people lost their lives and uncountable infrastructures were destroyed in this 'People's War'. Human rights were violated, free movements were restricted and the Maoists virtually controlled all the rural Nepal. Only the district headquarters were under the state control. The direct rule of the then king also turned to be an absolute failure. A united people's movement under the leadership of major political parties ousted the monarchy. Several coalition governments came into existence after the election to the Constituent Assembly (CA) and the constitution is now under the making.

The terms pre-conflict, during conflict and post-conflict assume conflict more as a static concept rather than a continuous process. Whatever the assumption be, one cannot think of change without conflict and conflict is a necessary condition for change in social relations and hence is useful. As Nepali society suffered from human killings and destruction of infrastructures, the conflict also helped change previously held outdated views and human attitude. It also resulted in the change of the social and political positions. Common people do not any longer think themselves as powerless and disconnected. They are more politically organised and empowered. Ethnic groups, Dalits, women and other marginalised and disadvantaged communities are more visible and powerful at present than before. The ethnic, caste, gender, regional and economic divides are being

<sup>3</sup> The CPN (Maoist) and the Unity Centre united in January 2009 and the name CPN (Maoist) was changed into the United Communist Party of Nepal (Maoist) or UCPN (Maoist). Small breakaway faction of the CPN (Maoist) kept its original name CPN (Maoist) after the formation of the UCPN (Maoist). Hence, UCPN (Maoist) is used in throughout this book even to refer the description before the unification, otherwise than stated, to avoid the confusion with the name of the breakaway faction (eds.).

debated at present. There is no doubt, in due course of time, these issues will turn into a decisive direction. State building process has to take this in mind while redressing the state institutions, exploring new potentials and working amidst fresh hopes.

### **3. Post-conflict state building: Some conceptual debates**

Geologists believe that the shaping and reshaping of rocks and plates has constituted the earth we are living in now. The ebbs and flows in the national politics of any country appear, similarly, to redress a newer state. With changes, there comes a grave challenge to institutionalise the achievements with the reinvention of state apparatus. At such times, people accumulate the hopes for betterment from the change they invited. Managing and balancing them requires specific skills and plan, with a scrutiny on what potentials the state has and what weaknesses it has to address.

It is reported that at the end of 2006, there were more than 80,000 military and police personnel deployed in 16 different missions of the United Nations (UN) (Heathershaw 2008). Such international interventions in conflict and post-conflict countries have usually two stated aims: 1) To assist in reconstruction of the core structures and institutions in such countries, and 2) To support for the transition from war to peace (peace-building). Also in Nepal, there is UN involvement for peace-keeping which monitors the deposited arms and ammunition and the Maoist ex-combatants residing in different camps and satellite camps. However, embedded in such assistances is the Western-promoted imposition of 'liberal peace', a set of measures designed to liberalise the economy, modernise society, introduce democracy and induce political stability (Heathershaw 2008; Paris 1997; Duffield 2001). Such assistances have persistent bias, in that they approach post-conflict countries from an outsider's perspective. Little attention is paid to the resilience of local space; elite-subordinate dynamics of patronage and the structures of authority remain a mystery to most international state builders. Thus, Richards (2005) claims that, the subject of the post-conflict space remains under-theorised and over-generalised.

On one hand, international actors make intrusive interventions into the sovereign space of a given state (Nepal's case is representative of this kind). On the other hand, local actors engage in their own to obtain political and material support from outside parties. However, the influence of international actors gets inhibited by the resilience of local informal

institutions of governance (Heathershaw 2008). It could be noted that during the April Movement of 2006, when the then king Gyanendra made a proclamation to limit himself as a constitutional monarch, it was India which immediately sent its formal recognition of Gyanendra's political step. But the movement further aggravated the next day despite India's support to the king and the king had to step back from his earlier stance. Ultimately, he was dethroned.

Despite lacking the classical criteria of sovereignty, elites in these places seek international recognition and aid in order to bolster their particular faction. These 'tactics of government' are less about strategically building towards the idealised endpoint of statehood, but more about the day-to-day politics of making space for survival and consolidation of the regime (ibid).

A UN report notes, 'We are in an era where dozens of states are under stress or recovering from conflict, there is a clear international obligation to assist states in developing their capacity to perform their sovereign functions effectively and responsibly' (The UN 2004, p 83). Heathershaw (2008) claims that this is also taken as highly interventionist approach.

Beck (2005) mentions about the notion of 'militaristic humanitarianism'. This relates to the doctrine that war is engineered in order for peace to be built. Many liberal commentators have come to the defence of such 'humanitarianism'. Michael Ignatieff, for example, argues that imperialism does not stop being necessary just because it becomes politically incorrect. Nations sometimes fail, and when they - the imperial power - do outside help, they can get the nations back on their feet. State building is thus the kind of imperialism you get in a human rights era, a time when great powers believe simultaneously in the right of small nations to govern themselves and their own right to rule the world (Ignatieff 2002).

Such order of discourses, where military-led state building comes to be portrayed as humanitarian, and humanitarianism as necessarily requiring military intervention, should raise questions about the very object of intervention itself: the sovereign state. In the direct international military interventions such as in Afghanistan and Iraq and their 'nation-building' fiasco, 'state building' lives on but is as far from realising its ideal of the sovereign state. Post-conflict reconstruction is not any benign and neutral activity, but a highly political endeavour. Rubin (2006, p 184) neatly argues that 'studies of state-building operations' often try to identify 'best practices' without asking for whom they are the 'best'.

Others have sought to acknowledge this imperial overstretch and permeate the conceptual framework for peace building and state building with less demanding aims. Krause and Jutersonke (2005, p 448) rightly assert that "Post-conflict operations are not minor 'insertions' of another actor into a complicated field of forces, but represent major breaks in state formation, often attempting to redistribute political, economic or social power and reshape the institutional terrain on which political competition occurs."

While Krause and Jutersonke (2005) address some of the defects of present approaches to post-conflict peace building, they continue to adopt a 'single sovereign perspective' which assumes the individuality of the state and fails to capture how international strategies are subverted, appropriated and resisted 'on the ground'. Any attempt to reconstitute a single sovereign and inscribe a single path to development is at best futile and at worst takes the form of collusion with re-emerging structures of domination. This is but because of its model of a single sovereign governing a bounded territorial unit (Heathershaw 2008). A better approach allows us to explore empirically and interpretatively the multiplicity of authorities (and spaces) that exist across and between given territories. In short, we must acknowledge the multiplicity of sovereigns and spaces.

Questioning bounded territoriality under a single sovereignty is not the same as denying the importance of territory which we understand as a "physical and geographical area which actors seek to control through acts of defending, excluding, or including" (Cox 2002, pp 1-2). This single sovereign perspective has captured the imagination of scholars, practitioners and critics of state building.

'Post-conflict' is, of course, a misleading term. Gerd Junne and Willemijn Verkoren understand it as 'shorthand for conflict situations, in which open warfare has come to an end' (Junné and Verkoren 2005, p 1). From this, it should be eminently clear that a 'post-conflict' society will have no shortage of conflicts or violence. It just means that these conflicts and violence are being addressed in new modalities of internationalised governance. The ambiguousness of these situations has variously been described as 'no peace, no war' (Richards 2005) or 'no war, no peace' (MacGinty 2006). Such descriptors aptly highlight the difficulties of categorising this state of affairs. They also challenge the notion that post-conflict countries are in a stage of transition between war and peace.

Of course, the idea of a clean, unidirectional transition has already been demolished by research showing that the risk of war is substantially

higher during the first five years after the end of a conflict than it is in comparable countries (The World Bank 2003). Nevertheless, the idea that post-conflict countries find themselves on the path from the horrors of war to the promises of peace underpins much of the literature. In contrast, it is often argued that post-conflict spaces cannot be understood as a process (whether positive or negative) but need to be conceptualised in terms of space - a field of power relations where multiple 'sovereigns' negotiate rule across multiple spaces of political authority (Heathershaw 2008).

Feudal structure, poverty and extreme inequality are the main features of underdevelopment in Nepal. These made the armed conflict germinate with the aim of emancipating the people and develop the country prosperously. The decade-long armed conflict had both positive and negative effects; there were changes in the political, social and economic systems, but at the same time numerous physical infrastructures and thousands of human lives were destroyed. After the armed conflict halted, mainly the construction, rehabilitation and advancing of peace process have been initiated. Some scholars even claim that these are some of the important functions of post-conflict state building. But this notion is incomplete in the sense that accepting only them is to brush aside the diversity and pluralism that most of the societies contain.

Military intervention justifies military involvement in maintaining peace and/or single sovereign approach. It relates to the territorial integrity of a state and assumes multiple nation-states as mutually exclusive to the single sovereign approach; whereas the multiplicity of sovereign approach realises the presence of nation-states with the presence of diverse human groups and actors aspiring for autonomous governing units with only a loose federation. The multiplicity of sovereign approach is much closer to nation-building.

#### **4. National integrity and state building**

The state-centric assumptions of state building is problematic in that it fails to contend with how authority often exists in multiple spaces beyond and across the bounds of the state, denying a single dominant or single subordinate group. In post-conflict spaces, localising and globalising tendencies are both prevalent, as the boundaries of the state may be called into question by both ethnically-based proponents' claims and cosmopolitan rights-promoting agendas. Nepal had been practising an assimilation approach of national integration assuming that this would

lead to nation-building. It is only after the April Movement-2006 that there was a greater realisation of frustration and need for recognising and respecting pluralism and diversity in Nepal.

The territorial claims by different ethnic and regional groups in post-conflict period attest to such conditions. The authority of the state for territorial integrity is often questioned by such organisations. Different groups are agitating for a guaranteed territorial space in the new constitution. The social engineering of federal states has also been questioned for in each proposed federal state, there is a presence of numerous ethnic groups. Thus, the formation of the local-regional elite captured nation-state might invite conflict and violence, if mutually agreeable proposals are not well prepared and promulgated.

In the absence of a tangible theory of post-conflict state building, Nepal's post-conflict challenges are far from predictions. In such a situation, advancing state building endeavors merits much serious attention. The UN's involvement in Nepal's peace process, the interests of India, the US, China and others (European Union, Norway and the likes) have transcended this peace process from simply a local to a global subject of post-conflict state building.

The 'state in society' approach of Migdal et al. (1994) and Migdal (2001) to internationalised, post-conflict space is worth mentioning here. It is based on three 'levels' of space (categories of 'selves'): *local* (subordinates existing 'under' various authorities, local, national and translocal); *elite* (including local, national and regional elites in authority over popular social spaces); and *global* (including 'the international community', but also radical and moderate transnational movements). The interaction of local, elite and global selves is inter-spatial in that it takes place among their spaces of authority (Heathershaw 2008). It is assumed that post-conflict space is characterised by an intersection of these spaces (or selves) which leads to the emergence of structures of governance and domination that are different from what the international community might have envisaged or whatever the pre-conflict state would have been practising. However, rather than a fixed separation of these spaces, the focus should be on their interaction, and on the hybrid character of post-conflict spaces, their societies and the states. Consequently, identifying selves is not an easy task. In no way the state would be able to exercise its continued domination over the local, elite and global spaces and hence interaction among these spaces would be the best fit for state building.

For the majority, local places (villages, markets or religious institutions) provide the basis for social or societal life. The way in which groups and individuals resist the state, and the way social forces are co-opted by the state, can 'change [the state's] social and ideological underpinnings' (Migdal et al. 1994, p 12).

In order to conceptualise state-society relations, Migdal avoids categories such as class or ethnic identity which can modify as much as they explain. However, 'society', understood as a structural variable existing under a given state, is not the only expression of local or subordinate space; local spaces can take subnational or transnational forms. Such 'translocal' (Kaiser 2003) spaces can take the form of cross-border networks of seasonal labour migrants or long-term relations between the diaspora and the homeland. Alternatively, one or more of these cleavages may provide the vehicle for conflict, mutual stigmatisation and inter-spatial violence - thus pitting 'selves' against one another. Different ethnic groups mostly in Terai belt of Nepal and their relation and ethnic affiliation with similar groups in Bihar and Uttar Pradesh provinces of India are some examples of such cleavages. It is too far complicated for foreign interest groups and the UN forces to comprehend the differentiation of local space. It is because such spaces are fractured by local militia groups and demarcated by their rivalries.

At times of civil war or political violence, we can expect that local discourse will be contested between fighting groups. Minor differences would be stigmatised, and popular transcripts would be produced in part in a response to contrasting elite discourses of local, ethnic, religious or regional 'selves'.

A second set of post-conflict spaces are those of the elite: the spaces of the sub-national, national and regional political leaderships which can make some claims to sovereignty over localities. These are elites who are not seen as outside 'interveners' but leaders accepted as 'internal' or 'ours' (those at or near the top of a larger 'we' group) by a particular constituency. Nepal's Terai could be a case of such a type. It can be seen in the context of the 'Ek Madhes, Ek Pradesh' (One Madhes, One Province) slogan by mostly Maithili speaking people, irrespective of fairly well present Tharu, Awadhi and Bhojpuri speaking ethnic groups, or Madhesi-Pahadi divide in the same region. One could expect elite discourse to be fractured by the violent articulation of difference and the contestation of 'inside'/'outside' and 'us'/'them'. Violence is based on a 'discourse of exclusion' between groups with 'exclusionist identities' along the

boundaries of highly demarcated spaces. Thus, it invokes 'articulations of separateness, of limitations to access, and of strict boundedness' (Jabri 1996, pp 130-131).

Post-conflict space is given its special character partially by the intervention of international and transnational actors which might affect the kinds of domination and resistance taking place. The extent to which international actors are able to alter local and national political relations is the key question. Afghanistan could be taken as an example to show how international intervention which, at present, shows no sign of completion. Rather than building a sovereign state, it creates international space for elite whose position remains weak across large parts of Afghan territory. Similar examples could be cited from Nepal too where, at different time periods, different individuals (political elites) have been supported by international actors (countries and/or multi-nationals) and instituted in powerful positions.

The legitimating of this idea of international interventions for peace and democracy opens up new territories for international intervention and the creation of autonomous spaces of international administration. The governance dynamics of such entities can be driven primarily by global actors in cases where local elites are excluded. Yet, this inevitably provokes a reaction. We must look at how the increasing involvement of international organisations and transnational companies in post-conflict spaces may help produce new forms of governance and resistance, both locally and globally. If the local, regional and global interactions are not properly understood and carefully handled, a return to a precarious ethno-politics may be produced leading to further armed conflict in the future. Though gravely related with the issue of national integrity, it is indicative to a complex task of state building in post-conflict Nepal.

Taking into account the micro aspects in re-making, state building is not a simple job that becomes complete overnight. Countries like Nigeria have not yet become fully successful in realising the state building process. Even India and China, the emerging South Asian giants, are under criticism for promoting regional imbalance of development within the country. It is observed that the four years since the American-led invasion of Afghanistan, the US has learnt some painful lessons about state building in both Afghanistan and Iraq (Fukuyama 2009). We have many lessons to learn from global experiences. But it is not that state building is a far-cry for us. There are many spaces from where we can start out. This book, indeed, deals with those very issues.

## 5. Organisation of the book

At the very crucial phase of Nepali society and politics, we have come up with this book *The Remake of a State: Post-conflict Challenges and State Building in Nepal*. This documents the eminent issues that are daily debated in academic arena in the post-conflict Nepal. The chapters here not only impart hope, but also warn of challenges ahead. Basically, both conceptual and practical streams of chapters are included in this book.

We presented the issues of and the challenges to state building in this very first chapter. It has discussed the origin and causes of conflict in Nepal with some theoretical foundations on national integrity and its implications on state building process. In Chapter 2, Bishnu Raj Upreti has provided a conceptual framework for post-conflict state building. There he talks on policies, principles, practices and institutions, and their restructuring in the aftermath of conflict. The relationship between the private sector and state building is explored in Chapter 3 by Sagar Raj Sharma. Claiming the non-state sectors can have vital role in conflict transformation, Sharma details on the economic side of post-conflict Nepal with a focus on partnership for development. Bharat Kumar Pokharel and Jane Carter discuss about the chronic poverty and governance system in Nepal in Chapter 4. Taking instance from the successful community forestry approach in Nepal, they have strongly argued in favour of a collective approach in reducing poverty and institutionalising good governance.

Tourism is a boon for Nepal. The importance of sustainable tourism is eminent to flourish the post-conflict economy, argue Pranil Kumar Upadhyaya and Sagar Raj Sharma in Chapter 5. The issues of property right and associated problems, the ways to address them in the upcoming constitution and the transferring of state property to the community in the post-conflict Nepal is discussed in Chapter 6 by Bharat Kumar Pokharel and Bimala Rai Paudyal. In Chapter 7, Bishnu Raj Upreti writes about how physical infrastructures are targeted during civil wars and how can and should they be reconstructed, with new sets up, for the meaningful development intervention. He argues that post-conflict peace and stability can be achieved by getting right process of development and state building. Purna Bahadur Nepali and Kailash Nath Pyakuryal, in Chapter 8, claim that land is, and has been, a vital issue since immemorial. It was also one of the root causes of decade long insurgency in Nepal. The post-conflict state building should properly address this, put forth the author duo.

The development policy of Nepal has always turned deaf ear to the contribution that migrants have made and can make in the betterment of the nation. Anita Ghimire, with Bishnu Raj Upreti, talks on the role of migrants with a neat comparison and contrast with international instances in Chapter 9. She further reiterates that the state needs to bring engagement strategies for diaspora to invest in post-conflict economy. Anjana Luitel, with Bishnu Raj Upreti and Ashok Rai, has discussed about the growing trend of militarisation of youths in post-conflict Nepal. With an utter indifference to the previously signed commitments and agreements, the formation of military outfits by political parties and interest groups has put the society in an abyss of criminalisation and impunity, Chapter 10 says.

Crime in post-conflict Nepal has become a daily nuisance and serious threat to state building. Safal Ghimire and Bishnu Raj Upreti discuss about the causes and remedies of urban crime as post-conflict challenge in Chapter 11. Similarly, the same troubles generated by the massive and wide-spread use of small arms and light weapons (SALW) is discussed in Chapter 12 by Bishnu Raj Upreti. Strengthening of the security mechanism and strictly addressing the problems of impunity can only minimise this ubiquitous problem, Upreti asserts in his chapter. Upreti's next write up, Chapter 13, puts forth that not only the physical reconstruction, but also the social and political reconciliation and reintegration (R&R) is essential for a successful handling of post-conflict situation. He complains that this issue has not yet been a priority of the government. The culture of contradiction and duality has become the overall challenge for state building in Nepal, on which Prabin Manandhar and Ramji Neupane have discussed in Chapter 14. They argue that party politics over the overarching issues of national importance and the gap between rhetoric and reality have constituted an unwanted state, the address to which is a must for the success of ongoing peace process and post-conflict state building. Finally, Sagar Raj Sharma, in Chapter 15, concludes the points raised in this volume. He rightly synthesises the key message that, with the complexity and context specificity, the post-conflict state building in Nepal has become like a terrain that requires sustained and serious efforts to succeed.

## **6. Concluding remarks**

When we are talking about state building, the complaints on statelessness are also in rise in this transition period. With the fragile provision of state

facilities like security and basic services, credibility over government and state system is also declining. It might be specific in case of the immediate aftermath of conflict in Nepal. But we have not yet tried enough to address such issues that have lasting implications. Hence, state building has been a widely debated and hotly contested topic these days.

In the state building process, it will be an analytical misstep to view the state as a unitary actor. This conceals the various forms of 'state' under conditions of international intervention. Second, state actors are but one group of elite actors who must be considered in their relationship to other local-subordinate, elite and international groups.

The rejuvenation of the state institutions remains a must in post-conflict state building. It has to do with the formation of new government institutions and the strengthening of the existing ones (Fukuyama 2009). Inclusion, therefore, is needed not only of sex and caste, but also of thoughts that come from diverse corners of the society. Time and again, Nepal has had infant democracy with low chances of proper exercise. For more than 60 years, this country saw the 'trial and errors' of various political changes, almost one on average per decade. With numerous scopes and plenty hopes, the strength of the state is yet to be re-tested after the reintroduction of democracy (sometimes called as 'full-fledged' democracy; the ubiquitous term *lok tantra* in Nepali). The democratic values are also yet to be institutionalised fully. With new horizons ahead, capacities should be enhanced to sort out and tackle new challenges.

Nepal is formally going to be recognised by a growing number of states. But post-conflict space - at local-subordinate, elite and global levels - may or may not be (informally) recognised, formalised and territorialised as a state or autonomous region of a state. Our post-conflict spaces are all problematic when identified as territorial entities. Currently, the divisions over the sovereign state highlight the tenuous nature of Nepali statehood. It may finally remain highly dependent on the regional politics of Asia and the international politics of the wider world, if proper care is missed.

It would not be false to say that, if the current economic and social malfunctions continue, and if we continue to accept our mere survival and the notion that consents 'the existing situation is acceptable, because it could be worse'; we may remain a country in its past, continuing to celebrate its past glories, heroic tales, legends and downfalls.

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## 1. Setting the context

In general, post-conflict period refers to the duration between signing of the peace agreement and completion of the implementation of the provisions stated in the peace agreement that brings societal normalcy. Therefore, it is a transitional period from conflict to peace and also a phase of institutionalisation of the achievements made in the transition period. In the case of Nepal, such institutionalisation process is achieved through drafting a new constitution containing the provisions articulated in the Comprehensive Peace Agreement (CPA) (such as state restructuring, economic prosperity, human rights, etc.) and other agreements thereafter.

By and large, peace refers to a state of social, psychological, physical and spiritual wellbeing on individual and society as whole. In the context of Nepal, a country emerging from the decade-long bloody war, peace is a state of restoring normal relations among people and among institutions directly and/or indirectly affected by the armed conflict and addressing the root causes such as social exclusion, marginalisation, deprivation, mal-governance, social disharmony and ethnic tension, as well as achieving social, psychological, mental, physical and spiritual wellbeing. Nepali society is fractured, disconnected, frustrated and alienated due to the civil war and associated effects. Therefore, achieving stability and peace in Nepal requires appropriate process that deals with the past and envisions better future by generating hope and aspiration. In this regard, peace building is crucially important in Nepal. It refers to strategies and actions to be undertaken to institutionalise achievements made through the implementation of provisions in peace agreement.

Stability, for the purpose of this chapter, is defined as efforts made and to be made to terminate hostilities, consolidate peace, and promote concerted actions those prevent political unrests. While defining stability, OECD (2008) focuses on the actions undertaken by international actors to

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reach a termination of hostilities and consolidate peace, understood as an absence of armed conflict. However, in the context of Nepal, it goes beyond the definition of OCED.

The CPA in Nepal has envisioned the restructuring of the state because it had failed to deliver basic state functions. Building state therefore became imperative. State building for the purpose of this chapter is defined as visions, aims, strategies and actions purposefully oriented to build a legitimate, capable, effective and resilient Nepali state that requires fundamental shift on constitutional and regulatory framework, policy context, institutional arrangements and governing practices. Hence, state building requires restructuring of bureaucracy, judiciary, executive and security of the nation and creation and strengthening of state institutions. Even though some literatures use state building and nation building interchangeably (Dobbins 2007), this chapter differentiates these two concepts. Since nation building focuses rather on devising common national identity from within the plural ethnic, cultural, religious and political identities, this chapter deals more with the aspects of state building like content, structures and process.

State building and peace building may share basic characteristics, but there are vital differences between them (ODI 2009). State building is needed for durable and just peace and stability and functional democracy. Three important components, i.e., political processes (to legitimise state), economic processes (to gain recovery and growth) and ensuring security are crucial foundations in state building process.

At present, Nepal is at the crossroad of critical transition from war [between the state and the UCPN (Maoist) for a decade (1996-2006)] to peace. Further, it faced a bitter Madhes revolt in 2007, encountering security threats from more than 109 armed groups. Complications are further fuelled by the militarised youth wings of political parties and their sister organisations who take laws in hand, politicisation of the crime and criminalisation of politics, radicalisation of society and institutionalisation of impunity (see Chapter 10 for more discussion on it). Respect to rule of law is applicable only to the powerless people, not to the political parties and their cadres. The bureaucracy, judiciary, security and all constitutional bodies are politicised. One of the latest examples is the bargaining between two major political parties to recruit the governor of the central bank of Nepal in March 2010. Another example is the failure to fill the vacant positions in several constitutional bodies such as the Election Commission and the Commission on the Investigation of Abuse of Authority because of the competition in recruiting people by certain parties in their favour.

The first and decisive criterion for the selection on these posts is party affiliations or endorsement than qualification, relevant experience and competence. Consequently, whole state structures are under the shadow of political parties and their influential leaders. Competent, highly qualified and experienced persons (if they are not willing to be member of political party or not willing to pay for the post) are demoralised, frustrated and gradually moving away from the state building process, which is severe set-back to post-conflict state building.

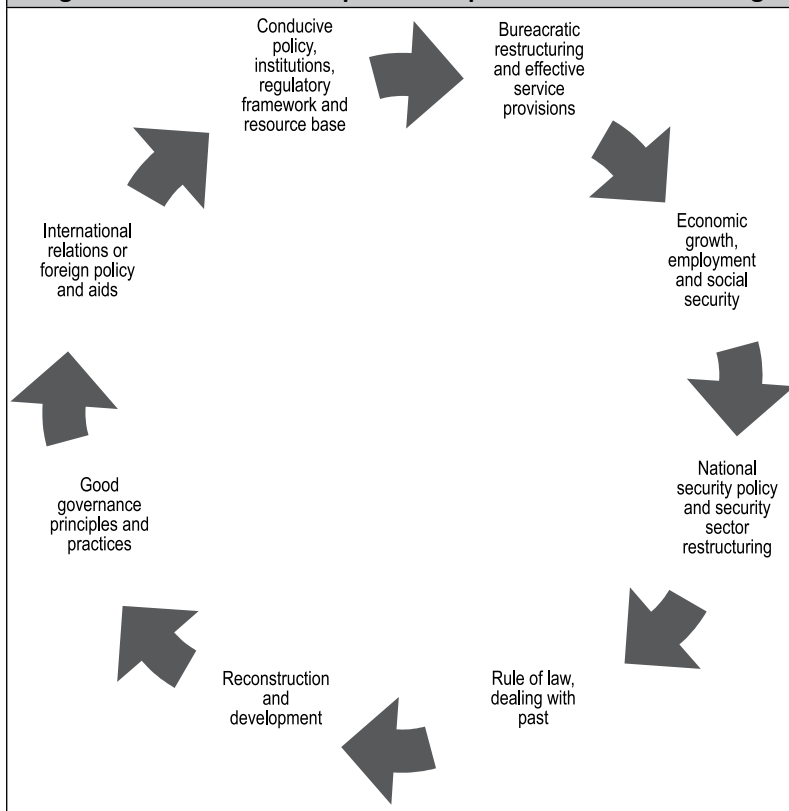
The major causes of the Nepal's armed and social conflicts were related to structural inequality, exclusion and discrimination (based on caste, class, gender, geography), concentration and abuse of power by ruling elites and bureaucracy, poverty and unemployment, failure of state governing system and politically divided and opposing ideologies. This not only took the lives of more than thirteen thousands people and caused damage of infrastructures worth billions of rupees, but also paved the path for transformation of a feudal, centralised, monarchical unitary state. The combination of the political effects of the armed conflict and the People's Movement of April 2006 brought down the autocracy with the hope of developing Nepal into a modern, inclusive and federal republican state. However, these transformations are only possible if the state is able to perform its functions and facilitate the change, for which enabling the state is a major challenge. But all the major progressive political forces, who brought the political change and are supposed to be the custodian of this change, are not abiding by rule of law and basic principles of governance. This is gradually weakening the state.

State building efforts have to focus on enabling the state which is severely weakened from the abuse of political powers. During the war, the sole strategy of the UCPN (Maoist) was to make the state fail so that it would help them win the armed insurgency. Later, once the armed conflict was formally ended in November 2006 by signing of the CPA between the government and the UCPN (Maoist), the CPA itself and other subsequent agreements provided a broader framework for state building (making state apparatus effective, efficient, responsible, inclusive, transparent, participatory and accountable to people) through the state restructuring process. However, the political forces selectively used and interpreted the provisions of the CPA to fit their party interests and personal ambitions instead of sincerely translating the content and spirit of it into action. Hence, state building is becoming a neglected job and a mere political slogan to confuse their cadres and get benefit from such confusions and contradictions.

## 2. Framework of post-conflict state building: Issues and opportunities

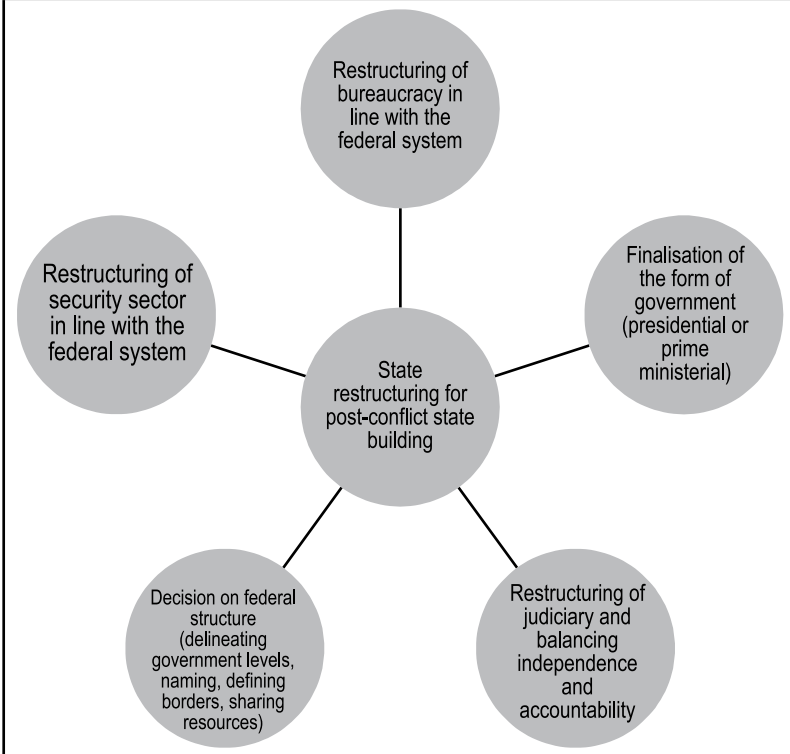
This section provides a framework for the post-conflict state building.

**Figure 2.1 Interrelated components of post-conflict state building**



Source: Designed by the author

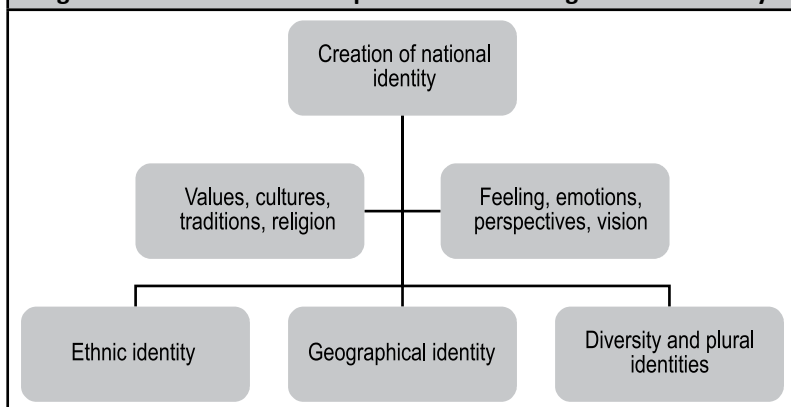
Figure 2.1 shows that achieving peace, stability and realising the post-conflict state building require complementarities and interrelationships among different concepts. They are discussed in the subsequent sub-sections.

**Figure 2.2 Components of state restructuring**

Source: Designed by the author

Figure 2.2 presents security sector restructuring/reform (SSR), restructuring of bureaucracy, finalisation of the form of government (presidential or prime ministerial system, directly elected or indirectly elected head of the state and government, etc.), defining federal government level (central, provincial and local) and naming and demarcation of federal units, restructuring of judiciary (and balancing between independence and accountability) as some of the important components of the state restructuring. Similarly, Figure 2.3 discusses about the basic components required to create national identity.

**Figure 2.3 Fundamental components for creating national identity**

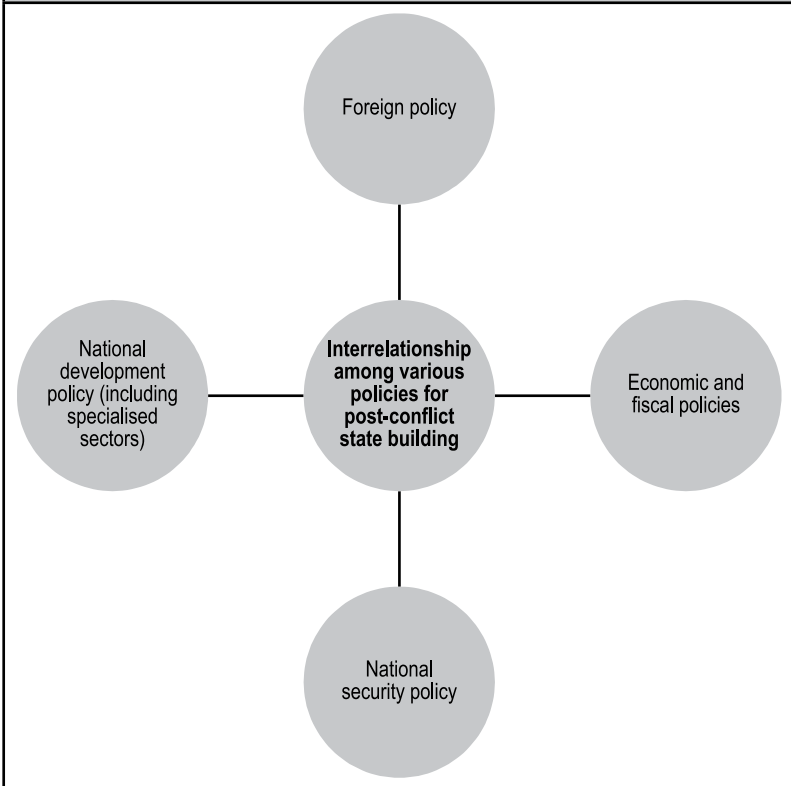


Source: Designed by the author

## 2.1 Conducive policy and responsive institutions

Post-conflict state building and development needs a favourable policy that ensures vision, mission, objectives, strategy, implementation methodologies and procedures and monitoring and evaluation mechanisms. Along with it, supportive institutional arrangements are needed. Such arrangements have to be flexible, transparent, dynamic and action oriented to implement the conducive policy. The need for state building and post-conflict development is always associated with facilitating regulatory provisions that are pragmatic and non-obstructive to other rules and regulations. It is illustrated more in Figure 2.4.

**Figure 2.4 Interrelationship among various policies for post-conflict state building**

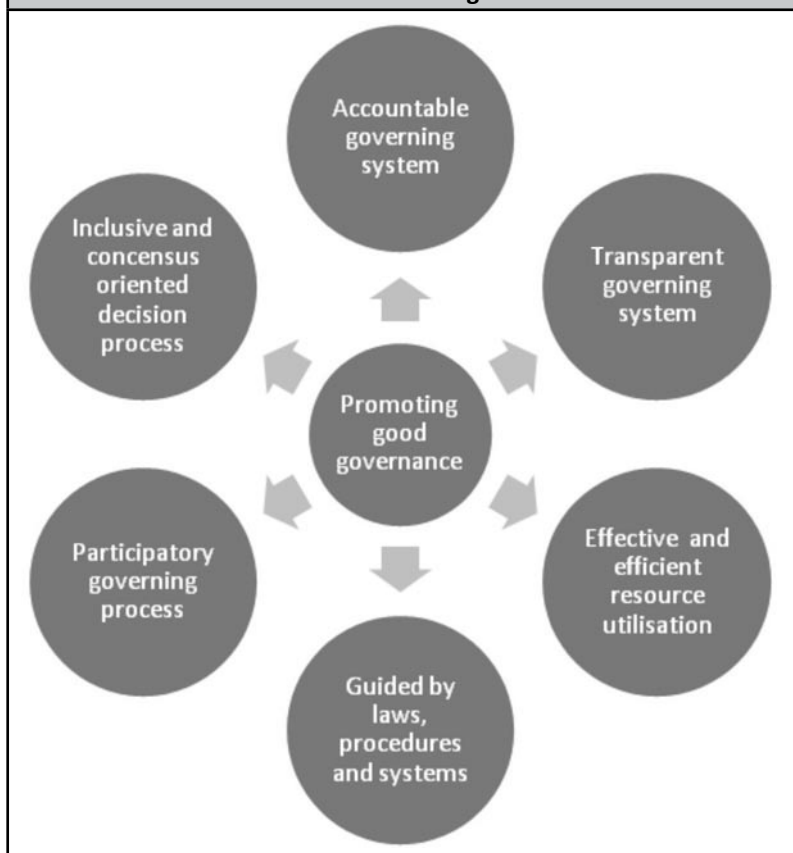


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## 2.2 Governance principles and practices

Post-conflict state building requires adaptation of good governance principles (Figure 2.5) in its all components such as reconstruction and development, dealing with past (truth and reconciliation, finding disappeared people, justice to conflict victims and economic reparation packages to those whose livelihood bases are destructed by the armed conflict), implementing rule of law, service delivery by the government and non-government institutions, implementation of security governance in line with the good governance principles, application of these principles in the economic development programme.

**Figure 2.5 Essential component of good governance in post-conflict state building**

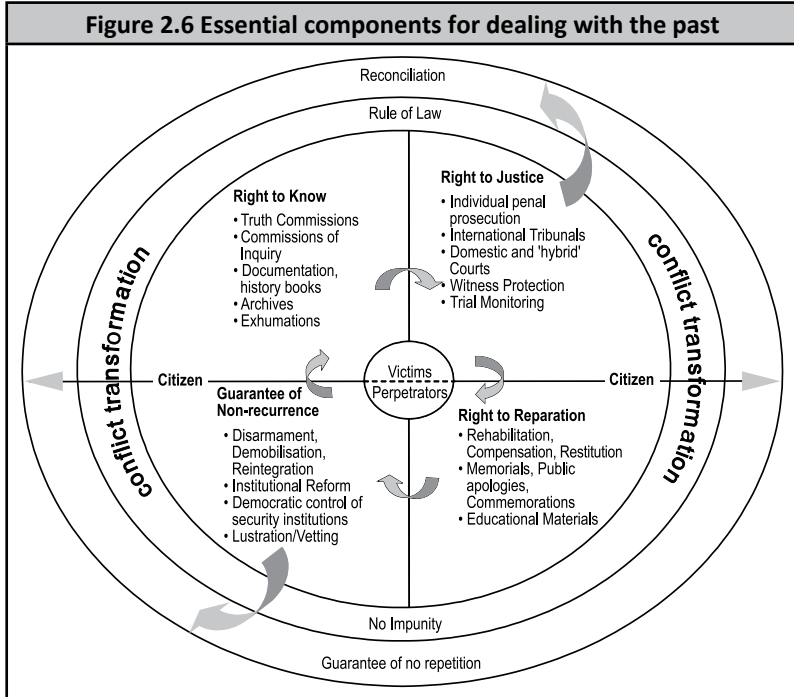


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### 2.3 Rule of law and dealing with the past

Achieving stability, peace and democracy requires vision, commitments and right institutional arrangements. Based on extensive research on the issues of managing post-conflict transitions and achieving peace, the author argues that first and foremost important factor is to respect the 'rule of law'. It ensures respecting human rights, exercising democratic practices and effectively implements development agenda.

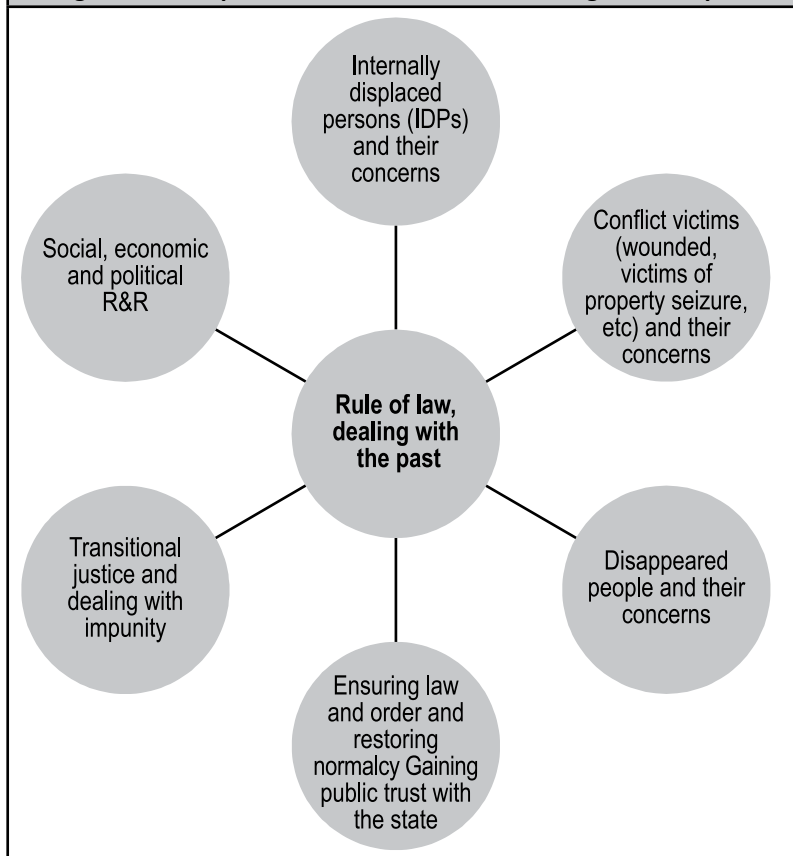
Dealing with the past basically focuses on addressing the legacies of the armed conflict and moving individuals and society ahead by tacking the past. Figure 2.6 brings interrelated components to be dealt with the past.



Source: Adapted from DFAE/Swisspeace 2006 in Upreti et al. (2009)

Linking the truth and justice process to the local levels, creating a mechanism to ensure R&R, providing justice to victims and survivors, providing compensation, restitution and rehabilitation and implementing legal provisions are important areas of focus in the future. Establishment of Truth and Reconciliation Commission (TRC) and an investigation commission on disappeared people are also parts of the package while dealing with the past.

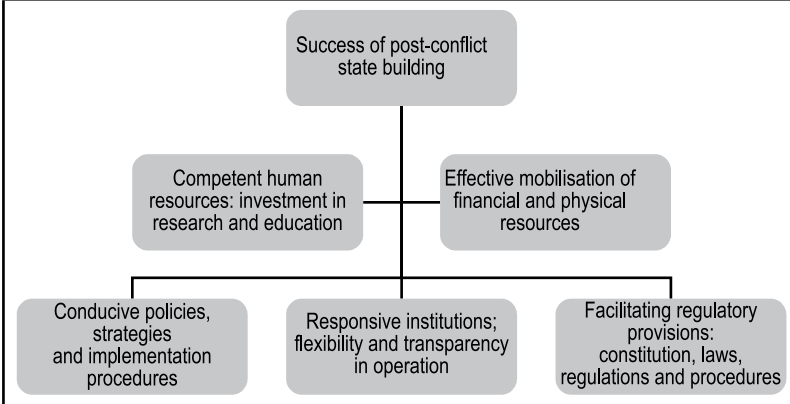
**Figure 2.7 Components of rule of law and dealing with the past**



Source: Designed by the author

## **2.4 Conducive policy, institutions, regulatory framework and resource base**

Translation of visions, missions, objectives and plan needs certain means. Policy, institutions, regulatory framework and resource base are some of these means by which post-conflict state building can be achieved.

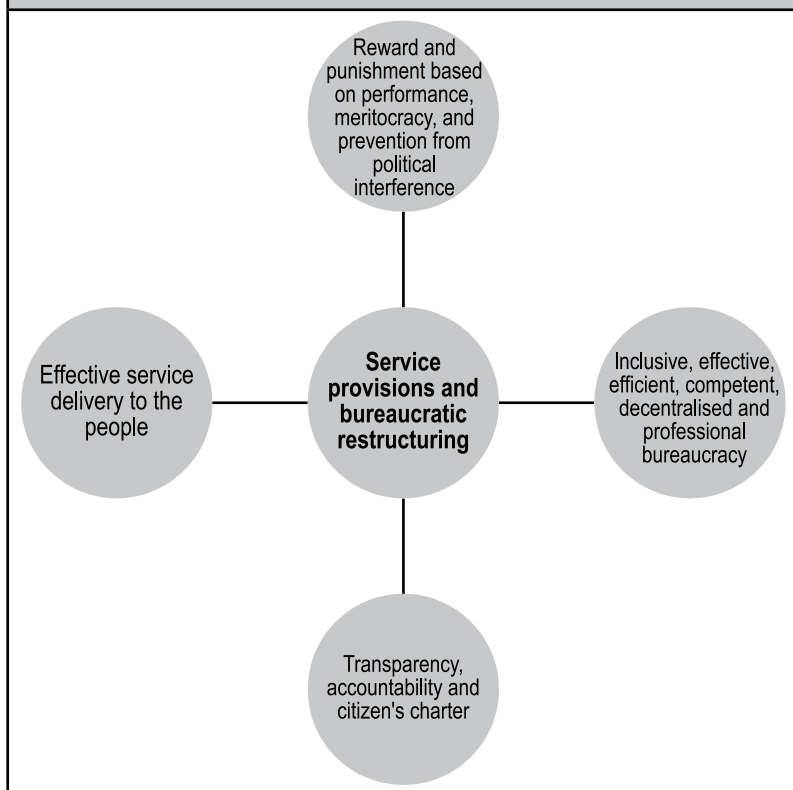
**Figure 2.8 Factors determining the success of post-conflict state building**

Source: Designed by the author

## 2.5 Service provisions and bureaucratic restructuring

In Nepal, the government in general and bureaucracy in specific have lost public trust because of their failure to delivery services, red-tapism, bureaucratic hassles and complications. One of the prime focuses on the post-conflict state building is to restructure bureaucracy that is capable to effectively, transparently and efficiently deliver services to the people. Regaining the lost public trust in the state governing system and service delivery mechanisms should be integral part of the state building programme for which special knowledge and skills, methodological understandings and effective delivery are required. People are fed up with the dry promises and radical jargons. They are waiting to see the promises translated into action. Hence, effective delivery is one of the best ways to develop trust and gain public confidence (Upreti 2009).

**Figure 2.9 Components of bureaucratic restructuring and ensuring services**



Source: Designed by the author

## 2.6 Economic growth

Rebuilding economy is fundamentally important to achieve stability, peace and democracy. Economic development is one of the main stabilising factors in post-conflict situation. Creation of employment and economic opportunities at local levels, establishment of production and processing industries, investment in productive enterprises are important to generate employment. Effective resource mobilisation, outcome-oriented strategy and action, employment generation, broad-based high economic growth, more investment in agriculture, infrastructure (hydropower plants, road networks and airports), information and communication technology,

science and innovation, tourism, cooperatives, and investment-friendly environment are some of the important components of economic growth in the post-conflict situation.

The post-conflict state building has to focus on linking development with economy. Economic development assistance in the conflict-affected areas, economic policy reforms, trade promotions (export and import), creation of markets and jobs, intensive investment in basic services such as education, health, drinking water, etc, rural infrastructure development and rural investment, promotion of private investment, modernisation of agriculture, land reform (land consolidation, assuring land entitlement to tenants and landless, defining land ceiling, land-use classification), rural entrepreneurship development, commercialisation of prospects of bio-diversity, rural people's access to and benefit sharing in natural resources (such as land, forest, water, mines, etc.) and public resources, development of tourism industries and associate sectors, exploitation of high potential of hydropower are some of the major areas of economic development.

## **2.7 Security sector restructuring**

One of the fundamentally important components to achieve post-conflict stability and peace is restructuring of security sector that not only include state security forces and institutions but also the security structures of parties taking arms against the state. It has five interrelated components, i.e. i) restoring transitional security ii) disarmament, demobilisation and reintegration (DDR) iii) controlling SALW iv) developing national security plan/policy (NSP) and v) restructuring of security sector.

### **2.7.1 Restoring transitional security**

Transitional security is one of the fundamental bases to shorten the post-conflict period and achieve stability, regain public trust on state and create conducive environment with reconstruction and development. Transitional justice is another crucial area to be dealt with the post-conflict situation. Without dealing with the past, it is not possible to promote reconciliation, harmony and feeling of justices. This can be achieved by establishing tribunals, strengthening human rights bodies, establishing monitoring mechanisms, strengthening community security armaments and civilian police.

One of the major challenges after signing the peace agreement is maintaining security situation in any war-torn countries. The transitional

security of Nepal is severely weak (ICG 2007) and challenged by more than hundred of small armed groups. In addition, they are active in creating severe insecurity and violence and obstructing development programme and projects. This is a serious and an immediate security concern that state has to address.<sup>2</sup>

Nepal is in critical transition because of power struggle among the coalition parties, severely weak law and order, violent activities of interest groups and extremely weak performance of the government (Upreti 2009). General strikes, closures (sometimes indefinite) and blockades are routinely observed across the country. Often they turn violent (blazing vehicles, smashing or destroying public and private properties, humiliating travelers, etc.). For example, only in one month (in August 2007), 19 different groups<sup>3</sup> had called 55 *bandhs* and blockades in Nepal. Violent clashes between political wings of various political parties are more frequent. Such incidents create further insecurity and development challenges. The political parties are using development as means of resource capture (as local parties' cadres divide the local financial resources for their personal and/or partisan benefit). The government is not able to provide security to frontline development workers in the high risk areas.<sup>4</sup> The triple bomb blast in Kathmandu on 2<sup>nd</sup> September 2007<sup>5</sup>, Kapilvastu massacre of 16<sup>th</sup> September 2007, murder of Khyati Shrestha and Vivek Luitel, murder of media entrepreneur Jamim Shah, kidnapping and assassination of journalists and businesspersons are glaring instances of the worsened security situation in the country. The violent clash in

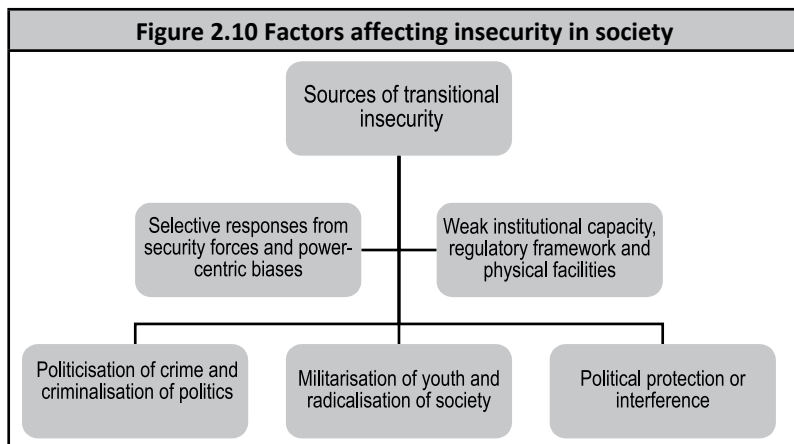
<sup>2</sup> Terai region has increasingly been insecure and prone to further violent conflict. Nepal Police had declared eight districts namely Bara, Parsa, Rautahat, Mahottari, Dhanusha, Sarlahi, Siraha and Saptari as 'highly sensitive' and other 13 Terai districts namely Jhapa, Morang, Sunsari, Makwanpur, Chitwan, Nawalparasi, Rupandehi, Kapilbastu, Dang, Banke, Bardiya, Kailali and Kanchanpur districts as 'sensitive' areas.

<sup>3</sup> The groups calling *bandhs* and blockade were 1) businesspersons, 2) CPN (Maoist) affiliated organisations, JTMM (JS), Limbuwan, Chure-Bhabar Pradesh Ekata Samaj, Madhesi People's Right Forum, Madhesi Revolutionary Front, Madhesi Tiger, Conflict Victims, Local communities, different wings of seven parties, independent student groups, transport unions, Dalit and Janajatis organisations, Tamang Autonomous Region Democratic Front, United Tharu National Liberation Front and other groups (see OCHA report of August 2007 for details).

<sup>4</sup> For example, assassination of frontline government staff and local level politicians of mainly hill origin in Terai by different armed groups is growing and the state is not able to ensure security and safety in nation. Within six months (March to July 2007), more than seven people were assassinated by different armed groups (the people killed were Ram Brikshya Yadav, VDC secretary by Cobra Group; Basudev Paudel (trainer) by JTMM Goit Group, Nava Raj Bista (engineer), Purna Singh Pradhan (overseer) Arun Prasad Jaisawal (fireman) and Ram Hari Pokharel (VDC secretary) by JTMM-Jwala Singh Group.

<sup>5</sup> On Sunday, the 2<sup>nd</sup> of September 2007 at 16:15 hours, three bombs were blasted at crowded public places of Sundhara, Balaju and Tripureshwor where two school children and one ordinary woman were killed wounding more than 26 people including a two-year child. The so-called People's Army and Terai Army took its responsibility.

Kapilvastu district on 16<sup>th</sup> September 2007 took the lives of more than two dozen people. Many people are still unaccounted for and more than three thousand people are displaced. This quickly spread to neighbouring districts and almost turned into communal and religious conflict. Series of killings, bomb blasting in temples and churches, kidnappings, attacks, lootings, extortions, strikes and blockades have created insecurity, fear and helplessness in the country directly affecting development.



Source: Designed by the author

For more than one and half year, the Terai region has become increasingly insecure and violent particularly after the promulgation of the Interim Constitution that did not address the issue of proportional representation election system and federal state structure raised by Madhesi people. The Nepal Police at that time had declared eight districts namely Bara, Parsa, Rautahat, Mahottari, Dhanusha, Sarlahi, Siraha and Saptari as 'highly sensitive' and other 13 Terai districts namely Jhapa, Morang, Sunsari, Makwanpur, Chitwan, Nawalparasi, Rupandehi, Kapilbastu<sup>6</sup>, Dang, Banke, Bardiya, Kailali and Kanchanpur districts as 'sensitive' areas.

<sup>6</sup> Though the Nepal Police categorised the Kapilvastu District in second category of high risk area, the killings and violence erupted in different villages of Kapilvastu district on 16 September 2007. The violence was erupted once the Abdul Mohit Khan (member of Loktantrik Madhesi Morcha and leader of Village Defence Committee, which was formed by the then Royal Nepal Army to fight with the UCPN (Maoist) during the time of active war in 2004-2005) was killed by unidentified people. Immediately after the killing of Mr. Khan, his supporters started to indiscriminately attack people and burn their houses. More than two dozen people were killed, many more are still missing and more than five thousand people were displaced. One of the main causes of the Kapilvastu massacre was the arms provided by military to Village Defence Committee to fight against the rebels which were not returned even after signing of the CPA, despite the repeated urge from human rights activists, researchers and local leaders.

Later in 2009, the Home Ministry brought 'Special Security Programme' to tackle the lawlessness and violence but it did not succeed to achieve its highly publicised objective due to non-cooperation from political parties. It would be very difficult to smoothly implement any development programmes in the country if security situation is not improved. Open border is becoming a haven for illegal arms traders and smugglers. This has greatly contributed to organise and expand several militant and fringe groups, most of whom have no political base, popular support and clear organisational structures. Therefore, they do not fall under the category of political force.

Violence, crime and insecurity are common in Nepal this day. So, it is not possible to make the post-conflict transition successful without preventing violence and preventing violence is not possible without a firm commitment from political parties. Nepalese people are seriously suffering from insecurity and violence. Phenomena of criminality has led to insecurities such as kidnapping of children, murder and attempted murder, robbery, illegal trafficking of arms and ammunitions, human trafficking, drug abuses and trafficking, atrocities, massacres and forced displacement (Upreti and Nepali 2006). This phenomenon is growing particularly after signing of the CPA. Similarly, coercive mobilisation of the youths by political parties is also becoming a major source of insecurity and violence thereby obstructing development. The transition is getting further complicated after creation of the coercive nature of organisations such as Young Communist League (YCL), Youth Force (YF) and Madhes Rakshya Bahini by political parties. Other parties and groups having their militant youth forces are Limbuwan, Chure-Bhabar Pradesh Ekata Samaj, Madhesi People's Right Forum, Madhesi Revolutionary Front, Tamang Autonomous Region Democratic Front, United Tharu National Liberation Front, Kshetri Samaj, etc.

### **2.7.2 Disarmament, demobilisation and reintegration (DDR)**

Nepal is heavily militarised due to the 10 years of armed conflict and its subsequent implications. As a by-product of the decade long armed conflict, numerous armed groups are active in the country in addition to the militant wings created by political parties. Further, disqualified UCPN (Maoist) ex-combatants are yet to be dealt with. So DDR is a huge challenge in Nepal and it is possible only by a common understanding and concerted action of political parties. However, the DDR issue is becoming a 'taboo' in Nepal's political sector mainly because of its incompleteness or misunderstanding. Hence, DDR is one of the fundamental challenges to achieve post-conflict stability, security and peace in Nepal (Upreti 2009).

### **2.7.3 Controlling small arms and light weapons**

Illegal production, distribution and use of SALW are common during the time of civil war. This is also common during the post-conflict situation, if the transitional security is not restored by a collective political and security response (see Chapter 12 for more on proliferation of SALW in post-conflict Nepal).

### **2.7.4 Developing national security policy**

Nepal needs to develop a comprehensive broader and progressive NSP containing three interrelated components: state security, human security and societal security. State security mainly focuses on national sovereignty and territorial integrity and military is seen to be the vanguard for this aim with the use of coercive force. It has to mainly deal with the external security threats. Human security is another crucial component of modern NSP that deals with protection of citizen's and human rights. It also emphasises on fulfilling basic needs of people. It complements the state security and societal security.

Societal security is another fundamentally important component of national security, which deals with ensuring security of its people, vital infrastructures (e.g., telephone tower, big hydropower plant, bank, industrial area, airport, etc.) and public functions against the human-made and natural calamities. The focus of societal security is on ensuring safety and security of citizens from terrorism, organised crimes (e.g. money laundering, girl trafficking and smuggling of human organs, drugs etc.), criminal infiltration in society, natural disasters (earthquake, flood, landslides, draughts), climate change effects (glacier outburst, rise in sea level, prolonged draught etc.), pandemics (e.g. bird flu, HIV and AIDS, SARS etc.) and religious extremism. Protecting people from unconventional security threats (e.g. human-made and natural calamities) and ensuring safety (e.g. fire safety, road safety, and construction safety) are important elements of national security.

Nepal is in the process of formation of the new NSP and therefore needs to integrate the three interrelated and complementary security components that are discussed above (i.e. state security, human security and societal security). Security issue is intensely globalised now. Therefore, insecurity in one part of the globe can affect security of another part, particularly because of the expansion of the terrorist networks and the advancement of the information technology. Hence, Nepal's new NSP needs to consider that reality. It has also to envision the possible security dynamics for the coming fifty years and be prepared accordingly. At present, there is diverse

understanding on national security in Nepal. Mainstream politics still incompletely perceives national security as a domain of military concern, beyond the engagement of public.

It is absolutely essential to develop a common understanding of national security based on the single official NSP document that contains clear vision, strategic national interests, objectives, procedures and main responsibility of each security structure. The NSP must provide a comprehensive framework for analysis of potential and actual security risks, challenges and threats.

Nepal is in the geo-politically strategic location between the two giant neighbours India and China, who are developing themselves as growing global power with competitive relation. Further, South Asia is a focus of the global terrorism and India is one of the prime targets. Though Nepal is so far not a direct target of the global terrorist networks, the spill over effects of terrorists' act in India could penetrate in Nepal because of its more than 1800 km of open border. Further, the competitive and sometimes adversarial relationship between India and China could have strategic implications for Nepal. South Asia is also one of the highly militarised zones with accumulation of nuclear weapons and proliferation of SALW. In such a scenario, the political and security tension between India and Pakistan and their competition on military power will have severe security threats to Nepal. The attic of the South Asia is also a centre for poverty, inequality, injustice and discrimination. This has become a fertile breeding ground for conflict and instability. Further, this reason is also threatened by climate change effects, energy crisis, water crisis and food insecurity. All these destabilising factors will pose security challenges for Nepal. Therefore, new NSP must be able to address these challenges.

The new NSP has to provide adequate legal framework, responsive institutional arrangements and conducive security strategy. It has also to be integrated into the policies of economy and international relations. Similarly, it also has to provide basis for defining 'type of security forces', for e.g., military, armed police, civilian police, industrial, border security forces, intelligence mechanism, provision of private security force, any other types of security forces such as fire brigades, forest guard or patrolling of parks, etc. The next step is to agree on the size/strengths of them (total numbers of each type), institutional arrangements, defence strategy and roles and responsibility of the actors like security forces, executive organisations such as home and defence ministries, parliament, judiciary, etc. Hence, any decision on democratisation of Nepal Army or integration of Maoist ex-combatants without comprehensive NSP will be

temporary. The whole security system of the country needs restructuring as per the spirit of the new constitution and the new NSP. And after all, all the security related decisions must be in compliance with this.

The major issues of the NSP must be included in the new constitution of the country. Democratic accountability of the security system, maintaining balance between transparency and confidentiality, inclusiveness in composition of security providers, respecting international human rights and other related laws, effective coordination (inter-ministerial: home, foreign affairs, defence, and other related ministries) and oversight (internal by security structures, government, parliament, judiciary and external by media, civil society and general public) are other main provisions to be included in the NSP.

The new NSP has to provide adequate institutional framework for security research and analysis. It has to include provisions for regular risks assessment, threats analysis and early warnings. In addition, it also has to ensure creation of security related technical infrastructures such as establishing microbiology laboratory to deal with bio-terrorism, public health surveillance system to deal with pandemics, well-equipped intelligence system and resources required to perform the assigned responsibilities.

At present, political parties, responsible government departments, the State Affairs Committee of the parliament, researchers, civil society leaders, academics and responsible security personnel must work together to bring a modern, holistic NSP that ensures the security of people and the state at the same time meets the globally established requirements (democratic control and parliamentary oversight, human rights-friendly, effective, efficient and professional security system).

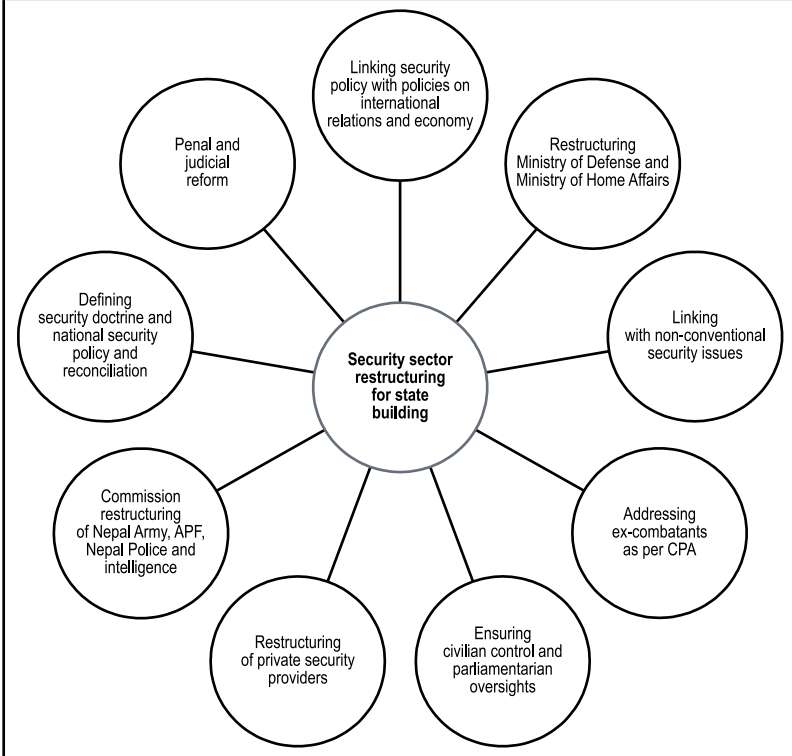
### **2.7.5 Security sector restructuring (SSR)**

SSR is a process of transformation of those organisations such as police, army, paramilitary, local security units, intelligence and other legally defined arrangements (Greene 2003). They have the legitimate authority to use or to order the use of force. Fundamental principles of SSR are civilian control and parliamentary oversight of security apparatus, right sizing and modernisation and professionalisation of security forces, respecting rule of law, facilitating war to peace transition, within the broader NSP (Upreti 2006; OECD 2004; DFID 2002). SSR is a concept of transformative reform in the security sector with new vision and neutrality that demands honest commitments and impartiality from both civilian government and security professionals.

Development of comprehensive security policy and security system restructuring is fundamentally important to make post-conflict transition successful. Comprehensive security policy has to deal with major three components, i.e. state security, societal security and human security. Human security approach and societal security approach are complementary and cover social security (health education, drinking water), livelihood and economic security (employment, poverty alleviation, food security) and environmental security (climate change, energy security etc.). National security has to focus also on border, space, cyber and information security. Hence, Nepal needs to move beyond conventional security and go for unconventional security approach.

Effective post-conflict reconstruction and state building require comprehensive SSR that covers restructuring of Ministry of Defence, Ministry of Home Affairs, army, armed police force, police and intelligence department. SSR has to ensure civilian control and parliamentary oversight, address Maoist ex-combatants as per the CPA, link security policy with the policies on international relations, economy and development, integrate penal reform and judicial reform, redefine security doctrine and NSP and restructure private security providers.

Security sector is defined differently by different people in different context. Organisation for Economic Co-Operation and Development (OECD) defines this as those state institutions which have formal mandates to ensure safety of the state and its citizens against acts of violence and coercion (OECD 2004; as cited in Kumar and Sharma 2005). SSR is a common concept globally used in the post-conflict literatures. However, in the context of Nepal, the term 'security sector or system restructuring' (SSR) is more relevant as it has to be a part of the broader state restructuring. Changing roles, responsibilities and actions of security actors in a changing context in consistent with democratic norms, values and principles of good governance are some of the basic elements of SSR (Schnabel and Ehrhart 2005).

**Figure 2.11 Components of SSR**

Source: Designed by the author

SSR is a concept of total reform in the shortcomings and weaknesses of security sector, new vision and neutrality that demands honest commitments and impartiality from both civilian government and security professionals. Appropriate trainings (both military and human rights, capacity building and technical competence), mainstreaming security issues into development policy and programme, delicate balance between confidentiality and transparency, strong co-ordination and operational mechanisms, relationship between military and civilian, building public awareness, strengthening constitutional and legal frameworks, periodic review of performance of security sector and strengthening of independent oversight mechanisms (e.g. public complaint bodies like human right commission, auditor general, legislative and judicial bodies etc.) are some of the important elements of SSR (Baldwin 1997; DFID 2003; Ebo 2005).

Restructuring of security sector is not only related to security aspects but also with social, political, economic, international and development issues. Security sector restructuring or transformation has to address policy, legislative, international relations, structural and oversight issues set within standard democratic principles and values (Upreti 2003; DFID 2002 and 2003). The classical security approach mainly focuses on legal monopoly of state to use the security instruments and security force for safeguarding people and national security specifically to defend against external threats. Further, the conventional notion of existence of military force is to prepare for, prevent and engage in war (Walt 1991) and army, paramilitary, police force, intelligence and secret services are used for this purpose. This conventional state centric approach of security operation is narrow. It ignores modern notion of security that relates with holistic framework of human rights, livelihood security, environmental security and energy security, in other words broader human security with people's rights for dignified life (Upreti 2006; Baldwin 1997). Hence, democratic governance is a central element of SSR (Kumar and Sharma 2005; Upreti 2003; Aditya et al. 2006). Sad but true, this is very issue that is seriously lacking in Nepal.

Clause 4.7 of the Section Four of the CPA has mentioned the democratisation of Nepal army. It states;

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

Similarly, Article 144 (3 and 4) of the Interim Constitution has stated similar provisions. Hence, the new political context has clearly envisioned restructuring the existing army structures. However, neither the CPA nor the Interim Constitution is able to visualise the comprehensive need of SSR which includes holistic approach, i.e. developing NSP (by complementing international relations, defence policy and economic policy, establishing a supreme and powerful national security apparatus such as National Security Council), reforming intelligence, restructuring army, police and other security apparatus. Isolated effort of restructuring of one component of security sector alone cannot produce expected result and therefore a holistic approach is needed.

## **2.8 International relations and foreign policy**

Global conflict history has shown that relationship between conflict and development mismatch is vivid. Nepalese experiences of more than six decades of development assistance have amply demonstrated that it can create inequality and feeling of injustice consequently fuelling the conflict when it is not well targeted to poor and marginalised people. Nepal's development history is largely a history of failure. It failed to adequately address poverty and exclusion and widened gap between rich and poor. The resources were captured by the elites. Aid conditionality was also an important source of increasing silent tensions. It had largely prevented the government to focus its development operations for long-term engagement to improve quality of life (practical needs and strategic interests) of poor and disadvantaged people.

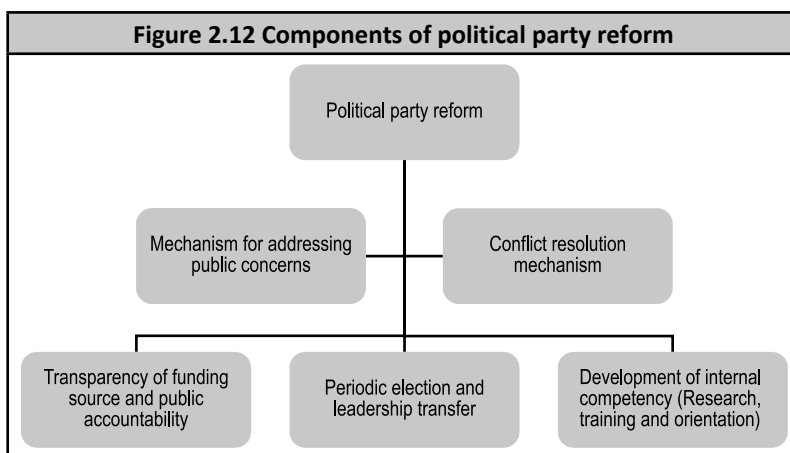
Nepal needs international support to achieve its ambitious objectives of restoring peace, strengthening democracy, achieving economic growth and effectively implementing the post-conflict state building framework presented in this chapter. However, the role of international community should be to facilitate and support the initiatives of the government of Nepal.

## **2.9 Reconstruction and development**

Reconstructing of damaged infrastructures, development of the new ones, redefining existing development policy, regulatory frameworks and institutional arrangements in line with the new structures of the federal state are fundamentally important to achieve post-conflict stability and peace (Chapter 7 in this book presents a detailed discussion on post-conflict reconstruction and development).

## **2.10 Political party reform**

Political parties in Nepal are the key players of state building as well as making the state dysfunctional by blatantly politicising the state structures, process and procedures. Restructuring the state and building a new Nepali state is impossible without the reformation in themselves. Therefore, post-conflict state building has also to focus on party building process, as they are the pillars of multi-party democracy and reservoir of the future leaders.



Source: Designed by the author

### 3. Challenges to post-conflict state building

Nepal is experiencing fundamental contradictions in the context of ongoing political change and social transformation. Its social psyche is full of mismatch of rhetoric and reality, which is one of the major challenges for post-conflict reconstruction and state building. This is becoming an integral part of human behaviour. They are shaped, affected or influenced by socio-political environment, interest of harnessing opportunities or escaping from unwanted situation, ambition for fulfilling vested interests. Often, it is personal character. Its degree and intensity vary from person to person but is reflected in every society. The effects of contradictions of individuals vary upon the social and political standing of individuals. Duality and contradictions observed in the behaviour of personalities with high social and political standing affect large section of society, they are scrutinised more by the members of the society, media, analysts and critics (Chapter 14 explains more on it). Though contradictions are integral parts of everyday life of individuals, the degree and intensity sharply increases in certain situation, particularly when the society is in transition, state functioning is weak, economic instability is high and social psyche is radicalised. Ethics, accountability, responsibility and transparency are some of the important variables guiding behaviour of individuals, particularly people with public standing. However, their conceptual power is often not enough to minimise the gaps between rhetoric and reality because it is a moral value to be respected by individuals.

Though state exercises some legal provisions to shape human behaviour, effects of such legal interventions are often observed as selective (used for poor, powerless but not for powerful) and passive (not able to settle cases for decades). It is consequently severely distrusted by general public. Individuals and organisations responsible for exercising legal provisions are themselves modeled by difference of rhetoric and reality. Hence, it is becoming socialised character irrespective of profession, age, class, gender, social positions and legal provisions.

Difference between rhetoric and reality are everywhere in Nepal in politics business, academic institutions, social service, diplomatic community, non-governmental organisations (NGOs), governmental organisations (GOs), parliament, judiciary, security, and civil society. It is very difficult to find any sector or organisation free from this character.

For example, every time when a new government is formed, it brings some common minimum agenda to be respected by the coalition partners. However, such governments never implement or only selectively implement, if at all, such agenda. Often, this very agenda becomes source of tension among the coalition partners. When the then king Gyanendra imposed autocracy in 1<sup>st</sup> February 2005, all his justifications were framed to strengthen democracy. Strengthening democracy by imposing autocracy in itself was an example of glaring duality.

Political parties in Nepal are largely characterised as failed in their performance in terms of commitment they make to people and the outputs they deliver. One of the main reasons of their failure is rooted in duality in their function, for example, once they lost trust of people and the then king used this opportunity to impose direct rule in 1<sup>st</sup> February 2005. Then political parties, through the Twelve Point Understanding, made public commitment that they will not repeat the mistake of the past. The text reads;

*Undertaking self criticism and self evaluation of past mistakes, the CPN (Maoist) has expressed commitment not to repeat such mistakes in future" (Point 6) and "The seven political parties, undertaking self evaluation, have expressed commitment not to repeat the mistakes of the past which were committed while in parliament and in government (Point 7).*

These understandings were made in November 2005 but they have blatantly ignored their public commitments within the same year.

On one hand, several governments from their cabinet have passed the rules to regulate extravagant costs. On the other, government and its officials (Prime Minister, ministers, secretaries and other officials) spend

multi-millions to attend international delegations. Most of them are often focused on political balance, family satisfaction, getting international exposure and earning money. The same ones who had indeed developed such rules do not respect them.

It is reported by media that some of the well-known women right activists have married with the men already having first wife. It is a good example of duality to see that the women rights activists as the second wife is demanding women rights, who never think the rights of first wife their husbands have. Likewise, frequent report on the newspaper can be seen that several child right activists have kept children at their homes as helpers or servants. It is despite the fact that children cannot be used as servants or helpers according to the human rights principles and law of this country.

Civil society is a buzz word in Nepal. But it is blurred because of its contextual, selective and contested operationalisation. Often, this term is very vaguely used to denote voluntary and non-profit-making social actors and organisations engaged in achieving certain objectives (Caparini and Cole 2008). It is being a contested normative framework, its activities are not only contested but also questioned because of the duality in rhetoric and reality. Some people claim themselves as representative of people, pretending to be neutral. They vehemently criticise political parties, donors and INGOs (international non-governmental organisation) in public. Later, this criticism is used as means of appointments or other political benefits and funding from donors. It is widely held belief that being civil society leaders is the easiest way of gaining benefits (positions, recognition, international exposure, money and privileges). Many civil society leaders who criticise political parties or donors in public are in the close circle of parties and donors and getting undue benefits. Most of them have received direct or indirect benefits from donors in terms of allowance, dinners, international visits and consultancies (analysts, advisors, resource person etc.).

Often religious leaders claim that they are neutral, apolitical and working for the welfare of people. They further claim that their aim is to promote harmony, mutual respect and societal wellbeing. In contrary, they are either overtly or covertly supporting one ideology/political interest or opposing another. Similar contradictions can be observed in international community (who ask transparency and accountability to government and other clients but they themselves are not transparent, do not respecting Paris Declaration of Aid Effectiveness or Acra Plan of Action).

These mismatches on rhetoric and realities are ideological, conceptual or operational. They are either tactical or strategic in nature. However, they are strongly socialised in Nepali society and therefore ethics, accountability, responsibility and transparency are limited to a mere rhetoric.

Another potential risk for post-conflict development in Nepal is dealing with higher expectation of people in one side and failure of politicians to deliver the promises they made to general public on the other. Post-conflict development strategy and operational procedures have to avoid making any unrealistic promises. Development is a time-consuming process and requires huge resource and time. Unrealistic promises to people create problems, if failed to fulfill. However, development sector in Nepal has great potentials for achieving stability and peace and addressing expectations of people if available resources are used transparently, following good governance principles and rule of law. Political interference, bureaucratic manipulation, corruption and mal-governance are the deadly bottlenecks for Nepal's development sector.

#### **4. Conclusion**

As Nepal is in the post-conflict turbulence, state building is of prime concern. It has to enhance state capacity to perform its tasks such as ensuring inclusion of excluded in the political decision-making, achieving peace, justice, livelihood security and economic prosperity of the people, providing security to its citizens and restoring and maintaining law and order, respecting human rights and implementing rule of law and enhancing international relations.

In case of Nepal, state building and state restructuring are closely interlinked. It would be extremely difficult to achieve the objectives of state building without state restructuring. Therefore implementation of all the components of state building and state restructuring discussed in the earlier sections should be the preconditions for the actions from political parties, government, state bureaucracy, security, judiciary, civil society, researchers, academia and all citizens.

The current political situation of Nepal is a great opportunity for transforming the centralised, exclusionary and ineffective state into a modern, prosperous and inclusive nation. But stabilisation of Nepali state is possible only with the rational combination of political-bureaucratic-security reform and economic growth.

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\* \* \* \* \*



## 1. Introduction

The purpose of this chapter is to initiate a debate on the role of private sector in conflict transformation and post-conflict state building. The uncertain state of affairs in the current-day Nepal, and the shaky economy of the country raise some obvious questions. What went wrong in the 'experiment' with development in the last several decades? And what role can the business community play in resurrecting this fragile country? There exists a plethora of literature and evidence to suggest that development in Nepal so far has failed miserably. This has happened because of many diverse factors, including centralisation in Kathmandu of both the government and the private structures, widespread corruption and abuse of authority by bureaucrats and politicians, over-dependence on foreign aid, failure of donors to ensure the proper use of their funds and effective coordination of their activities and the exclusion of large sections of the population from a role in devising policy and programme development, to name a few.

This paper argues that instead of continuing to rely heavily on foreign aid, Nepal should now focus on the constructive roles private sector actors can play in transforming this country and mitigating possibilities of future conflicts. In countries like Nepal that are undergoing the process of transition from armed conflict to peace building, the failure of economic programmes a tangible promise of employment, trade, direct investment and the promotion of local enterprise can have a major stabilising effect. But in order for that to materialise, however, an established rule of law and good governance and the personal security are crucial. I would like to argue, nevertheless, that a pro-active role by the business community is the only effective countermeasure to bring about such an environment. Stabilisation depends largely on the role private sector plays and the opportunities it creates. Hence, waiting for stabilisation as a pre-condition for private sector entry is in itself a self-defeating proposition.

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This chapter thus argues that private sector actors in Nepal should ensure that their activities are consonant with sustainable peace, which has not always been the case. They should concentrate on finding ways to support efforts to develop suitable conflict prevention policies and practices, recognising the interrelationships between conflict and social, political, economic and cultural factors. The debate on this topic has got to a stage at which there is a degree of consensus that business has a role to play in a sphere of activity that remains dominated by civil society and government actors. Private companies are both the part of the problem and also potentially that of the solution.

## **2. Background**

With a very low per capita income of just US\$ 470 per annum (The World Bank 2010), Nepal has been labelled as one of the poorest countries in the world. Not just a poor country, Nepal also has distinct geographic disadvantages. The country is landlocked, and is largely dependent on India for the movement of commodities and products. This gives infrastructure services a crucial role as a basis for economic growth and private sector development. However, the rugged topography of the Himalayas makes it quite difficult and, more importantly, very expensive to effectively connect the country with even a minimal acceptable level of infrastructural services. All this, and the fact that Nepal has fairly amicable relations with most of the countries in the world, has made this small country a favourite spot in the eyes of donor countries to crowd in ample of aid and grants.

With virtually no modern physical infrastructure in a highly rugged and difficult terrain, limited exploitable natural resources, a small skilled labour force and a landlocked situation, options for rapid development in Nepal have been very limited and the choices uncertain. Most people who have lived in the hills and mountains have survived on a precarious balance with the fragile environment. These difficulties have been well demonstrated by the extremely limited impact of 11 Development Plans<sup>2</sup> in bringing about overall improvement in the economic well-being of the people and the failure of the economy to overcome existing short-run problems and promote sustainable longer-run solutions.

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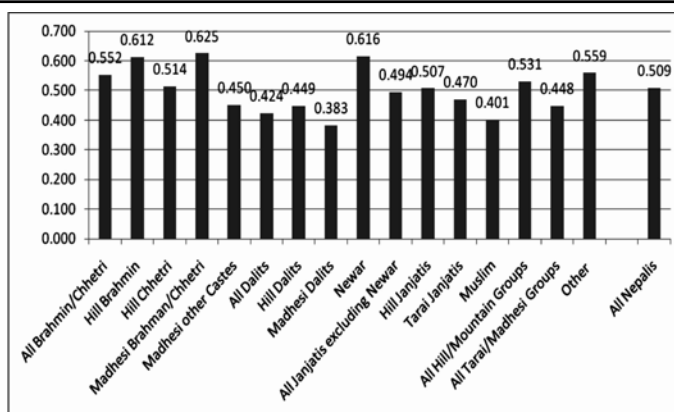
<sup>2</sup> The process of planned economic development in Nepal had commenced in 1956 with the inception of the First Five Year Plan (1956-1961). Ten such periodic plans have been implemented so far and the country is now in its 11<sup>th</sup> plan.

During the past six decades after the introduction of a planned framework, the population has more than tripled from eight million (in 1952) to over 27 million in 2009 (MoF 2009). There has been some growth in food production but per capita availability of food grains is declining. While there has been rapid expansion in the physical infrastructure, such as roads and electricity, many people still do not have access to basic infrastructures. Public sector expenditure has increased substantially over the years, yet the eradication of poverty and improvement in the standard of living of the majority has not been satisfactory. The Human Development Index (HDI) is also very low with 0.509 in 2006 (UNDP 2009). Looking more closely at the HDI from an ethnic perspective, out of the 101 officially registered ethnic groups in Nepal, the Madhesi Brahmins/Chhetris have the highest HDI with 0.625 while the Madhesi Dalits have the lowest HDI with 0.383 (Figure 3.1). Whatever the achievements in other areas, the need to bring about rapid improvements in the living standards of the diverse groups cannot be sidetracked. As long as human poverty remains unabated, it will continue to be a major cause of environmental and social problems. As for the population living below the poverty line, there has indeed been some improvement. According to one study by The World Bank (2006), this population was 42 per cent in 1996, but was reduced to 31 per cent in 2004, mainly due to the incoming remittances from the migrants. However, to sustain poverty reduction, Nepal faces the dual challenges of accelerating domestic growth and sharing this growth more broadly across the population. The disparities across different regions and ethnic groups are shown in Table 3.1 and Figure 3.1.

**Table 3.1 Human development by regions, Nepal 2006**

|          | Life Expectancy at Birth | Adult Literacy (%) | Per Capita Purchasing Power Parity (PPP) income (US\$) | Human Development index |
|----------|--------------------------|--------------------|--------------------------------------------------------|-------------------------|
| Nepal    | 63.69                    | 52.42              | 1597                                                   | 0.509                   |
| Urban    | 68.06                    | 72.30              | 3149                                                   | 0.630                   |
| Rural    | 63.09                    | 48.35              | 1286                                                   | 0.482                   |
| Mountain | 57.91                    | 44.67              | 1158                                                   | 0.436                   |
| Hill     | 66.48                    | 57.60              | 1683                                                   | 0.543                   |
| Terai    | 62.76                    | 49.02              | 1584                                                   | 0.494                   |

Source: UNDP (2009)

**Figure 3.1 Human development by ethnic groups, Nepal 2006**

Source: UNDP (2009)

Agriculture is still the mainstay of the Nepalese economy, providing a livelihood for three-fourths of the population and accounting for almost 34 per cent of Gross Domestic Product (GDP) in 2008 (The World Bank 2010). However, agricultural production continues to be influenced by weather conditions and the lack of arable land, and has not always kept pace with population growth. The share of industry and service sectors in the GDP during the same year was 17 and 50 per cent respectively (Table 3.2). Some other key statistics are also given in the Table 3.2.

**Table 3.2 Some key indicators the Nepalese economy**

|                                         | 2000  | 2005  | 2007  | 2008  |
|-----------------------------------------|-------|-------|-------|-------|
| Population (millions)                   | 24.42 | 27.09 | 28.11 | 28.58 |
| GDP Growth (annual %)                   | 6.2   | 3.1   | 3.3   | 4.7   |
| Inflation (annual %)                    | 4.5   | 6.5   | 7.7   | 6.7   |
| Agriculture (% of GDP)                  | 41    | 36    | 34    | 34    |
| Industry (% of GDP)                     | 22    | 18    | 17    | 17    |
| Services (% of GDP)                     | 37    | 46    | 49    | 50    |
| Export of goods and services (% of GDP) | 23    | 15    | 13    | 12    |
| Import of goods and services (% of GDP) | 32    | 29    | 31    | 33    |
| Gross Capital formation (% of GDP)      | 24    | 26    | 28    | 32    |
| Revenue, excluding grants (% of GDP)    | 10.6  | 11.5  | 11.9  | 12.3  |
| Merchandise trade (% of GDP)            | 43.3  | 38.7  | 36.9  | 37.0  |

Source: Adapted from The World Bank (2010)

The data presented in Table 3.2, however, does not explain the reasons behind the lacklustre performance of the industrial sector, nor does it tell much about the private sector's inability to make the desired impact on the economy. To understand that, it is necessary to look back at the decade-long Maoist insurgency and see the socio-economic impact it had on different sectors and stakeholders of the country.

### **3. Impact of insurgency on the economy**

The then Communist Party of Nepal (CPN) - (Maoist)<sup>3</sup> launched its armed insurgency in 1996, after the government that time turned down its 40-point demand. In 1998, the party outlined its objectives, stating that its goal was to usher in self-reliant, independent, balanced and planned economic development through a radical land-reform programme and national industrialisation. For the Maoists, the lack of social and economic development was a crucial motivation to wage the 'People's War'. They were centrally concerned with access to economic opportunities and resources, and especially with the restriction of this access along caste and ethnic divides within the society. The insurgency thus had a heavy impact on the country's economy and the business sector, as well as on the political, civic and social structures in Nepal. It is estimated that around 15,000 Nepalese lost their lives, and another 200,000 were internally displaced. Although a serious study on the impact on the overall economy is yet to be done, another estimate suggests that the economy had lost about US\$ 800 million in GDP already by 2002 (Dhakal and Subedi 2006). Similarly, Joras (2008) estimates that the annual loss of GDP during the decade of conflict is somewhere between 2-8 per cent. In addition to these economic consequences of conflict, however, the Nepali economy was also damaged by the ideological nature of the conflict itself. Private businesses were targeted by the insurgents. They often suffered physical attacks and sabotage. Multinational and large Nepali businesses were obvious targets, as were companies linked to traditional elite groups and castes. In addition, there was a dramatic increase in labour union activities over the decade of conflict. It was not simply harder to do business in Nepal because of the conflict – businesses were also seen as legitimate political targets in the conflict itself. There was therefore a substantial negative impact on the private sector from all sides.

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<sup>3</sup> Now UCPN (Maoist).

#### **4. Government-private sector relationship**

Although governments after the 1990 movement gradually promoted the private sector, their policies were not clearly or consistently reinforced by subsequent ones. Little was done to address fundamental issues, like loss-making public enterprises and a highly bureaucratic administration. The lack of clear signals to the private sector about the extent and nature of policy reforms, as well as the inconsistency of these policies, resulted in an uncertain financial environment. In the meantime, practices like a high level of non-performing loans, excessive government involvement in the banking sector, weak corporate governance and organisational culture and unwanted political interventions, to name a few, continue even today. There is an urgent need to undertake important measures to strengthen the financial system. After all, a competitive, efficient and healthy financial system is vital for enhancing growth, efficiency and maintaining the stability of the economy.

The governments' continued failure to provide adequate support and protection, even in the post-conflict situation, has been a major constraint for a more active involvement of the business community in development, so claim the private sector actors. As a result, private investors' confidence in the stability of government policies and the capacity of the government to provide support and protection is very low. Such low confidence on the government has, it is believed, discouraged new investment and encouraged capital flight.

The fact that last two governments in Nepal have been both led by the two biggest communist parties has not been, it appears, a particular problem for the private sector so far. The primary reason behind this is that both of these governments have more or less adopted a similar and positive approach towards the private sector like the previous governments. They have clearly stated time and again that private enterprises are economic necessity to bring about the economic transformation the country needs and are essential for development. However, the parties have looked ambiguous and uncertain at times. Certain youth wings and trade unions appear to be driven by an anti-corporate ideology, and the party leadership appears to have lost control of their actions. This has led to deterioration in labour relations, which in turn have intensified problems of low motivation and poor discipline among employees. Such factors have not only lowered the morale of the domestic private sector actors, but have also withered away foreign direct investment (FDI) from Nepal in the recent years.

## 5. Foreign direct investment in Nepal

Nepal opened the doors to foreign investment in recent times. Since the government opened some service sectors to foreign investment in 2005, progress has been made in allowing private operations in sectors that were previously government monopolies, such as telecommunications and civil aviation. Licensing and regulations have been simplified, and even 100 per cent foreign ownership is now allowed in some sectors. As a result, the total number of FDI projects has increased almost tenfold in the last decade.

**Table 3.3 Joint-venture industries in operation in Nepal  
(as of mid-April 2008)**

| S<br>N | Country          | Sector         |                    |                  |                         |              |              |              | Total<br>No. of<br>Indus-<br>tries | Total<br>Project<br>Cost<br>(Million<br>NRs) |
|--------|------------------|----------------|--------------------|------------------|-------------------------|--------------|--------------|--------------|------------------------------------|----------------------------------------------|
|        |                  | Agro-<br>based | Cons -<br>truction | Energy-<br>based | Manu-<br>factur-<br>ing | Min-<br>eral | Ser-<br>vice | Tou-<br>rism |                                    |                                              |
| 1      | India            | 1              |                    |                  | 89                      | 1            | 17           | 10           | 118                                | 13468.21                                     |
| 2      | The USA          | 1              |                    | 1                | 13                      |              | 23           | 12           | 51                                 | 8924.54                                      |
| 3      | Japan            | 4              | 1                  |                  | 9                       |              | 10           | 20           | 44                                 | 1329.05                                      |
| 4      | China            |                |                    | 1                | 15                      |              | 7            | 7            | 30                                 | 1869.17                                      |
| 5      | South<br>Korea   |                |                    |                  | 11                      |              | 3            | 6            | 20                                 | 528.28                                       |
| 6      | Germany          | 1              |                    |                  | 7                       |              | 4            | 6            | 18                                 | 278.88                                       |
| 7      | The UK           | 1              |                    |                  | 6                       |              | 2            | 6            | 15                                 | 326.74                                       |
| 8      | Switzer-<br>land |                |                    | 1                | 2                       |              | 2            | 4            | 9                                  | 147.24                                       |
| 9      | France           |                |                    |                  | 5                       |              | 1            | 3            | 9                                  | 129.47                                       |
| 10     | Norway           |                | 1                  | 3                | 1                       |              | 1            |              | 6                                  | 6690.95                                      |
| 11     | Others           | 1              | 1                  |                  | 38                      |              | 21           | 21           | 81                                 | 6144.04                                      |
| 12     | Total            | 9              | 3                  | 6                | 196                     | 1            | 91           | 95           | 401                                | 39836.57                                     |

Source: Adapted from FNCCI (2009)

Most of the incoming FDI is in the form of joint ventures in Nepal, the latest figures of which are shown in Table 3.3. Most of these investments are in manufacturing, tourism and service sectors. However, this much talked about foreign private investment has not been forthcoming so far to catalyse the private sector and to meet the growing needs for capital investment. The primary reasons for this have been the continuing political and administrative instability, and lack of adequate basic infrastructure. Continued political and social stability, together with economic prosperity

and government policies conducive to FDI in an individual country helps maintain its attractiveness as host location. But in the case of Nepal, the investors have not seen this stability in the recent years. The policy makers certainly may have presented a fairly attractive foreign investment policy, but they have realised little, it seems, that what a nation needs is a stable environment for the policies to have any effects and attract the potential investors. Basic infrastructure needed to support investment is woefully inadequate. The supply of power, especially outside Kathmandu Valley, and water is insufficient. Transport is difficult, a problem compounded by the fact that Nepal is landlocked. Such poor infrastructure and high risks have made the market least conducive to investment. Moreover, the low morale of private investors as explained in the earlier section and lack of confidence in the government has kept Nepal away from the potential investors. However, with the help of effective foreign aid, it is possible to make the necessary transformation and attract more private investment. Foreign aid can act like a catalyst and a facilitator to this transformation. But in Nepal, it is having quite a different impact and its role is also being questioned.

## **6. Foreign aid and its impact**

Ever since Nepal started receiving foreign aid, the international community has been increasingly involved in its development process. The assistance received from them has been on the rise to a level where at one point disbursements constituted around 80 per cent of the development budget (Sharma 2000). Such a high degree of aid dependency has inevitably had some serious political implications. In the last decade of the Panchayat period, there was a tendency in the domestic political debate to see a relationship between the dominant powers in the country and foreign assistance. While the government projects were by and large unable to reduce poverty, development through foreign aid essentially became a metaphor for the maintenance and strengthening of the traditional power structure. The political picture has gone through several changes since then; however, foreign aid continues to constitute a very large share of the development budget.

Looking at the summary of income and expenditure for the fiscal year 2007/08, it becomes clear that there is still a high degree of dependence on foreign aid. Loans and grants together financed almost 45 per cent of development expenditure in 2008/09 with the share of grants being consistently higher than that of loans. Despite this significant inflow of

aid, people at large feel that the aid channelled through government line ministries has not resulted in effective poverty reduction, and that much of the aid money has been misplaced and misused. Even the seemingly large aid for agriculture has not resulted in acceptable growth in agricultural production (Sharma 2008).

This is where the question of the donors' role comes in. Although there have been some occasional grumblings from some of the donors regarding the handling of foreign aid (several countries removed Nepal from their priority list of aid-receiving countries during the direct rule by King Gyanendra), there does not seem to have been much discussion going on among the donor countries themselves regarding their roles and the effectiveness of the aid. It often looks as if the donors are struggling with their trial and error approach and in doing so their manifest role is becoming less clear or agreeable. They are often criticised of profoundly lacking coordination among them and as a result they are not satisfied with one another. Also, there seems to be an increasing inability to establish a framework of cooperative coordination with governments in the recipient countries. As a result, they are less satisfied with what they do and achieve while working with these governments. So they blame the state for its continual ineptness and lack of performance. In return, the state blames the society and its politics that the donors fail to appreciate; and the society blames both, the government and the donors. Given such a reality, there is a big scope for donor-private sector engagement to bring about an environment of partnership towards a common goal, viz., development.

## **7. Donor-private sector partnership**

Donors and private sectors have at least one common broad goal, that is, development of the society they work in and for. But because they come from so different backgrounds and their specific objectives are usually different from each other, they have very few other common factors between them. And certainly, they do not always come across each other in the process of implementation of their respective activities. But there is no reason why there cannot be spaces where the donors and private sector actors work together. It is understandable why donors could be cautious in their interactions with the private sector. The private sectors may have a different agenda from that of the government and are seen as more profit motivated than anything else. But so are the private sector actors in many cases. Some donors may enter a post-conflict situation

with clear political goals, while others may be more usually inclined to partner with the public, rather than private sector.

In case of Nepal, although in the recent years this relationship looks to have improved somewhat, there is still much space for improvement – especially in the context of post-conflict situation. There have been some initiatives from bodies such as the National Business Initiative (NBI), but private sector needs to do more than just try to shake hands with the donors. While the donors have their own problems as discussed earlier, the private sector in general suffers with the image of not caring enough for the overall welfare of the society. It is often perceived that the business community lacks transparency and good business practices. The private sector actors, it seems, always find the blame in the government for not being supportive enough, but they do not find time to look into their own shortcomings. In order to improve their own image, they need to promote greater transparency, get involved in more visible and meaningful social responsibilities, and practise more inclusive and ethical business. Despite challenging times, the private sector has not only the business interest but also the social responsibility to come forward and take the lead, rather than the other way round. We have seen around the world that private sector initiatives have played meaningful and constructive roles in post-conflict countries.

## **8. Examples of Sri-Lanka and South Africa**

It is worth, at this point, taking up some examples of the roles the private sector has played in other conflict affected countries, namely Sri Lanka and South Africa. Despite a conflict that lasted for more than three decades, Sri Lanka has long been seen as a country with steady economic growth. As a result, for most of those conflict affected years, big business had little motivation to support peace building initiatives. However, this attitude of indifference among big businesses changed with the bombing of Colombo International Airport in 2001 which, together with a devastating power crisis in the same year, exposed the vulnerability of key business sectors to the violence. The combined impact of the two events pushed the economy into negative GDP growth, the first time this had occurred in all the years of war. Pressure mounted on business to do something, as the economic costs of conflict became more evident. For the first time, members of the Colombo corporate community joined in alliances to lobby for peace. The most prominent of these ventures was Sri Lanka First (SLF) (Mayer and Salih 2006).

The SLF campaign emphasised both on raising public and political awareness about the economic costs of the war, as well as the social and economic benefits of a peaceful climate. A number of public demonstrations for peace were held, backed by a media campaign that lobbied for business to adopt practices that foster peace, but SLF stopped short of taking any political position in terms of solutions to the conflict. It played a very proactive role in convincing all parties to come to the negotiating table, and the campaign influenced voters towards supporting peace-oriented parties and candidates.

Similarly, in case of South Africa, the business community played a very effective role right from the time when South Africa was under apartheid until the transition to democracy. What is particularly noteworthy is that the business community was able and smart enough to contextualise its involvement according to the prevailing situation in the country. In the early stages when South Africa was an illegitimate state, and a closed economy with a divided society and command structure, the business community worked with a low profile delivering services directly to the community. In the transition phase, it worked with political parties garnering support, forging relationships and finally, in the democratic set up, it went on to build partnership with the government for reconstruction and development (Whittaker 2003). During all these three phases, however, the enduring concern of business community was on justice, democracy, poverty, economy and relationships.

In short, South African business community was able to facilitate the process towards transition and transformation by responding early to a crisis situation within the prevailing context and by working together and reaching out to the community, political and government leaders. It was able to undertake projects that benefited the poor and encouraged growth, justice and democracy by building bridges across interest groups. It showed that it was possible to work in the interest of both the business community and the society at large.

The question is, can Nepal's business community show a similar courage, vision and commitment in the ongoing transition process as shown by the private sector actors in Sri Lanka and South Africa? What role can it play in the post-conflict reconstruction?

## **9. Need for a post-conflict policy agenda**

It is of utmost importance that Nepal needs a new policy agenda in post-conflict reconstruction and state building. Reconstruction and

state building will require growth, which in turn will require private-sector investment. But it is only an effective state that can provide the environment for investment, and to attain this environment, it is paramount that individuals and agencies take active participation in their respective societies. It is thus important to consider different dimensions of reconstruction.

Post-conflict reconstruction does not mean that we should be rebuilding the past. Past policies, institutions and investments were often not the best for development or political stability but instead generated grievances among those left out of the 'social pie.' It is a lot easier to rebuild shattered infrastructure than it is to change institutions and to make them effective and accountable to the majority of the population—but it is the latter challenge that must be met for a durable peace.

Reconstruction cannot work without economic policy reform: policies that thwart investment by communities and the private sector must be reviewed and changed. Creating better public expenditure management so that public money and aid can be channelled into the highest return public investments should get a high priority. Privatisation is important for reducing the fiscal burden of inefficient state enterprises, freeing up public money for redeployment in the social sectors such as education and health, and for improving the delivery of essential services to support and encourage community and private-sector investment. Equally important is securing the access of poor communities to land and other natural capital upon which their livelihoods depend, and managing the allocation of natural capital to large (and often politically powerful) investors in a transparent manner that protects the rights of the poor as well as the public interest.

Today's challenge is thus to find the means to make private-sector engagement attractive, especially at this stage of transition. A proactive private sector participation would not only garner more investment, with resulting jobs and opportunities, but also provide the necessary managerial know-how and expertise to enable all the actors in the field—including the donors and the civil society—to operate in a more streamlined and synergistic fashion.

## **10. Private sector in post-conflict Nepal**

Private sector actors throughout the developing countries, particularly in unstable economies, are viewed in a negative way. It is widely perceived there is only one thing foremost in their minds – profit. There

is a widespread mistrust between the average person and the business circles. Even in Nepal, the Maoists have always defined their movement as a class-based struggle, and have shown the tendency of viewing the business community as its class enemy. Now this business community must come forward and work towards removing this 'negative identity' attached with them and show that they are there not just for profit, but for the betterment of the society at large. They must take part proactively in national debates and campaigns, and come up with more inclusive strategies to incorporate the multi-ethnic peoples of the society. Business leaders must learn the way to responding positively to the peace process and show a sectoral display of support for policies and programmes that move the process forward. At this juncture of history, the dawn of a 'New Nepal', business community must take up the challenge of addressing issues previously thought risky, and strive towards creating trust between various segments of the society. As the experience from South Africa has shown, the importance of taking care, forgiving – not forgetting, and moving forward is immensely great. The Nepalese business community has to take lead on all this, thereby supporting the ongoing fragile peace process.

It is worth mentioning here that in 2004, the business community in Nepal, with the support from GTZ, formed a NBI comprising fourteen national business organisations, including the Federation of Nepalese Chambers of Commerce and Industries (FNCCI), the Nepal Chamber of Commerce and Industry and the Hotel Association of Nepal. The stated goal of the politically non-partisan NBI has been to contribute to 'sustainable peace in Nepal through improvement of the quality of life of all Nepalese through development of entrepreneurship, creation of opportunities and generation of wealth through just socio-economic growth' (NBI 2005). It has committed itself to investing resources in areas such as infrastructure, social capital and the creation of safe spaces for meaningful peace-building efforts.

This indeed was a positive signal, but its effect has largely been not felt by the society. With genuine efforts and sincere business ethics that has been lacking until now, there is no reason why NBI cannot do what SLF has been able to accomplish so far. But NBI has to be sincere in its efforts. It is no easy task, and it must realise that the business community cannot act on its own. It needs to follow a participatory approach with coordinated partnership with other stakeholders in the peace-building process and maintain transparency throughout.

Some clear advantages of a body like NBI that give it a real chance of succeeding are, to mention a few, facts such as it is not a direct party to the conflict, it can mobilise resources in support of peace-building initiatives, and that it has a comprehensive networking capacity and presence throughout the country. It has the potential to play a vital role in this post-conflict period by creating employment opportunities to the victims of conflict and taking business to the conflict-affected and disadvantaged areas where feasible. Although the impact of NBI is still to be felt in the post-conflict scenario, its approach and willingness to become proactively involved in a strategic manner certainly is a positive step towards sustainable peace.

Another positive move that has come out of the business community in the recent years is the reaching of an understanding between the FNCCI and Confederation of Nepalese Industries to work together to advance the common agenda of the private sector. They have agreed to cooperate with each other on issues such as the Terai agitation, irregular electricity supply, industrial labour disputes and the government decision to cancel passports of the several businesspersons defaulting bank loan repayment. In a joint statement, they clarified the need for the two parties to unite by stating “the two institutions have decided to become united because unless major problems of industrial sector are not resolved, the economy will be affected and, ultimately, the private sector will collapse”.<sup>4</sup>

I have argued elsewhere (Sharma 2007) that one of the areas where the business community could make an immediate impact is, for example, in providing the would-be migrants with some essential vocational and skill-upgrading training before they migrate to a foreign land, thereby facilitating in the further increase of remittance coming into the country. They could also initiate mechanisms where the skill and accumulated wealth of the returnee workers could be used for further income generating activities by providing business counselling, further upgrading of skills and so on. That way, they would be facilitating the investment of their skills and resources, which in turn could create more job opportunities and strengthen the economy.

These are just a couple of examples where the private sector could play an instrumental role in shaping the post-conflict economy of a ‘New Nepal’. There are various other sectors they could work on, such as education, health, manufacturing, service or microfinance, and create livelihood

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<sup>4</sup> [www.nepalnews.com](http://www.nepalnews.com) accessed on March 1, 2007.

options for the youths of this country who are hungrily looking for viable employment opportunities. Whatever the private sector actors do, they must do so sincerely and with high business ethics. They must take up this challenge and convince the society at large that private sector can indeed play a meaningful and leading role in shaping the socio-economic conditions of this emerging nation.

No matter what the stakeholders decide to do, to be competitive in the global economy, Nepal needs to create an environment that promotes and supports investment and business. The government, the labour unions, the donors and the private sector must work together to create a favourable investment climate in which both domestic and foreign investors can be confident that their operations will be uninterrupted and predictable. Labour, energy and security issues need to be addressed openly, while the business community must also be recognised as an essential partner in the prosperity of the communities they live in.

## **11. Conclusion**

The planned development in Nepal of the last five decades has been unable to address the root causes of conflict. Unless the priorities are set right in the development plans, it will inevitably lead to another round of conflict in one form or the other. The private sector is in the position to play a leading role in shaping the post-conflict socio-economic conditions of a 'New Nepal.' For that to happen however, it needs to take a proactive role. It has to learn from the experiences from around the world that in crippling economic conditions and persistently harsh business environments (as in the cases of South Africa and Sri Lanka), business communities have been able to contribute, to some extent, to stability and transition of the societies.

The private sector, as an important actor in the community, has a vital role to play in working with others to transform their societies. They should ensure their commitment through activities that are consonant with sustainable peace, which has not always been the case. They should proactively seek out ways of supporting efforts to develop suitable conflict prevention policies and more inclusive practices, recognising the interrelationships between conflict and social, political, economic and cultural factors. The business community must come to the forefront and address the issues of inequalities persistent in our society. Only then will they be able to earn respect from the citizens, which in the long run

could help mitigate, and perhaps even prevent further armed-conflicts. The government needs to encourage investments in a number of critical sectors and the private sector must take a leadership role in drafting a national strategy for economic growth. The government has a critical role to play in creating a secure and business-friendly environment that will attract and sustain foreign investment, but, ultimately, only the private sector can deliver lasting and sustainable economic growth.

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## Addressing poverty and promoting good governance: Community forestry in post-conflict Nepal<sup>1</sup>

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### 1. Introduction

Nepal provides in many ways a 'text book' example of chronic poverty in remote rural areas (RRAs). The mountainous landscape is beautiful, but the steeply intersected terrain hinders access and makes infrastructure development and maintenance costly. Numerous roads and bridges have been built over the past 50 years, and other infrastructure are developed, but still a large section of the population live many days walk from the nearest road head, and without ready access to basic facilities such as drinking water, health services, schools or rural electrification (or at least to those of any quality). Deaths and permanent injury as a result of geographical isolation – including being unable to reach medical services or receive appropriate treatment in time, coping with the drudgery of bearing heavy loads up and down mountainous slopes, or suffering accidents while crossing rivers, etc. - are common. Fertility rates are high (partly but not entirely due to lack of access to birth control), with higher maternal and child mortality. The basis of the rural economy is labour-intensive agriculture, cultivating fragile soils and raising livestock for low returns. Land fragmentation is extreme and many households have insufficient land for food security. Given that opportunities for earning beyond basic wage labour are scarce, out-migration (to urban areas or abroad) is the most obvious coping strategy, and is widely practised – both seasonally and longer-term. Indeed, remittances represent a substantial

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input into the rural economy, but they are often poorly managed, whilst the absence of able-bodied adults (especially men) has a variety of negative social repercussions. Opportunities for savings and credit for households to invest in health, hygiene and education are also limited.

The social context of Nepal provides an additional twist to the geographical and economic gap between people living in remote areas and those living in or close to urban areas. Traditional Nepali society is extremely hierarchical, structured by caste and class - with the higher castes (at the top Brahmins, followed by Chhetris and Newars) dominating the indigenous hill peoples or Janajatis (such as Tamangs, Gurungs, Sherpas and Majhis) and practising severe discrimination against the so-called 'untouchable' occupational castes or Dalits (shoemakers, blacksmiths, tailors, etc). Whilst economic and social opportunities used to strongly reflect this hierarchy, the reality today is somewhat more complicated; for example, the recent National Living Standard Survey (2004) revealed that in economic terms, Sherpas are now the richest and the Tamangs are the poorest ethnic group in Nepal in terms of per capita income, although both are the Janajatis (CBS 2004). Geographically, the Janajatis and (to a lesser extent) the Dalits are more commonly found in remote areas. Furthermore, each ethnic/caste group tends to be fragmented – meaning that it is difficult to come together with a united voice. Poor literacy levels due to poor schooling and lack of information on politics and human rights have also contributed to general exclusion of such groups from decision-making process. The same can largely be said of women – although gender relations vary according to caste, class and ethnicity.

In summary, all the characteristics of RRAs listed by Bird et al. (2002) apply in Nepal's middle hills, notably:

- High dependency ratios due to high fertility, mortality of people of working age, and out migration
- Exposure to high risk levels, and low social protection
- Poor agro-ecology
- Food insecurity
- Poor policy and low levels of service delivery
- Constraining social factors.

Against this background, it is perhaps not surprising that social exclusion erupted into civil conflict in 1996. Frustrated by political inertia, the various Maoist parties elected to power after the democratic movement

of 1990 decided to take arms. The resulting violence caused huge loss of life, created trauma and general social upheaval – including the eventual overthrow of the monarchy in 2008. Arguably, the greatest brunt of the conflict was borne by the disadvantaged themselves (reliable figures are unavailable), but the rebellion and demand for self-determination has changed Nepali society irrevocably. Social discrimination, though still entrenched, is increasingly questioned, and not simply accepted as a way of life. With a new CA in place and a new national constitution being prepared, the demand for change is fierce and the surge of separatism could still ultimately lead the disintegration of the nation.

In the aforementioned scenario, this paper focuses on the experiences of community forestry in relation to addressing poverty in three districts of Nepal, namely Dolakha, Ramechhap and Okhaldhunga. The Nepal Swiss Community Forestry Project has been operating in these districts since 1990 (although not under the same name) and currently it covers four<sup>4</sup> out of the 75 districts of Nepal. The project is managed by Intercooperation on behalf of the Swiss Agency for Development and Cooperation (SDC) and operates on a multi-partnership basis through bilateral agreement with the government of Nepal. Before examining community forestry experiences on poverty, a brief overview of poverty in Nepal is necessary.

## **2. Developing programmes to respond to chronic poverty**

There are clearly huge challenges in developing effective programmes to address chronic rural poverty. Such challenges rendered more complexity during the civil war, when the most remote areas (including much of the area in which NSCFP operates) were under Maoist control. During those times, activities of Community Forest User Groups (CFUGs) were carried out in a manner that would focus more on poverty reduction. They would be coherent with overall national and sector policy as well as SDC priorities in Nepal and were built on the lessons learnt from a dynamic process of community forestry.

### **2.1 National level**

It is recognised that the civil conflict stems from poverty and social exclusion. Thus, the country has an overall national strategy of poverty

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<sup>4</sup> In addition to Dolakha, Ramechhap and Okhaldhunga districts, there is a recent addition of Khotang, in the central part of Nepal.

reduction in line with the first Millennium Development Goal (MDG) of halving poverty by 2015.<sup>5</sup>

This is reinforced through the four pillars of its Poverty Reduction Strategy Plan (PRSP), notably;

- Economic growth
- Social and human development
- Specific targeting to the extremely poor and marginalised
- Good governance.

The PRSP was developed on the basis of considerable background research, [for example, the Gender and Social Exclusion Assessment undertaken by World Bank (WB) and Department for International Development (DFID) – Bennett (2005)], but will soon need to be updated. The Government of Nepal also recognises the spatial dimensions of poverty in that there is a special remote area development programme, focusing on districts and areas within them of high altitude and poor accessibility.

## **2.2 Sector level**

As a source of fuel, fodder, timber and many other products, forest plays a particularly important role in the livelihoods of Nepal's rural population. This was acknowledged in the country's 25 year Forest Plan (1985-2010), in which community forestry – under which full responsibility for the management and use of the State forests is handed over to legally registered CFUGs - was seen as a forest category that could ultimately take up 60 per cent of all the state forest. CFUGs are defined on the basis of all the households using a particular forest. They are formed on the basis of resource governance and are not necessarily coherent with the local administrative units such as Village Development Committees (VDCs) which tend to be larger. At present, the total area of community forest in the country stands at over 1.2 million ha managed by 14,439 CFUGs whose membership consists of about 1.6 million households (DoF 2010). In Dolakha, Ramechap and Okhaldhunga districts, the total community forest area is 94,600 ha, comprising 65 per cent of the total potential of 146,700 ha forest land; significantly, 85 per cent of all households are members of one or more CFUG (NSCFP 2009). Community forest attempts to contribute to all four pillars of the PRSP, but it has been criticised in the past for failing to reach the poorest. Indeed, it has sometimes even

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<sup>5</sup> See [www.npc.gov.np](http://www.npc.gov.np) for more on it.

widened gap between the elites and the socially disadvantaged, with the former (who have private tree resources) having no hesitation to enforce forest protection, depriving the poor of their basic needs for fuel, fodder etc (Hobley 1990; Graner 1997; Malla et al. 2003).

Community forestry has evolved from tree planting and forest management to 'second generation' issues of governance and poverty reduction. CFUGs have, in fact, occupied a unique position during the period of armed conflict – functioning as democratic entities, conducting meetings and organising local services from their own funds at a time that the local government units such as VDCs were non-functional. More than this, they have organised themselves, coming together to form the Federation of Forest Users, Nepal (FECOFUN) to lobby for user group rights (which government officials have, on a number of occasions, sought to curtail through orders and circulars that contradict legislation – notably the Forest Act 1993). With local governance becoming a key issue in Nepal's post-conflict development, an important issue will be building a strong, complementary working relationship between CFUGs and the VDCs, once they recommence full functioning.

### 2.3 SDC priorities in Nepal – Supporting the disadvantaged

The SDC cooperation strategy in Nepal (2009-2012) is clearly oriented around equity, social inclusion and the up-holding of rights. The two overall pillars of the strategy are supporting the consolidation of the peace process and state building, combined with contributing to inclusive and connected local development. Poverty is seen as strongly linked to social discrimination; as a result, SDC has, since 2004, placed particular stress in all its projects the need to work with disadvantaged groups (DAGs) and ensure that their needs and views are considered. Disadvantaged in this sense incorporates both social exclusion (discrimination) and economic poverty. A simple schema may be used to illustrate this definition.

|          | Discriminated                                        | Non-discriminated                    |
|----------|------------------------------------------------------|--------------------------------------|
| Non-poor | non-poor<br>(but discriminated)                      | non-poor<br>(also non discriminated) |
| Poor     | poor<br>(also discriminated: commonly known as DAGs) | poor<br>(but non discriminated)      |

The economically poor people are taken to be those households with less than six months' food supply from their own land, or living on less than US\$ 1 per day per capita. The socially discriminated are taken to be all Dalits, Janajatis, and women.

## 2.4 Local definitions of poverty

Over time, the emphasis of community forestry has been changing based on its maturity. In the earlier period in the nineties, community forestry activities were concentrated on the process of handing over and taking over forests in an equitable manner, developing new methods for local users to manage and harvest forests on a sustainable basis, and subsequently building local, non-government capacity to provide services to CFUGs. However, many authors pointed out the need for community forestry to be more equitable and pro-poor (Chhetry et al. 2004; Dev et al. 2004; Gaia et al. 2004; Gronow et al. 2003; Kandel and Subedi 2004 and Yadav et al. 2008). Whereas others have found out the potential success of community forestry to significantly contribute to poverty reduction (see Neupane et al. 2004; Nurse et al. 2004; Poudyal and Thapa 2004, Ojha and Subedi 2004; Hobley et al. 2007 and Pokharel et al. 2009). With the help of government, NSCFP staff and NGO service providers, many CFUGs in Nepal particularly in Dolakha, Ramechhap and Okhaldhunga districts, on which the experiences are drawn in this paper, have attempted to address chronic poverty in a concerted manner. This interpretation of poverty takes into account the concepts of SLA (sustainable livelihoods approach)<sup>6</sup> and a Rights Based Approach (Peron and Neil 2006) and is tailored to local understanding.

The first step in this is a well-being ranking (Pokharel et al. 2004). As this was originally developed during the conflict period, when the identification of well-to-do households was very sensitive (potentially inviting negative action by Maoists), the method was adapted accordingly. It requires three trusted, knowledgeable key informants (varying by gender, caste and class) to conduct ranking individually – the categories being left for their own interpretation, although they are asked to differentiate at least five if possible. In Nepali, the word *bipanna* is used for those who are extremely disadvantaged (distinct from economically poor, *garib*). Generally five to seven categories are identified, each household in the CFUG being placed in one. The three rankings given to each household are then averaged, thus arriving (as far as possible) at a non-biased categorisation. Those identified in the lowest three categories are named, by category, at a general assembly of the CFUG, which is asked to ratify the selection. Sometimes the selection is challenged, and sometimes the assembly finds that more names should be included as *bipanna*, but overall they should not comprise more than 5 per cent of the CFUG membership. The reasons

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<sup>6</sup> See [www.poverty-wellbeing.net](http://www.poverty-wellbeing.net) for more details.

given for categorising households always include the obvious ones of food security (land ownership) and income (a regular salary is highly favoured), but also take into account social and other factors. Commonly quoted indicators of well-being include good political connections outside the village (source force); all family members in a good health; the affordability to all children's education; the ability to lend money; and (in some cases) owning a household toilet<sup>7</sup>. For the *bipanna*, handicap or long-term illness, old age and debt are usually mentioned, but the most common factor is social isolation – something strongly abhorred in Nepali culture, and worsened by the absence of State-provided social protection (see the example of Manomaya Majhi, Box 4.1).

**Box 4.1 Manomaya Majhi: An identified bipanna suffering from social isolation**

The Majhis are a low caste hill group who traditionally gain their livelihoods from fishing and ferrying people across rivers in small boats. Their caste means that they generally live on marginal land close to large rivers— thus spatial poverty is, in their case, effectively caste-induced.

Manomaya Majhi is about 50 years old, and is married to Gore Majhi. He is her second husband – the first died, without them having any children. The couple lives in a small one-roomed house close to the Tama Koshi (a major river). They used to possess some khet land, but it was swept away by the river during one monsoon. The construction of a suspension bridge across the river means that there is no longer any ferry work. Of their six children, three died at their quite young age. The other three (two daughters and a son) have all migrated to Kathmandu, where they work for hours as unskilled labourers, mainly in brick factories (still earning more than they could make locally). Their son is living with a woman, but has not married her due to insufficient money. The girls have married, and have five children, all girls, between them. Manomaya and Gore had to take a loan at the local interest rate Rs 400 per month for each 10,000 (48% per annum) to cover the marriage and other costs, which they are still repaying. Gore is thus often away in Kathmandu, seeking work. He himself has had four wives; the first three all left him as he was away earning money, and they found other husbands. There was one son from Gore's first marriage, but he died at the age of 21, leaving a widow and two children, of whom one also died. The other now works in a tea stall in Kathmandu.

Manomaya has thus lived through the death of one husband, three children, one step-child, and one grand-child, plus the loss of the family land. She also experiences the effective loss of her surviving three children, step-child and grand-children, whom she rarely sees. She jokes that she stayed with Gore through lack of alternatives – but she also complains that she feels alone.

According to the new GoN Community Forestry Guidelines (2008), all CFUGs are expected to conduct well-being ranking when developing or renewing their Operational Plans.

<sup>7</sup> Probably influenced by the activities of SDC's health project.

As the *bipanna* people identified through the process of well-being ranking are very often the DAGs, this is not automatically the case given that the selection is left in the hands of the community. This point is taken up further in section 6, on practical challenges.

## 2.5 Addressing poverty through good governance

Beyond identifying the *bipanna* and other disadvantaged households, well-being ranking serves, importantly, to begin a process of discussion within the CFUG membership on social responsibility and the recognition of equal rights for all. This is taken forward in a (usually three-day) programme of Governance Coaching and self monitoring – a tool used to reflect on good governance within the group – based upon the principles of accountability, transparency, non-discrimination, participation and effectiveness. This translates into practice into the matters such as accurate book-keeping, recording of decisions taken, representation, style of leadership, respect for every voice, and recognition of the need to make provisions for the *bipanna*. In the coaching undertaken by GO and NGO Service Providers (see section 5.2), early on, a member of project staff was always present to ensure consistency. But over time familiarity with the process amongst GO and NGO Service Providers (plus security constraints during the conflict period) have resulted in this not always being the case. Normally, some 30 or so persons take part in the coaching; they include at least some Dalits and women, the CFUG committee members, and others as felt locally appropriate.

### Box 4.2 Lessons learnt from governance coaching

“During the Governance Coaching and self monitoring exercises, we reviewed the [Operational] Plan – what we had decided, what we had done, who had come to the meeting, what was written and then what had actually been done. One thing we realised was that everyone who participated signed, and then the decisions were written afterwards as we thought that everyone had agreed – but actually the correct thing to do is to write the decisions first and then to sign. We also realised that there was not a single decision in the Plan that was specifically about the poor – most decisions were related purely to the forest management... We learnt what we had overlooked, where we had made mistakes - such as not thinking about the *bipanna*, and not recording income and expenditure thoroughly - and we realised how to improve...”

Ganesh Bahadur Majhi

Secretary, Ampani Thulobhir Community Forest, Ramechhap

## 3. Tackling chronic poverty directly

As already indicated in the discussion above, tackling chronic poverty is a challenging task that requires a multi-faceted approach. Although,

community forestry alone is not ‘the answer’, it can make a significant contribution to improving the lives of those living in poverty. In particular, CFUGs are trying to reach the *bipanna* households with a range of activities which are captured by the acronym ‘FREELIFE plus H2O’ (see Box 4.3) and by establishing forest based pro-poor enterprises.

### 3.1 Benefits for the *bipanna*

The acronym FREELIFE plus H2O are the livelihood assets that CFUGs have been providing to the *bipanna* households. These provisions are all within the mandate of a CFUG and can be provided without any further outside support (see Box 4.2). The CFUGs are expected to deliver as many provisions as possible from the FREELIFE plus H2O package to the *bipanna* in their group.

#### Box 4.3 FREELIFE plus H2O

The main provisions of FREELIFE are access to group Funds, Representation in leadership positions, training for Employment, scholarship for Education, access to community forest Land, Inclusion in decision making processes, and equitable access to Forest products and Enterprises. The additional H2O refers to Health, Humanitarian aspects (particularly for conflict victims) and support from Other organisations.

**Funds** of the CFUG are made available to the *bipanna* against relatively low interest, between 0 and 24 per cent per annum with 24 per cent being the most common rate (private money lenders typically charge 40%). This is an important shift from the former policies where group funds were exclusively used for community infrastructure (drinking water, schools, bridges etc.) for which it is difficult to claim that they are beneficial to the poor.

**Representation** of *bipanna*, other disadvantaged households and of women in general in CFUG leadership (committee membership) is encouraged by the CFUGs.

**Employment** opportunities for the *bipanna* are identified by CFUGs where possible and provisions made for training if this is necessary.

**Education** is addressed by CFUGs by providing scholarships to the children of *bipanna* and in many occasions offering additional teachers to the schools.

In **Inclusion** process, records are kept on who participates in meetings, with CFUG members from more advantaged backgrounds being sensitised to encourage disadvantaged members to attend, to listen to their opinions, and give them space to raise their voice.

**Forest products** from the community forest must be distributed in an equitable manner – equity meaning fair (according to need) rather than equal.

**Enterprises** – see section 5.2.

**Humanitarian** and **Health** supports are typically provided in emergencies, to help families that are in a sudden destitute situation.

From experience to date, the most problematic aspects of FREELIFE are provision of land – as often it is difficult for the CFUG to make available land of any quality that is not too far from the settlement – and the involvement of the poor in forest-based enterprises, the establishment of which requires outside support (and presents a challenge when combining commercial and social objectives).

We cannot claim that FREELIFE is fully implemented by all the CFUGs or that those implementing it are fully successful. However, our sample analysis of more than 10 years old, relatively matured, 116 CFUGs indicates that from there having been no specific provision for *bipanna* households in 2000, by 2008, CFUGs' that have provisions increased by up to nine times (see Table 4.1).

**Table 4.1 CFUGs' investment to the *bipanna* households**

n=116

| Items                     | 2000 | 2006 | 2008 |
|---------------------------|------|------|------|
| Grant (Rs. in '000)       | None | 17   | 149  |
| Soft loan (Rs. in '000)   | None | 174  | 506  |
| Timber (cu.ft.)           | None | 3233 | 6096 |
| Land (HHs)                | None | 181  | 369  |
| Area of land (ha.)        | None | 185  | 401  |
| Scholarship (no.)         | None | 14   | 154  |
| Enterprise (share holder) | None | 601  | NA   |
| Employment (person/year)  | None | 174  | 209  |

Source: Pokharel et al. (2009)

n= Number of CFUG surveyed

NA= Data not available

Similarly, the specific case of Rajaya CFUG in Box 4.4 provides an instance of social responsibility in practice.

**Box 4.4 Rajaya CFUG: An example of pro-poor decision-making**

Rajaya CFUG in Okhaldunga district was established in 2001 with a membership of 145 households, sharing 32.88 ha of forest land. The executive committee of 13 members includes two from disadvantaged household and four women. Through a well-being exercise, the CFUG identified seven disadvantaged households. Each prepared a household livelihood plan based on resource availability and their individual capacities, and is now carrying out their plan with CFUG support. Of particular note is the fact that the CFUG has allocated a part of the community forest land (0.7 ha) to the disadvantaged households and is allowing them to manage and utilise it for their own benefit. The secretary of the CFUG, Kamal Thapa Magar, is quoted as saying, "We are very interested in supporting the poor in collaboration with different people and organisations".

Rajaya CFUG has also been instrumental in community development. It has provided NRs 10,000 to upgrade a local school from lower secondary to secondary level. Likewise, the CFUG has invested NRs 12,000 on a drinking water scheme.

Hobley et al. (2007) found that the project through its poverty reduction and livelihood improvement approaches has been successful in commencing a process of structural transformation in the CFUGs and not just delivering welfare provision. It has approached the extreme poor where most projects do not even recognise these people as a separate group and so they remain unseen to development support.

**3.2 Forest-based enterprises**

Well-managed community forests can often provide a far greater supply of forest products than required by CFUG members for subsistence. Commercial utilisation is thus possible - both in terms of product supply, and existing legislation (although complicated rules and regulations put limitations in practice). There are many potential opportunities for the development of forest-based enterprises such as small saw-mills, veneer/plywood units, local paper-making enterprises (from lokta, Daphne sp and argeli, *Edgeworthia gardneri*), distillation of essential oils (eg. from wintergreen, *Gaultheria fragrantissima*), and wild fruit juice making from wood apple bel, *Aegle marmelos* etc. During the conflict, it was difficult to develop such opportunities due to Maoist scepticism towards commercial enterprises, although the deliberate focus on involving the disadvantaged meant that some were allowed to operate. This was done through insisting that disadvantaged households had shares in the enterprise – both in their own right, and as members of the CFUG - as well as first option on employment opportunities. Achieving a viable balance between a commercial approach and a pro-poor stance is, however, not easy.

## 4. Promoting good governance

### 4.1 Well-governed CFUGs

Monitoring changes in the governance of CFUGs is not a simple task, but a number of indicators are used to gain quantitative data, which is then compared against qualitative information (observations during field visits, case histories, etc). Quantitative data collected includes the number of women and Dalits attending meetings, being elected to CFUG committees, and taking up leadership positions. A recent analysis of data from a sample 116 CFUGs in the project area (see Pokharel et al. 2009) showed that whilst in 2000, a total of 58 women were recorded occupying key leadership positions, in 2008 this had jumped to 110. Similarly, for Dalits the figure went from five in 2000 to 19 in 2008. Of course the simple numbers could merely indicate that women and Dalits have been elected as a show, without them gaining a real voice. But our more qualitative investigations indicate a genuine empowerment of at least some women and Dalits through their CFUG activities. This is illustrated by the example of Juna Maya, given in Box 4.5.

#### Box 4.5 Junu Maya: Finding her voice heard

Junu Maya is a young married woman from a Dalit family. The family is member of the local CFUG that has conducted a well-being ranking of its members. The group identified Junu Maya's family as *bipanna*. As the group reserves seats during training activities for *bipanna*, she was invited to participate in a training programme on good governance. This event inspired her to think about how she could change her mindset about the leadership position that she would pursue. Next month, she showed her interest to be in the CFUG's committee, and through gaining confidence from several meetings and discussions, she decided to stand as a candidate for the district elections of the user group federation - FECOFUN. She remembers that during an assembly meeting, she felt empowered enough to challenge the prejudiced remarks of powerful male candidates - with the result that she was elected. She is now serving a three-year term as FECOFUN district representative.

Our observations suggest that the changing dynamics at local level are due to a number of interrelated processes. Some of these are linked to governance coaching, but there are also wider factors involved. One trend is that as CFUG members become more aware of their rights - including representation in decision-making, of correct reporting processes and the need for transparency in book-keeping, they demand such practices as a matter of course. This means, those elites who became involved in community forestry with the intention of enriching themselves find it increasingly difficult to do so; we know of a good number of cases of fraud being exposed, and compensation demanded, by CFUG members. The confidence of people to speak out, as encouraged through governance

coaching and self monitoring exercises, has also been reinforced by the political situation in the country. This pertains not only to the discriminated claiming their rights, but also to the privileged realising that they must acknowledge the rights and views of others. Lastly, during the conflict period, those who possessed the means to flee to urban areas generally did so (and have not returned). This was true more of village elites than others; their exodus paved the way for more disadvantaged persons to become active in CFUGs.

#### **4.2 Enabling environment for CFUGs**

Our experience shows that appropriate policy and legal environment is very much necessary for CFUGs to be well governed. Some of the factors include legal autonomy, supportive role of the state and the conflict resolution mechanism (Pokharel 1998).

*Groups' legal autonomy:* CFUGs are autonomous and independent bodies. Forest legislation recognises their independent status as civil society organisations. In legal terms, they are not directly controlled by the government authorities. Rather they are considered to be the partners with the government, NGO and private sectors.

*The relationship between CFUGs and the state:* The national government has the statutory power to hand forests over to communities and also to take them back if CFUGs do not function in accordance with the local rules agreed in the CFUG's forest operational plan. Nevertheless, the State has to re-hand over forest within 30 days after solving the problems that CFUGs face. CFUGs have the authority to make rules and to apply sanctioning mechanisms to any individuals. In addition, the State has made a clear commitment not to limit the duration for which resources would be handed over, although the renewal of forest operational plans is necessary every 5-10 years. CFUGs are to be formed, registered and supported by the State through its regular staff and development budget.

*Conflict resolution mechanisms:* CFUGs have to have power to mediate and resolve conflicts among members within their group by themselves, and in many occasions they have negotiated with non-CFUG members as well to resolve conflicts. This role of CFUGs is being recognised by the State. Nevertheless, supportive role of the State and judiciary is necessary to empower CFUGs in exercising their rights, roles, responsibilities and in taking risks to protect forests against the interests of outsiders who want to encroach upon the forest land and tend to abuse or misuse the resources.

## 5. Contributing to policy change from field-based experience

CFUGs contribute not only to change the lives of the economically poor and socially discriminated households, they also seek to bring their experiences to a national level.

The current drafting of Nepal's new constitution also provides an excellent opportunity for incorporating the learning of the best practices of community forestry that in the long run favours community rights, including common property rights. Currently community forests still belong to the State; CFUGs only have use and management rights over them. Should it one day become possible to legally register community forests as a common property, this would be a huge step forward. Positive experience of community forestry at the grass-root level will be useful to such debates.

## 6. Practical challenges

The most important single obstacle to pushing forward change in favour of the disadvantaged is entrenched attitudes. Introducing participatory processes in hierarchical societies is always difficult, but questioning attitudes to caste, class and gender - changing mindsets - is even more challenging. The barbed comments of one high caste member of a CFUG in Khotang district (where governance coaching and self-monitoring exercise have yet to be fully implicated), as quoted in Box 14.6, indicate some of the prejudices - that still readily surface - and complexities of social exclusion.

### Box 4.6 A barbed remark on social exclusion

"The Majhis selected as *bipanna* don't seem poor – rather, they are living a lavish life, though they do not actually have sustainable source of income. More than 130 people from that village have gone to gulf countries as migrant workers. So these households receive remittances almost every month. But I do not think they have been saving any money nor have they the wit to invest it elsewhere. They just spend lavishly till the money is gone, and then get back to collecting firewood. If you visit their households you will see a record player, mobile phone and television but you will not find any normal household utensils..."

A member of Langur Pakha CFUG  
Lamidanda, Khotang

There are also a number of practical or methodological challenges that the project faces in trying to systematically support the disadvantaged and generally promote good governance. They are briefly outlined here.

### 6.1 DAGs or *bipanna*?

It was noted in above discussion that SDC-Nepal has clear requirements for targeting DAGs in project interventions. Indeed, all projects through community groups aim for DAGs to be reached. At least 60 per cent of the total beneficiaries of SDC should be from the DAG households. As there is considerable overlap between CFUG-identified *bipanna* and the DAGs, there are also situations in which the former are not DAGs. This inevitably arises in CFUGs with an entirely non-discriminated caste membership (Brahmin, Chhetri or Newar), something which is not altogether unusual, especially in accessible areas of lower altitude. It also quite commonly arises in the selection of one or two *bipanna* households in CFUGs of mixed membership, with the members insisting that a higher caste household that has fallen on bad times is also *bipanna*. Given that the whole point of well-being ranking is to promote ownership of the results on the part of the CFUG members, the project accepts their decision. However, in SDC's monitoring of progress on reaching DAGs, support to such households is not considered.

### 6.2 Avoiding the pitfalls of raised expectations

CFUGs (and their Service Providers) are conscious that the identification of households as *bipanna* means that provision should be made for them in their operational plans. Increasingly, as the system is understood more widely, the identified *bipanna* people also expect and demand this provision. It has been found that this has tended to result in a 'short cut' in the well-being ranking process, with households simply being categorised into '*bipanna*' or '*non-bipanna*', rather than a number of more nuanced categories. This is unfortunate, as opportunities to support those who are ranked low in well-being, but not *bipanna* as such, then tend to be forgotten or not properly considered. Also there can be an attempt on the part of the CFUG members to keep the number of identified *bipanna* to a minimum.

### 6.3 Linking with the poverty target of the government

The government's poverty targeting uses the simplistic criterion of less than US\$ 1 per day per capita. This is a difficult indicator to apply in the field for a number of reasons. As the whole of the above-written text has made clear, poverty cannot be reduced to a monetary figure; using only this fails to consider a household's physical, natural, human and social assets. Even if this limitation is recognised, there is a simple numerical problem in that 'per capita' does not distinguish between small babies

and healthy working adults. Thus, for example, a household with a large number of children may be more readily classified as poor than an old widow living alone.

#### **6.4 Operating without functioning VDCs**

Operating in the absence of a functioning VDC is very challenging, as without elected representation in the village, CFUGs have to seek support with the central government and outside agencies which are not readily available.

### **7. Conclusion**

Nepal is undergoing a major social struggle, and the progress made by the NSCFP and other development projects in raising awareness about social discrimination and good governance must be placed in this context. At the policy level, key lessons that may be drawn from project experience are as follows.

#### *Addressing chronic poverty*

- Using local, rather than external, definitions of ill-being is an effective means of identifying the chronically poor – as well as other less severely disadvantaged households. Local definitions can enhance understanding of what it is to be chronically poor; in the Nepali context, social isolation is considered to be particularly devastating.
- Promoting social responsibility through a local level organisation in which all members know each other – in this case, the CFUG – has good potential for long-term sustainability, once project funding has ceased. This of course cannot yet be proved, but certainly many CFUGs are already demonstrating strong social awareness and have made provisions for disadvantaged households in their operational plans.
- The opportunity to address poverty through community forestry has arisen as a result of a sequential set of activities. The years of supporting sustainable forest management, enterprise development and institutional strengthening were necessary to build CFUG assets to the point that they are able and willing to distribute benefits to their most disadvantaged members. The

time taken to reach this point may vary, but quick results cannot be expected – findings supported by research in other countries says.

### *Promoting good governance*

- Representation of women and DAGs in committees needs not only to be encouraged in itself, but supported through coaching and capacity building, so that those elected individuals are empowered to participate fully in decision-making. In this respect, the tool of governance coaching supported through the project appears to have had positive effect.
- When elites have often played a negative role in dominating decision-making and capturing benefits from community forests, they can also contribute in a positive manner as role models to social transformation. Well-governed CFUGs provide an opportunity for this. At the wider national level, it should also be noted that many of those calling for good governance and pro-poor change, especially in community forestry circles, are themselves members of elite groups.

### *Implication to national political level*

The State in transition has to learn from the local governance processes of grass-root level institutions such as CFUGs from where citizen groups are practising local democracy even in a difficult national political context. These groups have constantly been exerting pressure and making demand for change. Community forestry for example has evolved locally over time and policies are being made based on local practice, not the other way round. We argue that good practices of community forestry can be useful for the current national process of state restructuring and socio-political transformation. Some of the key learning is detailed in the coming lines:

- Practice of piloting first, the policies later – The current legislative framework in forestry was enacted only after seven years of piloting<sup>8</sup>. This has proven community forestry a viable approach developed through an evolutionary process of project to programme to a local system and finally a model of sustainable development based on local practices. There are now thousands

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<sup>8</sup> About 30,000 ha forest was already handed over provisionally to about 500 Community Forest User Groups even before the enactment of the Forest Act 1993.

of community forests functioning independently throughout the country even without outside support.

- The current power sharing arrangement between the state and the local communities is unbalanced as groups are the users of the forest produce and the government is the owner of the land. The current provision of 'use rights' is inadequate to empower local communities. 'Community property rights' over forest resources will fully empower local communities. This will be in line of the spirit of federalism which has to be reached ultimately at the community level.
- Addressing poverty can be done cost-effectively and efficiently only through viable local institutions and reaching to the poor with 'a bundle of livelihood assets' in a connected way is the way forward. The role of central authority and local government should be an enabler and the private sector should be encouraged to act as a job creator and service provider.
- Despite good practice of community forest, forest sector is largely governed by its centralised structure and functioning mechanism. Almost 70 per cent of the forest resources is still controlled by the central government authority without specified management plans. Delay in forest handover process in the Terai, the southern plain land, to local communities, command and control approach of protected area management, traditional style of patrolling and policing role of government staff mainly of armed guards in the Terai and the monopoly of the State owned Timber Corporation in timber business have ruined the public image of the forest service. This has to be transformed along with the state restructuring process.

To conclude, whilst we do not claim that community forestry is a panacea, our experiences demonstrate that it is possible through CFUG activities to overcome social barriers and bring about positive livelihood changes for the chronically poor. The full potential of community forestry nevertheless can be utilised if the provision of handover of land ownership of the forests be made in the new constitution of Nepal as 'common property' so that CFUGs become fully autonomous and can function to their optimal capacity. Community forestry has been proven a means by which even the chronically poor in remote areas can raise their voice, have their views respected by others in the community, and claim a right to benefits those improve their livelihood and the prospects of their children.

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## 1. Sustainable development and sustainable tourism

Sustainable development is a pattern of resource use that aims to meet human needs while preserving the natural environment. It is a collection of method to create economic growth which protects the environment, relieves poverty and does not destroy natural capital in the short term at the expense of long-term development. Bhatta (2000) states that communities, under the framework of sustainable development adopt a three-pronged approach that considers economic, environmental and cultural resources in the short as well as the long run. Under these strategies, they seek economic development approaches that also benefit the local environment and quality of life. Sustainable development is based on growth, equity and environment.

The concept of sustainable development first appeared in World Conservation Strategy (IUCN 1980). It appeared in the World Commission on Environment and Development (WCED) Report (WCED 1987), also known as Brundtland Report, after its chairwoman defined sustainable development as development which meets the needs of the present without compromising the ability of future generations to meet their own needs.

The Brundtland report, also known as Our Common Future, is the first to include the term Sustainable Development along with its principles published by a group of experts from WCED in 1987. Referring to this report, Downes (2006) states that though it advocates the wise use and conservation of natural resources, it stresses that these resources cannot be preserved without addressing the other interrelated problems of widespread poverty, the mal-distribution of productive resources, inequalities in political representation and power, and the growth of a

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consumption-led society. In such a context, the perspective of sustainable development may differ between developed and developing countries in such a challenging scenario.

Various literatures (Karshenas 1994; Mowforth and Munt 1998) show the differentiations on the interpretations of sustainability between individuals, organisations, social groups and development states of various nations. Karshenas (1994) adapts the theory of sustainable development to the context of developing countries. He views that owing to differences in economic fundamentals between the developed and the developing countries, a uniform definition of sustainable development cannot suffice. He defines sustainable development in terms of the pattern of structural change in natural and human-made capital stock. It also ensures feasibility of at least a minimum socially desired rate of growth in the long run. His definition comes on this argument that the developing economy seeks to transform its transition from natural resource base to an industrial economy in order to accumulate human-made capital. However, the developed countries as post-industrial economies and with low value added ratio of natural resources on the contrary is in a way of the reconstruction of their natural capital stock through present day afforestation which was depleted in earlier phases of their industrialisation and development.

However, whatever the approach of sustainable development is there for both developing and developed countries, the focus essentially is on growth, equity and environment. Development based on the approach of sustainability emphasises the optimum use of resource, efficient creation of infrastructure, protection and enhancement of quality of life, and creating of new businesses to strengthen the economies of communities.

The Earth Summit (the UN Conference on Environment and Development) held in Rio de Janeiro, Brazil on 14 June 1992 adopted a comprehensive programme of action termed as Agenda 21 endorsed by 182 governments for securing the sustainable future of the planet into the 21<sup>st</sup> century. Agenda 21 addresses the development of societies and economies by focusing on the conservation and preservation of our environments and natural resources. The 13<sup>th</sup> chapter of this document highlights the need for an urgent action to achieve sustainable mountain development. Mountain tourism is importunately linked as a key factor to achieve this goal (Nepal 2003).

## **2. Theoretical background**

Croall (1995) mentions that it was Krippendorff's seminal book *The Holiday Makers* of 1984 that introduced to tourism some of the basic ideas inherent in sustainable development, first presented in the *World Conservation Strategy* (IUCN 1980). However, it was not until 1987 that the WCED (1987) with its quoted definition of sustainable development, began to stimulate increasing concern and initiate change designed to mitigate some of the growing negative impacts of tourism (Croall 1995). The subsequent Rio conference in 1992 led to a wider dissemination of the concept of sustainable tourism (ST) development.

Based on the results of the Rio Earth Summit, the travel and tourism industry as the world's largest industry has initiated a sectoral sustainable development programme. This programme, referred to as the blueprint for sustainability of tourism sector both in developing and developed countries, has come out after analysing the strategic and economic importance of travel and tourism, realising its potential to bring about sustainable development of the communities and countries in which it operates, possessing vested interest in protecting the natural and cultural resources as the core of its business, and recognising the enormous benefits in making the industry sustainable. This action plan programme entitled "Agenda 21 (an agenda for action) for the Travel and Tourism Industry: Towards Environmentally Sustainable Development" was prepared jointly by the World Travel and Tourism Council, the UN World Tourism Organisation (UNWTO), and the Earth Council in 1996 is an industry-specific action plan based on Agenda 21 (Bagri 2003, p 157). This document not only provides guidelines for the travel and tourism industry, the government, and travel and tourism companies for sustainability of tourism sector as a whole, but also emphasises the importance of the partnerships among government, industry and non-government organisations. The results of above conferences further guided the World Conference on Sustainable Tourism held in Lanzarote, Canary Island, Spain in 1995 with its principles and objectives.

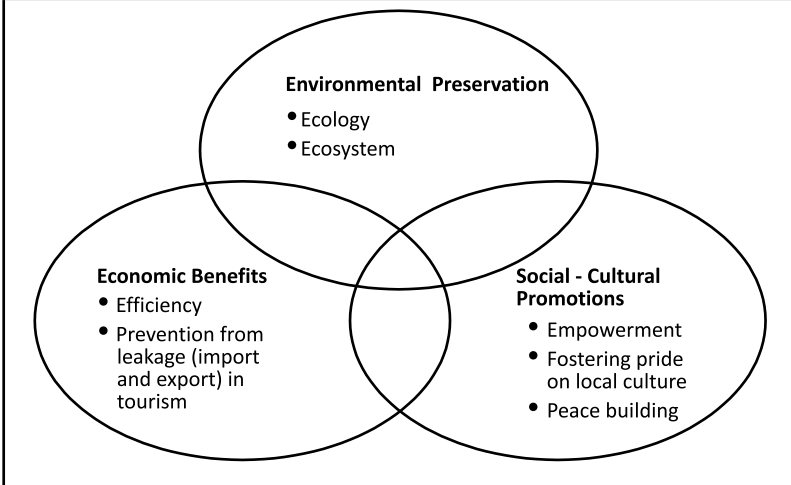
The UNWTO has defined ST as early as 1988 as "... lead[ing] to management of all resources in such a way that economic, social and aesthetic needs can be fulfilled while maintaining cultural integrity, essential ecological processes, biological diversity and life support systems" (Kruk et al. 2007, p 33). Responding to Agenda 21, the declaration of the year 2002 as the International Year of Mountains by the UN General Assembly in 1998 also

gave worldwide attention and concerted efforts to sustainable mountain development specific issues for which mountain tourism is essentially linked as key factor in achieving this goal (Nepal 2003).

Tourism can help in promoting sustainable development by using renewable resources, provided it is carefully managed and appropriate strategies and tactics for the main actors involved in the industry are applied. Indeed, tourism is often quoted as a justification for the existence of national parks in East Africa, while in some countries it is the most feasible of the few options for development from small tropical islands in the Caribbean and the Pacific and India Oceans, to mountain states like Nepal (France 2006).

The UN Division for Sustainable Development lists ST as one of the 21 key areas coming within the scope of sustainable development. The global significance of ST is associated with its potential of poverty eradication and peace building. UNWTO, with its belief that tourism can be effectively used as a force for the elimination of global poverty, has made a commitment to contribute to the UN Millennium Development Goals through a new programme known as Sustainable Tourism - Eliminating Poverty in 2003. This initiative of UNWTO to develop ST as a force for poverty alleviation came in collaboration with United Nations Conference on Trade and Development during the World Summit on Sustainable Development in Johannesburg in 2002. This Summit had addressed ST in Chapter 4, paragraph 43 of the Johannesburg Plan of Implementation. Studies of the damaging effect of the expanding skiing industry in the Alps in the 1970s led to the idea of ST in practice (Ward 1991).

The ST is about making tourism economically efficient while at the same time safeguarding the environment and promoting social and cultural progress. These three aspects under ST are interconnected as shown in Figure 5.1.

**Figure 5.1 Holistic framework of ST**

Source: Adapted from Kruk et al. (2007)

Sustainability implies permanence. So, ST includes optimum use of resources, including biological diversity; minimisation of ecological, cultural and social impacts; and maximisation of benefits to conservation and local communities. Making tourism sustainable is a major challenge, requiring partnership and cooperation both within and between the tourism industry, governments, non-government organisations (national and international) and tourists themselves (STN 2007).

The definition and nature of ST also reveals that it is of a holistic composition with its composite, complex, multi-layered, and sophisticated characteristics in link with multidisciplinary fields that directly and indirectly affects several sectors in the economy (hospitality, transport, accommodation, entertainment etc.). The compositeness of the tourism sector reveals that it is a combination of product (proper combination of nature and/or culture and attractions like site and event), price (appropriateness), place (accessibility to reach the tourist destination), people (human resources with desired delivery of service standard) and promotion (interactive marketing).

ST, when compared with mass tourism<sup>3</sup>, is also assumed as simply another type of sensitive forms of tourism, synonymous with alternative

<sup>3</sup> It is generally associated with the exploitation and deleterious effect as it impinges on important and fragile natural environments.

and small scale tourism which is given with a number of different labels – appropriate, responsible, soft, eco, nature, green, and alternative etc. All of these forms of tourism have an identical goal, that of sustainable development.

The sustainability aspects of tourism both in developing and developed countries play the role of catalyst for multidimensional aspects of development. The guiding principle for ST development is to manage the natural and human resources so as to maximise visitors' enjoyment as well as local benefits while minimising negative impacts upon the destination site, community and local population (Kunwar 2007).

### **3. Tourism and state building in Nepal**

State building in its general sense is concerned with constructing and restructuring the state by exploring the scope for various vital national aspects like people's expected human rights, feasible economic growth coinciding with equity, desired social harmony/integration, friendly natural environment, enhanced capacity of state institutions, smooth state-society relationship, rule of law guided by commonly accepted constitution, and the state of positive peace. A nation in transition is generally bound for transformation on these vital agenda. That is what Nepal is seeking after the end of a decade-long (1996-2006) armed conflict and signing of CPA in the post-conflict state. She is looking forward for an epochal change in the state structure that has brought new implications in the form of opportunities and challenges in socio-economic and environmental sectors including tourism.

The planned and careful positive steps on these agendas further opens the doors for rooms with improved education, better health facilities, enhanced work and income opportunities and raised living standards for the nationals which is termed as 'development' or 'prosperity'. The goal of such a development, even though quickly achievable, in a specific country is always challenging to make sustainable.

The close relationship between tourism and environment and the importance of environmental planning and ST development planning are being increasingly recognised for state building purpose. Controlling environmental degradation in the pristine mountains as well as to benefiting maximum numbers of grass root, marginalised and deprived people in the balanced way will be commendable for the transformation of

nation from tourism perspective. This will help address poverty alleviation initiative through tourism.

Nepal is not only one of the least developed countries in Asia Pacific region, but also land-locked – a double disadvantage in her efforts to fulfil development aspirations. Approximately 83 per cent of land mass from a total of the 1,41,181 square km area of Nepal is covered with mountain landscapes including Himalayas, however, attributed with pristine nature and culture (Shrestha 2000).

The backwardness of the country, inhabited densely with a population of 26.44 million, is evident while looking at average per capita income US\$ 383.00, 30.8 per cent of its population below poverty line, sluggish economic growth with average 3 per cent, low rate of domestic savings and unequal distribution of income whatever made (CBS 2007).

The landlocked position, diversified topography, geography and climate; harsh terrain providing limited useable natural resources; heterogeneous distribution of people with specific lifestyles, traditions and needs in remote and isolated pocket economies have posed major challenges for her economic growth and development. The unavailability of required capital, high technology and technical experts in desired scale have posed major challenges in the efforts to identify and mobilise resources for desired economic growth and development.

However, the same diversified mountain landscapes, varying vegetation, different climatic conditions and seasons possess excessive scenic beauty and excellent environment for the flourishing of tourism industry. The mountains and Himalayas in the mid and high lands in eastern, central and western regions along with a number of national parks, conservation areas and wildlife reserves in the southern plains are endowed with rich natural resources and cultural heritage. Almost 20 per cent of Nepal's land is designated as 16 protected areas, representing all the eco-regions, ecosystem and mostly the flora and fauna and their habitats (ADB 2004).

The southern plains from the east to the west Nepal also embrace potential tourist spots. These include popular Buddhist and Hindu pilgrims and places like Birat Tourism area, Bideh area, Salhesh area, and Simraon area consisting of heritages of archeological, historical, cultural and religious importance (The Kathmandu Post 2009). These endemic attributes of Nepal are supposed to offer her with immense potentials for the development of tourism and establish her as one leading destinations

on the tourism map of the world. The unique and unmatched culture and hospitality of Nepalese people for ages have added advantage over it.

Various publications (Bhatt 2006; Chand 2003; Ghimire 2009; Kunwar 2006; Müller-Böcker 2000; NTB 2008a; NTB 2008b.) mention about this prospects of tourism for the economic development of Nepal as supported by rich traditional culture, unspoiled and pristine nature and abundant wildlife in milieu of state building. Some of the distinctive characteristics like low capital intensive, endemic resource-based, high labour tilting, highly resilient and with ability to make chain impact in the economy, Nepal's tourism has in fact competitive prospective for larger scale of socio-economic mobilisation (Upadhayaya and Upreti 2009).

Tourism sector has attracted the highest private capital investment amongst the local entrepreneurs. The total private investment as on a recent date would be approximately NRs 100 billion (US\$ 1.33 billion). This sector provides 200,000 direct employment and 1.2 million indirect employments (HAN 2007).

Nepal passed through a decade (1996-2006) of armed conflict. All major sectors suffered during the decade long conflict and tourism was no exception (Bhattarai et al. 2005; Karki and Seddon 2003). The escalation of this armed conflict coinciding with instable political conditions, negative media hype and travel warnings from tourist generating countries compelled the dramatic fall in Nepal's image from peaceful tourist land to an insecure destination on the tourism map of the world.

However, the intentional national and international media coverage about Nepal's crisis and insurgency stories during violent conflict also helped to cover and publicise Nepal's fascinating natural and cultural attractions. It created positive effects to retain the touristic image of Nepal for the time being and also for future. This shows the comparative and competitive perspectives of tourism in Nepal. The end of the conflict through the historical CPA signed between the Government of Nepal and then CPN (Maoist)<sup>4</sup> in November 2006 and starting of the peace process have given a sigh of relief to the tourism sector.

The selection of Nepal as one of the 50 places to see before you die by BBC Television (BBC 2003), coming of 40 per cent of total tourist as repeated visitors and listing of Nepal as the most adventurous tourist destination

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<sup>4</sup> Now UCPN (Maoist).

in the National Geographic Magazine are some of the milestones to rediscover and expose Nepal both in national and international arena. These features can really support to unify all concerned to ultimately build the identity of this country in the context of state building.

However, in spite of above-mentioned potentials and the state of art of tourism in Nepal, a few important questions arise here in the context of ST and state building, which are as follows:

- a. Is the spatial distribution of tourism and mode of resource allocation satisfactory and contributory to state building?
- b. Are the various institutions related to tourism capable of strengthening ST that incorporates all segments of people and expands the benefits of tourism on equitable basis?
- c. Is tourism really prospective in such a context in Nepal and applicable with sustainability features to forge the state building?
- d. What are the challenges of post-conflict tourism and how can peace through tourism be enhanced for state building in Nepal?

### **3.1 Spatial distribution of tourism and resource distribution**

Nepal was in unitary political system under absolute monarchy with age-old feudal and semi-feudal socio-economic system, horizontal inequity and inequality in distribution and share of income and lack of good governance for three decades from 1960-1990. With the establishment of democracy in 1992, the first half of a one and half decade of multi-party democratic parliamentary political system could not observe desired positive changes on social and economic structures, nor it could see the changes on political behavior different from the previous performance of centralisation, malpractice, nepotism, favouritism and discrimination (Pyakuryal 2005). Tourism sector among others could not remain untouched from these structural flaws.

A notable element in the context of sustainability of tourism in Nepal is about the pattern of tourism business operations at present. This has been practised for such a long period. Tourism related bulk of activities, apart of Everest region in eastern Nepal, are structurally confined in the periphery of traditional tourism triangle ( $\Delta$ ) viz. Kathmandu, Pokhara (Annapurna area) and Chitwan areas. The sectoral distribution of the different tourist activities are unevenly spread in central (70%), eastern (28%) and western (25%) regions (Grandon 2007). In broad regional terms, the central region has become more popular than the Eastern region for trekkers and

climbers. This trend enhances benefits from tourism related activities only in limited urban places. It also employs urban and rural people in limited extent as well. But the far western portion of Nepal still remains a region yet unexplored by foreign tourists. It is also striking that even infrastructure and service quality in this triangular region is not that of world standard.

The trend of tourism development in Nepal also shows that this sector is not only confined in limited territory but also dominated by traditional feudal mercantile classes like *Rana* (ruling class) and *Shah* (ruling class) in collaboration with many Indian monopolistic capitalists (Bhattarai 2003; Bhattarai et al. 2005; Upadhyaya 2006). This is controlled and dominated by a small number of urban based elite entrepreneurs at the central level. Aditya (2002) and Thapa (2008) reveal that the larger parts of the benefits from tourism are claimed by outsiders and the upper elites in limited spatial areas with high concentration and centralisations of tourism related activities. The local communities at large are left to face the costs, risks and hazards engendered by the unregulated form of tourism (Aditya 2002). Nepal (2003) rightly observes that mountain tourism in Nepal is likely to cause the exploitation of natural resources mainly for the benefits of outsiders if it is developed without local participation in the planning, control and decision making mechanism.

Bhattarai (2003) links such a trend of tourism with the burgeoning sub-sector of economy in Nepal. He also considers it as a medium of ready realisation of the ruling classes of Nepal and not for the mass scale general people residing in far flung rural areas. There is predominance of feudalistic approach in tourism as like in other sectors of economy (Thapa 2008). The capital investment in hotels by territorial zones clearly shows that Kathmandu valley in central development region has 94.46 per cent shares in total investments of Nepalese rupees 1060.846 million (approximately US\$ 15.15 million) in hotels in Nepal (Bhattarai 2003). Tourism sector has not been expanded and carried to additional untouched inaccessible destinations in mid-western, far-western and eastern development regions which are exotic and enormous. For this reason, it will be wise to expand tourism development efforts out of this triangle while upgrading service standard in this existing triangular area at the same time.

Decentralisation of tourism in Nepal is a new phenomenon which started in 2001 through a pilot programme called Tourism for Rural Poverty Alleviation Programme (TRPAP) in six rural districts scattered throughout the country. It exercised bottom-up participatory planning process

through appreciative participatory planning and action (APPA) methods to mainstream and decentralise tourism at the community level and in the local governance system (Hummel et al. 2003; Pandey 2008; Sherpa 2006; SNV Nepal 2000). The TRPAP had targeted the upliftment of socio-economically deprived people with special emphasis to women in six districts of Nepal. The programme was launched following the formulation of the government's objective of the poverty alleviation through tourism thereby mainstreaming it institutionally in the local governance operations. However, the achievements of TRPAP could not sustain or be replicated in other districts.

Some initiations are taken to spread trekking tourism by opening new areas like Greater Himalayan Trails (GHTs) in upper northern area, Tamang Heritage Trail in central northern area, Chepang Heritage Trail in central southern area, Budanilikantha – Gosaikunda Trek in central area, Indigenous Trekking Trails in central region, and Machhapuchhre Model Trek and Ghalekharka Sikles Ecotourism Circuit (also known as the royal trek) in western area. Other efforts are on the way to expand mountain tourism by deducting and waiving the royalty on mountaineering to diversify the access to and benefits of tourism to disadvantaged people in new regions. Yet, more effort is needed to foster the growth of this sector especially in far flung rural areas in mountainous terrain by encouraging self-empowerment at local levels. These scenarios show the bottleneck for the sustainability of tourism from the view point of equity, growth and environmental friendliness.

One of the guidelines of national tourism policy has provisioned to plough certain amount of the revenue back to the area from where the revenue was generated. There are four kinds of framework introduced to effectuate this system which are as follows:

- a) Authorisation to non-government agencies like Annapurna Conservation Area Project (ACAP) and Nepal Mountaineering Association to collect revenue and recycle it locally for community development work in an integrated approach.
- b) Authorisation to national parks and its committee formed with the participation of local committees of the buffer zones to recycle 30-40 per cent of the total revenue collected from tourism related activities.
- c) Authorisation to designated agencies like National Trust for Nature Conservation (NTNC) to recycle 60 per cent revenue

generated locally at Upper Mustang and certain percentage of revenue collected by the government at centre for Manaslu areas. Under this framework, Sagarmatha Pollution Control Committee (SPCC) in Everest region is authorised to recycle 40 per cent revenue generated from the collection of service charges from expeditions groups bound towards the expedition of Mt. Everest for cleaning the icefall route. The SPCC was also designated to get certain budget on regular basis from the additional contributions made by donors to fund through government.

- d) Authorisation to District Development Committees (DDCs) through the amendments on Local Self Governance Regulation 2061 to get 30 per cent of revenue collected from the government at centre and invests this revenue back to the areas of particular districts from where the generation of revenue was made possible by the operation of tourism related activities.

Most of these mentioned provisions, except for the framework (b) are not operational due to the lack of serious implementations. Further, it is also not transparent as to how much of such amount of revenue raised locally is being recycled and how much of such income are occurring benefits to local people except in case of framework (a) A research survey carried out in mid nineties had revealed that two-third of the respondent households favoured ACAP as a contributor in uplifting their living standards and that almost fifty per cent of the tourist expenditures were retained locally (NTB 2005).

The tourism sector, hit hard during the second half of a decade long (1996-2006) armed conflict, has retained a relief with political stability and the restoration of peace after the April Movement and CPA between the government and the then CPN (Maoist) in November 2006.

This sector has witnessed a continuous growth with 378,712 international tourist arrivals by air in 2009 which is up by 1.07 per cent than total arrivals of 374,661 by air in 2008.<sup>5</sup> According to the mid-term budget review by Ministry of Finance, the income from tourism has also gone up by 65.3 per cent.<sup>6</sup> There are increment in the number of hotels and restaurants by 7.5 per cent during nine months' period (mid July to mid March) in 2007/08.

Tourism generates employment opportunities and helps in the promotion and conservation of art and culture. This industry is one of the major

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<sup>5</sup> March 5, 2008.

<sup>6</sup> Midterm report disseminated by Central Bureau of Statistics on 8 June 2008.

foreign currency earners in the country. There is sustainable rise on the revenue generated by tourism at national level which is evident by the earning of US\$ 351.9 in 2008 that is up by 52.60 per cent than the total revenue generation of US\$ 230.6 in 2007 (MoTCA 2009).

### **3.2. Institutional arrangements**

A policy document is an expression of commitments outlining the vision of a government for a reasonable period. The process of tourism development in Nepal through the strategy of economic planning was initiated from the very first five-year plan (1956-61). The Tourism Master Plan of 1972 was the first separate and comprehensive policy guidelines. This plan has been found to have adopted the concept of decentralised pattern of tourism development. It had strongly advocated having Nepal type of tourism packages which advocates looking at it from tourists' perspective. A review of the Nepal Tourism Master Plan in 1984 recommends establishment of a separate autonomous semi-public (in association with private sector) Nepal Tourism Promotion Board.

A year long national tourism campaign for 1998 as 'Visit Nepal Year 1998' with the central theme 'A sustainable habit through sustainable tourism' in association with private sector targeted the arrivals of 500,000 tourists during that year. With the support of United Nations Development Programme (UNDP) Partnership for Quality Tourism (PQT) Project, Nepal Tourism Board (NTB), the first and only of its kind in South Asia, was designed as an autonomous national tourism organisation out of the partnership between the government and the private sector tourism industry on January 1, 1999.

During the Eighth Five Year Plan (1992-97), the government announced an independent sectoral tourism policy in 1995. The Ninth Five Year Plan (1998-02) included the promotion of eco-tourism along with the development of model tourist villages, development of new trekking areas. The Tenth Five Year Plan (2002-07) focused on reviewing tourism policies, institutional performance, regulation and institutional arrangements.

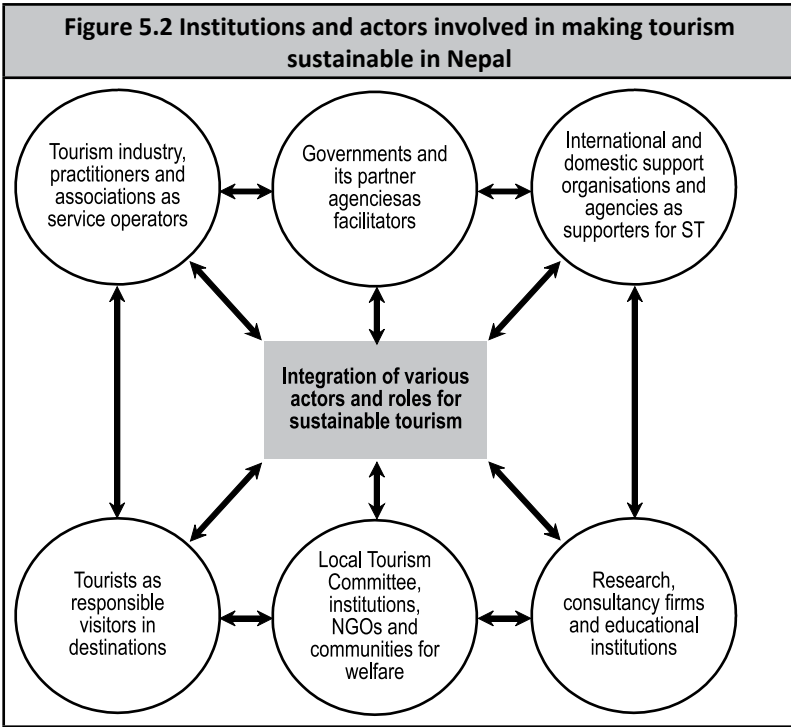
The Three-Year Interim Plan<sup>7</sup> (2007/08-2009/10), formulated in the post-conflict stage, has adopted the policy of recognising tourism as the national priority industry through offering similar facilities to other industries. It has envisaged long-term vision, strategies and policy for sustainable development of tourism. One of the working policies of this plan states that the priority will be given to environment friendly eco-

<sup>7</sup> National Planning Commission, Government of Nepal, 2007.

tourism and ST, new potentials will be executed in coordination with local stakeholders, private sector and non-government organisations. This plan estimates that operation of tourism activities with direct involvement of local stakeholders and communities will enhance not only the knowledge and consciousness of women, Dalits, backward groups, local people but also their affection towards tourism. This is believed to help in the development of ST.

Then CPN (Maoist)-led government, after some amendments in the old policy of 1995, brought a new Tourism Policy 2009. This policy has attempted to promote rural, adventure, health and education and agro tourism. It has incorporated the policy of participatory tourism development approach. In it, the concept of home stay for tourism is a major focus incorporating the wider participation from rural people. However, its effectiveness is yet to be measured.

The nation has passed through eleven periodic plans in more than 50 years of planned policy formulations. These plans tried to emphasise ST development by keeping tourism sector at the centre of all economic activities like poverty alleviation, employment generation, regional equality and industrial expansion. However, for its positive implications of sustainability, there are two kinds of deficiencies observed in tourism policies. The first deficiency includes the lack of coherence, completeness and decentralisations for integrated tourism development approach with all round (backward, forward, vertical and horizontal) linkages in such various policies formulations. The other is the weak implementation which has always remained a key issue for almost all the public policies in Nepal. Tourism is not an exception to this. In general, lack of institutional capacity is attributed as the single most important factor to such a poor implementation of policies (Chand 2003; Ghimire 2009). One instance of which is the lack of effective policy actions supported by strong institutions that led to severe environmental problems in Everest region. However, in regard to ACAP, the institutions remained effective in implementing policies while creating favourable conditions for local participation. This was seen in planning and decision-making processes through community based rural tourism development (Nepal 2003). It is one of the best referred models to address the need of community along with the visitors' satisfaction, thanks to the minimum impact code and integrated tourism management and nature conservation guidelines brought by the jurisdiction of ACAP under NTNC for green tourism (Bajracharya et al. 2007; Grandon 2004; Nirola 2004).



Source: Developed by the authors

The tourism system in Nepal at present is organised and managed through the inter-linkages of number of actors, organisations and their mechanisms as shown in Figure 5.2.

There are eleven different tourism related associations in Nepal which represent tourism trade entrepreneurs as their professional members to promote and safeguard their interests and professional rights.

### 3.3 Some good practices

There are a number of good practices and initiations for post-conflict ST development both with and without external assistance in Nepal. Some of these are execution of eco-tourism project in Rolwaling region, eco-tourism development activity in Manaslu region under Second Tourism Infrastructure Development Project, regular conduction of capacity building programmes like Eco-Tourism Training by Trekking Agencies' Association of Nepal, Marketing Assistance to Nepal for

Sustainable Tourism Products (MAST–Nepal) project, ‘garbage tourism’ with environmentally responsible tourism in Everest to collect garbage deposited during expeditions, Sagarmatha cleaning campaign led by SPCC in Sagarmatha, Chitwan National Park Projects in Chitwan and TRPAP in six districts of Nepal.

Similarly, the branding of Nepal as ‘Naturally Nepal: Once is Not Enough’ by NTB, introduction of a legislation requiring tourism service providers to compulsorily compile Environmental Impact Assessment (EIA) report, Lumbini Development Plan, establishment of Hotel Management and Tourism Training Centre, PQT, Eco-Tourism in Humla, Bandipur Eco-Cultural Tourism Project, GHT, Sustainable Mountain Tourism Planning in the Himalaya, formation of Sustainable Tourism Network, development of Women’s Entrepreneurship in Tourism and application of Conflict Sensitive Tourism Operational Code of Conducts by Machhapuchhre Tourism Development Committee at a newly opened Machhapuchhre Model Trek in Annapurna region in western Nepal etc are few examples of good practices of ST development in Nepal (Upadhayaya 2006).

#### **4. Tourism as a catalyst for peace building**

The armed conflict in Nepal had a profound impact on tourism and the socio-economic sphere. There were negative records on tourist arrivals during 2000–2002 and in 2005. Year 2002 had the lowest with 275,468 arrivals, less by 24.19 per cent compared to 1995 (MoTCA 2009).

Upadhayaya (2008) argues that the armed conflict, together with forceful closures, strikes, chaos and unrests, blockades, intimidations, frequent demonstrations, rampant extortions, state of emergency, continuous curfews, negative media hype about Nepal’s peaceful image at home and abroad and negative travel advisories by abroad based diplomatic missions eroded Nepal’s image as tourist destination during the period.

This sector responded stubbornly to the conflict with a number of coping strategies designed to prevent and sustain. Such roles included participating in marketing campaigns for destination image building, lobbying for short-term policy deregulations, seeking pledge from the armed rebels for the safety of tourists and holding press meets for countering the escalated media hypes about the lack of security to the tourists (Sharma and Upadhayaya 2008).

**Table 5.1 Fluctuating figures of tourism during and after the armed conflict**

| Year | Number of tourist arrivals | % Change | Average length of stay | % Change | Revenue generated from tourism (in US\$ million) | % Change |
|------|----------------------------|----------|------------------------|----------|--------------------------------------------------|----------|
| 1995 | 363,395                    |          | 11.27                  |          | 116.8                                            |          |
| 1996 | 393,613                    | 8.3      | 13.50                  | 1.98     | 116.6                                            | -1.71    |
| 1997 | 421,857                    | 7.2      | 10.49                  | -2.23    | 115.9                                            | - 6.00   |
| 1998 | 463,684                    | 9.9      | 10.76                  | 2.57     | 152.5                                            | 31.58    |
| 1999 | 491,504                    | 6.0      | 12.28                  | 1.41     | 168.1                                            | 10.23    |
| 2000 | 463,646                    | -5.7     | 11.88                  | -3.26    | 166.8                                            | - 7.73   |
| 2001 | 361,237                    | -22.1    | 11.93                  | 4.20     | 140.3                                            | - 1.59   |
| 2002 | 275,468                    | -23.7    | 7.92                   | - 3.36   | 106.8                                            | - 2.39   |
| 2003 | 338,132                    | 22.7     | 9.60                   | 2.12     | 192.8                                            | 8.0      |
| 2004 | 385,297                    | 13.9     | 13.51                  | 4.07     | 179.9                                            | -6.7     |
| 2005 | 375,398                    | - 2.6    | - 9.09                 | - 3.27   | 148.4                                            | -1.7     |
| 2006 | 383,926                    | 2.3      | 10.20                  | - 1.22   | 162.8                                            | 9.7      |
| 2007 | 526,705                    | 37.3     | 11.96                  | 1.72     | 230.6                                            | -4.2     |
| 2008 | 500,277                    | -5.0     | 11.78                  | -0.02    | 351.9                                            | 52.60    |

Source: MoTCA (2009)

A high level task force was constituted in December 2004. This task force had a number of recommendations with specified time bound actions for responsible agencies to revitalise the ailing Nepalese tourism industry (Grandon 2007). However, the government is yet to fully implement most of the recommendations made by this high-level tourism committee (HLTF 2006).

Although, the ongoing peace process has not been disrupted in Nepal, conflict continues to prevail, however, in different but small manifestations. Even after the signing of CPA, varied forms of conflicts are apparent in the post-conflict arena which could be major challenges for sustainable peace.

Tourism sector in Nepal is gradually recovering in the current transition phase, but it is also facing continued challenges with the manifestations of varied forms of conflicts such as general strikes, skyrocketed labour unrests (problems), transportation strikes, uninterrupted students protests on the streets, vandalisms and other challenges like garbage management, power-cut and recent economic recession. These factors have hit tourism

with downturn trend in tourist arrivals and have caused inconveniences in their holidays during their stay (Bhattarai and Dahal 2008).

The post-conflict years 2008 and 2009 could not catch the momentum of growth like the previous year 2007. The total tourist arrivals by air in the year 2007 had grown by 27 per cent to 360,350 from 283,819 arrivals in 2006. However, there was the growth of only 4 per cent to 374,661 tourists by air in 2008 and 1.08 per cent to 378,712 tourists by air in 2009 (MoTCA 2009). This reveals, as Neumayer (2004) also states, the unstable nature of tourism, which is highly sensitive to any uncertainties, especially conflicts.

Lasting peace is the prerequisite for ST sector in Nepal. Various dependent factors like the lack of consensus politics and speedy political stability in the present state of transition are seen as key challenges to maintain the peaceful destination image of Nepal, sustain the recent growth of tourist arrivals, adopt inclusiveness, support equitable growth and facilitate participatory approach of development in tourism sector. There is a high need of bringing tourism under 'peace zone' by declaring it as a national industry which can be free from the impact of any sort of conflict for which the speedy political stability and politics of consensus really matters. The trends (Table 5.1) on the fluctuation of tourism during the armed conflict and thereafter in post-conflict period prove that tourism is a peace industry which can flourish and sustain only in a secured and safe environment.

## **5. Conclusion**

The recent political revolution and peaceful transition after the end of a decade long (1996-2006) armed conflict have brought great changes on the political spheres and paved ways for socio-economic transformation and state building for a prosperous and peaceful 'New Nepal'. National unity in diversities, nationalism, durable peace, equitable economic growth, income and distribution are both challenges as well as opportunities for state building.

For Nepal, tourism is not merely an option but very crucial for development. This is also one of the sectors in the national economy which has comparative and competitive advantages with potential backward and forward linkages with other economic sectors like agriculture, trade and industry. It has immense potentials for socio-economic mobilisation and growth not only due to the abundance of nature, culture and heritage in

the nation but also due to its comparative low capital intensive nature in contrast to other sectors of the economy.

However, tourism, a multifaceted sector, cannot grow in isolation as it combines a cluster of activities serving the demands of a diversely traveling public. On one hand, this brings prosperity through jobs, foreign investment and foreign exchange. On the other, it can also damage environments, stress societies, erode culture and values and manifest conflict. Managing this inherent complexity and promoting durable peace and prosperity for state building is possible by making tourism sustainable and participatory.

Sustainability of tourism is a positive approach intended to reduce the tensions and frictions arising from the complex interactions between the tourism industry, visitors, the environment and the communities of varied geography and ethnic compositions which include hosts as well as the holiday makers. It is an approach which involves working for the long-term viability and quality of both natural and human resources. It ensures that tourism developments are sustainable in the long-term and, wherever possible, help in turn to sustain the areas in which they operate. ST also aims to increase visitors' satisfaction.

As the principle of ST emphasises on the holistic, integrated and inter-sectoral approach to tourism planning, development and management with local community in its core, alternative tourism such as community based pro-poor village tourism and eco-tourism with proper supply linkages could help to manage tourism in a sustainable way. These models of tourism can also be effective for inclusive participation of economically poor local communities as prime beneficiaries. This will help achieve balanced and inclusive development and contribute to poverty eradication at large.

The status of tourism development in Nepal is far below the expectations in spite of the huge potentials for socio-economic transformation. Decentralisation of tourism sector operations coinciding with the delineation of federal states, enhancement of democratic practices, sufficient empowerment, equal participations and assurance of equitable benefits are desirable for state building. Tourism could play an instrumental role in state building if the neglected segments of the society and the people in the backward areas get its maximum benefits. The ST model can be a suitable alternative in the noble goal of state building.

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## Forestland reform: Transferring state property to community property in post- conflict Nepal<sup>1</sup>

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### 1. Introduction

Different types of property rights over natural resources create different consequences for use and management. Rights related to access and entry, management, exclusion or inclusion and alienation affect incentive structure and future operational decisions. Nepal's land resources are either with individuals as private property or with the government as state property. Though communities manage some part of forests owned by the state under community-based forest management approaches, they do not enjoy the privilege of having land entitlement, therefore are very vulnerable to exclusion from access to forestland and sharing benefits from it. Based on the analysis of secondary information, this chapter provides conceptual framework of common property regimes and explores the opportunities to reform property rights arrangements over forest land resources in Nepal. Based on the learning of community forestry regime in Nepal, arguments are made to justify the need to transfer the forest resources nearby the settlement from the state property to community property regime.

### 2. Understanding rights and relationship in property regimes

From ownership point of view, there are three types of property regimes: private property, state property and common property (Feeny et al. 1990; Bromley 1992). There exists also a fourth type of property regime

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<sup>1</sup> Some portion of this chapter have been drawn from the PhD research work of Bharat K. Pokharel on common property regimes, and work of Bimala Rai Paudyal on gender and social exclusion update: forestry sector and some ideas were shared during Land Governance E-conference held in March 2010.

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called open access or non-property regime, where there is no owner and thus no rights of use or duties of maintenance. All these different types of property rights over natural resources create different consequences for use and management. Agrawal and Ostrom (2001) identify various types of property regimes most relevant for the use of common pool resources such as forests and water. They show that rights related to access, management, exclusion and alienation affect incentive structure and future operational decisions. For any resource, some rules affect day-to-day use and consumption, others structure the creation of operational level rules, and still others at a higher constitutional level affect collective choices.

Among the rights holders, there are (a) owners, who have constitutional rights to alienation, (b) proprietors, who have rights related to withdrawal, management and exclusion (c) claimants, who possess the operational rights to access and withdrawal plus a collective-choice rights of management and (d) users, who just have rights to enter and to harvest some forms of products within the given sets of rules (see Table 6.1).

**Table 6.1 Bundles of rights associated with positions**

| Type of rights                                                                                                            | owner | proprietor | claimant | user |
|---------------------------------------------------------------------------------------------------------------------------|-------|------------|----------|------|
| Withdrawal (right to enter a defined physical area and obtain products of a resource system)                              | X     | X          | X        | X    |
| Management (right to regulate resource products, internal use patterns and transform the resource by making improvement ) | X     | X          | X        |      |
| Exclusion (right to determine who will have right of withdrawal and how that right may be transferred)                    | X     | X          |          |      |
| Alienation (right to sell or lease withdrawal, management and exclusion rights)                                           | X     |            |          |      |

Source: Agrawal and Ostrom (2001)

In 'classic' tenure system models – state property, individual property and common property – bundles of use, management and alienation rights are clearly defined (Meinzen-Dick 2006). Although theory differentiates these three types of property regimes, in practice, however, the lines of differentiation are not always clear. It is difficult to see these property regimes as separate and self-contained. Many resources are held in overlapping and sometimes conflicting combinations of these regimes. The lines between state and communal property are even more obscured. The

status of Nepal's community forests, for example, remains state property in terms of ownership but they are managed under community based forest management regime. In a real sense, the current property arrangement of community forests is based on co-management systems which are characterised by state regulation but with community management. In theory, co-management system is a good model where state and communities work in partnership to manage forest resources. However, in practice, how these co-management systems are conceptualised, understood, interpreted and modified by the state authorities to further consolidate their power in the one hand and how socially constructed meaning of the term co-management in Nepali feudal society is perceived on the other hand are problematic issues.

Similar is the case in farming land. For example, about 87 per cent of agricultural households in Nepal cultivate their own farms while a considerable number of households (43.4 thousands) are landless farmers (CBS 2003), who are either full tenants and/or cultivator in squatter land without possession of land ownership. Farm land under tenancy arrangement is being managed under co-management system between the landowner and the tenants. Relationships between landowner and tenants reflect the patron-client system of power relationship (Regmi 1978), generally favouring the landlords. This type of socially constructed meaning of tenant in agricultural land is reflected in forest-people relations which are often contentious and largely shaped by the historical, cultural and social settings they live in. For example, those who own the forest land (in the case of forest, it is the state) behave like landlords and those who invest their labour in the production system on forest land are seen like 'tenants'. Changing property rights arrangement of community managed forests is therefore necessary to change this power relationship in post-conflict democratic Nepal.

### **3. Conceptualising common property regimes**

Among three property regimes described earlier, common property regimes are characterised by the self-governing organisations with a high degree of integration of social and cultural values. They operate through a collective action, have distribution systems that promote reciprocity and mutual support with substantive communal ownership and heavily rely on informal rules, local knowledge and information systems. Various authors (Esman and Uphoff 1984; Hobley 1985; Jodha 1985; Bromley 1986; Oakerson 1986; Abel and Blaikie 1988; Wade 1988; Arnold and

Stewart 1989; Berkes 1989; Berkes and Farvar 1989; Berkes et al. 1989; Feeny et al. 1990; Ostrom 1990; Bromley 1992; Runge 1992; Ostrom 1992; Shepherd 1992; Sarin 1993; Wollenberg and Hobley 1994; McKean and Ostrom 1995; Scherr et al. 1995; Cleaver 1996; Hobley 1996; Ribot et al. 2006; Agrawal and Ostrom 2001; Meinzen-Dick 2006; Larson et al. 2010) provide theoretical framework as well as empirical evidences to show under what conditions 'common property regimes' perform better or worse. According to them, user behaviour is based largely on how one person believes the other will act, and thus depends upon mutual assurance. Successful and sustained use of a common property depends on a pattern of interaction based on systems of reciprocity in which actors help each other either through action or restriction. Reciprocity in turn depends upon mutual expectations of positive performance, and the decision making arrangements adopted by a group will aim to ensure that these expectations are fulfilled. Communities of users may develop systems which enable the enforcement of rules. They may also develop methods to monitor each other as well as a means of accountability to ensure that the accepted standards of reciprocity are met. When these mechanisms fail and reciprocity breaks down, the management of the common property is threatened with free-rider strategies and as a result ends with the 'tragedy of the commons' (see Hardin 1968) type outcomes. Most of the common property literatures suggest that there are many places across the world where common property regimes do function well. If communities are granted autonomy and full tenure rights, common property regimes does not cause degradation of resources, instead many community groups across the world are capable of creating 'robust' common property regimes resulting in improved resource condition (see Hobley 1985; Wade 1988; Berkes 1989; Berkes et al. 1989; Feeny et al. 1990; Ostrom 1990; Bromley 1992; Shepherd 1992; McKean and Ostrom 1995; Agrawal and Ostrom 2001; Meinzen-Dick 2006; Larson et al. 2010). They show that common property also ensures equity which means whether individuals receive a 'fair' return for their contribution to maintenance or not. When expectations of fairness or equity are substantially disappointed, a property regime is likely to breakdown. Oakerson (1986) suggests that equity problems are exacerbated by asymmetries among users, which create opportunities for some to benefit at others' expense.

From the results of a study of a wide range of successful and long-lasting common property resource institutions, Ostrom (1990) has highlighted

the essential factors which helped account for their success. She tried to establish why it is that collective action groups in some common property systems create solutions and therefore resist the ‘tragedy of the commons’ while others collapse. The key to long enduring common property systems she suggests is the existence of endogenous rules and regulations; those communities which are able to set and enforce mutually acceptable rules will have a greater likelihood of instituting effective collective action. Ostrom (1990) describes the eight ‘design principles’ which she believes are the essential elements or conditions that help to account for the success of collective action. Such action occurs in institutions which function to sustaining the common property resource and gain compliance (see Table 6.2). These design principles will affect incentives in such a way that ‘appropriators’ (resource users) will be willing to commit themselves to following rules and monitoring one another.

**Table 6.2 Ostrom’s design principles**

|                                                    |                                                                                                                                                                                              |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clearly defined resource and user group boundaries | Individuals or households who have the use rights must be clearly defined, as must the common property resource itself.                                                                      |
| Operational rules suited to local conditions       | Operational rules governing time, place, technology and/or quality of the resource used and cost in terms of labour, materials and/or money need to make it appropriate to local conditions. |
| Collective choice arrangements                     | Individuals affected by the operational rules can participate in modifying the operational rules.                                                                                            |
| Monitoring                                         | Monitors, who actively audit common property resource conditions and user behaviour, are the users, or are accountable to them.                                                              |
| Graduated sanctions                                | Users who violate operational rules are subject to sanctions dependent on the seriousness and the context of the offence.                                                                    |
| Conflict resolution mechanisms                     | Users and their officials have rapid access to low-cost local arenas to resolve conflicts among users, or between users and officials.                                                       |
| Recognition of the right to organise               | The right of users to devise their own institutions is acknowledged and therefore not challenged by external governmental authorities.                                                       |
| Multiple layers of nested enterprise               | Institutional mechanisms of common property resources are organised in multiple layers of nested enterprise.                                                                                 |

Source: Ostrom (1990, p 90)

Besides, Ostrom (1990) also suggests that national governments can play an important role in community-based management systems. This role includes enforcing a community's right to forest resources against outside interests, guarding the interests of the state against short-term profit takers, conducting research on silviculture, forest regeneration, and other topics of interest to community-based management and providing technical support to local communities in the development of community forest industries. Authors such as Sarin (1993), Arnold and Stewart (1989), and Wollenberg and Hobley (1994) specifically highlight three additional external design principles (Table 6.3). These are very significant in co-management systems, where the role of government in terms of conflict resolution, autonomy and external support system is clearly specified.

**Table 6.3 Three external design principles**

|                                           |                                                                                                                      |
|-------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| A mechanism to resolve internal conflicts | Includes access to impartial outside individuals or bodies, delegation of arbitration powers.                        |
| Access to external support                | Resources necessary for institution building are available to local institutions in a timely and sustainable manner. |
| Autonomy                                  | Local institutions should be independent of government or other interested parties.                                  |

Source: Adapted from Ostrom (1990)

Based on the analysis of the conceptual and institutional framework described in Table 6.3, researchers have found out that common property regimes are suitable models for managing resources such as forests, irrigation system and water bodies that are common in nature. However, Demsetz (1967) has justified the agenda of private property and advocated in favour of the total privatisation of resources. Similarly, many state bureaucracies find the model of Hardin (1968) useful, since they have much to gain from the nationalisation of the key resources. In serving the ideology of economic and political elites, the 'tragedy of the commons' type interpretations guarantee the policy prescription that reinforces the power of the state against local communities. Because of the motives and interests of powerful national and international actors, theoretical debate in the common property literature surrounding collective action still demands more academic attention. The issue around private property is not in the scope of this chapter. Nevertheless, the following section is

devoted to show that state agencies, supposed to be the custodian of the resources, are not compatible, for a number of reasons, to manage common property resources such as forest effectively.

#### **4. Critical reflection on state agencies that govern state property**

State property regimes are generally governed by the state agencies. Theoretically, these agencies are set up under the framework of Weberian model of bureaucracy which are characterised by the routine formal procedures, formally specified roles and tasks; they are expected to perform with a predictable environment in close direction, and are evaluated using 'objective' criteria. They have an authoritative claim to rational and apolitical decision-making, with a close analogy to a real machine as shown by the Weberian image of bureaucracy (Warwick 1982; Moore 1992). The overriding notion of 'standardisation' and the replicability of the machine insulate bureaucrats from the society. In the Weberian model, the officials are merely an instrument for the rational achievement of the normative goals set by the prevailing political system. In the course of considering organisational goals, this model neglects the personal factors that shape the individual action of any bureaucrat within the organisation. Weber's model lays emphasis more on maximum vertical control from the hierarchical line-of-command with minimum horizontal integration among other organisations and neglects the relationships with local communities. Although this is restricted in its applicability to the social and political times in which Weber lived (see for example, Jacob 1966; Stifel et al. 1977; Warwick 1982; Brett 1988; Moore 1992), it provides sufficient framework to analyse state agencies which govern natural resources such as forests, water and minerals. There are number of inherent institutional constraints within bureaucracies that hinder state agencies to govern the resources efficiently. Box 6.1 is an example of the state forest agencies in many developing countries including Nepal. The organisational behaviours of such state forest agencies are not compatible to govern the common property resources such as water and forests, on which the dependency of local and indigenous people for their livelihood needs is high.

**Box 6.1 Characterising state agency responsible for managing the state property**

- Historical trend to accumulate more power and control over forest resources as does through territorial approaches rather than working as facilitators in partnership with local communities and users.
- Poor training of staff to work with people; all forest agency staff are foresters rather than a range of specialists working in interdisciplinary teams on socioeconomic and technical issues.
- Lack of specialisation in carrier streams for innovative areas, such as social power relationship, gender relations, poverty dynamics and equity.
- Orientation to timber and major commercial products rather than on multiple uses and multiple users including the wide variety of products and processing technologies and scales.
- Poor attention to local control and management capabilities for common property resources utilisation; lack of attention to market and income generation potential; lack of linkages to local communities and user groups, private sector and NGOs.
- Perceive forest as a land reserve or as a residual use of land, thus leading to a policy and legal framework that is a disincentive for positive forestry development; lack of dialogue among forestry and agriculture and other sectors; inability to deal with land tenure and use issues; absence of incentives for extracting economic rents.
- Staff performance incentives based on physical targets rather than demand-driven accomplishments or people-centred sustainable forestry development.
- Much complicated planning system for participatory involvement of non-technical foresters; more flexible time-frame for forestry operations.
- Longer gestation for forestry programmes creating funding problems. Time-frame for meeting targets too inflexible for collective and participatory tasks.

Source: Cited from Hobley (1996, p 212)

State regimes with the apparatus mentioned above cannot possibly govern natural resources more effectively and efficiently. While retaining control (ownership) over the forests, the state undermines the ability of local governments, communities and indigenous people to make meaningful decisions. Therefore, providing rights over management of forests to community is one of the basic steps towards decentralisation. Yet, it is not sufficient. Such a move is incomplete unless full property rights are provided. State apparatus, especially the central government, regardless of official rhetoric, policy and legislation, erect imaginative obstacles in the path of decentralised institutions and choices (Ribot et al. 2006). Many evidences presented earlier show that natural resources can better be governed under common property regimes. For this, community forestry practice that Nepal has adapted could be considered

to be an interim institutional arrangement to transfer the state property to common property regime.

## **5. Community forestry: A viable regime for governing forest resources**

The theory does not encompass institutional arrangements where common property institutions partner with bureaucratic state agencies. The members of common property regime are perceived by the state agents merely as clients, not as partners. However, community forestry regime is a unique arrangement where state agency, which operates under bureaucratic framework, establishes partnership with the community groups. The later operate under the broad principle of common property regime. In this sense, community forestry can be said to be a transition between the state and the common property regime.

Within common property theory, community-based organisations are seen as autonomous entities isolated from government bureaucracy, so it too does not recognise partnerships with state bureaucracies. Instead minimal state involvement is desired. Bromley and Cernea (1989) suggest that the state should not be involved in resource management projects which are initiated and managed by the community. In fact, they blame obtrusive state policies for undermining local initiatives. A similar interpretation of state intervention was put forward by Migdal (1974 and 1988), who had argued that the more the local institutions link up with the state, the more they become an expression of its apparatus.

It is usually the case that state agencies form 'community-based organisations' in the way that suits them best. Usually government policies, legislations, extension programmes, support systems and the conditions of partnership are devised by the state in such a way so as to ensure that state agencies fulfil its own specific objectives. The newly formed community-based organisations have, therefore, become the tools which in real terms are the expression of the state agencies (Migdal 1974 and 1988; Hirsch 1993), although, in a different style and tone.

Evidences show that despite having only few rights, community forestry regime can have better environmental and social outcomes in terms of improved resource condition, efficiency and effectiveness in collective action and equity in cost and benefit distribution. It is reported that there have been some mechanisms in place to ensure a greater proportion of benefits accessible to the poor and the most disadvantaged users (Neupane

et al. 2004; Nurse et al. 2004; Ojha and Subedi 2004; Poudyal and Thapa 2004; Hobley et al. 2007; Luitel et al. 2009). Though these successes are disproportionately confined to small areas where donor projects have a physical presence with high financial and technical investments, it demonstrates that the weight of structural barriers to inclusion can be lifted to some extent. It is possible if careful considerations are given to identify the barriers and pro-poor and inclusive provisions and practices are adopted.

Community forestry has been a vehicle to ensure access to forest resources to local communities as their customary and inherent rights. Such rights include the use of forest resources they have lived close by since the beginning. This has also been reinforced recently by the provision of ILO Article 169. Community forestry has also been proven a viable approach to reverse the rate of deforestation and degradation. In addition, despite its original conservation objective, Nepal's community forestry has been able to demonstrate mainly three outcomes.

Firstly, for poor households, community forestry regime is the closest available local institution to help them in poverty mitigation. In this, community forest land resources, products and community fund serve as the subsistence 'safety nets' or low income gap-fillers. It also assist in poverty reduction in which forest resources help lift the household out of poverty by functioning as a source of permanent increase in income, assets, services, civil and political rights, voice and the rule of law (Acharya et al. 2008; Pokharel and Carter 2007; Pokharel et al. 2008). Community forestry has also contributed for the enhancement of public services, gender equality and empowerment (Hobley et al. 2007; Pokharel et al. 2008; Luitel et al. 2009).

Secondly, community forestry regime has been a tool for halting or even reversing trends in deforestation and forest fragmentation (Gautam et al. 2003; Nagendra et al. 2008). Forest cover and quality in community forests are improved significantly compared to the forests under the state management regime (Kandel and Neupane 2007). Children and women who have to search far and wide for fuel wood and fodder have less time for school or redressing gender inequality. The legal access and better availability of forest products in the community forests for basic subsistence forest products not only save time, but also allow them to use saved time for other productive works. National and international review works show how forestry within a broader framework of sustainable

natural resources can provide the means to tackle the interrelated areas of schooling, health, poverty and nutrition in rural areas (Pokharel et al. 2008; Luitel et al. 2009). In Eastern Nepal, over the past 10 years of community forestry, CFUGs have re-invested US\$ 327,000 generated by sustainable use of forests into schools and literacy programme to women (Mayers 2007). Similarly, user groups have re-invested CFUG funds to improve access to livelihood assets and have resulted improvements in sanitation, access to drinking water, electricity, low interest loan etc. resulting into a positive change in the livelihoods of user group members (Acharya et.al. 2008; Pokharel et al. 2008).

Thirdly, despite political conflict and absence of local government, community forestry in the villages has been serving people in difficult time. They are sometimes mediating warring parties through a more open and accountable forms of local governance, and practising local democracy (Pokharel and Paudel 2005; LFP 2010). Another important achievement is about the development of Federation of Community Forest Users, Nepal representing more than 15000 groups, which has emerged as an important civil society player in the country. This set up demands state to be more accountable to the citizens and also forms a strong social capital, as the foundation for an accountable form of local governance system and grass-root democracy.

Recognising the above-mentioned contributions it has made, the current institutional arrangement of community forestry can be seen as a successful piloting and a transitional phase to transform state property into common property regime. The current situation of dual ownership (as ownership of forest products is of community whereas the ownership of land is with the state) should not be continued long because it creates confusion and ambiguities on property rights. This creates even more problems in the new context of climate justice and carbon credit. As many community-based organisations have started to operate under the principles of common property, it is better to transfer the property rights of community forests from state to common property in two steps. The first step is to advocate recognising community property as separate property rights regime in the constitution. Particularly, forests close to the settlements should be recognised under the common property regime. Only those forest areas far from settlements should be kept as state property, and the property of the private individuals should be kept under private property regimes but private forest owners should be encouraged to work collectively.

The next step then is to recognise structural barriers such as class, caste, ethnicity and gender in common property regimes, and address them both through policy and legal provisions, procedural arrangements and creation of the environment both at macro and micro levels that support inclusion, equality and poverty reduction.

## **6. Implications to state building process**

After the abolition of Nepal's monarchy in 2006, the CA actually has the opportunity to correct the past mistakes. However, the concept papers recently prepared by various Thematic Committees of the CA have also overlooked the existence of community's property regime. The Committees have so far recognised only two types of forests ownership - state and private. Even in the federal republic Nepal, local community groups including indigenous communities seem to have only 'use rights' over forest resources, not the 'ownership rights'. If the concept note is accepted and endorsed by the parliament as it is, this will remain as 'a missed opportunity' to devolve power to indigenous people and local communities. There are number of examples where people near and around forests are the poorest because their livelihood depends on such forests, but they are devoid of 'access' rights because the ownership rights of almost all forest land of the country resides with the state. Being a valuable resource, forest governance has always been a battlefield of power and property rights among the state, local communities and private individuals. Nepal's national forests covers 5.8 million hectares (39.4% of the country's 147,000 sq km land), more than two third area of national forests are governed by the central government and only less than one third area of the national forests are governed by various types of community groups (FRISP 1999; DoF 2005; DoF 2008). These include community, leasehold, buffer zone, collaborative, religious and conservation groups. However, limited rights over forests even in community based forest regimes and restriction of access of local communities to state managed forests have negatively affected their livelihoods. The evidences suggest that local communities with little private land who lived in and around the state managed forests such as Protected Areas, the poor who have to depend on forests for livelihoods and women who require regular access to forest products to perform their gender roles have limited options to substitute the requirement. Thus, they suffer the most from the loss associated with the state managed forest (Acharya et al. 2008).

When there is no full 'bundle of property rights' given to communities, there will be less scope to ensure rights for citizens to access the forest sector benefits unless there is a strong redistribution mechanism. In most cases, though the country is rich in forest coverage, the state is the sole owner, sole manager and sole user that provide not much space and opportunities for inclusion and equitable benefit sharing across different actors and groups. Thus lack of (secured) property rights is the main and foremost barrier to inclusion in forestry sector in Nepal. This factor should be taken into account in state building and restructuring process.

Just as in the case of farm land ownership, the rights of decision-making regarding forest land, i.e. ownership over forest land of the communities, rests on several interconnected arguments such as welfare, efficiency, equality and empowerment (see Agarwal 1999 for details). The people who are most dependent on forest in Nepal for their survival are forest dwellers, the poorest groups and other socially excluded caste groups. Nepal is home for 103 ethnic and tribal groups who live in forest, use forests for basic needs and survival economy such as shelter, food, cloths and fuel. Many indigenous and tribal people like Raute, Chepang, Kusunda, Bote and Majhi have a special relationship with forests. It is where they live, and have lived for generations. Some indigenous groups like Sherpa from high hills and mountain areas are pastoralists and depend on access to grazing land for their survival. For many poor, forests provide diversity to the economy, security in times of cash and food shortage in the village economy. The traditional knowledge related to forest and bio-diversity use and management that the poor, indigenous people and women possess has a spiritual value. Lack of ownership over and loss of access to the forests, which is their ancestral land, threaten their survival as an individual, a community and a group. Further, the regulated access without any decision-making makes them disempowered.

Communities which may simultaneously display aspects of group solidarity, unity and shared objectives with respect to perceived threat from the state and outside world also manifest internal stresses, frictions and conflicts arising from inequalities in power, status, economic and social strengths (Doornbos et al. 2000; Rai Paudyal 2008). Community ownership and engagement provide space for local and indigenous communities for secured livelihoods, innovation and experimentation through continuous forest-people interaction and help find ways of making community owned and managed regime more robust, sustainable and equitable. Recognising property rights enable and empower them to invest on such resources

with ownership feeling, innovations, mutual trust and solidarity. In this sense, the issue of community property rights is an important issue and a pre-requisite even from the view point of conflict management, social justice, peace and state building.

To conclude, in the past, the state with autocratic regime consolidated its power and gained property rights over forest land through constitutional provision, legislation, organisational instruments and armed forces. This situation should end and property rights to close by forests should be handed over to local communities.

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### 1. Setting the context

Nepal's post-conflict development has to contribute to achieve the aim of developing a peaceful, politically stable, economically prosperous and socially just federal republic. Therefore, new development policies, strategies, implementation modalities and planned outcomes have to focus on contributing to this aim. The main objective of this chapter is to initiate a debate on the various dimensions of post-conflict development and reconstruction as integral components of state building and strengthening democracy and achieving durable and just peace. This chapter attempts to answer the questions: what are the key issues and elements of post-conflict development? How can development contribute to state-building?

Development in this paper refers to the broader concepts of both physical and socio-economic components. Thus, reconstruction is focused on building and rebuilding of physical and social infrastructures. It is considered to be one of the fundamental pillars of post-conflict economic recovery and development.

Civil wars and armed insurgencies often target development infrastructures, obstruct construction process and ultimately affect economic growth. Obstructing development or damaging development infrastructures are used by warring parties as their strategies. Countries recovering from war need to revive the development process. Therefore, post-conflict reconstruction and development is considered as one of the fundamental pillars of peace and stability (Upreti 2009). Violent conflict and development are often inversely related or causing negative effects to each other. When delivery of development fails to meet the livelihood needs of people, social tension and violent conflict is most likely. If development fails to address inequality and discrimination,

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it indirectly serves as a source of conflict and if development creates further inequality then social conflict becomes eminent. Development is therefore both the means of peace and source of conflict. Incidence and frequencies of violent conflicts in the least developed countries are some of the instances. African conflict cases have demonstrated that poverty and extreme inequalities are closely linked to the real or perceived oppression of certain groups (Upreti 2009). Therefore, addressing unequal and discriminatory root causes both horizontally and vertically is vital to ensure both development goals and conflict sensitivity. However, non-violent conflict is an inherent and often essential part of development process, as it strengthens capacity of a society to manage differences and disputes by providing creativity for social change. Hence, development interventions should not suppress non-violent conflict but should allow developing and fostering its expression in a constructive, non-violent and creative manner.

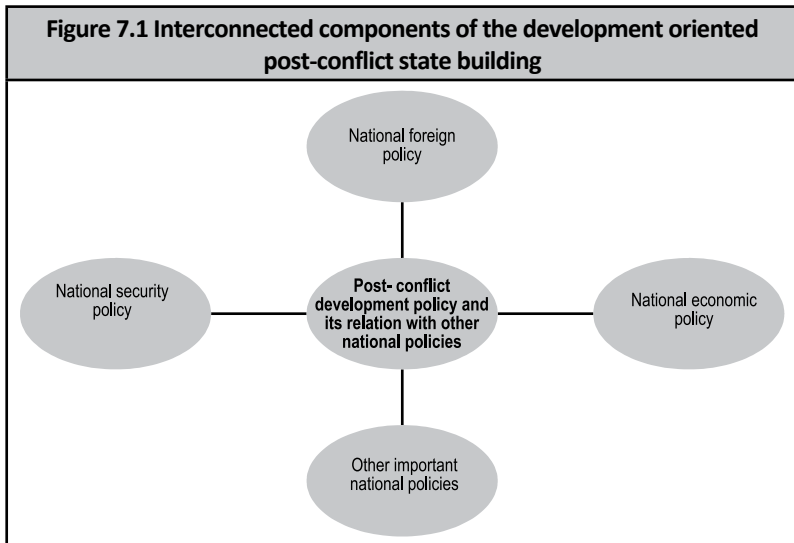
## **2. Framework of post-conflict development**

Development related experiences and lessons from war-torn countries such as Afghanistan, Democratic Republic of Congo, Sudan and Somalia reveal that post-conflict development is sensitive, complicated and especial. It has to mitigate impacts/effects of violent conflict but it is a gradual process taking time. Large number of aid agencies such as bilateral donors, multi-lateral agencies like banks, INGOs, UN agencies and charity organisations support post-conflict development in war-torn countries. Their interests, priorities, aims, working procedures and approaches are often contradictory and different. Therefore, proper coordination, monitoring and coherence in the development priority of the concerned nation are extremely important. Post-conflict development needs to move beyond conventional areas of development programmes and has to deal with new issues such as environmental security, combating rural and urban crimes, dealing with small arms control, community security etc.

The existing development policy and regulatory frameworks, institutional arrangements and mind-set of key decision makers are not conducive with the delivery of development that meets public expectations. Hence, new vision, strategies and operational modalities are needed to meet the challenges. Therefore, fundamental restructuring of the development sector is essential to meet the people's expectation at the time of post-conflict situation.

Post-conflict reconstruction and development need to be interwoven with reconciliation, rehabilitation, reintegration and recovery to ensure that development can minimise the wound of conflict, promote cooperation and rebuild society. Similarly, post-conflict development has to contribute to achieving 'human security'. The UN Human Development Report 1994 defines human security as "safety from such chronic threats as hunger, disease and repression and protection from sudden and hurtful disruptions in the patterns of daily lives" (UNDP 1994). Human security approach of development needs to shift from conventional development approach adapted by Nepal since the inception of period development plan in 1951, which only focuses on poverty reduction, ignoring the conflict and security implications (Upreti 2006a).

Linking security-human rights-peace and development must be the guiding framework for the post-conflict development in Nepal. Post-conflict development need to reduce corruption, facilitate effective governance and promote environmentally sound, socially equitable, economically robust sustainable development that requires re-evaluation of the appropriateness of the existing policies, strategies, legal and regulatory frameworks and institutional arrangements, and adjust accordingly.



Source: Designed by the author

Figure 7.1 shows that post-conflict development policy has to be interlinked with NSP, international relation/foreign policy, economic policy and other

relevant policies. This relationship is fundamentally important because of holistic nature of development that relates with foreign aid/development assistance. It has to link with NSP because some of the unconventional security issues are related with development such as food security, health security, environmental security, water security and energy security. Link with economic policy is needed as they are mutually reinforcing. Also, development contributes to achieve objectives of economic policy and economic policy provides framework for development. Similarly, development policy framework has to cover peace and human rights and therefore any post-conflict reconstruction and development intervention must ensure that they contribute to peace promotion, livelihood security and addressing the socio-economic, cultural and political rights of local people (Upreti 2009).

### **3. Post-conflict reconstruction and development**

Nepal is finalising federal structures (tiers: central, provincial, local, numbers, demarcation, naming, etc.) promulgating new constitution and redefining the governing system (presidential, prime-ministerial, or combined). In this stage, development plans must incorporate the following basic principles:

1. Focus on peace building- Address root causes of conflict, relief, rehabilitation, reconstruction and reintegration; implement development related provisions of CPA, transitional justice, human rights, cantonments and SSR.
2. Focus on capacity building - Transfer of technical and managerial skills to provinces and local level, invest in research and education.
3. Focus on reconstruction and rehabilitation – Reconstruction of social and economic infrastructures.
4. Focus on reconciliation – Include DAGs, promote civic education, harmony and trusts, provide reparation package to conflict victims, deal with the past and truth and reconciliation effectively
5. Focus on strengthening human rights and rule of law- Address gender disparity, marginalisation, exclusion and socio-economic rights of people within the boarder framework of human rights and transitional justice.

6. Focus on promoting good governance- Strengthen financial management and accountability in development practices, tackle corruption, develop leadership and promote self-assessment of public expenditure and financial accountability; improve service delivery systems (human resource development, responsive institutions etc.).
7. Build on international development cooperation- Ensure implementation of Paris Principles of Aid Effectiveness and Acra Plan of Action in donor-funded development, coordinate donors, integrate Nepal's development with regional and international development such as trade integration, FDI etc.
8. Focus on gender mainstreaming in development planning and activities- Tackle gender inequality integrating gender concerns in all development plans.

The development institutions in conflict-ridden states are often severely affected and sometimes even dysfunctional. Therefore reviving and enhancing capacity of state institutions is foremost. Collective efforts of civil society, political parties and private sector are important for capacity enhancement of the state and consequently for state building. In case of Nepal, unlike many other war-ridden countries, the state apparatus were not totally dysfunctional but were functioning with low capacity. Hence, it is not difficult to enhance their capacity provided political-institutional-legal environment (regaining public trust with delivery of better performance, disconnecting from political interference and enhancing existing capacity by exercising governance principles) is ensured. But, it is not false that development of new infrastructures and reconstruction of the damaged ones is one of the most effective mechanisms to rebuild public trust.

Rethinking, reorienting and reformulating development policy and strategies are essential as Nepal is entering into post-conflict state building. Critical examination of the overall impacts of development programmes brings a fundamental question: why did development so far fail to address poverty and social exclusion, the major structural causes of the conflict (Pandey 1999; Shrestha 1997; Upreti 2004a and 2004b)? The question directly points towards development administration and governing system. Development sector in Nepal in general and development agencies in particular will be facing tremendous challenges in the coming years. More than six decades of development in Nepal has largely concentrated in accessible areas and the pocket-areas of the electoral constituencies of

the powerful politicians. Thus, it failed to reach remote areas, slums and shanties. It served the political and economic interests of the politicians, development bureaucrats and local elites.

**Box 7.1 Issues relevant to post-conflict development in the CPA**

- Promulgate the political system that fully comprehends with the concepts of universally adopted principles of fundamental human rights, multiparty competitive democratic system, sovereign rights inherent in the people and supremacy of the citizens, constitutional balance and control, rule of law, social justice and equality, independent judiciary, periodic elections, monitoring by the civil society, complete press freedom, right to information of the citizens, transparency and accountability of the activities of the political parties, people's participation, fair, able and uncorrupted administrative mechanism.
- End the existing centralised and unitary state system and restructure it into an inclusive, democratic progressive system to address various problems including that of women, Dalit, indigenous community, Madhesi, oppressed, ignored and minority communities and backward regions by ending the prevailing class, ethnic, linguistic, gender, cultural, religious and regional discrimination.
- End all forms of feudalism and prepare and implement a minimum common programme of socio-economic transformation on mutual understanding.
- End feudal land ownership and formulate the policies for scientific land reforms.
- Adopt policies for protection and promotion of national industries and resources.
- Adopt policies for establishment of civil rights in education, health, shelter, employment and food security.
- Adopt policies to provide land and socio-economic security to backward groups like landless, bonded labourers, tillers, Haruwa, Charuwa and other such groups, which are socio-economically backward. Adopt policies to take strict actions against the people who have worked in government positions and have amassed huge amount of properties through corruption.
- Prepare a common development concept that will help in socio-economic transformation of the country and will also assist in ensuring the country's economic prosperity in a short period of time.
- Follow policies ascertaining the professional rights of workers and increase investment on sectors like promoting industries, trade and export and increase employment and income generating opportunities.

Source: Adapted from Upreti (2009) based on CPA 2006.

Economic and social stability and human security are preconditions for achieving sustainable peace where post-conflict development interventions could play crucial role through immediate, short, medium and long-term strategy. It has to establish relationship between development, post-conflict recovery and peace building.

### **3.1 Phases of post-conflict reconstruction and development**

Delivery of post-conflict development is complex in terms of meeting public expectation, mobilising resources (available and to be generated), implementing types (big, medium and small projects) and technological advancement (requiring high and sophisticated technologies and materials). Therefore, post-conflict development has to go through the following three phases;

#### **3.1.1 Emergency Phase**

Activities in this phase are related to immediate relief and humanitarian supports. Reparation and support to basic needs of the helpless victims after conflict is fundamentally important to make peace process successful.

#### **3.1.2 Transition phase**

In this phase, changing policies and strategies, establishing relevant institutional arrangements and regulatory provisions and implementation of medium term activities to provide quick outcomes are important tasks to be performed. This is generally of one to three years and has to coincide with the constitution making as some of the development related provisions are needed to be included in the constitution.

#### **3.1.3 Stabilisation phase**

This phase is relatively longer (covers 3-15 years). Construction of big infrastructures (hydro-power projects, rural electrification, road networks, processing plants and marketing infrastructures, drinking water, irrigation, telecommunication etc.) and rebuilding of damaged infrastructures should be the main focus of this phase.

### **3.2 Priority components of post-conflict reconstruction and development**

In the post-conflict situation, there are four categories of strategies of development interventions. They are;

#### **3.2.1 Priority projects**

They act as the accelerators of economic development such as long-term, advance technologies and bigger investment. For examples, big hydropower projects, tourism projects, market oriented agriculture, large irrigation projects, road and airport constructions etc. are such sorts of development intervention. Based on the scale, magnitude and volume of

investment, they can be categorised into priority one (P1), priority two (P2) or priority three (P3) projects.

### **3.2.2 Quick impact projects**

They are of short-term, small amount and consist low technology. Such projects provide immediate results/benefits to the local people. Examples include food for work, cash for work, vegetable and goat farming, small scale construction and similar income generation activities.

### **3.2.3 Projects related to humanitarian supports**

Humanitarian support related projects are instantly deliverable, small scale, rapidly responsive and specifically designed to provide humanitarian assistance to conflict victims.

### **3.2.4 Society (re)building projects**

These focus on developing trust and mutual respect, recovery and reconciliation. They are healing-oriented and develop collective ownership and concerted actions in the communities.

## **3.3 Infrastructure development**

Construction of big infrastructures is fundamentally important in achieving stability and peace. Small, medium and big hydro-power projects, massive expansion of rural electrification, construction of road networks across the country; construction and operation of agriculture related processing plants (milk, meat, food grains, vegetables and fruits, non-timber forest products, aromatic and medicinal plants, chilling centres etc.) and marketing infrastructures, construction of rural drinking water systems and irrigation canals, expansion of telecommunication networks, ropeways, railways, clean-energy transport system etc. are some of the main activities to be accomplished in the post-conflict situation.

## **3.4 Capacity enhancement for post-conflict reconstruction and development**

Post-conflict development requires conducive policy, responsive institutions and effective implementation mechanisms. Another important aspect is the capacity of development sector to deliver as per the expectation of the people. Institutional reform, strengthening and promotion of technical and managerial skills, generation of resource and its effective and participatory use, promoting transparency, accountability and priority setting in resource allocation are some of the prerequisites of capacity building in post-conflict development.

### 3.5 Reconstruction and rehabilitation

Rehabilitation of destroyed infrastructures must go together with the construction of new infrastructures. Table 7.1 demonstrates that destruction of infrastructures such as telephone towers, bridges, roads, electricity power plants, government office buildings was massive during the ten years of armed conflict. It is absolutely important that reconstruction and rebuilding of these infrastructures should be the priority in post-conflict development.

**Table 7.1 Damages of physical infrastructure during the armed conflict**

| S.N. | Ministries and constitutional commissions | Damages worth | Cost required for reconstruction |
|------|-------------------------------------------|---------------|----------------------------------|
| 1    | Local Development                         | 596446000     | 161722000                        |
| 2    | Water Resources                           | 342703000     | 297243000                        |
| 3    | Health and Population                     | 417000        | 130130000                        |
| 4    | Forest and Soil Conservation              | 354461000     | 377123000                        |
| 5    | Education and Sports                      | 20960000      | 44984000                         |
| 6    | Agriculture and Cooperatives              | 260755000     | NA                               |
| 7    | Industry, Commerce and Supplies           | 18123000      | 15064000                         |
| 8    | Environment, Science and Technology       | 3209000       | NA                               |
| 9    | Information and Communication             | 741555000     | 145166000                        |
| 10   | Culture, Tourism and Civil Aviation       | 134747000     | 26550000                         |
| 11   | Physical Planning and Works               | 25174000      | 19746000                         |
| 12   | Land Reform and Management                | 12187000      | NA                               |
| 13   | Defence                                   | 24799000      | NA                               |
| 14   | Finance                                   | 4666000       | 2270000                          |
| 15   | Home Affairs                              | 2428646000    | 2428203000                       |
| 16   | Women, Children and Social Welfare        | 230000        | NA                               |
| 17   | Supreme Court                             | 27489000      | 165555000                        |
| 18   | Election Commission                       | 2946000       | NA                               |
| 19   | Office of Attorney General                | 201000        | NA                               |
| 20   | Public Service Commission                 | 4780000       | NA                               |
| 21   | Total                                     | 5004494000    | 3813756000                       |

Source: Adapted from Upreti (2009) based on the data from Ministry of Peace and Reconstruction

NA: Data not available

Table 7.1 shows the estimate of the value of damage of property during the time of the armed conflict and the amount needed for the reconstruction of the damaged infrastructures. The total destruction was estimated

to be about NRs five billion out of which NRs 3.8 billion is required to reconstruct, while the damages worth of NRs 1.2 billion has already been reconstructed.

### **3.6 Sectoral priority in post-conflict development**

One of the post-conflict development challenges is to find a balance between investment in big infrastructure development and focus on social and service sectors such as health, education, drinking water supply and sanitation and community services. Ensuring quality social service is proved to be one of the effective peace dividends in post-conflict societies. While giving priority to society and service sector, equal emphasis has to be given to rebuild social capitals such as social networks, linkages and traditional arrangements.

### **3.7 Planning post-conflict development**

While planning the post-conflict development, the classical, centralised and politically-manipulated approach of development planning by the central National Planning Commission (NPC) must be changed. All local development programmes and projects must be planned, implemented, monitored and evaluated locally. Conflict sensitive development planning must be applied using the concept of project cycle management. In the history of NPC model of development planning, the projects proposed by local levels were modified by the regional offices and the regional plans proposed by regional offices were changed by the concerned departments and the departmental plans were modified by the related ministries. The ministerial plans submitted by the concerned ministries were altered by the NPC and finally these plans were modified by finance ministry and ultimately irrelevant plans and budget got finalised by the government/NPC. Such a type of planning is the main cause of failure of development in Nepal. Therefore, it has to change.

Post-conflict development planning has to:

- provide peace dividends as one of the fundamental components of post-conflict reconstruction. Hence, development itself has to be ensured as societal peace dividends.
- must ensure transparency and accountability. It has to focus on social inclusion and addresses marginality.
- provide direct tangible benefits (quick disbursements and delivery), emphasise on local capacity building, use local resources and skills,

ensure reaching of resources to local community and marginalised groups.

- ensure public participation in project planning and monitoring (public hearing, social auditing and geographical auditing) as well as inclusion. Social inclusion is a process of overcoming functional, institutional and policy barriers at macro and micro levels to increase the access of poor, marginalised and backward people to the development opportunities.
- alter the existing elite-biased development incentive system. Changes in incentive systems and improvement of the capacity of the state and community are requisites for the success of post-conflict development. Reach of development benefits to marginalised people leads to their political, social and economic empowerment. When tangible benefits to poorest, landless and marginalised people are assured, several risks related to post-conflict social tensions and potential manipulations by radicals and extremists can be minimised.
- make social inclusion a priority of post-conflict development with a clear institutional mechanism and operational arrangement to ensure inclusion of the excluded to address poverty, inequality, injustice and discriminations and to generate employment in the project area.
- accept the conflict risk assessment (CRA) as an integral monitoring tool. This is a concept, process, tool as well as strategy. It is a concept because it provides powerful understanding of conflict situation and level of associated risks. CRA is a process because it is not a one time event and has to be continuously practised during the entire period of conflict. It is because the conflict situation is always dynamic and scale, intensity and patterns of it change frequently. It is also a tool of analysing the degree, intensity and effects of conflict as it offers specific instruments to assess conflict. CRA is also a strategy because it is intended to minimise the potential conflict risks to development and devise appropriate response options. Based on CRA, geographical areas of development can be categorised as very high, high, moderate, low and no risk areas. Similarly, demographic zones can also be identified based on CRA as highly sensitive, sensitive and normal.

### **3.7.1 Conflict sensitive development planning and project cycle management**

In the post-conflict context, development must be conflict sensitive. Conflict sensitive development requires conducive policy context, responsive institutions and committed actors in addition to political

commitment and organisational culture. Effective implementation of conflict sensitive development projects and programmes requires positive attitude of the staff and a sound organisational behaviour. Hence, post-conflict development planning has to ensure these provisions.

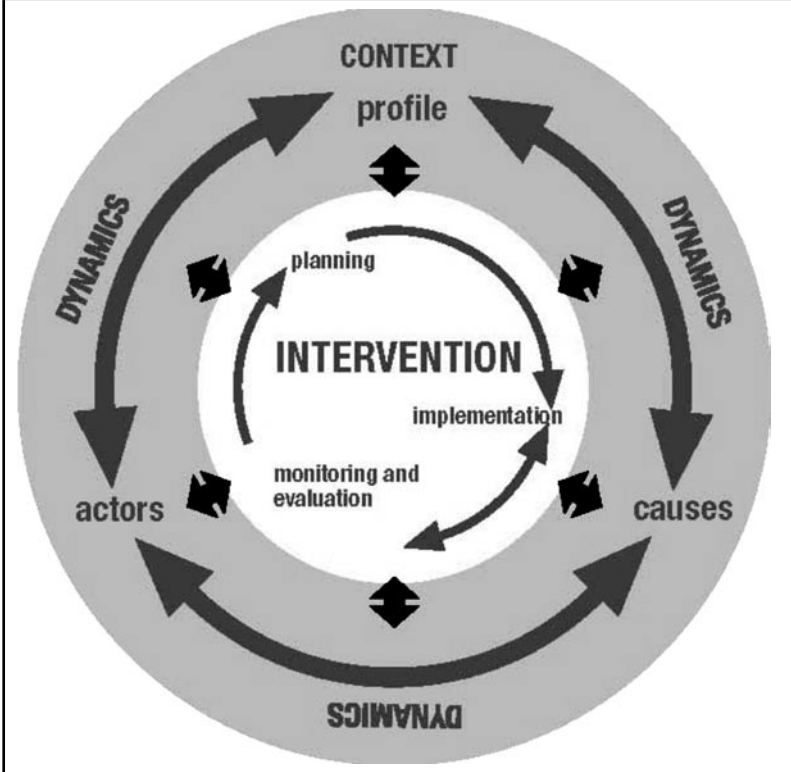
Conflict sensitive development is a flexible, transparent and effective approach with functional *modus operandi* at all levels. It ensures incorporation of root causes of the conflict and issues and provisions included in peace agreement in a regular project cycle (planning, implementation and evaluation). They provide methodology and conceptual orientation to address root causes of conflict, minimise potential negative effects and provide opportunity for implementing development projects and programmes in the changed political context within which the development has to operate. Addressing root causes of conflict is one of the fundamental principles of post-conflict development planning.

Incorporation of the concept of conflict sensitive development in all steps of project cycle is crucial in post-conflict phase. Analysis of interrelationship and interaction among context, actors and cause of conflict (as depicted in the following figure) and incorporation of their outcomes into each step of the project cycle (planning, implementation, monitoring and evaluations) is the other must.

*Focus on conflict sensitive development project cycle:*

Post-conflict development strategy needs to use 'conflict sensitive project development cycle' while visioning, policy formation, defining procedures, implementation and monitoring and evaluation of development in the country. Analyse interrelationship and interaction between context, actors and cause of conflict (as depicted in the following figure) and incorporate the outcomes of the analysis into each step of the project cycle (planning, implementation, monitoring and evaluations) are crucial components of conflict sensitive project planning.

Figure 7.2 Conflict sensitivity diagram of project cycle



Source: Nagel (2006)

Conflict sensitive planning involves understanding the context (using both a traditional needs assessment process and conflict analysis), planning in a conflict sensitive fashion based on the analysis of interaction between context and the proposed intervention and designing mitigation measures.

### 3.7.2 Peace and conflict impact assessment in post-conflict situation

In the recent years the peace and conflict impact assessment (PCIA) is used as an effective planning tool for conflict sensitive project design and formulation. It helps understand the context where the development has to implement and the interaction between the contextual environment and the proposed development. PCIA ensures maximisation of development for peace and does not inadvertently exacerbate violence. PCIA provides

methodology and conceptual orientation to minimise negative effects of conflict. It also provides opportunities to generate new prospects for functioning of market in the changing political and security landscape (Upreti 2006a, 2006b, 2005).

PCIA is a planning and management tool in development programmes, which helps development practitioners, governments and administrators to mitigate conflict and promote peace. Based on a thorough understanding of the conflict, it provides strategic framework for conflict prevention and peace-building work in a country at risk. It helps to identify root causes of conflict and promote local capacities and opportunities for peace building within development programmes. It also assists to monitor and mitigate the potential negative consequences of development intervention, helps review of existing good practices of development interventions, integrate conflict resolution and peace-building values in development programmes, emphasise for the introduction of the codes of conduct to implement development interventions through flexible approach to adapt to different types and stages of conflict, helps co-ordinate a wide range of instruments and actors based on their comparative advantages, addresses security risks, promotes local capacities for peace and the structural root causes of conflict. Hence, the Ministry of Peace and Reconstruction should ensure that all development policies and strategies incorporate PCIA as a compulsory development administration and management tool as EIA is practised in bigger projects.

Use of tools and techniques of conflict sensitive development intervention in the planning and monitoring is essential. Conflict analysis (CA), conflict impact assessment (CIA), PCIA and conflict risks assessment (CRA) must be made compulsory in designing and implementing big development projects, programmes and regular project performance monitoring system, yearly reviews and periodic evaluations. Development policy and programmes should also incorporate not only Do-No-Harm principles (Anderson 1999) but also Do-Good principles (Upreti 2007).

#### **4. The political face of development**

Success or failure of peace process depends upon adaptation of integrated approach of simultaneously dealing with political process and development intervention. They are mutually reinforcing. Some of the important political and social aspects of post-conflict situation are discussed in the following lines.

Political stability needs proper functioning of political institutions, such as political parties and their activities that follow democratic principles, values and spirits. Periodic election is one of the measuring-rods to know whom people want to lead them. Hence, periodic, free and fair election is a fundamental basis for strengthening democracy and political stability. Political process must ensure respect of human rights to promote public trusts towards the political system. That will also greatly help obtain more post-construction support from international community. Often international community very much consider human rights situation while deciding the volume, duration and areas of support.

Intra-party democracy is the soul of political stability and crucial for development of new generation leaders. Transparent election, freedom of expression, collective decision, clear division of roles, assigning responsibility based on capacity, specialisations of committee members in specific areas of development (for example developing party committee members as experts on hydropower development and water resource negotiation, agricultural extension, rural infrastructure set up etc.), inclusive party structures, respect of different opinions are some of the important components of intra-party democracy. One of the perennial sources of problem in Nepali politics is the lack of intra-party democracy. In some cases, the parties are operated in the mode of private companies. Top-down autocratic decision, favour and protection to kin and kiths, supporting ambitions of leaders to control power and resources and monopolising power for personal vested interests are pushing the country into a darker future.

People's participation and representation in decision making is another important area to strengthen post-conflict democracy. Application of good governance principles is therefore crucially important in the post-conflict situation. Political stability and post-conflict reconstruction and development are directly related and to some extent interdependent. Therefore, it is fundamentally important to forge institutional arrangements, legal frameworks and operational procedures that ensure complementarity and mutuality among post-conflict reconstruction and development and political stability.

## **5. Conclusion**

Post-conflict reconstruction and development are crucial stabilising factors and contributors to peace and stability if they are implemented

according to the framework provided in this chapter. However, post-conflict development intervention can also be a perennial source of tension and instability, if implemented inappropriately.

Onwards, development in Nepal will have to address higher expectation of people, as they had been enduring the sufferings of age-long armed conflict and violence. They are suffering from development deficit. Therefore, expectations remain quite high from every new government. Concerns of landless, marginalised, indigenous and disadvantaged people have to be addressed by post-conflict development intervention. Implementation staffs need to be selected within the principle of inclusion from women, ethnic community, Dalit, and poor. Similarly, the implementation of social service related development and infrastructure projects are important to reduce poverty and address structural causes of conflict.

Focus of post-conflict development has to be in rural reconstruction and rehabilitation to promote equity-based livelihood basis and well-being of poor, marginalised and conflict-affected people, economic growth and poverty reduction. Restoration of basic infrastructures and social capital, public services and community based services should be in priority in the aftermath of conflict. Employment and income generation through rural roads, community water supply and sanitation, community development, institutional capacity building and empowerment of socially excluded and marginalised sections of society are some of the important activities that can contribute to peace building and stability.

Post-conflict development needs a holistic policy and regulatory framework, a clear institutional mechanism and operational arrangement to ensure inclusion of excluded, to address poverty, inequality, injustice and discriminations and employment generation in the project area and restore the lost trust with the state, regain the mistrust between political forces and promote collaboration and mutual respect. It has to incorporate basic principles of conflict sensitive development. Flexibility, transparency and accountability are fundamental principles of conflict sensitive development. Hence, the new development policy and strategy must ensure provision of these principles in modus operandi and project management levels. It has to interlink human rights-peace-security in its operation.

Development professionals must get training in all these methodologies. New development policy and strategy should make provision of conflict sensitive operational guidelines such as security instructions and procedure

manual, crisis management guidelines, CIA guidelines to minimise perceived and actual conflict related post-conflict risks on development.

PCIA in the situation of conflict and post-conflict period is crucial to smoothly operate development, minimise potential sources of conflict, promote connectors and mainstream conflict sensitive approaches in development (CPN 1999; Leonhardt 2000; Nyheim et al. 2001). Therefore, PCIA should be integral part of the project selection process (criteria, procedure, monitoring etc.). In this section, some basic guidelines are presented as follows. They need to be developed further to make guidelines comprehensive.

Proper understanding of people's aspiration and state ability to deliver services is important. Capacity building of implementing agencies in terms of appropriate skills is a key factor for successful implementation of project in post-conflict situation. Training on conflict and security risk assessment, conflict monitoring, risk mitigation, trauma counseling and evacuation, Do-Good principle, peace building, dealing with different actors of conflicting interests are essential. Flexible and learning based approach is needed in post-conflict situation to ensure reorientation of development programme to promote peace. Conflict management capacity building at local level is important strategy. Potential of local organisations to resolve conflict at local level needs to be supported. Promotion of practical, action-oriented, learning-focused participatory conflict management methodologies<sup>2</sup> should be response strategy in the situation of conflict.

Analysis of cultural and socio-psychological dimensions of conflict is important. Research and analysis of local capacity, indigenous conflict resolution practices and their contribution to peace building and social harmony, their relation with culture, religion, economy and history and role of customary laws in conflict management should be integral part of post-conflict development approach. Research also needs to focus on in-depth sociological exploration of the background (economic, cultural, social, religious, educational, gender, caste/ethnicity etc.) and their interrelations with motives and perceptions of people involved in conflict. This type of rigorous analysis helps the government, donors and organisations design appropriate development interventions.

Planning a coherent approach to conflict prevention and peace building in situations of violent conflict is extremely essential. Reinforcing civil society

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<sup>2</sup> Interactive Conflict Management is one of such methodologies designed by this author (Uperti, 2003).

for peace building and reconciliation, supporting traditional institutions engaged in promoting human rights and conflict management training are the other requisites. Adopting conflict sensitive development approach is one of the main options for policy makers to maximise the contribution of development sector to achieve sustainable peace and social harmony and to enhance living standard of the people.

In future, any development project must a) address root causes of the conflict and structural inequalities b) build trust, cohesion and harmony in community c) develop community resilience to cope with the adverse impacts of conflict d) create space and opportunities for peace building e) ensure visible benefit from the project to socially excluded and marginalised people and make sure that they are included in the decision making process f) prevent possible widening of rift between rich and poor that enforces discriminations g) make sure that development interventions are not introducing new conflicts and tensions, and h) ensure that resources are not captured and manipulated by elites or warring parties. This is possible through incorporating PCIA into development programme and project.

The role of development agencies is fundamentally crucial in making development sector conflict sensitive and incorporating PCIA in the development project cycle. Methodological harmonisation, creation of synergy and avoidance of duplication is possible only through inter-ministerial coordination.

Nepal is in a situation of war to peace transition. The peace process has paved path for broader socio-economic and political transformation. However, transformation is successful only when economic and political stability is restored. Conflict sensitive development intervention in post-conflict situation is one of the best means to restore economic stability. Development intervention can be both source of tension or stability depending upon the approaches and strategies employed in operation. Hence, making development conflict sensitive is a prime condition to achieve economic recovery and stability in the post-conflict situation. Reorienting development policies, strategies, programmes in meeting post-conflict challenges, creating equitable and sustainable opportunities for conflict-affected population (including former combatants) to rebuild their livelihoods and assisting to restore the rule of law make the situation better. Similarly, improving human security and achieving reconciliation, post-conflict stabilisation, transition and recovery ultimately facilitates

peace and development. Promotion of flexibility, transparency and accountability in planning, implementation and evaluation of development, concerted and collaborative efforts among I/N/GOs and local communities, balance between longer-term development goals (e.g., the achievement of MDGs, Poverty Reduction Strategic Plan) and immediate developmental need of conflict affected population, linking post-conflict development with national defence policy, foreign policy and national constitutional provisions are some of the other important issues to be dealt with in foreseeable future.

The conflict sensitive development policy at post-conflict situation needs to integrate development with DDR, which often take place in a situation characterised by insecurity and lawlessness, poor or badly functioning economies and a lack of social services and social tension. Post-conflict recovery should be one of the prime focuses at such a critical phase of peace process. Conflict sensitive development strategies must synchronise all development programmes and projects implemented by development agencies including the UN, bilateral and multi-lateral agencies and I/N/GOs to ensure smooth implementation of broader recovery and development programmes. Development programmes are unlikely to succeed without full cooperation and the firm commitment of the political and development actors within and outside state structures. Building trust and cooperation among political and development actors and general public is crucial. Strategic focus of conflict sensitive development must concentrate in these areas (Upreti 2005).

Successful development intervention in post-conflict situation should ensure basic principles of conflict sensitive development. For it to take place, existing institutional arrangement are not enough to address the wide-ranging difficulties faced by Nepalese people now. Hence, new arrangements are needed in terms of development administration and planning, resource allocation, implementation and monitoring.

Post-conflict monitoring and evaluation should focus on integrity, accountability, professionalism and corruption control in addition to regular domains of monitoring and evaluation. Adopting the principles laid in the preceding section and constant monitoring (on both process and outcomes) at national and local levels help ensure the achievement of the objective of post-conflict reconstruction and development, i.e. achieving stability and state building. However, state building is far more complicated. The development sector is only a part of it. Therefore, efforts

have to be made to strongly interlink post-conflict development plan with the broader nation building framework discussed in Chapter 2.

Post-conflict peace and stability can be achieved by getting development and state-building process right, means having strong monitoring mechanism, sincere implementation of understandings and agreements, appropriate dealing with the past and ensuring of transitional justice and rule of law, guarantee of transitional security, free and fair elections, proper facilitation of DDR, restructuring of security sector and implementation of development projects and programmes that provide direct benefits to poor and socio-economically DAGs.

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## 1. Conceptualisation

This chapter starts with the basic concepts of land-based discrimination namely, i) Power and domination, ii) Deprivation and exploitation, and iii) Discrimination and violence. These concepts are considered appropriate to explain land-based discrimination.

### 1.1 Power and domination

Power has great to do with domination. This is a concept basically used in relation to individual and small groups. Domination implies relation among major antagonist groups within a society and it is related more to structuralism (hierarchy in a society due to stratification) and functionalism (the way through which society operates). Domination belongs more to the Marxist vocabulary (Lieten and Srivastav 1999).

Domination does not operate in vacuum. Rather it is structurally embedded in the controlling position in the varied institutions of the society. By borrowing the argument of Marx, class dominance is defined in relation to the ownership of means of production and appropriation of labour surplus (ibid).

The Marxian concept of class involves the totality of relations of households to the means of production and labour processes. The delineation of rural classes or categories of agrarian classes is based on an exchange (emanating from the ownership of land or other means of production) which is rooted mainly in agricultural production, for example, the ownership of land allows the big land owning households to exercise control over land, labour and credit market. This relationship splits into the socio-political spheres.

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In Marxist ideology, autonomy of political power has not been a focus, rather political power is subservient to economic power and fundamental changes in the society are determined and caused by the economic forces and modes of production. Mode of production determines the political and social superstructure. In material life, it determines the general character of social, political and spiritual process.

In the past, feudalism was based on ownership of land, the dominant mode of production. Political power was dominated by absolute kings and feudal overlords. Wealth and position in society was derived from the land ownership and the land-owners had dominated different state structure. This dominance ensured the class characteristics of the state. Thus, the land-based discrimination principally appears in a structural sense.

Structuralists have used the terms 'structural constraints' and the 'logic of system' as the means of explaining why a system serves the interests of dominant class. Going beyond the control of an individual, it tries to show how the intentions of people and actions are influenced by the factors outside their control and tries to provide concepts which could be used to analyse system constraints. It also attempts to show how different structures contribute to the maintenance of system and eventually to the perpetuation of division of power established by the system (Joseph 2004).

In sum, political power is the means of dominance and oppression in hands of possessing class to further their class interest. Economic power has affected and subjugated the political power or, it means that, the economic power governs political power.

## **1.2 Deprivation and exploitation**

An individual, group or any community feels something inferior, frustration, anger or some sorts of deprivation when they lack some goods, resource, service or comfort. They are more likely to organise to improve their conditions or to fight against barriers of deprivation.

Similarly, Sen (1981) argues that starvation and poverty are matters of deprivation. They are explained through the use of the entitlement relation and exchange of the entitlement. This entitlement relation describes about the ownership structure which is determined by certain rules of legitimacy. There are four types of entitlement relations: trade-based, production-based, owner labor, and inheritance and transfer entitlement (ibid).

A person's ability to avoid starvation depends upon his ownership and exchange entitlement. The exchange entitlements faced by him/her rely naturally on one's position in the economic class structure as well as the mode of production. What one owns will vary with his/her class. The actual exchange entitlement differs with his ownership position. But even in the same ownership position, the exchange entitlement is different depending upon the available economic prospects. This depends on the modes of production and one's position in terms of production relation. For example, while a peasant differs from a landless labourer in terms of ownership (a peasant owns land, a labourer does not), a landless share-cropper differs from a landless labourer not in respective ownership, but in the way one can use the resource. Landless labourers are employed in exchange for a wage whereas a share-cropper cultivates and owns some portions of the produce. Thus, starvation is a result of inability to establish entitlement to enough food (ibid).

Relative deprivation is characterised by the condition and feeling of deprivation. It is an objective sense to describe situation where people possess less desire of attributes, i.e. assets, income, power than do others. Feeling of deprivation cannot be independent of the condition of deprivation. Indeed, there is irreducible core of absolute deprivation in the idea of poverty which translates the report of starvation, malnutrition and visible hardship into the diagnosis of poverty without having to ascertain first the relative pictures.

On the one hand, Sen (1997) describes capability deprivation by borrowing Adam Smith's concept 'inability to interact freely with others, or inability to appear in public without shame - more generally taking part in the life of the community, is an important deprivation in itself '. On the other hand, being excluded from social relations can lead to other deprivation as well, thereby further limiting living opportunities. For example, no opportunity for employment or no ways of receiving credit may lead to economic impoverishment that may, in turn, lead to other deprivation (undernourishment and homelessness). Such social exclusion can, thus, be constitutively a part of capability deprivation as well as instrumentally a cause of diverse capability failures.

Being excluded can sometimes be in itself a deprivation. This can be of intrinsic importance of its own. For example, not being able to relate to others and to take in the life of community can directly improve person's life. It is a loss on its own, in addition to whatever further deprivation it may indirectly generate. This is a case of constitutive relevance of social exclusion.

Landlessness is similarly an instrumental deprivation. A family without land in a peasant society may be deeply handicapped. In a peasant society, of course, it gives the age-old value system. Landlessness can also be constitutive in the world value system. A family's special relation with its land is there, i.e., 'to be without land may seem like being without a limb of one's own'. But whether or not a family attaches direct value to its 'own land', landlessness can also help generate economic and social deprivation. Indeed, alienation of land has been appropriately enough a several consequences.

### **1.3 Discrimination and violence**

Simply, discrimination implies the translation of prejudices and stereotypes into practices. The prejudices and stereotypes are attitudes or state of mental being whereas discrimination refers to the act or the unequal treatment of people because of the membership of the concerned group (Thompson and Hickey 1994). There are different bases of discrimination such as gender, caste, race, ethnicity, age, geography etc. Despite various bases, the root cause is an individual's wish to maintain his or her hegemony over others based on the prejudices and stereotypes. Similarly, land-based discrimination (also termed as class-based discrimination) is basically structural. The land holding or land distribution pattern in Nepal is unequal and it has resulted into various agrarian classes. It means that there is differential access to principal means of production (especially land) in an agrarian society like Nepal. Thus, access to land determines a pattern of production relation. Then the social relation of this 'production and reproduction' appears either in the form of feudal or semi-feudal relations and respective exploitation. These domination and discrimination can be observed in the forms of violence to a varied degree and intensity.

According to Galtung (1996), there are three types of violence: i) Direct violence ii) Structural violence and iii) Cultural violence. Additionally, systematic violence is also an important category in the case of land issues. It occurs one after another following the determined course of action. Sometimes, it possesses characteristics of these three in same case as syndrome.

Direct violence appears in individual, social and world space, intended to harm or hurt (at least with a will to harm). It can be divided into verbal, physical and violence harming over time. Structural violence is defined as building into personal, social and world spaces. It is indirect, invisible

and unintended. This sort of violence has to do with politics, repression, economy and marginalisation. There is vertical as well as horizontal structural violence. The vertical structural violence is repressive (political power), exploitative (economic power) and alienated (cultural power). But the horizontal structural violence keeps the people who want to live together apart, and does so to the people who want to live apart together. Cultural violence serves to legitimise direct and structural violence motivating actors to commit direct violence or to omit counteracting structural violence. It is both intended and unintended. This type of violence is divided on the bases of religion, law, ideology, language, art, empirical formal science and cosmology. The carriers of cultural violence are schools, universities and media. Further, systematic violence refers to the violence that occurred in successive stage one after another. It appears in syndrome and ultimately leads to severe results. It is indirect too.

## **2. Agrarian society and Marxism**

Agrarian society simply refers to the pattern and interaction of people engaged in land and agriculture. In general, structure of agrarian society, tenurial condition, production and distribution processes, role of groups in the agrarian process and rural economic interactions are the basic components of an agrarian society. An agrarian society is also understood as a way, and the mutual interaction and understanding of use, control and pattern of land ownership. In this chapter, land is put at focus of the agrarian society.

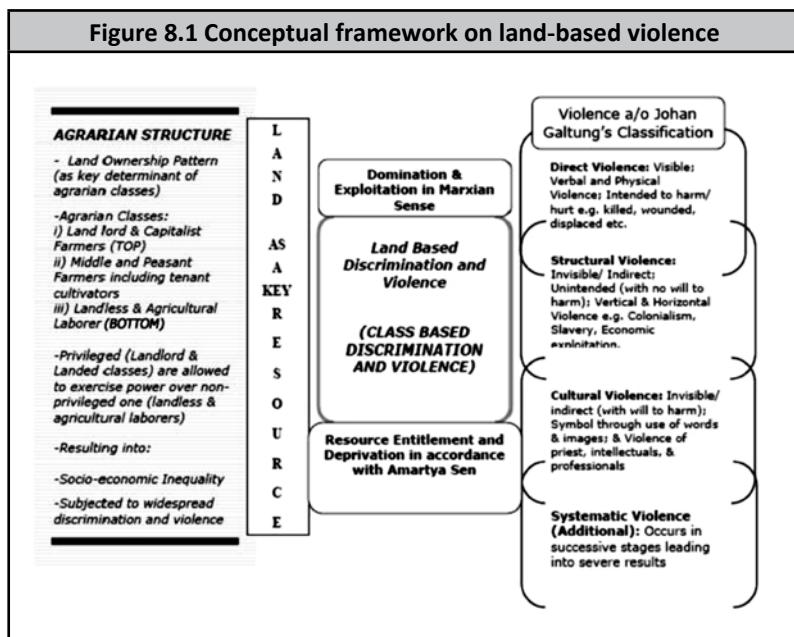
Land is the most important input in production enterprise. Size of land holding owned by a household determines its economic and social position in society. Historically, a person's affluence or poverty solely depends upon his/her control over land. It also has been one of the safest forms of saving and insurance against financial crisis.

Referring to the ownership of land, tenurial structure and structural matrix, the agrarian structure of production relation has been explained in three tier systems i) Landlord and capitalist farmers ii) Middle and peasants farmer including tenant cultivators and iii) Agricultural labors. Further classification was done into six categories by Verma (1993a). They are i) Feudal landlords ii) Rural rich (Rich farmers, Capitalist farmers and Traditional landlords) iii) Rich Peasants iv) Middle Peasants v) Poor Peasants and vi) Landless agricultural laborers.

Summing up, resource entitlement (for e.g. land) provides a sense of power in agrarian setting because land ownership pattern determines

agrarian structure in a society. Agrarian structure consists of various classes ranging from the big land owners to the landless laborers. There is a relationship among classes of persons involved in agriculture and landed interests and other social groups or agrarian classes that occupy central positions in the society in relation to land control and its use. It is necessarily an economic relationship and has to do with the parties' interests in a particular piece of land. There is a social relation of production and reproduction. Positive and negative implication of power appears in an agrarian society. In this regards, land discrimination refers to class-based discrimination that originates from class structure determined by land holding. It has also negative implication of class structure which appears in the forms of violence. Employing classification of violence as described by Galtung (1996), land-based violence are of four types, namely direct violence, structural violence, cultural violence and systematic violence as mentioned earlier. These sorts of prejudices and stereotypes come from class structure which is determined by land holding.

**Figure 8.1 Conceptual framework on land-based violence**



Source: Adapted by the authors based on the theoretical concepts of Marx, Sen and Galtung

### 3. Land-based discrimination and violence

As land possesses material, symbolic and emotional value, it measures a broader socioeconomic status of an individual in an agrarian society. It is also a principal means of production. As a result, there are different modes of production in the form of domination, exploitation and discrimination in society. These are typical characteristics of land-based feudal and semi-feudal institutions. It determines the super structure of a society. It is because of the inequitable and skewed distribution of land. Accordingly, different types of power relation (master-serf or patron-client) operate in society. By virtues of possession of these values, all political forces (whether left or right) act on land issues and accordingly gain popularity or come into power by raising these issues and putting slogan such as 'land to the tillers'. These are becoming merely the means for political activism. Though it was attempted in different temporal dimensions, no such forces have shown their political desire or will for effective implementation of land reform yet. Due to the efforts of land reform in 1964, only 1.5 per cent (i.e. 29,124 ha) of total arable land has been distributed (Zaman 1973; CBS 2006).

Though land issues rarely seem to be the cause of violence, these might cause outbreak of conflict. Under the influence of political activists, it can therefore easily be turned into a tangible object of dispute, possibly leading into a violent conflict. In a situation characterised by a lack of opportunities rather than by poverty or inequality per se, dispossessed or frustrated groups are all the more likely to be vulnerable to such maneuvering. It is more so especially when it leads to believe that there cannot be any negotiated solution to their plight. Thus, land eventually comes to play a central role as it increases the economic profitability of violence.<sup>3</sup> In the absence of efficient livelihood sources other than related to land, land-related conflict may thus emerge not only in rural, but also in urban and peri-urban areas. Various forms of discrimination, exploitation and domination still exist in rural (agrarian) society in varied forms, degree and intensity. Therefore, borrowing from John Galtung's (Galtung, 1996) concept of violence explained earlier under conceptual section, domain of land-based discrimination or violence has been listed in the tabular forms. Three types of violence given by Galtung are i) Direct violence, ii) Structural violence and iii) Cultural violence. Additionally, systematic violence has been also added in that table.

<sup>3</sup> [www.oecd.org/dataoecd/29/50/29740608.pdf](http://www.oecd.org/dataoecd/29/50/29740608.pdf); retrieved on 12 May, 2010.

The following section documents some conceptual aspects related with Haliya, Kamaiya, Haruwa and Charuwa systems. Aforesaid land-based violence and discrimination cannot be observed in distinct category. Rather, they are embedded in these systems intrinsically.

### **3.1 Haliya system**

Haliya simply means 'one who ploughs' but it is understood to have a broader sense as an agricultural labourer who works on land other than his own. Haliya is associated closely with a system of debt bonded in caste based communities which is present in the western hills of Nepal.

Socio-political spheres of Haliya are controlled by the landlords due to the debt bondage. As all of the land owners do not possess large farms, they cannot provide employment for a whole year. During off-season, Haliyas are not needed in the field. So, they go out in search of work to city centres and sometimes to the neighboring country India. They have to comeback when landlords want them to return. Hence, seasonal migration as one of livelihood option is a peculiar characteristic of Haliya system.

### **3.2 Domestic slavery**

There is a practice of domestic slavery in eastern Terai of Nepal. Such slaves do not own land and houses at all. Instead, they sleep in the stable and under eaves of landlord's house. They are required to perform domestic as well as field works. In this situation, landlords virtually control every aspect of their lives, from where they sleep to what they eat. The following instances give some of the pictures of domestic slavery in Nepal.

#### **3.2.1 Kamaiya system**

Generally, Kamaiya system is found to be practised in some of the western districts of Nepal. Characterised by the system of bonded labourers and serfdom, Kamaiyas are usually paid in kind and bonded by debt. There is compulsion for them to stay on the land all the year round. A verbal contract is traditionally made with the landlord during the festival of Maghi in mid-January in each year.

#### **3.2.2 Haruwa and Charuwa system**

The major issues and exploitation like wage discrimination, debt bondage, social injustice and mental harassment by the landlords and masters are very similar to Haliya and Kamiaya system. Haruwa and Charuwa systems are the rituals of hiring people under certain terms and conditions for

fixed period. Haruwas are for ploughing and Charuwas are for grazing cattle. Basically, these systems originate from landlessness and poverty. They enter into contract either annually or as per negotiation.

#### **4. Land and state governance**

A study conducted by Meyer and Chalise (1999) has mentioned that economic class of person, in Nepalese context, is loaded with a connotation of relativity, as value of land property in different districts of Nepal. The result was that an overwhelming majority of 76.7 per cent (out of 60) comes from middle class followed by 13.3 per cent from the higher and 10 per cent from the lower class respectively in national council. Similarly, of the then 205 members of the House of Representatives, a majority of 56.6 per cent fall in middle class category while the remaining 35.1 per cent and 8.3 per cent of the members fall in the higher and lower economic strata respectively. The data, at the parliamentary level, depicts that most of the members, that constitutes 61.1 per cent, have a middle economic class background among the general populace at the constituency. The higher economic backgrounds enjoy as much as 30 per cent and the lower economic status registers as less as 8.7 per cent strength in the bicameral legislature.

Blake et al. (2000) also state that deprivation and poverty are the products of complex structure of relationship between deprived households (majority of peasant community) and more privileged and powerful minority. This sort of Nepal's crisis reflects structural underdevelopment of political economy which is persistent and chronic. It results into the production and reproduction of the deprivation and poverty. That is why people are struggling against such a deprivation by securing private means of production and challenging patron-client relationship for their socioeconomic security.

#### **5. Consequences of discrimination**

Allport (1954) mentions five stages to describe hostility action in successive stages that originate from the prejudices, beliefs and attitudes i) antilocutions, ii) avoidance, iii) discrimination, iv) physical attack, and v) extermination. After discrimination, two stages such as physical attack and extermination come and they promote violence. The physical attack brings the loss of property and life. Similarly, extermination is the expression of extreme form of hostility and violence leading to a total destruction and

eradication of opponent party. For example, the Germans under Hitler tried to exterminate the Jews. Similarly, during 1947-48 before and after the partition of India, the Hindus and the Muslims wanted to exterminate each other (ibid). This is the most violent expression of hostility. Thus, it is clear that prejudice against a group or agent may lead logically from avoidance and antilocution to physical attack and finally to extermination. If this trend is not broken or not restrained, the exploited and/or deprived groups will follow this trend against the dominant group.

This section thus introduces with the concept of discrimination and dominance which originates from the interplay of means and modes of production (borrowed from Marxian framework) in an agrarian society. Class exploitation is liable to be regarded as one forms of domination over several others (for e.g. men over women, one brother over others etc). On the other side, it is precisely the centrality of exploitation in class domination - implying the existence of opposing (antagonistic) material interest stemming from unequal control over the means of production.

Class domination goes beyond material exploitation. It includes the exercise of political power as well as ideological domination. Ideological domination can be interpreted as a control over system of values underlying relationship between exploiters and exploited. It seems more meaningful to examine the complex of material, political and ideological conditions that enable one class to control the other, rather than to establish whether these conditions constitute an aspect of one or the other of the concepts mentioned above.

Generally, discrimination starts from prejudices and stereotypes (the state of mental being) and it is visible when it is in practices. As it advances, it can also be observed in violent forms like war, attacks and insurgency. In this regard, the trend of exploitation in agrarian society might create hostile attitude and action between exploiters and exploited groups. These sorts of tension, violence and relations are against national integration.

## **6. Discrimination and disintegration**

The rural society in Nepal is divided. One of the causes of division is the existing land holding structure. It has also created superstructure of the society in stratified forms and power operates accordingly. All the lower economic class people are always at the bottom line and these marginalised and the weakest section of people are always not at the decision-making level. Though there are a lot of development interventions, all these have

tended to reinforce power of land holding people. The deprived sections of the population have negative feeling towards the state mechanism and hence have kept in their hearts a high degree of frustration, feeling of indifference and discrimination. This feeling, to a large extent, had fuelled the last decade's armed insurgency.

Among the various agrarian classes, the marginalised sections of people are laborers. In fact, these laborers are trapped or bonded in different degrees and intensity. In contrast, privileged minority is becoming richer and richer at the cost of labourers and efforts of the lower economic classes. Thus, in one way or the other, socioeconomic inequality is increasing day by day, resulting into a state of injustice and disparity in Nepal.

If discrimination continues, people will loose psychological feeling of being a citizen. They will hold negative feelings towards their nation. There will be no alternative but to adopt different forms of violent activities to escape from different forms of insecurity emerging thereafter. This scenario will be a fertile ground even for terrorism. Different strategic and vested interest could take place in the forms of violence.

If one group or class continues to exploit others, there will be a tendency to get rid of this. Different forms of domination or exploitation makes exploited group organise against others. They ally with different resources or groups to question the legitimacy. Such a trend tends to solidify to overthrow exploitative patterns or relations. During this period, different attacks and counterattacks will appear in the forms of violence.

Despite aforesaid land-based discrimination and desperate consequences, it seems that the key stakeholders have not yet realised it as an important dimension of Nepal's overall peace process. But land reform is clearly mentioned in CPA 2006 so as to end the feudalistic land holding pattern and land-based feudal institutions, to guarantee land entitlement to landless, Haliya, Haruwa, Charuwa, Kamaiya, bonded labourer etc., and to ensure social justice to all the land victims. It is even well-reflected in the Interim Constitution-2007 and Interim Plan-2007 aiming to end 'feudalistic land ownership system'. Redistributive land reform is placed as a prime concern even in the government agendas.

Though land reform includes various elements in a package, those elements of are dealt separately in our practice. For example, the return of property seized during decades' insurgency is a centre stage of current peace process [for e.g., the nine-point understanding of November 2009 between Nepali Congress and UCPN (Maoist)]. It is used as a bargaining

tool to gain political leverage in during the negotiation. If the influential members of political parties have been significantly affected, there is the possibility of striking a deal. In many cases, properties seized during the conflict have been 'redistributed' to the 'landless'. Any forceful eviction also has the potential to erupt in violence which could easily escalate and destabilise peace process as happened in Dudejhari, Kailali in late 2009. Consequently, there is increasing acknowledgement that the restitution of property should be linked with a wider solution of land reform.

Land reform commission formed in 2008 could not complete its work because of change in government. A new commission formed in 2009 ignored the tasks completed by the previous commission. Though the second Land Reform Commission (formed in 2009) submitted its report, it is politically debatable because the UCPN (Maoist), the largest party in the Constituent Assembly, is not represented there. It is clear that land reform is an area of contested political interest. A land reform policy designed to reduce poverty and promote social justice could look very different in practice from one designed to increase investment in land and agricultural production, or one designed to conserve natural resources. In practice, promoting structural change in an area like this needs an approach that goes beyond what any government is able to deliver on their own. There is a need to build consensus among national stakeholders including political parties. Such a consensus could then pave the way for an effective designing of a new land policy. So far, reaching this consensus in Nepal has not been possible in the case of land reform.

## **7. Equity and justice**

Nepal is characterised by its diversity in terms of class, caste, ethnicity, gender and geography. The distance or gap created and maintained by these dimensions are acting as obstacles or negative forces. This diversity (mutual respect and relationships) needs to be addressed properly. If any element or aspect of national integration is not addressed or some alternation occurred in any one element, the whole system might be ruined. It means that state building cannot be achieved at all, until and unless there is equal footing in the all dimensions of national concern. The economic class dimension is one of the prominent issues of state building. There have been observable changes occurred temporally in gender, caste, ethnicity and geographical dimensions. But, class dimension, i.e. production relation, has not changed for a long time despite various attempts on land reform. Hence, there is still a tendency of continuation

of feudal and historical legacies that perpetuated economic inequalities and created gaps between the poor and the rich. Therefore following points have to be taken into account to attain meaningful state building:

- a) Constitutional guarantee of access to and ownership of land for excluded groups: National statistics reveal that the majority of excluded groups in terms of caste, class and ethnicity are landless. Those communities have been facing various kinds of discrimination and violence. The new constitution has to guarantee land entitlement to the excluded community because it determines class status in an agrarian society.
- b) Addressing poverty and injustices through agrarian reform: Other than trade and commerce, land is one of the productive assets in an agrarian society. Thus, land reform or agrarian reform is the precursor to foster economic prosperity of a household as well as of a nation. Hence, it is one of the proven measures to alleviate poverty and injustices in such societies.
- c) Integrated land use planning: Scattered ways of dealing with land issue is creating ambiguities and problem for land reform. It is because of different perspectives for land use. All these perspectives should negotiate and compromise for optimal utilisation of land and it will foster economic growth as well as ecological balance of the nation. It is only possible through integrated land use planning.
- d) Scientific and computerised land record system: Interim Constitution 2007 has a provision of policy to implement scientific land reform and Three Year Interim Plan (2007) has also positioned land reform in economic sector. It mentions that the usage and productivity of land will be increased through land reform. In this scientific context, land record system should be precise, valid and accurate. In their absence, the objective of scientific land reform will not be attained and consequently intended socioeconomic reform will also not be achieved.
- e) Defining scientific land reform and its process/mechanism: Though scientific land reform is well mentioned in the Interim Constitution and plans, it has not yet been defined properly. Thus, its meaning, process and mechanisms have to be clearly mentioned.

- f) Ending feudal land ownership: Historical feudal legacies are maintained for centuries. Thus inequitable ownership is a barrier for agricultural development which is a dominant sub-sector of the national economy. Therefore, all these feudal land ownership should be abolished.
- g) Property Commission or High Level Commission for Land Reform: There are different debates for land reform from the very beginning with their own theoretical and valid arguments. Therefore, it should not be done on an ad hoc basis due to its positive and negative consequences. Hence, High level Commission for land reform with full-fledged authority and power should be formed for its intensive and rigorous work prior to the land reform and its effective implementation. This commission with full-fledged power should provide and ensure social justice to the landless people during and after the reform.
- h) Ensuring effective implementation: Land reform brings various consequences even during the implementation period. Various types of conspiracy, blocking and inhibitions might be observed and these also act as barriers of land reform at macro, meso and micro level. Further, it should focus on the principle of 'land to the tillers'.
- i) Provision for the post-reform measures: Even after the reform, there is a tendency of regaining ownership right from tillers to landlords due to the existing feudal system or debts. If such trends reappear, land reform cannot transform the society socio-economically. Therefore, post-reform measures have to be simultaneously launched to achieve the true objective of the reform.

Land reform by itself cannot bring changes or transform the society. Rather it will create a broader base for socioeconomic transformation. It will also enhance the access on the principal means of production (land) and change the modes of production and production relations. Hence, it gives a sense of socioeconomic security, mutual relationship among various groups and equal footing in the society. Once these realisations occur, an individual will feel as a responsible citizen of nation does. In this way, national integration and state building can be promoted.

## **8. Conclusion**

Land is one of the key factors to determine power structure, especially in an agrarian structure, of a society. Unequal distribution of land is the basis for differential access to resource (land) or principal means of production. It creates different agrarian classes in hierarchy. This is manifested in various forms such as discrimination, dominance, exploitation and violence.

In spite of the past development interventions, political changes and land reform programmes, the feudal and historical legacies in production relation have not changed much. As a result, this has helped in perpetuating the socioeconomic inequalities in every spheres of Nepalese society resulting into a fertile ground for conflict and violence.

On the one hand, a privileged minority group or landed aristocracy has always been exploiting landless people and are becoming richer at the cost of the helpless ones. On the other, these landed ruling class are everywhere in state governance. Land-based agenda has not been yet a central agenda of the state, and same production relations have remained as it used to be in the past. In such a reality, those who are exploited and discriminated can never think, feel or realise themselves as a responsible citizen of the nation. Hence, guaranteeing the access of land to the majority of the poor people is one of the necessary conditions to attain meaningful state building.

Scientific land reform can help create a broader basis for socioeconomic transformation in general, and foster the pace of reducing land-based dominance, discrimination and exploitation in particular. Therefore, aforesaid specific measures should be adopted to attain efficiency (increasing production per unit area) and equity (special focus on the landless and disadvantaged people) of land reform. It should be directed towards the economic prosperity of citizens as well as peace and sustainable development of the nation. Hence, national integration and state building should be viewed from the window of the class based perspectives.

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## The forgotten forces: The role of migrants in post- conflict state building

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### 1. Introduction

Migration has always been an important socio-economic aspect of Nepali life. Nepalese have their names as 'Lahures'<sup>3</sup> describing their migration for jobs in British and Indian army in previous times. They had been significant to the Nepalese society. This significance was then accorded basically due to their economic contribution to enhance livelihoods of their families back home. It was also due to their roles as agents who would introduce Nepal as the land of 'brave warriors' to the outside world. Little was noticed on what besides these obvious factors the migrants could do to the state.

Recently, however, the aforementioned fact has become very visible - not much through research but more through general observation. If we observe specific communities such as of Dharan and Pokhara, where there are concentrations of Lahure family, we can see that they are very well-structured and managed. The physical make-up (house and road structures, planning of settlements along such infrastructures) and management (for example, sewage and garbage, cleaning roads, streets light facilities) of these community, as any observer can see, is influenced by the style of a more developed western world. So are their patterns of daily lives. This shows that it is not only money that flows back to the home community, but whole new ideas, culture and attitude towards daily life practices do so. As Wimmer and Schiller (2002) write, perhaps it did not seem so evident 'when the sun was at its zenith' - in the promises for a similar development given during the pre-conflict phases or in the

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<sup>3</sup> Decades ago, many Nepali youths did go to Lahore, a city now situated in Pakistan, to seek abroad jobs. One who did go there to earn was known as 'Lahure'. Thereafter, the term 'Lahure' in Nepali denotes especially to those persons recruited in foreign army (eds.).

heat of conflict that followed. However, when we are looking at potential resources and ideas for what Nepal should be in a new form, these differences are outstanding.

The Maoist conflict has made vast changes to the then existing situations. Nepal today is at a transitional phase in its recovery from a decade long armed conflict with the Maoist (Maoist insurgency hereafter) and several other smaller conflicts which arose as the ripple effects of this. The CPA and the succeeding People's Movement of April 2006 have envisioned a different Nepal. These procedures laid the foundation of state-building. The state-building agenda entails a massive restructuring in all fields, some of which are economy, governance, geography, social and political status and infrastructure and modes of development (see Chapter 7 of this same book for details on reconstruction and development). This new agenda needs investment of massive economic and human resources. Migrants' contribution was not much realised until the start of the conflict. During conflict their economic contribution was realised only in economic terms and hasty and ad-hoc efforts were made to use them. However, as Wimmer and Schiller (2002, pp 302) put it, "... in the evening- shadows grow and allow us to perceive the environment in a clearer contours"- the post-conflict phase and state-building agenda have given environment to evaluate their contribution and time and possibilities to make a planned use of resources inherent in them.

Along with the above-mentioned change in the status of Nepal, the patterns of migration have also altered. The recent trend of migration unlike and along the Lahures is the migration of labour forces in larger numbers to the Middle East, East Asian and SAARC countries. This has brought forward a new group of migrants and has highlighted them as 'New Lahures' (Seddon et al. 2001). The latest estimate shows that a total of 266,666 Nepalese got approval to go to work abroad as labourers in 2008 alone - a rise by 34,038 over the previous year. This accounts only for documented figures. There are several examples which show that a lot of Nepali migration is undocumented. For example, Nepal government has listed only 105 countries where the government gives permission to go for work. However, there are ample evidences from countries like Iraq that Nepali migrants go for work beyond those permitted countries. Similarly, the figure does not take into account Nepalese migrants in India while it is estimated that there are 2.5 million Nepalese in India (NIDS 2009).

Such labour migrants are perceived to be the backbone of the Nepali economy – especially since the Maoist conflict in 1999. Remittance was said to be the major contributor to the decrease in poverty by 10.3 per cent from the start of the country's ninth plan in 1997 to the end of it. According to the latest estimate, there was a rise of NRs 81,407 million in remittance in 2008 over the previous year when remittance amounted to NRs 92,437 million (NIDS 2009). The impact is evident also in more micro level. Remittance receiving households increased from 23.4 per cent in 1996 to 31.9 per cent in 2003/04 and remittance constituted 23 per cent of the income of the receiving household by 2003/04 (CBS 2004).

Besides this trend of labour migration where 75 per cent are unskilled and 25 per cent are semi-skilled (NIDS 2009), migration of skilled people as students and professionals is on the rise. The number of students migrants recorded by the ministry of education was 21,035 for 2007-2008 - the latest available estimate. Out of the most chosen destination among 47 countries, Australia was chosen by a majority of 36 per cent, the United Kingdom (UK) by 14 per cent and USA by 26 per cent (NIDS 2009).

Apart from these temporary and semi-permanent migrants, about two million Nepalese are organised under the Non-Resident Nepali Associations. Its branches in 40 countries host foreign citizens of Nepali origin, long-term foreign residents as well as temporary migrant workers. On their last general assembly in Nepal, they further urged the government to focus more on capitalising on the skills acquired by Nepalese while staying abroad. This was a further move forward from their 'already old' agenda of economic support where they had promised for economic schemes of various types from small level like a tourism promotion programme 'send home a friend' and other philanthropic projects to large scale investment like '100 Million US dollar fund'.

Whatever their forms are, the policies and development modules can incorporate the migrants as a potential group for their human and economic resources. However, as said earlier, the conflict and the immediate post-conflict phase have tried to use migration in an ad-hoc and hasty way. When the potential of the migrants came to be visible, the state is now encouraging full-fledged migration without analysing its potential usefulness and harms to state-building efforts. This could be a major fault. It is therefore necessary to study examples from abroad and be aware about the migration-development nexus. Some of them are analysed here.

## **2. The debate: Optimistic and pessimistic views on migration**

Debates on whether migration is useful to the home country are elusive. The 'pessimistic' side of the discourse sees that possible migrants are the brightest and the best of the country's people. Mitchell (2006) argues that up to 50 per cent of the developing country's scientists and engineers work in research and development in the industrialised world. They are of the opinion that thus remittance alone cannot substitute for the drain of such people. Even when the motive of migration is for economic prosperity, poverty reducing impact of remittance is short-term. Moreover, they argue that remittance has never brought development. Arguments can be found that there is no single country that has developed due to remittance. This paradigm of thought suggests that the migration euphoria carries dangers as they may be seen as a substitute for policies that bring development. Besides this, when remittance becomes a significant source of external finance of a country, it exposes the country to be dependent in the sudden changes in economic fortunes of other nations over which the sending country has little control over (Brusle 2008).

The discourse also presents that migration has a negative impact on individual migrants. Migrants are often said to experience deskilling due to barriers like language, culture and space. They are thus often found to land in jobs that are demeaning and dangerous when they move out of their home countries (Ellerman 2005). It is argued that migration, even when voluntary, is most often forced by a need to secure a decent livelihood. Under the circumstances, the migrants' physical needs for safety, security as well as their psycho-social needs for autonomy and control over their lives, for feelings of competence and efficacy and relatedness to each other go unmet. The source of fulfilment of such psychosocial needs comes from family and community networks, productive and challenging working life and economic, social and political freedom to make choice and live as one chooses (Leaning and Arie 2001). Under the condition of migration and its various phases, these needs go unfulfilled. Mitchell (2006) argues that this is the reason why there is an above average rate of suicide in the immigrant population.

On the other side of the discourse is an optimistic figure of outcome of migration. The proponents are of the opinion that all the logic that migrants fare very poorly after migration is an overestimation of the fact (UNDP 2009). This positive perspective on migration takes that knowledge and skill are not static but rather cumulative in nature and thus the whole migration process enhances the knowledge and skill of the migrants (Brinkerhoff 2005). Sometimes such evidences are favoured by personal

feelings of the migrants. Answering to disgruntled interviewees, the Italy-born astrophysicist and Nobel Laureate Ricardo Giacconi said, “Scientists are like painters. Michael Angelo became a great artist because he had been given a wall to paint. The US gave me my wall” (ibid, p 15). A good number of Nepali migrants who are working in India, other professional migrants and students who go for study in the US and the European countries have a similar feeling to share. Nepal is in a fragile transitional phase at the moment. There is insecurity in social, economic and other environments. Uncertainty exists in regular provision of services like education and opportunities for jobs and other personal development. So, migration in the present situation of Nepal can be looked as a logical decision on part of the migrants who share similar feelings.

Akin to the rest arguments, the Human Development Report (HDR) (UNDP 2009) also puts forth that the majority of migrants far from being victims tend to be successful. The report shows that outcomes in all aspects of Human Development not only income but also education and health is for the most part positive. Their argument is that migration allows individual migrants to have access to better paying jobs and in the face that distribution of opportunity is extremely unequal. Similarly, mobility can facilitate access to ideas, knowledge and resources that compliment or enhance their progress. Thus, migration is considered to be a vital strategy for households and family seeking to diversify and improve their livelihoods especially in developing countries (Adhikari and Gurung 2009). UNDP (2009) shows that the poorest ones have the most to gain from moving. For example, it depicts that migrants from the countries with low HDI saw fifteen-fold increase in income, a doubling in education enrolment rate (from 47% to 95%) and sixteen-fold reduction in child mortality (from 112 to seven deaths per 1000 live births) after they migrated to the country of higher HDI.

Besides individual and family level, these discourses also show that migration is beneficial in the more meso country level. Brackings (2003) shows that remittances from successful migrants feed into the social and economic structure: the deficit within which influences the decision of the migrants to migrate in the first place. Moreover, her research shows that remittance flows may also contribute to a liberalised economic space as remittance ensures the poor against the ‘kleptocratic behaviour’ of the political office holders. Such behaviour of the state parties is considered to be one of the reasons for underdevelopment in Nepal. This insulation against kleptocratic behaviour could provide the locals with the capacity to make state service delivery more responsible and transparent. Enabling the efficient delivery of state services is one of the components of state-building.

In terms of economic benefit it has been shown that individuals from a developing country with a moderate level of formal education, by migration, for example to the US, can reap an annual income gain of approximately US\$ 10,000- roughly double the average level of per capita income in his home country (UNDP 2009). Besides this, remittances are considered to be the least volatile source of foreign exchange earnings for developing countries (Martin and Albella 2009).

From the debates on both sides, we can now see that we have come to a new paradigm of migration discourse where migration-development nexus is becoming central to discussion. Migration and its management are reflecting more and more in the development paradigm, be it as new agendas recognised by the leading development agencies like the UN and the SDC or in the development strategies like the Poverty Reduction Strategies (PRS), other plans and initiatives of individual countries. Moreover developing countries like Phillipines, Mexico, Zimbabwe, Bangladesh, India which also make up the majority of sending countries are viewing their migrants as potentials of resources and making strategies to tap the potential inherent there.

The state-building agenda definitely needs economic and human resources. Even when we look at the migrants in light of what they contribute economically, their remittance forms the second largest economic activity for Nepal. This is an un-ignorable source if we juxtapose it to the fund we need even for restoring the damaged infrastructure which is estimated to amount to 3.8 billion rupees (US\$ 53 million).

Besides, migrants as human capitals can be made to contribute in the state-building process. It will be discussed in coming parts of the chapter. We find that before discussing on migrants' potential as contributors, it is important to show why the phenomenon of migration itself should be taken into account while envisioning strategies, policies and programmes of the state-building process.

### **3. Migration-development dimension: Facing the reality of Nepal**

Migration is going to be continued as a fact of daily life. More so until at least the stabilisation phase<sup>4</sup> of the post-conflict state building process - if ever it is reached timely.

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<sup>4</sup> For detailed discussion on phases of state building, see Chapter 2 of this book.

Data from DoFE (2008) have shown that the number of people going out for foreign employment increased from 183,929 in 2004-05 to 193,803 in 2006-07. According to the Department of Foreign Employment, on average, 17,500 people go to work abroad as labour forces every month. This does not however include migration to India, non-registered migration, student migration and other non-labour migration. In the month of April-May, even in these formally registered labour migrations, the number reaches to 26,704 per month. Similar increase is also shown by data of Labour and Foreign Employment Promotion Board. Brusle (2008) notes that even after the country entering into the peace process in 2006, from July 2007 to January 2008, there was a 25 per cent increase in the number of Nepalese coming to Qatar. Nepalese, when they numbered 266,000 in February 2008, were about to become the largest expatriate community in Qatar. These figures show that despite the rhetoric of peace and with its hope for prosperity, migration of able-bodied people from Nepal cannot be stopped completely.

Besides, the trend of migration for other purposes is growing. According to the Ministry of Education, an estimated 20,000 students leave the country annually for education. Similarly, the Non-Resident Nepali (NRN) people are becoming very visible in the Nepalese world of migrants. They are looked up to have both financial and human potentials. Estimates show that there are 6-7 million Nepalese who are scattered around different countries of the world (Gautam 2006). Among them, an estimated two million Nepalese in 45 different countries has come under a common umbrella of Non-Resident Nepali Association (NRNA) since 2005. Many more remain to be registered. They have 38 national chapters all over the world. As their objective shows, they are getting together and working proactively to get involved in the welfare of Nepal.

Some outcomes are already visible. We have seen the active role of the NRN during the crisis period of Nepal. During intense conflict, when both national and international media were full of horror stories about the dangers of travelling to Nepal, the NRN have come together to Nepal from all parts of the world and carried out three series of global NRN conferences on how they could play a role in the wellbeing of this country. They wanted to give message in their individual country that Nepal, despite conflict, was not as bad as it was portrayed in the media and international travel advisories.

The Kathmandu Declaration<sup>5</sup> issued by the third NRN Global Conference on 17<sup>th</sup> October, 2007 and recently the declaration of the regional conference in Bangkok in November 2008 show their commitment towards helping Nepal to achieve long-term peace and development. For economic assistance, it has ensured to promote tourism and establish welfare funds for foreign employment. It is in the process of generating US\$ 100 millions to invest in Nepal. Besides financial assistance, it has other social interests like in helping resolution of various problems encountered by Nepalese going abroad for foreign employment, promoting export of Nepali products under economic diplomacy, to name a few. It has the policy that each chapter would initiate at least one philanthropic project in Nepal.

All the presented cases show that the rate of migration is on rise and migrants are becoming significant part of our socio-economic life, be as remitters, as absent human resources or due to their multi-local livelihoods, networks, interests and connections back home. At present state of global financial crisis, expected to cause migrants to return to their home country, debates on whether to encourage or discourage migration is taking place. Remittances are considered to be a major mainstay of the economy but 'brain drain', 'muscle drain' and loss of human resources as a whole is regarded to be a threat. Remittances, which is now said to be more than the official foreign aid are highlighted to be an important source to the attainment of the MDGs and the country's Interim Plan while migrants' contribution to state-building through the new knowledge and skills, their new perspectives on daily practices back home and other contributions, that they may have possibly give, remain largely ignored. The following facts show that migration will continue and cannot be ignored in the state-building process.

#### **4. Why to expect migration in post-conflict phase**

A border point survey conducted by World Food Programme and Nepal Development Research Institute shows that 84.3 per cent of the migrants (here who migrated to India) intend to migrate again in near future and one per cent is not sure (WFP 2008). A recent study on Nepali migration to India (Adhikari and Gurung 2009) also pointed out that the main incentive for migration is still the enhancement of livelihoods and consumption is central to migration.

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<sup>5</sup> See [www.nrn.org.np/news\\_detail.php?newsid=154](http://www.nrn.org.np/news_detail.php?newsid=154) for detail.

The socio-economic situation that produced migration in the first place is still prevalent. Despite the peace agreement, the benchmark to peace, and following the election to the CA focus to the forward the country towards recovery, situations still remain such that the country is struggling towards restoration of a sound political and economic situation. If we look at the voice of migrants, then as raised by Giacconi (Brinkerhoff 2005), we will still not be able to provide sound walls to our painters in a very recent future. Thus we cannot assume that migration will pace down soon.

Besides this, studies have found that migration mostly happens due to unequal distribution of opportunities. This for us means that migration will be an integral part of Nepalese socio-economy even if it only means going to India or the Arab countries. This is because Nepal is not in a position to compete with the opportunities they provide. Moreover, as discussed prior to this paragraph, Nepal has a growing trend of migration for educational and career enhancement purpose. This is also a part where Nepal needs to recover against, else countries like the UK and the US will still lure Nepali students and professionals due to the high value of the academic certificates of those countries in the Nepali labour market as well as other implicit knowledge and skills, even if not for the overall sound academic and professionalism that these countries promise.

In addition, migration is found to be embedded in the life cycle of people in some areas of Nepal. Studies in the far west of Nepal (Thieme 2006; Sharma 2008) show that being a migrant and working in India is a part of male life cycle. It is assumed that this migration in the life of youth has a social status that is better than the non-migrant male. Here migration to India is taken as a step in becoming a 'man'.

In such cases where migration is culturally engrained and has primary importance over the pull-push forces centred on economic discussions in migration, migration cannot be stopped suddenly by improving the economic and political situations even if it were to improve in the first place. Besides this, to the migrants of the western region of Nepal, due to previous history of migration, the cities to India are far more nearer and hold networks than the main urban centres within Nepal. In an answer to why he chose going to India, over cities within Nepal- like Kathmandu, an IDP who was working in India, said that the capital city of the country to them was like China. "Kathmandu to us is like China. We have no connections there and it is very far from our place. India is nearer, more accessible and Nepalese have our neighbours and other kins who have been living in India".<sup>6</sup> Thus, we can see that what we term as migration to

<sup>6</sup> Personal interview with one of the authors in Nepalgunj, September 2007.

India is not perceived as a big migration but rather a frequent commuting and a phase of growing up in the lifecycle of the people in the western hills of Nepal.

Besides, the bright lights of the European and American cities, as is the global phenomenon, will continue to attract Nepali young people.

## **5. Migration in policy: Poverty reduction strategy and the Interim Plan**

Migration has not acquired a very evident position in the state building policies except for the Three-Year Interim Plan (written as interim plan hereafter). This may be due to the fact that migrants have not been of interest to the political parties and the government except for their potential economic strength as donors for fund. The interim plan recognises that with the peace process there is an upcoming environment where the remittance can be invested. However, due to this overemphasis on remittance, the plan focuses only on imparting skills on possible migrants without analysing the cause of this large scale possible outflow of its able people. Though remittance has its own important value in the Nepalese economy, as raised by the pessimistic discourses, focusing only on sending out its people would make Nepal dependent on the forces over which neither the migrants nor the country has any control. Remittance alone cannot be a long-term poverty reduction strategy and the interim plan is silent about how remittance can be productively used. Besides, there is no vision to use migrants beyond their remittance.

So, the chapter assumes that management of migration cannot be dealt with separately from the state building agenda. It argues that migrants should be looked upon as assets that can be mobilised for state-building. Debates remain whether they could contribute to the country if they stay in the country or cross the border. We argue to move beyond this debate and opt for the best alternative with us- which is to use the potential of these migrants who work and live abroad from wherever they would like to contribute for development of the home country. The chapter analyses the use of migrants in other nations and, learning from such best practices abroad, discusses how one could use the Nepali migrants for our state building agenda. The objective of the paper is to help concerned authorities device strategies to use Nepali migrants in state building. With this, it tries to answer one way-out for today's haunting questions: How

can Nepal generate resource for state building or for the different MDGs and periodic plans this country has set for itself?

## **6. The Nepali diaspora and its potential**

Though the diaspora has different meanings, we adapt a peculiar meaning of diaspora for the purpose of this chapter. Nepali diaspora for the purpose of this chapter are those Nepali who are outside Nepal for different causes, be as labour migrants, student migrants or the non resident Nepalese.

Government and international donors today are taking notice of the diaspora's potential contribution. Attention most often focuses on their economic contribution in the form of remittance which now surpasses the official development assistance in most countries. But the contribution does not end here. Today the diasporas' potential in terms of skill and knowledge transfer is equally acknowledged. The traditional perception of looking at diaspora as security threats is now being replaced by seeing their organisation as an effective means in counteracting against right violation and abuses. Evans (2001) has shown how the grassroots alliances of labour of the third world workers and the first world activities have succeeded in producing significant changes in the working condition and practices of multinational giants towards their labourers.

The economic contribution of diaspora was in fact the main cause of their first global recognition. Diasporas in fact were first noticed by the world due to their economic contribution. Ever since Dilip Ratha put remittance – the money that global migrants send home - on the map (De Parle 2008), the eyes of the analysers are increasingly bulging over on it. Today remittance exceeds US\$ 300 billion per year (The World Bank 2007).

In a world of six billion inhabitants, international migration seems insignificant as it comes to represent 3 per cent of the world (Orozco 2005). But contributions of migrants reflected primarily through family or workers remittances and to some extent through donations made by the migrants association constitute a key component of economic growth in many countries. We have ample examples of remittances sustaining economies of countries during the time of crisis. One of the most cited examples is that of the Philippines. During the Asian Economic Crisis (1997-99) when FDI tumbled, in the Philippines remittance helped cushion the effect of crisis (The World Bank 2007). Even in 2006, the remittance (US\$

6.2 billion) received by the Philippines was nearly three times greater than the world's combined foreign aid to this country (The World Bank 2007).<sup>7</sup>

Though countries like India and Mexico are the leading beneficiaries, small countries gain most by relative terms. A study of UNFPA (2006) shows that 10 per cent increase in share of remittance in the countries GDP can lead to 1.2 per cent reduction in poverty. Remittance inflow in Bangladesh has made it possible to cut poverty by six per cent (The World Bank 2007).

Foreign employment and remittances has become the lifeblood of Nepal (Gautam 2006). Even during the period of intense conflict during 1996-2003, resulting in severe economic impact, it is predicted that remittance helped to keep Nepalese economy afloat. Remittance has emerged as the second largest economic activity next to agriculture and today it constitutes around 23 per cent of Nepal's GDP (ibid).

Remittance not only helps reduce poverty but also does so in overall human development of receiving families. It can be used to educate children, to look after family health etc. and thus can develop the socio-economic indicators of the country as well. Demographic and Health survey had shown that there was a great improvement in socio-economic indicators like infant and maternal mortality, life expectancy etc. during the time of crisis (DHS 2003). Remittance was said to have played a great role in it. So, productive use of remittance should be a strategy of the reconstruction and development component of the state-building efforts. It can be used in the emergency phase to meet reparation needs and in reconstruction of damaged infrastructure, in the transition phase to check inclusion and human rights and in the longer stabilisation phase to invest in long and short-term development activities. This would give them a sense of gratification. To the country, it would not have to oblige to unsuitable and high demands of the aid giving international organisations.

It has also been found that highly skilled are not necessarily the largest remitters (Orozco 2005) but they are more likely to make productive investments (Lowell et al. 2004). Studies in Nepal (Khatri 2007) regarding economic status, destination and remittance have also shown that the relatively well-off migrants who go to the USA, the UK or Australia do not send back much money home. They earn money and invest in their country of residence or use it to take their family members to the new country. However, in the face of conflict, they have come together in an organised way and shown their interest to invest in Nepal. Policies and

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<sup>7</sup> However, the same has not been true for many of African countries.

modalities of state building should incorporate this sentiment in both the emergency and longer stabilisation phase.

On the other hand, the poorest of the poor, around 20 per cent of total, may not have access to network or resources to even go to India. But those who go to Gulf States and Malaysia remit almost 100 per cent of the money they save precisely because they cannot keep money indefinitely there. And figures show that these people who go to Gulf States and South East Asia are the ones who have been sustaining Nepalese economy. Remittances from Gulf accounted for almost 75 per cent of total remittance for Nepal (Khatri 2007). However there are other dimensions of these migrants we have forgotten. By categorising them as less skilled, we have misunderstood the dynamic nature of the flow of knowledge, skill and acquisition. By bundling them into a box of unskilled labour force and closing the lid of the box thereafter, we have been closing our eyes to what new development takes place in their capacity as human resources. This belief that they cannot gain anything goes against the many research-based evidence of sociological understanding. It has been proved that there is a dual relationship between individual as a subject and society as a structure in which daily practices of livelihoods of subject take place. Sociological theories have proved that the structure of the society determines the disposition of human as individuals who occupy position within it as much as the human being can influence the structure. So, to assume that the labour migrants cannot gain any form of new knowledge and skill in the migration process and in the destination country is not true. In the context of the Nepal, it has not seen how this new knowledge get localised and how it is used for local positive outcomes.

A controversy surrounding remittance is its impact on inequality. Ample examples can be cited on both ends of the debate. But the final conclusion depends upon a host of criteria used to evaluate the debate: some of them being time frame, location, type of inequality etc. (Khatri 2007). A study in Bangladesh reveals that though migration could increase inequality between well to do and very poor within the village of origin, it has decreased inequality between traditionally rich people in the villages and the many poorer households that had opportunities to earn money abroad. This has also resulted in changing of perception of the traditionally rich people towards the poorer. It has also opened different avenues of integration between the rich and the poor (for example, through trade made possible by opening shops by remitted money, friendship between children and thus between houses as the children of migrants household

can now afford to send children to same schools etc.). Such processes can be an integral part to realise the objective of socially just setting that we envision.

In midst of all these controversies, the benefit of remittance varies much depending on the way it is managed. Moser (1998) shows that effective asset management is equally important in reducing household vulnerability as equally is asset accumulation. Much of the impact of remittance depends on how productive it becomes at the receiving end of the household and what roles do spill-over have on the socio-economic indicators beyond the receiving household. Most remittances sent to Asian countries are said to be spent primarily for basic expenditure on daily consumption needs like, land and housing construction and education (Sofranko and Idris 1999). But same studies also show that recipient of remittances have higher propensity to save. If states facilitate and empower constructive use of remittance, then there are chances that Mexico if could not be Switzerland, could remain same Mexico in times of crisis at least. Remittance also increases foreign currency earning and help expand markets through spending and investment.

Beyond remittance, diasporas can contribute to their homelands through FDI, trans-national entrepreneurship, supporting entrepreneurship in homeland through informal financing of small business, investing in economies that other consider to be of high risk because they have better knowledge and relationship that other investors lack. Besides, diaspora can also contribute significantly to increase in export of cultural goods of homeland which may be for their own use (sometimes referred to as nostalgic trade) or for foreign trade. Around 70 per cent of migrants consume products from their country of origin<sup>8</sup> (Orozco 2005). The returned migrants who establish micro entrepreneurship in home country depend upon their network in host country and thus contribute positively to export. All these nature of investment should be reflected when designing the state building programmes and policies.

Diaspora today is also highly valued as sources of knowledge transfer. The shift in the traditional thinking of external migration as 'brain-drain' (Ozden and Schiff 2005), 'brain-storm' or 'brain-waste' are now being replaced with 'brain-exchange' and 'brain-circulation' or 'beneficial brain-drain'. Meyer (2001) argues that if we take skill as stock of knowledge embedded

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<sup>8</sup> For example, according to Orozco (2005), the volume of ethnic product exported to the United States from various countries of Latin America has come to represent some 10% of total exports.

in an individual and refer to brain-drain, then we take knowledge as static. But knowledge, skill or human capital as a whole is neither static nor is it to be measured only in terms of credentials of migrants achieved before or after migration. We should not forget to compare migrants' skill and knowledge in receiving countries to what it would have been had one had not migrated. And then there is always the network factor to consider. Keeping in mind that the trend of migration is generally from poor underdeveloped countries or what Wallerstein would say from peripheral third world to core countries, before being swayed away by the 'brain-drain' hypothesis, we should analyse what human capitals a migrant might have accumulated had he had stayed back home.

From a country like Nepal, however critical or lamenting the people may be of their fellow brothers faring well in different countries, they should be equally unbiased in analysing if their country could have given them their wall. However, the best option to recover the loss is to use their potential by creating platforms for exchange and investment. This has to go beyond financial investment. Migrants can also serve as a good bridge to increase knowledge and skill sharing between the professional associations of home country and other parts of the world through their transnational networks. Success of state-building process needs competent human resources and migrants can help build such if Nepal gives platforms for knowledge and skill transfer.

Managing international relations and foreign assistance is an integral part of state-building process. Diasporas can be used as mediators between home country and international development agencies intending to work in a country. They can also act as bridges to disseminate knowledge and information about the development agency to the home country and the requirement and priority of the community to the development agency. As Wu (2008) observes "All too often China experts in the US cannot speak Chinese language. How can they claim to understand a culture without knowing how its people communicate?" In such situations diaspora of the country can play a vital role as informing agents to development agencies in designing any project for that country.

## **7. Using Nepali diaspora for state building**

Nepal today stands at a crucial point. It has equal chances of leaping forward as it does those of sliding down the list of least developed and poorest countries. We have been plagued by the consequences of brutally

destroyed infrastructures as well as a dividing nation from all frontiers – the legacy of civil war, and are working towards fulfilling the promise to a quick recovery in all sectors. Success of post-conflict state building depends on various factors. Some of them are investment in generating human resources, reconstruction and development, SSR, strengthening governance and bureaucracy and effectively providing services to the people (see Chapter 7 of this book for elaborated details). It is evident that Nepal will need to squeeze all the available resources to their optimum potential. Migrants as absent population for state building or for their potential contribution cannot be ignored, more as their number is bound to increase in the present condition. Similarly, as the second largest economic activity, migration as a phenomenon cannot be ignored. It is seen that despite the relative betterment of situation of the country, Nepal had not been able to stop its youths from going abroad till the recent economic crisis. However, the needs or desire to stay back are not the stopping factor, but conditions imposed by factors, which this country is not able to govern, are. So the only options this country has is to use the resources inherent in 6-7 million Nepalese who live and work abroad and hundreds of those those will be leaving this land for abroad in the days to come.

It is important in this phase that Nepal should learn from best practices of using the contributions of the diaspora and devise it according to Nepali needs. Practices all over show that there are four strategies to harness their potential. They are managing migration, outreaching the diaspora, integrating them and engaging them. Though these strategies are interlinked with each other and sometimes unclear on how one can be separated from the other, the coming section discusses on how Nepal could do the same for its state building purpose.

## **8. Managing migration**

This is the first step towards harnessing the potential of diaspora. The actions like observing who goes where and what benefits lie in the destination, equipping the would-be-migrants with the skills and knowledge required to make fruitful livelihoods in the destination are some of such management practices. This also includes giving them knowledge on one's rights and responsibilities as a migrant in the destination. The country should take initiatives to monitor migration (especially of those

who go to India) and keep detailed database. It also includes making the embassies and the consulates of the specific country responsible to the needs and status of Nepali migrants and making own embassies in the destination country strong enough to negotiate for the welfare of Nepali migrants.

## **9. Outreaching diaspora**

The next strategy is having access to them. Nepal does not have a comprehensive policy on the diaspora. Despite several requests by the NRN association, proper policies have not been formulated. Ordinance on NRN made by then king in 2005 was abrogated by the House of Representatives on 24 April, 2006. The present definition of NRN is very narrow based only on the time one spends in Nepal. All foreign citizens of Nepali origin, Nepali living in foreign countries and men married to Nepali women should also be included in the definition. They should be given equal treatment such as right to vote, right to inherit property etc., as any Nepali citizens do. Provisions such as free visas, tax exemption, special identity cards and NRN-friendly investment rules should also be designed.

## **10. Integrating diaspora in the state building process**

Though there is a controversy surrounding the issue if diaspora should be given a voice in political agendas, there are increasing examples of such practices. Provisions should be made to collect their suggestion in different matters. For example, before developing the Three Year Interim Plan-2007, the government collected people's suggestion of around 70 VDCs. Though it boasts of being an all-inclusive plan, it did not have the voice of the Nepalese living abroad. The government wants them to invest in Nepal but it has failed to take their consent in matters of planning the investment. This is an example of Nepalese view on diaspora; the country is ready to take their contribution but not ready to give them their rights.

Countries like Mexico have even created positions for elected diaspora representatives but the state is declining to give voting rights to even temporary ones like labour migrants. Nepal should make provisions of diplomatic visits to diaspora organisation in host countries. This will provide motivation to them to be involved in the welfare of their home country. The government should facilitate getting together of diaspora in home country by organising interaction programme etc. and promote

their initiatives by formalising individual and informal activities that diasporas do to support their home country and community.

They can act as third parties (as those who were not directly participating in the conflict from either side) in addressing the effect of past conflict like in the issues of reparation, reconciliation, restitution and reintegration and other forms of post-conflict development and reconstruction. Besides, they can also act as third parties to check human rights issues and issues linked to inclusion and marginality.

## **11. Engaging diaspora**

Policies aimed at linking up home community with immigrant community can be developed. Government should facilitate to build network among scattered migrants and the people of home community. They can establish and make available data (immigrants' hometown, qualifications, whereabouts in host country, trend of remittance sending etc) about the whereabouts of migrants in host country as well as of home country. This data can be then corresponded with another database having information on opportunities for investment and needs of a particular home community. The two data should be made accessible to the immigrants so that their associations have information for investment. The state should provide them motivation to act. It helps enhance the sense that they can have an impact. Encouraging interaction between diaspora and local community is also a must. The federal division that Nepal is going to have means that migrants will belong to one or the other provincial unit. This can bring more opportunities for migrants to be recognised within their own smaller community. It may give them more worthiness and hence more incentive for contribution to their own provincial unit.

Culturally we have found that migrants invest some of their earning in locally important symbolic capitals like temples, schools, 'Dharmashalas'<sup>9</sup> and alike. Interviews with migrant associations reveal that this is mostly for their own satisfaction. It is also with a sense of pride that they get by being able to do something in the home place. The same phenomenon can be sensed in the philanthropic activities performed by the NRNs in Nepal. State building modalities should take such sentiments into account and channel them to invest in much needed infrastructure development efforts, in delivery of service and their management.

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<sup>9</sup> The huts constructed on the way, especially onto any pilgrimage, for the night-stay. Such huts serve pilgrims free of cost and are constructed by some pious people out of religious motive (eds.)

Studies have shown that the cost of sending money to home country varies between 4 per cent and 10 per cent (Orozco 2005). It plays an important role in deciding how migrants transfer remittance - through formal or informal channels. Nepal should make policies to ease the cost of remittance transfer. This can be done by having alliances with different banks and financial institutions in host countries. Some of the best practices from government sides are shown by countries like Mexico [National Savings and Financial Services Bank (BANSEFI)], India [State Bank of India (SBI)], Morocco (Banques Populaires) etc.

Nepal could develop alliances with different companies for transferring remittance, disseminating information about costs of remittances, benefits of using account to account transfers etc. The country could also facilitate opening joint account by migrants and their relative back home and make provisions for free withdrawal of remittances.

The Three Year Interim Plan has strategies on rural infrastructure reconstruction, investment plans for extending roads network and reconstruction and increased investment in physical infrastructures. These are also the objectives and needs of our state building agenda. The government could involve Nepalese living abroad in range of activities like development projects, cultural activities and philanthropic activities by connecting their network to the User Group (commonly known as *Upabhogta Samoocha* in Nepali) community in home town. First, the user group community puts its need. Then the local body of the government studies its feasibility and invites the diaspora to invest half of the total costs. Then the other half is to be provided by the government or the local community themselves. Local governments or communities could contribute not only in cash but also with labour and donations in kind, which provides jobs to local residents too.

Governments of countries like El Salvador (Social Investment and Local Development Fund) and Mexico (Iniciativa Ciudadana3x1) have been able to carry many developmental activities by such associations ranging from changing of street lamps to building and reconstruction of parks, shopping centres etc. which would otherwise have been impossible.

Many of Nepalese industries have closed and some are on the verge of closing. Nepal could encourage NRNs not only in investment but in overall management of such industries letting them take the profits after paying rational tax. They could also publicise the products abroad. Similarly, two important aspects the Three Year Plan has left are mining and waste

recycling. Waste management has been a much contested issue in Nepal. This country could use the investment and expertise of NRNs and their networks in recycling waste and recovering valuable minerals, which till now has not been practised in Nepal.

One can encourage the diaspora to invest in Nepal by giving provisions for opening convertible foreign exchange accounts, repatriation of capital and profit in convertible currency, exemption in tax, by giving special provisions like bonds which could also be sold by foreign banks (e.g. India's Resurgent India Bonds) etc.

A lot of NRNs would like to come and spend their retired life in Nepal. Similarly, a lot send their children or visit Nepal themselves regularly. This opens their possibility to invest in properties (house, lands, flats etc.). So Nepali people could cash on it if they provide services to buy properties in Nepal from abroad. This has now been realised by the government and the new approach of giving identification card to the NRNs is on the way.

Most of the remittance in rural areas are transacted through informal channels which makes transaction cost higher besides other negative effects. Nepal can promote local level organisations like local co-operatives, self-help financial groups, mother groups etc. in remittance transfer. This will be beneficial for remitters (less costly and reliable) and to the institutions (more income). This also helps a culture of managing money and improving relation between financial sectors and the public. Governments of different countries like Pakistan, India, Mexico have strategies to promote people to formal sectors like microfinance, credit unions etc. in remittance transfer. Like the Government of Pakistan, Nepal also can keep remittance books and make provision of giving rewards and other facilities to regular remitters.

These local level institutions could also take initiatives to teach both remitters and receiving families in rural areas to improve their money management skills like investment, banking skills, tax paying etc. Such institutions could also run investment promotion programmes by supporting in investment, giving grants and credits to migrants or their families staying in the host country.

As mentioned elsewhere in this chapter, around 70 per cent of migrants are found to consume products from their country of origin (Orozco 2005). It has been found that many small businesses created by diaspora rely on nostalgic trade. This can increase the import of Nepalese products to the host countries. It will also help promote local Nepali product to the people of foreign countries. Government should promote nostalgic

trade and provide incentives like tax exemption, duty free shopping etc. Besides, migrants can also promote Nepali local products like Nepali tea, handicrafts etc. in the foreign market. They are not famous with general foreigners. The government should encourage such activities.

Nepal, to most of the outer world, is known as land of Himalayas. Many foreigners are surprised when they come to Nepal and see that it also has equally mesmerising Terai regions full of culture, flora and fauna. Mountains have been the great attraction to tourists but Terai has not been publicised duly. Nepali diaspora could be used by tourism sector in two ways. First, the country should promote tourism actively aiming at diasporas. Next, this country should establish joint venture with the diaspora interested in investing on this sector. Diasporas can also be used in promotion of culture in foreign land. The NRN association has the motto 'Send home a friend'. Nepal government could use this commitment to facilitate their participation in tourism activities.

One of the most possible and important contributions of diaspora is the exchange and transfer of knowledge and skills that they accumulate over years. Nepal should establish points through which diaspora professionals come in regular contact with the professionals of homeland. The government should design policies that facilitate information exchange and transfer. The policy of China in this matter is highly appreciable. China has five central agencies that interface with the Chinese professionals, several quasi-government agencies to funding support knowledge transfer and exchange activities.

Traditional method of agriculture has made the agriculture industry dependent on weather. A lot of Nepali youths go abroad and work in agricultural sectors where agriculture is based on modern technology. Thus, they have learnt modern ways of agriculture. Nepal could give them opportunities and incentives to apply those skills in agricultural sectors. The country could also use them to disseminate that knowledge among farmers here and solicit information for development programmes thus using them as intermediates.

## **12. Conclusion**

The phenomenon of migration and its centrality to the state building agenda cannot be ignored. Similarly, economic and non-economic contribution of migrants is a potential source. Both of these should be embedded in the process of state building.

Migration of people outside Nepal is likely to continue. While migration may bring development of the people who are mobile, it cannot be said that migration of its people brings development of the home country. This depends on how the socio-economic and political environment of the country approach migration management strategy. Management of migration cannot be taken differently from the various development focuses of the individual country. Inclusion of this into the overall development policy is crucial. The best strategy of the government for now when it cannot stop migration could be to harness the potentials of the diaspora in different activities by making policies and suitable environment to promote their interest in home country.

The state needs to give investment environment in the form of effective policy. This can be brought about by an effective migration management policy, for example, creating disincentives for skilled migration, addressing the cause of migration and making return incentives for retirees and students who are willing to return. The next step would be to develop strategies to outreach the diaspora. This could be done by monitoring migration and migrants, strengthening database on whereabouts of migrants both in the home and the host country. The government could facilitate interactions between the diaspora and the home community like the user groups and other associations in the local level and make provisions for mobilisation of remittances for development. Thereby the remitters and their family share the benefits in the way they want. This mobilisation can be done in line with the national development strategies.

Besides, the state should aim for diaspora engagement strategies. This motivates the diaspora to act. There should be an encouragement in investment and micro-enterprise which goes beyond service sectors to more agricultural productive sectors. Similarly, there should be encouragement of remittance transfer through formal channels whereby the government could reduce the cost of remittance transfer. Thus, it can bank upon the majority of un-banked flow, for example, that coming from India. With a good development of the telecommunication system and familiarity of mobiles even in the rural areas in Nepal, this is one of the easiest and the most cost-effective ways of remittance transfer. It could very quickly be applied in the Nepali context. Other aspects of diaspora engagement schemes could be their involvement in the nostalgic trade and its use in the promotion of tourism.

The next vital step would be to integrate the diaspora i.e., by incorporating the voices of the migrants in the development plans, beneficial treatment to the migrants families, support to the family members back home and making easy for the family of permanent migrants to live and work in Nepal. In addition, the diaspora could be used as potential source of knowledge and skill transfer where the state could provide the platform for this.

Nepal should learn from change of policy in China. In 1990, this country had a policy to emphasise permanent return of Chinese residing in other countries. Now, China is promoting temporary return. Its policy towards its immigrants now is 'temporary return to serve motherland'. All know that Nepali diaspora have skills, knowledge and economic resources. The country should provide environment and promote them to use these capitals in Nepal. This country has lots of spaces where lots of work remains to be done. So, unlike what China did, Nepal can call back its migrants home only if they are willing to. For Nepal, the more suitable strategy is to let its migrants contribute their best to the state building agenda from where it is possible for them.

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## Militarisation of the youth: Hindering state-building in post-conflict Nepal

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### 1. Introduction

Rapid, massive and coercive mobilisation of youth by political parties to achieve vested interests has posed a serious challenge to the state security mechanism as well as the Nepali society. With increasing coercive activities, the country is militarised. The situation is extremely vulnerable and could enter into the vicious cycle of conflict and confrontation. The decade long armed conflict ended with the signing the CPA in 2006. Though, it opened a new chapter in Nepali politics, youth mobilisation in coercive activities has militarised the youths and radicalised the society. On one hand, the state is facing difficulties to deal with federalism (in form, type, level, name, boundary and resource), integration and rehabilitation of ex-combatants and democratisation of the state army, power sharing arrangement, providing peace dividends, socio-economic transformation and social justice. On the other hand, large number of youths is unemployed, under-employed and ultimately being mobilised for coercive activities. This has seriously pushed the productive cohorts of youths into the net of militarisation.

The youths are regarded as the backbone of a nation as they are the agents of change and the leaders of the country. No society and nation dreams of youth groups getting involved in coercive act, destruction and weakening the state thereby creating fear and insecurity in the society. In a situation of crisis and transition, the youth should have been involved in constructive works and become the agents of peace, harmony and collaboration. In contrary to it, majority of youth in Nepal seem to be engaged in confrontation, fights and violence to fulfil certain vested

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interests. Consequently, the gaps among the youth groups are widening and they are divided on the basis of ethnicity, geography and political ideology.

Why are the youths being involved in coercive activities? What is the reason behind them to tie up with one group or the other? What consequences can it bring to the society and the state? This chapter attempts to answer these questions. The objective of this chapter is to examine the causes and consequences of coercive engagement of youth and the process of militarisation of the youths in Nepal.

The perspective on youth differs in every context but basically it is defined in terms of age group. The National Youth Policy-2010 defines them as “those from 16-40 years constituting of 38.8 per cent of the total population”.<sup>4</sup> Similarly, the National Action Plan for Youth Employment Nepal (2008-2015) states, “In Nepal, young people of the age group 15 to 29 are generally referred to as youth. They are about seven million in numbers, and constitute 28.3 per cent of 24.8 million Nepalese in 2004. This encompasses a larger group than that covered by the usual international definition of youth, which refers to that age group of 15-24 years which constitutes 18 per cent of the Nepalese population”.<sup>5</sup>

For the purpose of this chapter, the term ‘militarisation’ is defined as a social process of engagement in coercive activities, use of threat of violence, creation of fear in society, carrying out the activities that are prevented by law, systematic denial or obstruction of basic rights of other people to fulfil own vested interests and abuse of political power and resources to gain personal benefits. Contrary to what many scholars on militarisation do, this chapter has defined ‘militarisation’ from the societal perspective rather than from the military one.

Geyer (1989, p 79) defines militarisation as “The contradictory and tense social process in which civil society organises itself for the production of violence”. Militarisation is a discursive process, involving a shift in general societal beliefs and values in ways necessary to legitimate the use of force, the organisation of large standing armies and their leaders, and the higher taxes or tribute used to pay for them (Lutz 2007). Kumar (2006) has defined militarism as a situation in which the propensity to use military power, or the threat of it, for political settlement is prevalent. These definitions are more focused on state militarisation (use of official armed forces).

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<sup>4</sup> National Youth Policy-2010, Ministry of Youth and Sports, Government of Nepal.

<sup>5</sup> National Action Plan for Youth Employment Nepal (2008-2015), National Planning Commission, Government of Nepal.

The concept of militarisation is often used to refer to the military use by the states, not much focused on the non-state or civilian sphere. Often militarisation from the state-led perspective is a step-by-step process by which either all the state and the societal institutions are under the gradual control of military or the wellbeing of people are believed to be shaped from militaristic behaviour.

In this chapter, we are discussing not the state-led but the non-state led militarisation of youths. In the context of Nepal, a country just emerging from decade long insurgency, societal militarisation is fatal for the process of achieving security, justice and enabling state because militarisation causes impunity, violates rule of law and implants societal fear and nervousness.

## **2. Status of the youth in Nepal**

It would not be wrong to state that Nepal's major political history has always been framed by the youth. King Prithvi Narayan Shah started unification of Nepal at the age of 20.<sup>6</sup> Similarly, when Nepal lost one-third of its territory in the Sugauli Treaty of 1816, the then King Girvan Yudhda Shah was 17 years of age.<sup>7</sup> Rana Prime Minister Jung Bahadur Rana came into power at the age of 29 which initiated the autocratic Rana Regime that lasted for 104 years.<sup>8</sup>

By looking at the discussed events in the history of Nepal, the role of youth cannot be undermined. Major changes observed in Nepali socio-politics have been related with the contribution of the youth. Political parties in Nepal have always massively mobilised the youths during all political changes such as in the abolishment of the Rana Regime and the political changes of 1980, 1990 and 2006.

Political parties have created youth wings to mobilise this cohort for political activities. This phenomenon is further expanded and now-a-days the parties are (mis)using their youth outfits in coercive activities and have turned to militarise the youth groups. Even armed groups are formed by such youths. Regrettably, during the post-conflict transition

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<sup>6</sup> King Prithvi Narayan Shah was born in 1723 and had started the geographic unification of Nepal on 1743.

<sup>7</sup> King Girvan Yudhda Shaha (1799-1816) ascended the throne when he was only 18 month old and the Sugauli Treaty was signed in March, 1816 and he died on 20 November 1816.

<sup>8</sup> Jung Bahadur Rana born in the year 1817 assumed the Prime Ministership in the bloody aftermath of the Kot Massacre in 1846 at the age of 29.

(after signing of the peace agreement) different armed groups came into existence in addition to militarised youth wings of political parties and that have created severe security threats to the society. Youth wings of political parties are also not only guided by political ideologies, defined principles and procedures of their respective organisations, but also engaged in illegal activities and coercion. Youth engagement in politics is always positive if they do not engage in destructive activities, creating societal insecurity and fear. It is also very constructive if they use their energy for the state building. However, their engagement in destructive activities is undermining their constructive works because of the coercive image some groups have established.

These evidences show that the youth, have the tendency to be associated with power and crave for recognition in one way or the other. As youths are psychologically and physically dynamic and energetic, this dynamism and energy has been often misused by political parties and other groups to strengthen their position and fulfil vested interests.

### **3. Militarisation of the youth**

The term ‘militarisation of the youths’ in Nepali context refers to the process of radicalisation of the youths and using them for illegitimate actions (which could defy the existing norms, the values of the democracy and the state laws) by certain groups or political parties to gain power and resources. The use (or threat of the use) of coercion, violence and abuses of power under political protection are often used by the youths as tools to fulfil the desires of parental parties or organisations.

Together with the armed conflict waged by United Communist Party of Nepal [UCPN (Maoist)] militarised youth groups started to merge and they grew up rapidly after signing of the CPA in 2006. However, the formation of youth political organisations by political parties dates back to the establishment of Nepal Chhatra Sangh<sup>9</sup> in 1951 A.D. under the presidency of Ganesh Bahadur Gurung and Krishna Prasad Bhattarai as vice-president. This organisation had raised voices against the Rana regime. Later political parties formed their student organisation such as Nepal Student Union (NSU) and All Nepal National Free Student Union (ANNFSU).<sup>10</sup>

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<sup>9</sup> For more details, visit: <http://www.nsu.org.np/index.php?goto=hist> , the official webpage of NSU, a youth student organisation of Nepali Congress.

<sup>10</sup> For details, visit: <http://www.nsu.org.np/index.php?goto=hist> and <http://www.annfsu.org.np/intro.html>.

If we take account of the present context, the reorganisation of the fighting cadres of UCPN (Maoist) into YCL once it signed the CPA started the opening of the militarised youth wings of political parties. Several parties have created their militarised youth wings to this date (Table 10.1). The major motive behind the establishment of such outfits is to strengthen their roles and influence at the grass root level and also to counterattack other youth groups. The considerable number of youth population, constant rise in the unemployment rate, sugar-coated slogans, incentives gained by tying up with such groups and exclusion from the state's overall development process are some of the reasons for involvement of youth in militarised activities. Further, different ethnic organisations and caste and religious groups have formed militarised groups to fulfil their demands through use of force. The major reasons given by youth groups to act in society are as follows:

- Organising youth movements, youth awareness programmes, and youth initiatives to ensure rights of the youth and to solve all the ideological, political and cultural problems including the problems of employment, education, sports, etc.
- Conducting political and legal actions against corruption, hooliganism, deformity and distortion with people's consent and huge participation.
- Conducting awareness campaigns to keep youths away from the addiction including that of the consumption of narcotics and to stop the source, supply and the demand and also launch a campaign to transform these youths.
- Assisting and supporting the national liberation movements, democratic and socialist movements initiated by the toiling masses and oppressed people.

However, they are implemented in either inappropriate or illegal ways that lead to clashes among different militarised youth groups. They are also reported to be involved in abduction. Threats and coercion has been a regular practice. Moreover, their activities are politically protected and therefore are increasing impunity and creating insecurity. These all have been weakening the system of rule of law and gravely challenging the state building process.

The Table 10.1 highlights some of the militant youth groups formed by the different political parties:

**Table 10.1 Main militant groups formed by the political parties/groups**

| S. N. | Youth Organisations                              | Mother Organisations                                        | Geographical Influence                                                                        |
|-------|--------------------------------------------------|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------|
| 1.    | Young Communist League                           | UCPN (Maoist)                                               | All over the county                                                                           |
| 2.    | Youth Force                                      | CPN (UML)                                                   | All over the county                                                                           |
| 3.    | Madhesi Youth Force                              | Madhesi Janaadhikar Forum (MJF)                             | Eastern, Central and Mid Western Terai regions                                                |
| 4.    | Chure Bhawar Shanti Sena                         | Chure Bhawar Ekta Samaj Party                               | Central and Mid Western regions                                                               |
| 5.    | Security Brigade (Rakshya Bahini)                | Nepal Sadbhawana Party (Rajendra Mahato)                    | Central and Mid Western regions                                                               |
| 6.    | Madhesi Commando                                 | Nepal Sadbhawana Party                                      | Central and Mid Western regions                                                               |
| 7.    | Terai Madhes Sewa Surakshya Sangh                | Terai Madhes Loktantrik Party                               | Mid Western and Western regions                                                               |
| 8.    | All Nepal Democratic Youth Organisation          | Rastriya Janamorchha Party                                  | Mid Western and Western regions                                                               |
| 9.    | Tharu Sena                                       | Tharuhat Swayatta Parishad                                  | Certain Districts of Mid Western and Western regions (for e.g., Dang, Kapilbastu and Bardiya) |
| 10.   | OBC Regiment                                     | Pichhada Varga Mahasangh                                    | Central Terai region                                                                          |
| 11.   | Limbuwan Volunteers and Limbuwan Liberation Army | Sanghiya Loktantrik Rastriya Manch/ Limbuwan Rajya Parishad | Eastern region                                                                                |
| 12.   | Kirat Limbuwan Volunteers                        | Pallo Kirat Limbuwan Rastriya Manch                         | Eastern region                                                                                |
| 13.   | Janasurakshya Bal                                | CPN-Maoists                                                 | Some districts                                                                                |
| 14.   | Madhesi Raksha Bahini                            | Sadbhawana Party                                            | Some of the Terai districts                                                                   |
| 15.   | Khas Kshetri Unity Society                       | Khas-Kshetri Unity Society                                  | Some regions                                                                                  |

Source: Collected from different sources<sup>11</sup>

It is often said that militarised youths are used for political crime. According to Hagan (1997), political crime is a crime committed for ideological purpose rather than being motivated by private greed or passion. The

<sup>11</sup> Pathak and Uprety (2010); Punmagar (2008).

offenders believe they are following a higher conscience or morality that supersedes present society and law. This is the justification often given by the militarised youths when they commit political crimes.

The history of criminalisation in politics started long ago. After the restoration of multi-party democracy in 1990, it continued further (Pathak 2005). The act of criminalisation of politics in Nepal slightly contradicts the statement made by Hagan (1997) because politicians' or political cadres' activities supersede the ideological purpose by their private greed and passion. Supporting youth political cadres by turning deaf ear to their unlawful activities also encourage more criminalisation in politics.

According to Ghimire (2010), Khas Kshetri Unity Society has also established its militarised youth wing with claimed 1,200 active members. Akin to this, the YCL claims that their group has 500,000 members among which 450,000 are general members, 50,000 are expected to be actively functioning and six to seven thousands are working as whole-timers. Youth force claims to have 600,000 members and their regional expansion is also at an increasing trend.

INSEC (2010) reveals that there is no improvement in security situation in the Terai owing to the activities of the armed groups. According to the INSEC Human Rights Year Book 2010, 240 people were killed in 15 Terai districts in 2009 alone. Among them, 27 persons were killed by the state, 22 by armed groups, 89 by unidentified groups and one person each killed by the YCL and YF. Splinter group of UCPN (Maoist), the CPN (Maoist), and other mushrooming underground armed groups has been adding fuel on the violent fire of the Terai region.<sup>12</sup>

Comparatively, the youth of Terai are seen to be more militarised than other youth groups. One reason for their militarisation can be analysed through the history of marginalisation in Nepal. With open border to India, their loyalty towards the nation has always been questioned by the state thus excluding them from governance process. Also with the open border to India, small arms are easily available to them. It is needless to say in such a condition that the illicit trade and use of SALW is not only intensifying the ongoing civil wars and armed conflicts in different parts of the world, but also severely hindering the post-war reconciliation and reconstruction efforts. Upreti (2006) claims that a militarised society is

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<sup>12</sup> Nepal Monthly Situation Updates, Issue No.58, covering the period 1-28 February 2010. OCHA Situation Report-February <http://www.un.org.np/ocha-situation-updates/2010/2010-03-17-OCHA-Situation-Report-February.pdf> verified as on May 2nd, 2010.

one in which the military has taken ascendancy over a civilian institutions. It is predominantly and visibly relied upon the security forces to regulate civilian movement, solve political problems and defend or expand boundaries in the name of national security.

Thus, the culture of street struggle and to violently fulfil one's desire has resulted in the militarisation of the entire nation. As violence and youth energy is taken as one of the means to get political consensus, the country is becoming prone to a militarised state. With an easy and immediate benefit with the help of coercion, the frustrated youths have been attracted more to these activities.

#### **4. Reasons behind militarisation**

Youths in Nepal have been misused and mishandled time and again by the political parties and other interests groups. They are always mobilised during protests which has given youth a negative crown in the society. But worldwide, only few have analysed the reason behind this. We, here, attempt to find out the reasons behind such engagements. In doing so, psychological, socio-economic and political dimensions of youth militarisation are discussed in the following sections.

##### **4.1 Psychological reasons**

Youth is the stage at which a person becomes productive and responsible thus nurturing a different psychology. This is the process of individualisation when a person starts to identify oneself with different ideologies and orientation. Recognition becomes a key factor in their lives at this time. They intend to challenge the traditional values deep-rooted in the society and get affiliated with those who have the courage to defy such social systems. They are less analytical for the implication and more action-oriented. So, they could be easily mobilised with attractive slogans for anyone's interests.

In societies where there is more youth population, there are imbalances between the education and the employment system. It results in larger number of unemployed youths. Thus, the youths have more leisure. Thus, they get time to be engaged in different groups for either constructive or destructive purpose. As at this stage they do not have more inclination towards constructive activities, majority of them are involved in destructive ones. During this stage, they tend to listen to more to their peer groups. Because of the peer pressure, they get involved in activities they would

not have been if their friends were not participating (Tipplet 2004). This youth population accounts the change seekers, reactive people, and easily agitated ones with unstable mindsets. Due to these factors, youths tend to incline towards destructive activities, which is why, in riots and strikes, youth are seen most active in pelting stones, burning tyres and at times using explosives and small arms.

If we look at the global trend, most of the suicide bombers and hijackers, abductors, assassins are the youths. For example, the May 2010 case of New York Times Square car bomb is alleged to be kept by a young man. Similarly, a 21 year old young man had been arrested and was sentenced for the Mumbai attack of November, 2008. It is observed that there are always other people behind the youths engaged in destructive activities. It is also the truth that ordinary people, simply doing their jobs, and without any particular hostility on their part, can become agents in a terrible destructive process.

## **4.2 Socio-economic reasons**

It is reported in insurgencies and civil war situations that there is a close relationship between youth population and civil war (Upreti 2009). The excess youth is regarded as the perfect storm to blow up the whole nation as there is a huge number of a youth population with no access to resources. In other words, there are cases of youths joining paramilitary or military groups to acquire some power which in the absence of resources is null both at familial, societal and national level. Staveteig (2005) argues that the relationship between large youth cohorts and civil war appears to have held throughout history. Similarly, Herbert Moller (1968) suggests that wars in pre-modern and present day Europe, including the rise of the Nazi party in Germany, corresponded with surges in the proportion of young men in the population (Staveteig 2005).

In the context of Nepal, youth population constitutes 38.8 per cent of the total population, and it is quite obvious that unemployment is the prime reason behind youths getting militarised. Thapa (2006) argues that the majority of youth population that comprises nearly half of the nation's total has been left behind in the entire development process. Further, the roles of youths are not properly visualised by political parties. His conclusion is that if youths are not mobilised properly, they are likely to emerge as a radical threat. The continued neglect of youth could be counterproductive for state building in post-conflict phase with its twin challenges of violence prevention/accord maintenance and social

reconciliation and reconstruction. Tipplet (2004) also argues that the post-adolescent phase, where a person begins to find his/her political and intellectual orientation, while still continuing to develop and not enjoying economic independence yet, has strong repercussions with respect to the ways in which young people map out their lives. Youth violence is also related with the family problem. Kristof and Sheryl (2009) opine that the inability of a young man to settle down in a family may increase the likelihood of his drifting toward violence.

The increasing number of rapes, abductions and participation in violent activities by the youth groups is the result of socio-economic dimensions that governs youth. On one hand, they are looked down upon by the society in the absence of jobs, and on the other hand, their growing physical needs are not met. Thus, due to this dimension, youths are not only getting into militarised activities but are equally vulnerable to get amputation, disability or infection of sexually transmitting diseases.

Youth bulge, i.e. irregular swelling of the youth population seen mostly in the developing and underdeveloped nations, is one of the main reasons behind youths resorting into criminal activities. The attribution goes to bad governance, unemployment, weak law and order and political instability. Moreover, in conservative societies where pre-marital sex is regarded as a taboo, and also due to the high mass of human resource entering the job market, marriages are further delayed ignoring their biological need so youths are further frustrated. Thus, they get affiliation to power which provides them certain status in the form of threat.

Even when the youths are more inclined to get into militarised groups, a question rises that why female youths are not militarised as compared to their male counterparts. During this stage, female role is constructive at societal level, where males have greater mobility than female ones. At this stage, male youths tend to increase their social network whereas female youths get restricted to household chores. Moreover, male youths are more aggressive by nature thus they tend to be influenced by the different ideologies and groups.

### **4.3 Political reasons**

Suppressed and ideologically guided youths form different militarised groups to achieve their aims through the use of coercion. That is why there have been different militarised youth groups present in Nepal currently demanding ethnic, geographic and political recognition. Moreover, the

zero tolerance level shown by each youth group has further excluded one group from others and clashes among them are uncontrollable. The youth groups not only get recognition while tying up with militarised groups, it also gives them power. Thus, they enjoy terrorising the citizens. In this regard, the exclusion of a large section of the population from the decision-making process denies members of the excluded group the opportunity to play an active political role, to learn the rules of the game, and to accept the responsibilities of civic participation.

Entering politics or getting affiliation to militarised groups is not hard as neither any qualifications nor experience is required. Similarly, association to any group gives them power and these groups do have interest to regulate youth groups to fulfil their political aims. The recent high politicisation of the issues of socio-economic marginalisation has also created ample space for the youths to group themselves in militarised forms.

The past political process has been exclusive and a vast majority of the youths suffered from such exclusions (Aditya 2006) and became reservoir of coercion. The emergence of youth organisations in military and para-military forms has further attracted the large group of youths into the conflict zone. Further, the affiliation to these organisations has given youth the sense of being powerful, hence clinging them to these groups and their ideologies.

## **5. Implications to state building**

Conflict is inevitable in every society and it is also one of the means of development. Without conflicting situations, there cannot be space for new development. Conflict in war affected countries can result in either a constructive or a destructive end. In Nepal, conflict had both results. With several positive results, one of the most malicious results has been the militarisation of youths, which has serious negative implication for state building and democratic stability.

In context of Nepal, the following are the major three challenges:

- i. Engagement of youths in coercive action rather than in constructive works,
- ii. Failure of the state to address the aspiration of young people,
- iii. Politicisation and criminalisation of the youths.

Whatever could be the reasons for establishment of such militarised youth wings by political parties and interest groups, the consequence that can possibly emerge is always the same: violence, conflict and weakened democracy ultimately leading to state failure. The presence of youth militarisation has different impact on youth, the state and the society. The impact on youths due to militarisation appears in their lack of holistic understanding, missed educational opportunities, waste of energy and intelligence etc. They are physically and mentally more stressed and consequently prone to be engaged in grave crimes and violence.

At societal level, militarisation of youths has the following impacts:

- Increased impunity, fear and insecurity,
- Increased incidence of threats, coercion and criminal activities like fighting, rape and abductions,
- Negative social image and mistrust,
- Waste of human resource leading to retardation of development and economic growth,
- Increased dependent population, and
- Dysfunctional law and order.

In such a scenario, it is the responsibility of all the stakeholders to give the community relief from the conflicting mindset. From CPA to the election to the CA, Nepal has seen different levels of transition. But with changing governments and continuous power politics going around the post-conflict situation, it seems shaky and high chances for the different political parties to be inflicted by war-psyche.

The conflict dynamics is not predictable and can move into any direction if not handled properly. In addition, in the nation with higher youth population, the dynamics can be even more unpredictable. Youths are the ones who get highly motivated or de-motivated only with the blink of an eye so handling them is much more difficult. With the youths coming out from the criminal psychology, it can be even more difficult to divert them to constructive and productive works. In such cases, it is the responsibility of the mother parties and the state to channelise them into the respect of law and order, constructive works and provide them psycho-social counselling. It makes the community aware about their situation thus making reintegration and rehabilitation process smoother.

Hence, during this post-conflict period, with emergence of larger militarised youth groups, the role of youth in the process of state building has been even more important. So, youth population and state building are directly related to one another. They can have profound impact mutually. If mishandled, it can result in destruction and if right-handed, it can be prosperous for the nation. Mostly, war-affected countries are those with high youth population but lack of opportunities. To meet ends, youth groups end up in forming various groups either to threaten the other groups or to support the motives of their leaders.

Similarly, with state building, peace process also goes hand in hand. But the process of state building might not lead to ultimate peace. This also incorporates the process of state restructuring, the change which can equally threaten the peace process if wrongly handled. So, if the process of state building is not carried out properly, it can trigger more violence in the society and further militarise the youth groups.

The segregation of youth groups on the basis of their region, caste, culture and ethnicity has been not only creating problems today but also constituting a great threat to divide the country into parts thus hampering the overall development. The authorities seem content with the activities carried out by their youth wings. They do not take responsibility of the irresponsible behavior of their youth outfits. This is not only hampering the state building, but also impeding the peace process as well.

Violation of the human rights to a greater extent posing the threat of further conflicting situations across ethnicity, geography, caste and culture is rampant. But at the same time, these youth groups have done certain commendable jobs like acting against corruption and smuggling. But their main motive seems ultimately to encourage violent activities. Thus, these youth groups are functioning more as a militarised group and hindering the post-conflict stability and success.

Youths are the main component of the state building process. Their diversion to the criminal activities currently can result in not only increasing insecurity, but also in deteriorating psychology. With the introduction of various youth militarised groups, rising impunity, security threats and youth migration, the process of state building has been further hampered. Most of the youths has migrated in search of employment and has been placed in 3D (dirty, dingy and dangerous) works which have further increased the amputation of youth body parts thus increasing more idle and dependent population.

State building is not possible with vacant and unproductive youths. With the more militarised form of youths, it is near to impossible to realise the state building. Youths with threatening voices are getting their wish fulfilled. This turns them more lethargic. Today, the youth psychology is shaped in such a way that they are enjoying the power on the basis of the barrel of gun they are armoured with. Thus, they are not inclined to put their labour on anything harder than this. Indeed, it is a sincere challenge to the development of the society we live in.

## **6. State response in addressing youth concerns**

With most of the youth population involved in militarised activities and more than that migrating to the foreign state to pursue further education and career, Nepal today is at a very crucial stage with limited productive youths. The state has tried to address youth issues by being one of the signatories of the International Conference on Population and Development, World Programme of Action on Youth, but little has been done so far in addressing such issues. The youth population has been marginalised on the basis of not only caste, culture, ethnicity and geography, but also their age as well.

With the increasing trend of militarisation, youths have always been associated with the violent groups and have never been thought of as the agents of peace. They have been affiliated to groups to put up their voice which is why they tend to get militarised. Even if they get involved in constructive works now, the society looks at them with suspicion. Thus, understanding the state of youth groups, the Government of Nepal has now formed a Youth and Sports Ministry to handle such issues. In the same way, this ministry has successfully come up with a comprehensive National Youth Policy-2010. Though it discusses youth empowerment in length, it is still not out of criticism for its definition on youth that has a wide range, i.e. from 15 to 40 years. There seems to be the huge gap in policy formulation. Besides, it discusses about providing voting rights to the youths from 16 years but the country till date regards the people below 18 years as minors. Hence, providing voting rights to the people of this age group itself intrigues against the national law. Thus, the policy-makers are not aware of the consequences of including wider range of people into one group forcing the real youths to be deprived of the opportunities and pushing them towards the criminal activities.

Equally, the youth chapter in the Three Year Interim Plan (NPC 2007) has been formulated precisely covering all the concerned issues. The problems and challenges formulated in these issues are quite generic. They fail

to convince that with these strategies the goal of youth involvement in nation's developmental work will be achieved. Along with this, they also fail to look at the issues of internally displaced youths. This chapter has provided different youth related programmes comprising millions of rupees. If these programmes were implemented as per the plan, there would be a paradigm shift on youth issues in Nepal – from the rural youth to disadvantaged groups and the youth involved in military groups. But the gap between policy and its implementation has also escalated the problem. Moreover, though the proper plan has been formulated to bring the youths to the platform of state building, with bureaucratic processes and dominating attitude towards youth, this has not been possible.

## **7. Conclusion**

The youths in Nepal are militarised because of the faulty policies of the political parties and interest groups, lack of employment opportunities and effects of psychological, socio-economic and political pressure. The racial, ethnic, cultural and geographic radicalisation has fuelled up the zero level tolerance among each other. This has further aggravated already violent conflict. Dismantling of social harmony, cooperation and co-existence, violent activities of the youths are because of the failure to accept the diversity in terms of caste, community, language, culture or geographic regions and associated differences.

The youth militarisation in Nepal is promoted to physically and psychologically defeat those who do not obey them or support their interests. Those who are organising militant youth groups fail to understand the negative impacts of such coercive actions to the society, the state and their organisations themselves. The creation of youth militant wings is largely coming from the psyche of revenge, retaliation, coercion and violence. Therefore, lack long-term vision on the possible negative effects to the society and the nation is weakening the state with parallel forces that promote impunity, violate law and order and consequently push country into crisis of instability and conflict.

The efforts made by the government to address the issues of the youths have not been materialised mainly because of the militarisation of youths by interest groups and political parties. Now the political parties have to cooperate with the government to demilitarise youths, reintegrate and rehabilitate them in society and engage them in productive areas like in the fundamental means of state building. In addition, through counselling

services, the youths can be diverted into constructive works. It can keep them away from the violent activities. Majority of the youths are seen to be in militant groups due to unemployment. Thus, if the state could have provided entrepreneurship skill development trainings to them, then half of the problems would have been already solved. The endeavour should be commenced early when things are still manageable.

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## The post-conflict Trojan horse: Upsurge of urban crime as a challenge to state building

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### 1. Skeleton of the chapter

Nepal is enduring such an aftermath of conflict where the annual transaction on illegal drugs (about US\$ 442,857,143)<sup>3</sup> is almost the double of the government allocation to the security agencies (about US\$ 228,571,429)<sup>4</sup>. The further the country is accelerating in post-conflict, the newer the security challenges are emerging. The memories of numerous bloody crimes, barbaric atrocities, and blistering attacks in the past years are not erased yet. More on it, Nepalese face almost 39 reported crimes per day<sup>5</sup>, let alone the ones that are left off the police documentation. The gone years were note-worthy also from the point of crime prevention practices by the police force, given its intellect and equipment. But even after the inking of CPA, killing of people is unchecked, chaos of polity is unchanged and craving for peace is unquenched.

In this context, hereby this discussion assesses, interprets and analyses the syndromes of urban crime as one of the post-conflict challenges for state building. It eyes upon the issues of crime from the angle of post-conflict security. The discussion on increasing bureau-political tensions also make a remarkable part of this chapter. To present representative cases, the incidents and instances inside Kathmandu valley are analysed. Delineating the functions and malfunctions of police administration, this chapter also pays attention to the loopholes to be corrected as well as the strengths to be accelerated.

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<sup>3</sup> Calculated as per Guragain (2009).

<sup>4</sup> See Nagarik National Daily of 9 April, 2010 for more details on the allocation of budget to Home Ministry.

<sup>5</sup> Calculated as per Dhungana (2009).

The chapter incorporates both descriptive and exploratory study designs. More qualitative and a bit of quantitative information are gathered to have intact analysis. Almost all of the data are secondary in nature. These are bagged from published materials from various newspapers, journals, magazines, books, and souvenirs of security agencies as well. Some gray literatures are also consulted. In addition, information was also provided by the Metropolitan Police Bureau (MPB) Ranipokhari, Kathmandu and some other police officials. Yet, as per the design of this study, plethora of information is excerpted from the analyses of reputed national dailies, weeklies and fortnightlies such as *Kantipur*, *Himal Khabarpatrika* and *Nepal National Weekly*. The authors have clustered some data and given them a new form so as to make the study comprehensive and sound. Trend and timeline analysis are the basic tools employed in this study. In addition to domestic references, some international instances are also compared so as to reach meaningfulness in logic.

## 2. Crime: The thrilling buzz

Hearing the word 'crime' sounds thrilling in itself. In fact, it thrills people and threatens security. The causes and consequences of crime are most of the times associated with the rule of law and sense of security. Rajak (2008) opines crime as "not doing the deeds assigned by the law and doing the deeds not assigned by the law". He reiterates such things to be legally punishable. It seems that crime is somewhat related to morality or the breach of pre-defined standards. It generally refers to a morally wrong or an ethically unacceptable act. There are violent and sexual crimes to organised and corporate crimes and the crimes of the state (Sabhapati 2004). Incorporating theft, robbery, fraud, corruption, assault, rape, murder and other activities, crime usually goes against the established law. We find different authors diversely interpreting crime with their peculiar intellectual dimensions. Bose (1992) defines it as a product of a person's decision in achieving a goal or purpose. For Bose, crime refers to an apt solution, where usual procedure is confronted with insurmountable barrier. It is a self-improvised strategy to achieve a goal, ignoring or undermining other's interest (Ghimire 2010). It is often said to be against the other's interest. Hence, we can generalise crime as a breach of law and an outcome emerged as per one's wish to meet his/her end.

It is not surprising to find that the notion and definition of crime often differs from each other depending upon culture, religion and nation. But almost all agree that it is the infringement of a preset legal provision. The literatures on crime seem to make morality and humanity the foundation

stone to define. There are also divergent schools of thought in explaining it. Some of the schools opine crimes as moral wrongs and the others do so to them rather as the wronged moralities. Nonetheless, here we define crime as an act against the rule of law defined by the constitution of any state.

### **3. Crime control: Not a cakewalk**

People have mainly two expectations from the state; security and service (Himal 2006). In democratic practices, they form government by democratic means using the electoral rights endowed to them by constitution. In any state, police is an agency assigned to investigate upon and control over the crimes to maintain peace and security. But due to evident complexities, its job becomes tough and sensitive to fulfill, if not impossible outright.

Urban setting is frequently characterised a large scale of settlement with well-off infrastructural basis. Increased human density and modern physical structures make them the centres for policy concentration. Urban sites may include cities or conurbations but not the small rural settings with limited bazaars. In Nepal, urban area, therein referred as the municipalities under the Section 80 of the Local Self Governance Act of Nepal-1999 (GoN 1999), is categorised on the basis of population, sources of income and other facilities. Under this Act, such areas shall have the characteristics and facilities like the population of at least three hundred thousand and annual income source of minimum four hundred million rupees, with the facilities of electricity, drinking water and communications, and having the main road and accessory roads of the town pitched.<sup>6</sup>

Urban area is characterised not only by various facilities and well-served lives, but also by the presence of poverty, economic disparity and imbalance of development. So crime is because of what an urban area is. This is the habitat for both the haves and the have-nots. Density of population and diversity of economic, social and cultural status are the eminent features of city area. Hence, security appears as crucial in such places. This is also the reason why we should not leave apart the features of urban areas while focusing at the roots of urban crimes. Instances, which we discuss later in this chapter, show that the issue of urban structure and urban security should be pulled together.

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<sup>6</sup> Visit [www.mold.gov.np](http://www.mold.gov.np) to retrieve the full text of Local Self-Governance Act-1999 of Nepal.

## **4. Security: Multiple means for a single end**

For police, crime control is the preliminary purpose but the means to this do and must vary. Herein this section, we go on discussing the issues like crime concentration, crime variation and crime reduction as the multiple ways of analysing criminal pattern and characteristics. Different temporal and spatial dimensions need to be assessed in doing so. They have to be excavated, scrutinised and evaluated from different angles.

### **4.1 Crime concentration**

During the 1920s and 1930s, much of the attention of criminologists was focused on the 'criminogenic city'. It opined that a city setting is itself prone to crimes. However, by this day, scholars have moved away from such analyses. There are also other reasons that fuel criminal deeds in the cities (Crutchfield and Kubrin 2009). Crimes concentrate in such 'hot spots' where the times and places favour the large numbers of offenders to exploit criminal opportunities. Such situations are referred to frequently in criminology as 'crime attractors', triggering in highly motivated criminals from across the city-centres. Others are 'crime generators': places where crimes take place as a by-product of huge quantity of people passing through these locales on legitimate business (Brantingham 2009). They may be fairs, crowded shopping centres or even the crowded public vehicles too. Crime concentrates because of 'hot spots', 'crime attractors' and 'crime generators'.

Understanding crime depends on the way of understanding crime patterns. It also depends on understanding the range of living patterns in high density cities (like Kathmandu) and in the less dense urban areas (like suburban places throughout Nepal). The nature of urban crime is shaped by many factors including both the physical form of the city and its economic diversity. Crime concentrates in such a time when and where homes are empty and vulnerable.<sup>7</sup> In the case of Kathmandu valley, long festival holidays like Dashain and Tihar are prone to criminal events. Basnet (2009) depicts that the number of crimes are increasing especially during such big festivals. Furthermore, the physical design of suburban communities, especially the pattern of their road networks, influences the target of offenders.

Brantingham (2009) reiterates that crime tends to occur with greater frequency in poorer parts of richer cities and in poorer neighbourhoods of all cities. The occurrence of crime is shaped by a city's daily routine, social

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<sup>7</sup> Based on pers. comm. with Senior Superintendent of Police Milan Basnet on 25th February 2009.

activity patterns and the structure of its transport network into some urban settings. Crime often concentrates in places that cluster criminal opportunities like shopping and entertainment areas, major transit stops, and neighbourhoods inhabited by relatively well-off, young and single adults (Wilson and Kelling 2009). So, the concentration of crime should be dealt with appropriate concentration of security apparatus there.

## **4.2 Crime variation**

Emile Durkheim, Max Weber, Ferdinand Toennies and other European sociologists had written about the changes that occurred as a result of the transition of societies from agrarian forms to an urban one (Crutchfield and Kubrin 2009). They had proposed that during rapid social change, growing and expanding cities would be hotbeds of crime. In reference to it, the emerging cities around Kathmandu like Kirtipur and Madhyapur Thimi might be the upcoming threats for security inside Kathmandu valley. Same can be said for the other cities throughout the country. But how much prepared are we? The question is yet unanswered.

The cities with dense population comprise a wide variety of criminals and victims. In many cities of Asia, there are growing trends of organised and corporate crimes. In addition, the capital cities do have easy links with international networks. More and more organised, such a nexus forges the nets of serial crimes. In Nepalese context, government officials, police persons as well as the ex-combatants are also found to be the active partners in crime transactions.<sup>8</sup> The trafficking of narcotics and extortion make criminals own high reward in terms of money. Ultimately, financial affluence of criminals further complicates the combat of police with crime and violence.

Crime also varies according to the motive to commit it. There are vague psychological debates on whether crime is used as the first choice or the last resort. It is a public assumption that criminals easily resort to the profitable crimes. But this always does not seem to be true. Many times, criminals vent out their anger in revenge or by some psychic motive too. This is more a case to Nepal where the decade long war-torn psyche of people is crammed with fear, horror and suspicion at optimum. Therefore, the cause and nature varies according to the crimes.

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<sup>8</sup> Ex-army man Kanchha Raut and camp section commander of Maoist army Milan Kumar Rana Magar were arrested from Kathmandu in an organised theft case on 22 January 2009 (Nepal 2009). The case of involvement of senior police officers in the gunning down of media entrepreneur Jamim Shah in early 2010 is also the next instance to this.

### **4.3 Crime reduction**

From nuisance to negotiation, of course, crime has become a major genre of policy and politics. This is also related with the prevalence of abject social inequality. For crime reduction, we should explore the consequently built in opportunities for crime. Knowing them helps reduce the number of crime occurrence.

Although some countries, including the United States and Canada, experienced reductions in crime during the 1990s, the developed world suffers from historically high levels of crime (Bratingham 2009). Due to different causes like the lack the political will, aggravating security and growing inequality, states have lost their ability to ensure safe living of thousands of citizens. Moreover, the informal links of criminal groups with the government functionaries has made the task worse. These issues are very sensitive in terms of crime reduction.

Studies have found that planned urbanisation is a must to minimise security threats. According to them, urban settings have major influence on crime and disorder in the course of everyday life. Attention to how these settings are structured can reduce the dangers of crime.<sup>9</sup> Tasks like demarcation of housing plots, town planning and settlement management may have critical influence in security. According to physical engineering, some settings encourage crime and disorder while others discourage it. Different decisions regarding the construction of roads and paths let effects on the extent of crime attractors, crime generators and hot spots.

Developed countries now look for more immediate reductions in the number of criminal infractions and the impact of crime on everyday living. Because crime clusters in predictable ways in time and space, it is possible to apply policy interventions that target the specific causes of criminal events. This sometimes involves focused law enforcement at criminal hot spots. And it is in fact an applicable measure in the cities like Kathmandu.

Crime financing shapes the ways of criminal operations. It is the way through which criminal gangs finance their activities. They accumulate huge sum of money with the help of drug pushing, prostitution, gambling, smuggling and other various forms of black marketeering. Hence, such misdeeds require more preventive measures rather than curative ones. In this regard, different measures should be taken to address such a growing level of crime. They might range from mass-awareness to strengthening

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<sup>9</sup> Information retrieved via <http://www.harvardir.org/articles> as visited on 20 January 2009.

of intelligence. Recently, the MPB has formed an 'Anti-kidnapping Cell' to control the criminal activities like kidnapping and ransom-seeking. The initiatives like the establishment of a separate cell for the investigation on cyber crimes, discussed elsewhere in this chapter, are also praiseworthy. In addition to this, significant crime reduction policy, research and implementation support to the local authorities may result in a better security.

The British Crime Reduction Programme had exemplified that crime can be immediately reduced. The British Crime Survey and its effect had resulted in the fall down of the rates of crime against persons and households (BCS 2000). Likewise, the Australian Institute of Criminology is supporting state-based crime reduction programmes by providing information, resources and research base that help state police forces shape specific crime reduction programmes (AIC 2009). In Canada, the Royal Canadian Mounted Police 'E' Division supplies the federal, municipal and rural policing services.<sup>10</sup> This is considered an ideal form of deconcentration of police administration. In British Columbia, the security agency has a crime reduction programme centered on proactive analysis of crime patterns in order to direct efforts toward persistent hot spots and focus enforcement on chronic offenders.<sup>11</sup> Nepal has more to learn from these experiences around the globe.

Crime reduction programmes should be specifically geared towards working with other government agencies along with academic and university research partners. It helps in understanding and addressing socio-economic patterns of urban activities and also imparts hopes to the commoners. But harnessing such partnerships has not taken place here. Some of the leading magazines are engaged in explorative journalism but this is in a very limited number. Often, the research and studies on crime are held only under the umbrella of police bureau. External studies should also be promoted if we are to gain immediate and appropriate benefits from scholastic analysis.

## **5. Nepal Police**

There were no formal practices of police service in Nepal even in the middle age and before. Some Malla Kings had arranged some kinds of security management. Later, the first king of modern Nepal, Prithvi

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<sup>10</sup> Visit <http://bc.rcmp.ca/ViewPage.action?siteNodId=14&languageId=1&contentId=-1> for more details.

<sup>11</sup> For extended information, go to <http://www.crime-free-association.org/index.html>.

Narayan Shah, was found to have arranged police to control the possible insurgency. Rana Prime Minister Chandra Shumsher is reported to have formed *Aminee* Police circa 1898 AD. It seems that he had managed to do this after the impression he got during his trip to Britain in the 1890s.<sup>12</sup>

Police in Nepal was established in October 1955 with the aid of British Government that time. Now, it has its 'glorious' (Shrestha 2007) history of more than five decades. This police bureau in Nepal basically functions on the basis of Police Act-1955 and some other succeeding Acts and Rules. The Act of 1955 has fundamentally made the bureau responsible for crime investigation and control, traffic management as well as civil security. Besides, the organisation is actively involved in building public relation, police welfare and service to the social sectors too.

### **5.1 Metropolitan Police**

Collectively, there are 8,217 policepersons and around four million people inside the capital (Dhungana 2009). This population is projected to be increasing every year. To meet their security needs is not only a serious but also a sensitive job to fulfill. As the security issues turn into a complex one in looming large urban areas, many countries form specific forces to maintain peace and security. Nepal Police has also gone after the same practice from around the globe. Analysing the growing pattern of crimes and the increased need of security, it had formed the MPB in 2006.<sup>13</sup>

The MPB is now equipped with 24/7 alert Control Room Vehicles (CRVs) throughout the valley. There are Close Circuit Televisions (CCTVs) installed at different places around the valley. All these help the police promptly reach the accident spots and arrest the criminals (Simkhada 2007). In addition, the bureau is outfitted with 70 Tata mobile vehicles from 15 March 2007. The bureau claims that criminal activities inside the valley are decreasing due to this. Among the 70, 40 vehicles are employed in Kathmandu, 10 in Bhaktapur, 10 in Lalitpur and 10 for traffic police purpose in the valley. Besides, Geographic Information System (GIS) and Global Positioning System (GPS) are also the technical strength for security investigation for Nepal Police at present. With all these might, MPB commenced with a fascinating slogan of 'Police within Ten Minutes'.

<sup>12</sup> The information was gained via gray literature on Nepal Police. They do not have specific time and authors to be cited.

<sup>13</sup> Retrieved via [www.nepalpolice.gov.np](http://www.nepalpolice.gov.np) on 22 March, 2010.

**Box 11.1 CRV stationary centres of MPB in Kathmandu****Janasewa Sector**

1. Paropakar school
2. Purano Nagarpalika
3. New Road gate

**Durbarmarg Sector**

4. Gairidhara

**Lainchaur Sector**

5. Lainchaur Mode
6. Khusibu Town Planning
7. Dhobichaur

**Simhadurbar Sector**

8. Maitidevi Chowk
9. Babarmahal Chowk
10. Thapathali Mode

**Kamalpokhari Sector**

11. Bishalnagar
12. Charkhal

**Syowambhu Sector**

13. Sitapaila Chowk
14. Chagal Education Office

**Kalimati Sector**

15. Kuleshwar
16. Kalanki
17. Balkhu
18. Teku Bhansar
19. Bafal
20. Tripureshwar Chowk
21. Thankot Chowk

**Lalitpur**

41. Jawalakhel
42. Taukhel Chowk
43. Bhainsepati Chowk
44. Mangal bazaar
45. Nakhkhu Chowk
46. Inar Mode (Pulchowk)
47. Balkumari Chowk
48. Mahalaxmasthan
49. Chapagaun Buspark
50. Sanepa Chowk

**Kirtipur Sector**

22. Panga Chowk
23. Chobhar Gate

**Balaju Circle**

24. Banasthali Chowk
25. Bypass Chowk

**Maharajgunj Circle**

26. Basundhara Chowk
27. Gangalal Hospital
28. Baluwatar Chowk
29. Gongabu Chowk
30. Dhumbarahi Chowk

**Budhanilkantha Sector**

31. Khoret Veterinary Hospital

**New Baneshwor Circle**

32. New Baneshwor Chowk
33. Buddhanagar
34. Lakhe Chaur
35. Jadibuti

**Gaushala Sector**

36. Chabahil Chowk
37. Sinamangal Chowk
38. Purano Baneshwor Chowk
39. Gaurighat

**Bauddha Circle**

40. Jorpati Chowk

**Bhaktapur**

51. Lokanthali
52. Byasi (Changu Mode)
53. Sallaghari Chowk
54. Kamalbinayak Chowk
55. Suryabinayak Chowk
56. Bode Chowk
57. Balkumari Chowk
58. Sanothimi Chowk
59. Jagaati Chowk
60. Kharipati Chowk

Source: Simkhada (2007)

## **6. 'Criminogenic' Kathmandu**

Nepali people take Kathmandu as not only a city of numerous opportunities but also a hub with insurmountable challenges. General perception is that the Kathmanduites, as metropolitan residents, are peace-admirers, educated, sensible and practical as well as from high class (Thapa 2008). Besides, lay people identify Kathmandu less in terms of urban poverty and related difficulties. Contrary to such perception, there are numerous slums and shanties amidst the stuccoed bungalows of Kathmandu. Approximately 20,000 people are living in slums in the capital of Nepal.<sup>14</sup> Some have simple dwellings made up of bricks but many others have nothing more than ramshackle shelters. In Nepal, even after the democratic reorientation in 1991, there was no surety and certainty of equitable distribution of development benefits to the people from all the geography and social classes. So, the urban poverty is believed to be developed as a by-product of regional imbalance of development.

Unquestionably, urban poverty has grown in much of the cities around the world over the last two decades (Zaidi 1998) and the present decade is no exception to this. There has also been substantial increase in crime and violence in such cities. Sufferings from violence and property crimes have become an unpleasant part of life for many people residing in urban settings. Downtowns and city-hubs are time and again influenced by daily mishaps, robbery and illegal activities. Not false, most of the experiences in rising urban centres are also marked by anarchical events and unacceptable experiences. The same sorts of activities have now become the heart of the problem and are continually threatening the domestic security in Nepal. In this scenario, the UN also started observing the World Habitat Day from the fag end of the twentieth century with the slogan 'Safer Cities'.<sup>15</sup> Perhaps, it was to address the looming concern over escalating urban crimes, violence and insecurity around the globe.

In recent days, the heritage city Kathmandu is frequently marked by mysterious crimes. As the immigration rate to this city is in higher digit, the city is expanding along with the development of new settlements. Urbanisation is haphazard and the population is spiraling up. Every year a new cohort of citizens gets crowded with a new hope and vision for life. In

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<sup>14</sup> Retrieved via <http://www.nowpublic.com/environment/kathmandu-slum-and-polluted-river-bagmati> on 2 February, 2010.

<sup>15</sup> For the additional details see <http://www.grida.no/news>. The information is retrieved on February 17, 2009.

contrary to common expectation, this influx and ways of life are not only complicating the urban system but also putting forth a rather challenging job to the security agencies.

### **6.1 Dealing with details**

A school child Santosh Karki was shot dead in a simple tussle in January 2010. A high school girl Khyati Shrestha was abducted and later murdered as a means of extortion. There are many other cases alike the kidnapping of Megha Devkota, the daughter of neurosurgeon Dr Upendra Devkota, and the killing of Aashish-Ritesh in Thankot jungle near Kathmandu. Also, a scrutiny on the documented major criminal cases<sup>16</sup> shows the guest houses in Kathmandu as safe havens for criminal activities. Criminals seem to have committed malevolent deeds, entertaining the privacy in such houses. These places seem to be comparatively easier to commit crimes as there are less possibilities of flow of information.

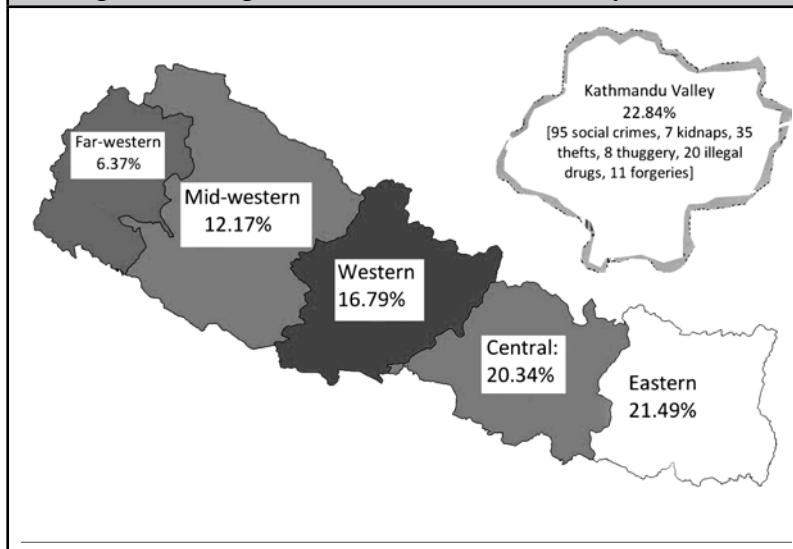
The post-conflict economy is not that much able to impart hopes for the people. The people with hopeless horizons are resorting to crimes. When the war itself has widened the windows for crime, the aftermath is with even broader perils. Shaw (2009) argues that post-conflict societies are likely, given the conditions generated by wars, to be vulnerable to higher levels of crime, and in particular, violent crime. This is because war reduces economic opportunities (or centralises these around a small elite), undermines the rule of law resulting into a fragile state with little enforcement capacity. Such conditions are also favourable to cheap and easily accessible firearms. So, crimes, especially in the city centres, spiral up in the immediate aftermath of the conflict.

Figure 11.1 depicts region-wise concentration of crimes in Nepal based on the report of Dhungana (2009). It is generated depending upon the crimes those took place throughout the country in-between 16 November to 15 December 2010.<sup>17</sup> Of the 1,191 crimes reported, more than one-fifth within a month was reported in Kathmandu. The density of the population should also be taken into consideration while analysing these facts, but one cannot evade from the fact that the provision of security for the metropolitan city is also more equipped and planned than that for the rest.

<sup>16</sup> The all information on criminal activities inside Kathmandu valley that are used in this chapter is based on the report provided by Metropolitan Police Bureau to the authors.

<sup>17</sup> The data is available in Nepali calendar marking the month of Mangsir, the eighth month in lunar calendar.

**Figure 11.1: Region-wise concentration of crime per month**



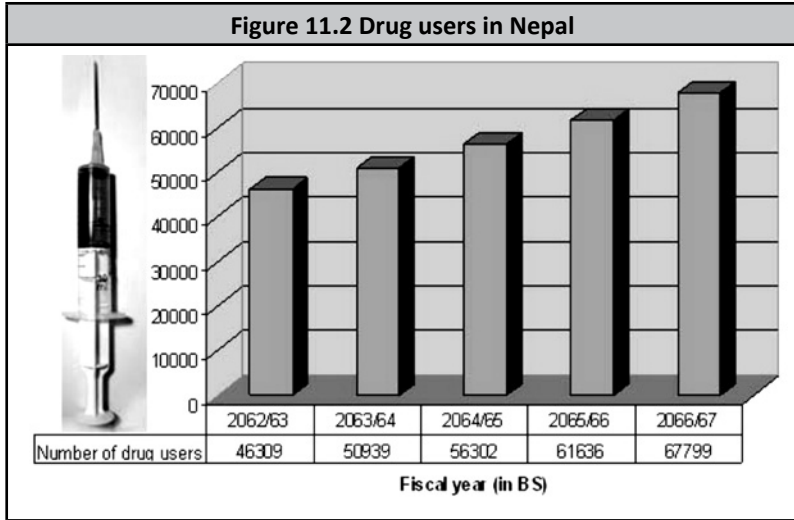
Source: Designed by the authors as per Dhungana (2009)

In contrary to the financially and socially low class people, who are manipulated to be involved in crimes, the well-off criminals have the strong linkages with security administration. Thus, they hide their malevolence easily. Most of the times, the murder cases in the high-class family go unreported because of the power link with the security officials. Or, it might be that they have the capacity to hide crimes in terms of monetary influence. However, the series of criminal events in the capital shows manipulation of people as one of the effective tools of committing crimes.

If we calculate on the basis of Dhungana (2009), there are, on an average, nine criminal incidents taking place in Kathmandu per day. It means that there is possibility of a newer crime between every interval of two hours. The legal case goes on, also with the matter of investigation, prosecution, impunity or punishment every hour. In Nepal, there is the responsibility of 666 people for each police on an average (ibid). In this sense, the logic for reinforcement with new police recruitments also appears valid.

Showing no signs of downfall, the use of illegal drug is rocketing day by day. This seems to be a global tragedy of the police in every country. In the same regard, Guragain (2009) argues that not merely Nepal but no

country in this globe is ever successful in seizing more than 10 per cent of the supplied narcotics in their countries. The post-conflict state building requires able-bodied and sharp-minded human resources. But this alarming fact threatens a nonviolent and prosperous future that every Nepali is (day)dreaming in these days. This is also an alarming siren for a peaceful society we hope to live in. Figure 11.2 shows that the number of drug users is startlingly increasing in Nepal.



Source: Designed by the authors as per Guragain (2009)

The data on how many arms groups are operating in Terai is dubious. While the Home Ministry has revealed them to be 109 and Gorkhapatra in 2009<sup>18</sup> enlisted to be 107 (see Chapter 12 in this book for more discussion on small arms and associated challenges). But it not false that Madhesi youth are heavily prone to be criminalised by such groups. The hill area is also no exception where the confrontation among gangs, youth outfits, and criminal groups has become almost a regular nuisance.

The same is in the case of cyber crimes and wide-spread surfing for pornography. In recent dates, cyber crimes has thrived so much that the Nepal police has set up a cyber cell in December 2009 to curb such crimes. It deals with criminal cases involving cyber technology. The cell is also responsible to investigate upon child pornography, money laundering

<sup>18</sup> Based on the report by Ashothama Bhakta Kaharel in Gorkhapatra of 26 April 2009.

on the internet and cases related to intellectual property rights.<sup>19</sup> After repeated cases of hacking and fake credit card rackets, the call for a technically sound anti-cyber crime bureau was strongly felt in Nepal. Youths occupy the bulkiest part of the cyber transaction. Sharma (2009) puts forth that the teenagers take up 82 per cent of the total internet visitors in Nepal. In the same regard, 98 per cent of teenagers in urban Nepal visit pornographic sites (Sharma 2009). It means that 80.36 per cent of the total internet visitors in Nepal are accustomed to visit porno-sites. This leads the young ones to think about sex and associated things frequently, thereby increasing the rate of related crimes.

Of course, psychic orientation is largely shaped by where people live and what socio-political circumstances take place around. The post-conflict society in Nepal has begun to show that they have been bearing grave impacts of the decade long conflict. The level of suspicion and criminality has spiraled up to the level that people beat someone who is playing with unknown kids or is giving something to the children at unknown setting. There is no chance for the victims even to defy. One case of Koteswor, Kathmandu in 2009 and some other cases of alleged kidnapping in the Terai belt are glaring instances that people are heavily suffering under mental torture, fear, suspicion and terror. This shows the aggravating post-conflict psyche. Nepal has not yet devised any concrete plan to deal with such things. One has to know, the war psyche, for sure, has positive correlation with the increment of crimes.

## **7. Factors that affect crime**

Post conflict crimes and the future they herald are very sensational and sensitive as well. Handling the fragile security remains always a tough job in such a situation. But most of the classical security strategies look at crimes from a very narrow angle. They simply do not pay attention, or ignore even if they know, the structural causes behind the occurrence of crimes. Thus, classical security approaches focus only on bullets and batons. Putting them aside, post-conflict security has to focus principally on the proxy causes of crimes the addressing to which can indeed make a difference in security. Some of them are discussed as following.

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<sup>19</sup> Visit [http://www.accessmylibrary.com/coms2/summary\\_0286-33614516\\_ITM](http://www.accessmylibrary.com/coms2/summary_0286-33614516_ITM) for more details. The data was accessed on 9 April, 2010.

## 7.1 Small arms

The prevalence of small arms cannot be left off the map while we analyse the crimes taking place in the aftermath of conflict. Even though there is a strict provision of punishment in Arms and Ammunition Act-1962 of Nepal, arms-related crimes are spiraling up these days. It has become such a rocketing concern that a famous weekly has published this issue as its cover story.<sup>20</sup> Such stories and features on SALW in media are looming large. Seizure of SALW is in high rate in both 'preventive search' and 'operational search' conducted by the police (Nepal 2009). The provision for licensing and renewal of arms is very strict in the Act but weak in implementation. Yet, the major cases of arms and ammunitions in Kathmandu valley in the year 2008 counted 34. Greed for arms is in rise for they are becoming the major means of extortion, abduction and murder. Organised as well as corporate criminals are using small arms as they are easily available in the Indian border along the conflict-ridden Terai belt. Moreover, the border is open and any kinds of arm-transaction are possible along the borderlines. This has resulted into a broad use of pistols and revolvers even in gang-fights in the city. Widely available, small arms are found to be used even in simple tussle among school-children and neighbors. The Aashish-Ritesh Murder Case<sup>21</sup> that took place in November 2008 and the shooting down of Santosh Karki at Gothataar in January 2010 are serious instances of this tendency.

## 7.2 Gender

Analysis of criminal patterns is incomplete sans a scrutiny on gender dimension. Generally, women are found more as victims than as victimisers in most of the criminal cases. Literatures dealing with psychology of crimes assert that the crimes committed by women are found to be more pathological and abnormal than those committed by men.<sup>22</sup> Police records of MPB also depict less number of women than men in committing legally wrong deeds. Women in other cities are found less involved in crimes than those in the capital city. Also, in most of the cases, the number of victimised women is found to be more than that of victimiser women.

<sup>20</sup> Weekly magazine *Nepal* had published the issue of small arms as its cover story in its issue of 1<sup>st</sup> February, 2009.

<sup>21</sup> The murder of Aashish-Ritesh was an infamous criminal case in November 2008. Several school children were found to have used small arms in killing the two boys in a forest nearby Thankot VDC, Kathmandu.

<sup>22</sup> The information is accessed via <http://www.redroom.com/articlestory/color-conscious-white-blind-race-crime-and-pathology-america> accessed on 16<sup>th</sup> February, 2009.

Further, wrong-doer females seem to be less acquainted with criminal culture and possession of criminal skills in comparison to their male counterparts.

### **7.3 Age group**

Age is the next factor largely shaping the magnitude and profundity of crime.<sup>23</sup> Occasionally, we find massive involvement of youths in criminal activities. Interrelating demographic factors with the occurrence of conflict, Staveteig (2005) states that the risk of youth involvement in criminal activities is shaped by the degree of alienation, frustration, and marginalisation they suffer. But the rest of the age groups are also found to be engaged in such deeds differently. The sorts of crime differ from one to another age-group. The wider variance there is of age group, the larger varieties there are in criminal patterns.

### **7.4 Economy**

Unambiguous, economy plays eminent role in crime occurrences. The post-conflict economic woes have ridden Nepal much. With gloomy signs, The World Bank (2009) has projected less than 4 per cent of economic growth in the year 2010 for Nepal. Owing some remarkable financial successes in urban settings, the country still features a broadening gap between the poor and the privileged ones.

In city settings, lack of money is usually defined in terms of a lack of access to different needs like productive employment, basic services and resources of the urban economy, effective and managed representation plus security and justice (Zaidi 1998). Key is that poverty reflects the inability of an individual, household or community to satisfy minimum needs. Frustration from job-market, urban insecurity and abject poverty find room to play in every corner of civic dwellings due to the post-conflict stagnation. Thus, the urban poor resort to criminal actions for eking a living. This factor constitutes even worse situation resulting in frequent crimes in cities. But such an issue either does not get, or gets marginal attention from media, if published/transmitted. On the other side of the coin, the phenomenal rise of the urban poverty is spiraling up annually. Whereas, in contrast to it, the priority of development institutions are either misplaced or mismatched (Perkins 2005).

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<sup>23</sup> Based on pers. comm. of Safal Ghimire with Mr. Keshav Adhikari, the lecturer of population studies at Tribhuvan University, Kirtipur on 20 February 2008.

## **7.5 Myths and misconceptions**

This very factor plays vital role in the analysis of crime. In lay analysis, poverty is frequently considered as the generator of crime. Provided that were true, eradication of poverty would eradicate crime. But it is untrue, for sure. There are two schools of thought in this regard. One focuses on poverty to occur crimes. The other does so on richness. It argues that theft takes place because of richness somewhere. Without richness, there is no theft, and no crime at all. So they argue that the more increasing the level of income, the greater the heightening of criminal activities. No matter what it is, one can at least generalise that poverty is major in influencing security. On the other side of the coin, the organised gangs and mafias are often in the command of those who neither are poor nor reside in slums. It suggests that the urban poor are often manipulated, due perhaps to their vulnerability, and become either victims or parties to crime. It also depicts the harsh reality that poverty itself may not automatically lead to violence or crime, but may favour it in certain circumstances. Nonetheless, neither all criminals come from the ranks of the poor, nor does every poor person involve in crime.

## **8. The journey forward**

### **8.1 Public participation**

First and foremost, reforming and restructuring of the police is a must in post-conflict situation. Of course, it will not be as easy as a cakewalk. An intensive debate with the participation of legal and semi-legal organisations, training institutes, school, college, universities, business organisations and corporate houses as well as governmental, non-governmental and civil society organisations will help pave a better way for security. Infrastructural facilities for the police bureau like a well-off investigation system with scientific laboratories generate scrutinised investigation and uplifted capacity of security forces. Besides, absence of the aspects like the transitional security, respect to human rights, financial transparency, social participation in formulating policies, management of internal disputes, address to intra-organisational discrimination, and operational independence is cited as prevalent in police administration (Nepal 2008). Shah (2008a) underlines the importance for the voices of civil society and academia to be heard and respected accordingly. Participatory approach in formulating plan and policy surely rewards inclusive voices. Such deeds, in turn, promote the sense of belongingness in people to the police

administration. Thus, this facilitates the organisation to maintain law and order perfectly. But the investigation mechanism and participatory action of Nepal police is criticised as having poor health (Pariyar 2008).

## **8.2 Professionalisation**

Setting the pace of professionalism is a key for reformation, which is a part of the state building process (see Chapter 2 for details on it). But Nepal police now apparently and seriously lacks operational freedom. Even after the completion of the half century of its establishment, the police administration in Nepal is affected by volatile politics. Budhathoki (2007) and Adhikari (2008) states that clear legal provisions and political commitment are needed to make police administration free, transparent and responsive. They further state that only the respect of such values help transform the organisation as the servant of people and protector of mass civil rights.

Red-tapism, bureaucratic delay and poor infrastructures have been nourishing the incapability inherent in Nepal police (Shrestha 2007). Besides, human resource development and resource mobilisation also come as key issues. The Home Ministry was once quoted saying that it is planning to assign one 'Director General' to well manage the three security agencies (Kantipur 2008b). Such rumors of restructuring and reformation are not new and unheard of. But how much they have been translated into action is a very serious question.

The limit of resources is also time and again quoted as the reason behind dysfunction of police. Even the ministers accept that the police have limited resources (Banstola 2008). But nothing remarkable has yet taken place to tackle with this problem. The police officials themselves do not seem to be satisfied with the transfer, posting and promotion system inside the administration. Reward and punishment are reportedly dependent upon either 'immediacy' or 'luck' (see Kunwar 2007, Samabeshee 2008 and Shah 2008b for more details). The basic characteristics of civil war are frequent criminal cases, gang fights, daily riots, dissatisfaction and absence of law and order. If they still exist in our society, general public finds it hard to believe that the civil war has come to a halt.

Unavailability of efficient weapons is reportedly the prime reason behind feeble security. But it is not less debatable. Discussion among the intelligentsia is wide spread on whether the weapon is a problem or not? The science of security says that police is not a military agency of

the government. Rather it is a civic unit to maintain peace, security, law and order. So it should be strengthened not in terms of weapons, but in terms of investigation system. Interviewed, Superintendent of Police (SP) Milan Basnet fingered the problems on management of human resource in police force for the prevailing insecurity in Kathmandu. He also opined that the existing number of human resource has to be engaged in riots, strikes and other trivial security measures.<sup>24</sup> Hence, they overshadow the micro issues of peace and security at large.

Corruption and malpractices during the supply of medicines and rations to police are frequent. Resisting the wrong and illegitimate order of senior officers becomes always a fire-test. In contrary, such issues remained unheeded for a long run. It had to come out in a volcanic way, and it did. Police revolt in Nepalgunj followed by some other disputes (see Box 11.2 for more details) is the crystal exemplification of such inner conflict within police bureau.

#### **Box 11.2 Some cases of revolt in Nepal Police**

- **June 18, 2008, Parbat**

Infuriated APF juniors beat up the Battalion Chief, Govinda Chhetri, and six other senior officials in Chandika Batallion.

- **June 21, 2008, Banke**

About 300 disgruntled Armed Police Force (APF) of Bageshwori barracks at Shamshergunj rebelled against bad-food, misbehavior and discrimination, beating battalion chief Harishankar Budhathoki and keeping over a dozen officers captive.

- **July 12, 2008, Nepalgunj**

Against the low quality food, unchecked ill-treatment and discrimination by seniors, about 500 Nepal Police persons seized the Riot Control Battalion and the Mid-western Regional Company.

- **July 16, 2008, Gorkha**

The Probe Committee of the Regional Police Office in Pokhara recommended disciplinary action against 20 Nepal Police personnel of the District Police Office (DPO), Gorkha.

Source: Compiled from various magazines and newspapers

Police should have great visions and perspectives with the blueprint for the security of even after fifty years (Shah 2008b). The degree of corruption and mishandling of power are still unchecked. Financial progress of

<sup>24</sup> Personal communication of one of the authors on 25th February, 2009.

ministers and police officials are rocketing. Skewed power relation is spiraling up (Gaunle 2000). With all this, if we still say we are on the way to a better security situation, we would, of course, be wrong.

### **8.3 Depoliticisation**

Safeguarding citizens' rights needs serious attention and carefulness. But even after the remarkable political changes of 1950s, 1960s, 1980s, 1990s, and 2006, the police administration in Nepal has been notoriously under political pressure. The stay of armed conflict strengthened the police with additional equipments but it did not enrich the organisation with civil-police relations. Not only the alteration of systems but also the change of government is found to have heavily affected the decisions of transfer, promotion, reward and punishment within this organisation (Bhandari 2008; Magar 2008). Since Nepalese experienced more than a dozen of governments after the change of 1990s, it is easy to guess how much the police administration has suffered from the selfish influence of the every new government.

For result-oriented policing as a part of the broader state building in post-conflict situation, there should be institutionalised good governance not only in policy but also in practice. The evaluation system should be impartial and transparent to implement reward and punishment measures. Simultaneously, law and policy should be appropriately honored. These all can be possible through the formation of Police Service Commission. But the resistance by some power-holders having vested interests could not let the formation succeed (Rai 2008a and 2008b).

The police persons should be given chances to have impartial performance. Giving responsibility and making them responsive is crucial in gaining effective performance. Ex-officials of Nepal police do admit that internal management and external environment are two key challenges for this organisation.<sup>25</sup> Blame-game is also common between government and the police officials for the deteriorating security. Bohara (2009) quotes one former IGP saying that it is the government who dismantled and disturbed all the systems of police organisation and the responsibility to improve this is of the government itself. Such accusations and counter-accusations are still ubiquitous. Disputes in appointing police persons and in arranging their hierarchy are other matters. Officials are compelled to look after the power centres for their promotion and transfers as the power nexus is so much filthy and complicated.

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<sup>25</sup> See Acharya (2008) for more details. It has quoted then Inspector General of Police (IGP) Hem Bahadur Gurung saying so.

Increasing politicisation seems to have tensed the relation even between senior police officers and home minister time and again. Use and abuse of authority in transfer, promotion and recruitment goes even to revenge the actions of the counterpart (Kantipur 2008a and 2008d). This is spiraling up, rather than pacifying, animosity within security apparatus. Police shoulders the responsibility of security of the citizens but their morale certainly goes down as the political leadership destabilises the agency (Kantipur 2008e).

Sad but true, the police in Nepal is frequently accused for not maintaining impartiality, transparency and unbiased performance (Shah 2008b). The security policy is also insufficient and unscientific to further improve the job of maintaining law and order (Budhathoki 2007). Powerlessness and absence of the legal state and rule of law are buzzwords everywhere (Shrestha 2008). Discords and resents from industrialist and other professional groups also depict the dismal security scenario.<sup>26</sup> Besides, frequent political interference visibly disturbs the intra-police structures and status. Incapable leadership and corrupt tendency show that none seems to be responsible and responsive in this matter (Gaunle 2000; Nepal 2007). So, depoliticising the police is a must because, well-known, development sans peace is mere a day-dream.

#### **8.4 Addressing impunity**

Involvement of police officials in dreadful criminal activities, misinterpretation and diversion of information by officers for personal benefits etc. have created bleak image of police. Further, unpredictable politics and abuse of state forces in post-conflict phase by the political parties have been providing ample room for growing anarchy and thereby for impunity. Kantipur (2008c) reports that the dual security management for Maoist leaders even after signing in the CPA became a nuisance for security. During the time, Maoist leaders used their own party combatants as their security guards. This had also aggravated security problem for the guards used to hold arms without any dress and symbols. It is the case not only with the Maoists, but also with the other several political parties who have admitted firm stand on parliamentary democracy and rule of law but have paramilitary youth outfits (Chapter 10 in this book details on the

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<sup>26</sup> On 2 March, 2010, a delegation from Federation of Nepalese Chamber of Commerce and Industries (FNCCI) has also demanded with the prime minister that they be allowed to keep armed guards on FNCCI's recommendation. Industrialists have been venting out their fury over the deteriorating security situation time and again. See *The Kathmandu Post* of 3 March, 2010 for more details.

on militarisation of youth outfits). Their number has grown up to nearly a dozen. Arbitrary actions and frequent clashes between such outfits, use of overt force and influence over bids, national properties and resources by such groups are posing serious question over the efficacy of rule of law. The wrong-doers affiliated to such groups visibly engage in heinous political practices. Even after that, they are either not arrested or left off the bar of law, if arrested.

The politics even after the popular movement of 2006 is intricately discouraging for the security agencies. Let us take an instance Nepal (2007) cites. It reveals that, in 2007, then Chief District Officer (CDO) in Dolakha was beaten up by the Maoist cadres. But he was compelled by the ministry to free them for a nominal penal charge. The former rebels and their sister wings, in addition to other armed groups in the country, were engaged in infringement of rule of law time and again. There was not even a single case of punishment for such deeds during the stay of one and half year after the Maoists entered into peace process. The mere intention reported was 'not to disturb' the peace process. This had seemingly obstructed the police administration in investigation and monitoring of the crimes.

Impunity is visibly growing under the aegis of political parties. In the aftermath of conflict, parties are more concerned to safeguard their future and well-wishers so as to last long with strong roots. They have deviated from investing attention for public benevolence. Impunity gets institutionalised by the irresponsible acts of leading people. This on one hand, decreases people's belief on their government, on the other hand, enriches the confidence of wrong-doers.

Analysts write that only the organisational commitment and belief of people can activate security agents. The innate tribulations inside the police should be addressed as soon as possible. If not, none can stop it from becoming a deadwood agency of the state. Summing up in the words of Pyakuryal (2007, p 7), "It is about to become late for civil society and human right activists to raise the issue of security sector reform".

### **8.5 Bottom-up beginning**

Beginning from the public is a foremost necessity. Information technology for better performance and the physical requirements for mobility like riot police vehicles, armed personnel carriers and fire-fight vehicles need to receive proper attention. The judiciary aspect is also an inalienable

part of the well-functioning of police. It should be endowed with semi-judiciary power so as to enhance efficiency and flawless performance. The establishment of police colleges and scientific devices for police labs is the very requirement. 'Right Person at Right Place' policy is frequently parroted for the betterment of police but its efficacy is overshadowed below a big question mark. In addition, adequate pay and perks as well as timely promotion are equally required.

The popular image of urban crime is not only sensational but also misleading. In most cases, the news-media frame public perceptions about the crime and criminals. Media gives prominent coverage to serial killers, rioters and bank robbers, the effects of which are yet to be assessed and examined. Of course, the positive, beneficial and constructive deeds of police impart hope to the people. But most of the people and media coverage shows only the grim image of Nepal Police.<sup>27</sup>

The concept of proactive policing is emerging recently. Proactive is not only a buzzword in the criminal justice system, but also a key to crime prevention. In such an approach, police aggressively conduct need analysis and work with citizens and social service groups to dramatically drop the crime rates (Harmon 2009). Following this, strengthening the intelligence network becomes vitally preventive. Security and cross-checking in crime concentration areas decrease social tension. Newer technologies and equipments, management of migratory population as well as properly analysing the cost-effectiveness of budget allocated for police administration are especially significant. Burrell (2003) puts forth that police, prosecution, prison, probation, and parole services are most of the time considered the hallmarks of success in security.

## **9. Knot remarks**

Management of transitional security and addressing of post-conflict hopes are very sensitive jobs, if truth to be told. Crime, insecurity and violence not only impede resurrection of economic growth, but also deteriorate revival of development efforts at large. The issue of poverty should not be marginalised while dealing with the crime reduction. Insecurity directly affects physical capital, stops from initiating new deeds and investing in prospective areas. In the phase of post-conflict recovery, every field is wished to sprout with new buds. But crimes and chaos enters with stormy

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<sup>27</sup> Based on an interview with SSR researcher Prabhakar Gautam at Martin Chautari by one of the authors on 27<sup>th</sup> February, 2009.

effects. Their perpetual persistence leaves little but snowballed impact on the overall development economy.

This is a universal coincidence that we are undergoing series of insecurity and polarised enmity almost globally. As per its geo-political importance, Nepal is likely to suffer from this international dynamics of terror and crave for power. Massive unemployment and gross dissatisfaction is almost evergreen for us. On the other side, inflation is rocketing day by day. Frustration in people's daily lives is piling up. The state mechanism should be cautious to such minute issues of crimes as early as possible. These all circumstances are suggesting preventive measures to better lead the curative ones. Growth with equity, address to urban poverty and better civil-police relation can address the handicapped security this day.

As crime is not always an immediate nuisance, the next steps on controlling crime should be measured structurally. This means to address the root causes which constitute crime to take place. The professionalisation of police bureau, as discussed previously, is a must. Besides, Nepal has not yet tried to have a socio-psychological approach of crime prevention. Social counselling to the people in the aftermath of conflict has not been realised in Nepalese context. As the ways of addressing prime causes of crimes, addressing youth unemployment, strengthening governance and setting up crime as a prime agenda in state restructuring and security restructuring can indeed pave a better way ahead.

Immediate steps are needed to redress and restore trust and confidence of the people in security forces. Along with this, creating the basis for accountability and transparency of security forces will also be a prerequisite to sound security (Rai 2008a). Enforcement of transparent and merit-based recruitments can make police more inclusive and open to all citizens. But maintaining apolitical performance is the principal necessity. Establishment of security studies institutions and expertise as well as promotion of effectiveness and efficiency are utmost needed to reach desired security situation.

Exploring further research areas on security issues and excavating the possible ways of better operation help police pinpoint on the problems. Findings on the variations of crime, criminogenic patterns and comparison and contrast of security measures internationally facilitate to cope up with hurdles. The increment in the degree of trainings on riot control, crime detection and information, communication and technology strengthens the effectiveness of police. These have to be endowed with surveillance

power, apolitical performance, advanced apparatus, well-equipped labs and office buildings with the desired programmes and policies. Only by this, the confidence level of citizens on police bureau shall be nurtured. Besides, sensitising security forces to rule of law through training and involvement in humanitarian assistance forge strong relation with civilians. In nut-shell, forging links among citizens and their governments, particularly, local governments in Nepalese context, is a must to strengthen security situation. This is what is called enriching the softwares, rather than hardwares of security. An early initiation is looked-for.

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## Proliferation of small arms and challenges to post-conflict state building

*Bishnu Raj Upreti<sup>1</sup>*

### 1. Setting the context

Nepal is in complex, fuzzy, lengthy and contested state building process. The political transition is becoming more contested after the collapse of the UCPN (Maoist) [hereinafter referred as UCPN (Maoist)]-led coalition government. The major reason behind this was the deep mistrust among the parliamentary political parties and UCPN (Maoist) that spilled over after the cabinet decision to terminate the stay of the Chief of the Army Staff (CoAS). Further, complications like intra-party disputes, power struggles in main coalition parties and delay in the formation of the cabinet arose while forming the new government. Non-cooperation from the major political players, extreme external interests and frustration on Nepalese people on the extremely poor performance of political parties in managing transition have posed severe challenges to peace process so far.

The big achievements in the peace process made during the past three and half years have to be institutionalised by promulgating new and publicly owned constitution, integration and rehabilitation of ex-combatants of UCPN (Maoist) and restructuring of the security sector, delivery of peace dividends, restructuring of the state, initiating economic recovery and development, providing transitional justice, ensuring transitional security and control of proliferation of small arms in the country. However, except some achievements in constitution making process, all other important pillars of peace process have not been taken care of properly by the major political parties and the government. Amidst all these, the proliferation of SALW has appeared as a hallmark challenge in the post-conflict security of Nepal. This chapter discusses on the same issue in more details.

The Panel of Governmental Experts (UN 1997) defines small arms as revolvers and self-loading pistols; rifles and carbines; sub-machine-guns;

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assault rifles; light machine-guns. Often light weapons<sup>2</sup> and ammunition and explosives<sup>3</sup> are also included in the debate of small arms.

## **2. Proliferation of small arms and associated challenges**

Proliferation of small arms is a common phenomenon in post-conflict countries. The Iraq experience shows that after the downfall of Saddam Hussein in 2003, military force lost 7-8 millions (almost all) firearms that were used by criminals in promoting crimes: abduction, murder and violence (GIIS 2007). It is very hard to find factual data on how many illegal small arms are floating in Nepal. However, considering the fact that more than nine dozen domestic arms manufacturing units operated in Indo-Nepal border during the time of armed conflict and with more than 1800 km open border between India and Nepal, as well as that only few numbers of arms were collected from UCPN (Maoist), one can easily assume that the number can be substantially big. In addition, arms provided by security forces to people to fight with rebels, mushrooming of arms groups in Nepal and multiplied numbers of crimes provide basis to project numbers of small arms floating in Nepal that goes to more than fifty five thousand in number in the estimation of this author.

### **2.1 Proliferation of small arms**

Proliferation of small arms increased after the start of the armed conflict in Nepal. Widespread use of SALW by warring parties and distribution of arms to civilian militias and Village Defence Committees by security forces in Nepal during the time of the armed conflict had encouraged arms traders and smugglers.

Illegal proliferation of small arms has created massive insecurity in Nepalese society even after the signing of the CPA. Circulation of illegal arms was started by the UCPN (Maoist) on one hand and security forces by providing arms to Village Defence Committees on the other. In this context, Amnesty International (AI) wrote a letter to the then Prime

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<sup>2</sup> They include heavy machine-guns, hand held, under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns and recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems and mortars of calibres of less than 100 mm UN, 1997).

<sup>3</sup> They include cartridges (rounds) for small arms, shells and missiles for light weapons, anti-personnel and tank grenades, landmines, mobile containers with middles or shells for single-action anti-aircraft and anti-tank systems and explosives. The Panel of Governmental Experts (A/52/298).

Minister<sup>4</sup> highlighting the grave danger when the government establishes 'Rural Volunteer Security Groups and Peace Committees' to the civilian population. AI had questioned the intention of the government to form such committees and also suspected their neutrality as these committees were not trained appropriately, and no mechanism was established for supervision and ensuring accountability. Highlighting that creation of these groups could increase risks of human rights violations and impunity, AI states that "... the introduction of such groups affects the sense or interpretation of the Geneva Conventions of 1949, in relation to the state's responsibility at all times to clearly separate civilians from combatants". AI had cited example of creation of the Patrullas de Autodefensa Civil (Civil Defence Patrols) in Guatemala in 1980s which were responsible for atrocious human rights abuses.

Various research findings demonstrate that illegal arms-induced organised crimes such as murders, robberies, abductions and sexual violence are rampant in Nepal (ICG 2004; Upreti and Nepali 2006; Upreti 2009).

Experiences of post-conflict countries reveal that arms transfers (all forms of movements including aid and free gifts, in addition to commercial sales, brokered sales and licensed production) and arms brokering (including activities designed to facilitate or arrange or conclude arms deal, also the transportation and financial services to complete an arms deal) continue even after the end of active conflict. They are continuously creating human insecurity (Mugumya 2005).

Needless to say, illicit trade and use of small arms is not only intensifying the ongoing civil wars and armed conflicts in different parts of the world but also hindering the post-war reconciliation and reconstruction efforts. The International Action Network on Small Arms describes that small arms are in fact the weapons of mass destruction (IANSA 2004). It is extremely difficult to find out the actual amount and types of SALW illegally produced, traded and used in different countries. Further, due to unwillingness of the states to actively participate in disarmament and controlling small arms in conflict-ridden countries, the situation is becoming more complicated.

Massive production, illegal trafficking and misuse of small arms are fuelling the armed conflict and civil wars and severely undermining the peace process in many countries (IANSA 2003). Nepal is one of these countries gravely suffering from proliferation of small arms (Upreti and

<sup>4</sup> See 'Nepal: Civilians sucked into ongoing conflict' in a Press Release of Amnesty International on Thursday, 13 November 2003.

Nepali 2006). This problem in Nepal and their implications on security system and challenges they are posing are serious concerns to achieve transitional security.

Such a problem is also related with rampant poverty, chronic unemployment, severe discrimination and accumulated injustice and hatred. When these issues are not addressed by the state, people join illicit business of small arms, as it gives earning as well as power. Estimates of the black-market trade in small arms go up to US\$ 10 billion a year and more than 639 million firearms exist in the world today, of which 59 per cent are legally held by civilians.<sup>5</sup> Abuses of small arms are more pervasive and horrendous in conflict-ridden countries. They are causing enormous effects to ordinary people including abduction, death, injury and forced displacement, forcing people to be human shields and sex slaves etc. North Atlantic Treaty Organisation Panel III divides small arms into three groups, i.e. a) personal defence weapon, b) individual combat weapon and, c) medium support weapon.<sup>6</sup>

Globally floating small arms are cheap, easily available and easy to use. According to the estimate of Inter-American Development Bank, direct and indirect costs of small arms violence in Latin America ranges from US\$ 140 to 170 billion per year. The Independent Small Arms Survey 2002 documents that every day more than thousand people are killed by small arms. It is reported that about one million weapons are lost or illegally trafficked each year and hundred of thousands of them are lost from government bodies themselves. IANSA (2004) also guesstimates that per minute one person loses his/her life from the misuse of small arms in the world.

An estimated 70,000 SALW fell into the hands of armed groups in Congo during the conflicts of 1993-1999. More than half of the small arms circulated in this period are still in circulation causing serious threat to peace and security in the country (Upreti 2009).

According to a report (called Shattered Lives) of Control Arms Campaign, the five permanent members of the UN Security Council, France, Russia, China, the UK and the USA account for 88 per cent of the world's conventional arms export (AI and Oxfam International 2003). Arms Control and Disarmament Agency of the USA highlights that Iraq alone imported

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<sup>5</sup> See [www.nti.org/e\\_research/official\\_docs/dos/dos.html](http://www.nti.org/e_research/official_docs/dos/dos.html) for details.

<sup>6</sup> [www.rta.nato.int](http://www.rta.nato.int) documents more information on it.

armaments costing around 50 billion US dollars during the period of seven years (1983 to 1990) (Banerjee 2000). It is interesting to note that 85 per cent of total import of arms in Middle East is shared by the five Permanent Members of the UN Security Council (IANSA 2003 and 2004).

## **2.2 Implications on post-conflict peace building**

Achieving durable peace and stability requires, among others, getting process right, monitoring mechanism, sincere implementation of understandings and agreements, dealing with the past, ensuring transitional justice and rule of law, guaranteeing transitional security, proper facilitation of DDR, restructuring of the security sector, providing peace dividends, implementing reconstruction and controlling proliferation of SALW (Upreti 2009).

Success of Nepal's peace process depends upon the right process, translation of the promises made into action, effective undertaking of SSR and controlling illegal use of small arms and assurance of security (Upreti 2008). So far, leaders have failed to forge consensus on political issues that have threatened the peace process (Upreti 2008). Instead, they have been whole-heartedly involved in power struggle and vested political interest.

In any war-torn countries, maintaining security situation is one of the major challenges after signing peace agreement. Though the term, 'post-conflict' is contested in Nepal particularly after the emergence of several small armed groups and their engagement in violence, its operational definition for this chapter is 'a situation after the formal signing of the CPA on 21 November 2006 by the government and the CPN (Maoist) that ended armed conflict and made parties earlier engaged in fights, violence and war start to implement the provisions of the agreements'. The transitional security of Nepal particularly in Terai<sup>7</sup> is severely challenged by dozens of armed groups and the fighting forces created by Kirat Workers Party (in the eastern districts, mainly in Udayapur and Khotang). Ministry of Home Affairs has reported the existence of 109 armed groups. However, there is confusion in number because of the changing nature of armed groups (the cycle of splitting and merging, creation and dissolving are common). In addition to these armed groups, there are other criminal groups active in Terai. They are mainly operating from India. In Kathmandu, organised groups like Udaya Sethi and Pralhad Mahat gang, Bhimsen Pandit and

<sup>7</sup> For details on Terai violence and insecurity, see International Crisis Group Asia Report No. 136 published in 9 July 2007.

Ramesh Paliwal gang, Sidhdartha Lama gang<sup>8</sup> and many others are operating. Criminal gangs are active in many other small towns thereby creating severe insecurity and violence. All these criminal gangs are using small arms creating serious and immediate security threats.

In Nepal, the security forces have collected small arms from civilians during the time of armed conflict but the whereabouts of these arms are not known. There are numerous questions left unanswered such as where these arms are, who has been using them and has the concerned authority stored it or not.

Proliferations of small arms, criminalisation of politics, politicisation of crimes, militarisation of youths and emergence of armed groups and criminal gangs are positively correlated. Arm-based abduction is the major problem in Kathmandu. One glaring example is given here. On 5th June 2009, Mahesh Sarada was kidnapped from his house (Thapathali). Anti-kidnapping Cell of Crime Investigation Department of Metropolitan Police searched but failed to find him. Later, on 14th June, he returned home by paying 1.4 million.<sup>9</sup> There are numbers of such kidnapping cases widely reported in Nepalese media and all of the accused criminal gangs are using illegal small arms.

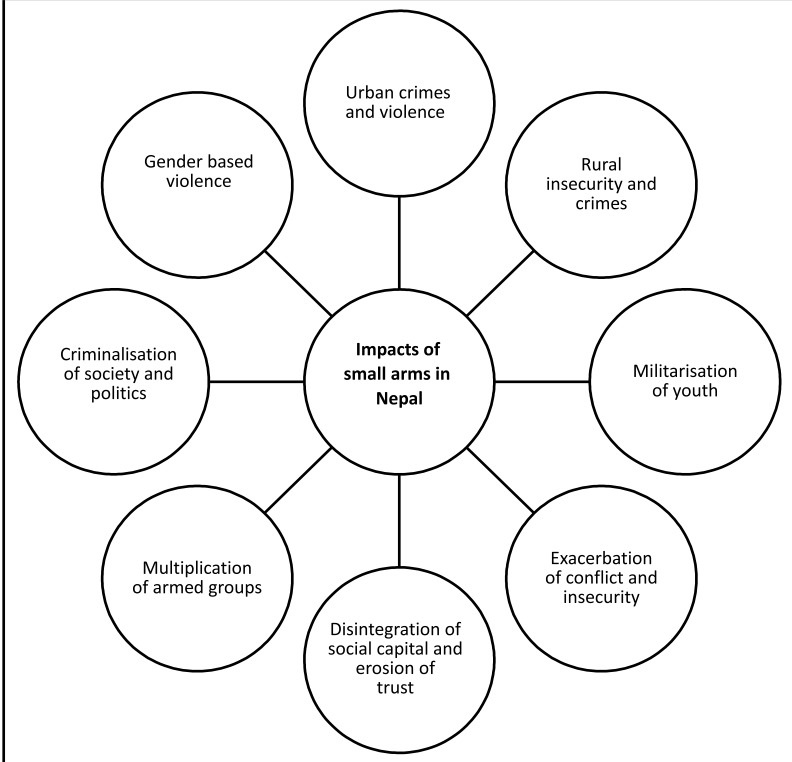
Conflict and post-conflict situation is often characterised by wider circulation of illegal arms, their abuses and related insecurity. Nepal is not an exception. Its post-conflict transition is characterised by multiplication of armed groups, criminalisation of politics (as political protection of criminals is rampant), gender-based violence (rapes, molestation, sexual murder etc.), urban crimes (kidnapping, gang fights, looting, pick pocketing etc.), rural insecurity (extortion, threat, kidnapping etc.) militarisation of youths (formation of fighting forces by political parties and groups etc.) and erosion of social trusts are common in Nepal. Further, communal harmony is severely threatened by the ethnic politics.<sup>10</sup>

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<sup>8</sup> See special report of Mukul Humagain and Peshal Acharya entitled, 'Sana hatiya ko jagjagi' (proliferation of small arms) in Nepal National Weekly, Vol. 9, No. 24, 1st February 2009 (19 Magh 2065) for details how small arms are affecting the country.

<sup>9</sup> See Naya Patrika National Daily of 14 June 2009 (31 Jestha, 2065), Year 3, No 62.

<sup>10</sup> Popular investigative journalist and host of BBC World Trust programme 'Sajha Sawal' Mr Narayan Shrestha expressed some of the working examples of social disharmony he observed. In the third week of March, 2009, he was in Phidim where youth from Pallo Kirat Limbuwan Rastriya Munch were saying venting out very brutal anger worth physical assault to revenge the so-called upper caste people. Same expressions were made in Ilam and Dhuklabari Chok too [See Naya Patrika, 3 Baisakh 2067 BS (16 April 2010), Page 6 and 11 for details]. This indicates the complexity of ethnic conflict.

**Figure 12.1 Various effects of small arms in society**

Source: Designed by the author

### 2.2.1 Violence, crime and insecurity

Nepalese people are seriously suffering from insecurity and violence. Phenomena of crime-led insecurity such as kidnapping of children, murder and attempted murder, robbery, illegal trafficking of arms and ammunitions, human trafficking, drugs abuses and trafficking, atrocities, massacres and forced displacement have become the daily nuisance (Upreti and Nepali 2006). This phenomenon, particularly from Terai, is growing especially after the signing of the CPA. The police record shows that in Kathmandu Valley alone arms were confiscated 13 times by police in six months (2008 July 16 to 2009 January 13). Similarly, Nepal Police confiscated small arms 95 times in-between eight months of 2008 and 2009, 256 times in 2006/07 and 111 times in 2005/06 in the country (ibid). This shows the intensity of proliferation of small arms.

Total 183 persons were arrested in 2006/07 in case of small arms. This number went up to 355 in 2007/08 and again it was increased by 90.16 per cent reaching to 677 persons within 10 months of 2008/09. The all the guns captured from criminals were small short barrel guns. Similarly, one gun has been used up to 11 times in crimes indicating the alarming frequency of crimes in Kathmandu.<sup>11</sup>

### **2.2.2 Militarisation of youths and security dilemma**

The transitional situation is getting further complicated after the creation of the coercive nature of organisations such as YCL, YF and Madhes Rakshya Bahini by political parties. On the occasion of UCPN (Maoist) leader selected as the first elected Prime Minister of the Federal Democratic Republic of Nepal, the party declared to demilitarise YCL. This provision came as a result of the seven-point understanding reached among three parties to go for coalition government. However, Prachanda has resigned after the controversy in sacking the army chief once the President ordered the army chief to continue his work. UCPN (Maoist) interpreted it as military supremacy at the cost of civilian supremacy. Since then, it has declared to protest in the parliament and street until the president repeal his decision. Often there are coercive actions from YCL and YF. There is possibility of further clashes between these two militant youth groups in foreseeable future.

The justification of need for creation of such forces by political parties does not match with their actions. Only legally defined institutions approved by the government can enjoy coercive rights. However, these sister wings are operating without any legal mandate consequently weakening state security apparatus, creating parallel functioning and fuelling insecurity. Even a lay person can easily understand that such coercive forces are serving vested interests of their respective mother parties. Once powerful political parties have created such coercive forces, a severely weakened police force (by politicisation or political protection) cannot contain them. Hence, Nepal's security situation is facing dilemma.

Another serious problem on proliferation of small arms is the militant groups in seven Bhutanese Refugees Camps.<sup>12</sup> It will expand to create

<sup>11</sup> As shared by Mr Rabintra Sharma, Superintendent of Police from the Crime Investigation Department of Nepal Police, in an interaction on 'Impacts of the Small Arms in Peace Process and Domestic Violence', jointly organised by International Action Network on Small Arms, SAPA-Nepal and IHRICON, on the occasion of AIANSA Week of Action Against Gun Violence, 15-21 June 2009 at SAP Phalcha, Kathmandu on 14 June 2009.

<sup>12</sup> See [www.nepalnews.com/.../4276-bhutanese-refugee-leader-shot-dead-in-jhapa-.html](http://www.nepalnews.com/.../4276-bhutanese-refugee-leader-shot-dead-in-jhapa-.html) for details.

severe problems as more than hundred thousands people are in camps. Refugees (Somalia, Iran, Iraq, former Yugoslavia, India, China and others) from 13 countries are in urban areas of Nepal. They could involve in small arms transactions and create problems.

### **2.2.3 Political protection, impunity and security threats**

Transitional security always suffers from political protection of criminals and criminal groups, their political mobilisation and impunity. There is also fear in victims to publicise the crime. Getting undue advantages from the transitional situation is always a charm for powerful elites (politicians, businesspersons, bureaucrats, security personnel) and mostly they directly or often indirectly engage in activities that create security problems. Further, impunity is a serious problem in transition. There are almost no legal actions taken to persons identified as guilty by different commissions and investigation teams throughout the transition period. Until and unless impunity is prevalent, insecurity exists. Tackling impunity is to end political protection of criminals and follow rule of law. If rule of law is respected by all citizens, several transitional-security related problems can be easily addressed. Therefore impunity and political protection of the crime is major post-conflict state building challenges for Nepal.

### **2.2.4 Expansion of armed groups**

Nepal is breeding ground for armed groups particularly after the end of the armed conflict. At present, 109 armed groups are reported by the government as active in different parts of Nepal and creating terror to the people. Their mushrooming is one of the major challenges for the successful completion of peace process.

There are several reasons behind the expansion of the armed groups in Nepal. Some of them have emerged with the criminal intention by using the weak law and order situation. Some of them were sponsored or at least encouraged by the leaders of the main stream political parties to strengthen their influence in the areas as well as within their own political parties. History of many of political leaders in the past demonstrates that using criminals, armed groups and bandits are prime causes of their political success. Some armed groups have emerged with the ill-intention of revenge and retaliation to those who had exploited or suppressed earlier. Other groups are emerged to collect money from extortion and kidnapping and have changed their lifestyle overnight. Open border, political protection, connection with the criminal groups from the

bordering states of India, weak law and order situation and impunity have provided the environment conducive with the armed groups and criminal gangs to flourish.

### **3. Response strategy**

Proliferation of small arms and human insecurity are strongly interlinked and one is enforcing the other. Therefore, controlling of small arms needs integrated approach that addresses sources of human insecurity and promotes coordinated security response. Parliamentarians, policy makers, political parties, security providers and civil society including media must work together to control this and associated crimes. It is now the onus of the state to combat with the wide flow of small arms. Combating illegal proliferation of small arms requires leading role of the government and support from political parties, civil society, experts, international community and citizens as a whole. Brief role of each of them are highlighted here.

#### **3.1 Role of the parliament**

Parliament can and should play an important role in the post-conflict state building by bringing suitable legislations to control illicit trading and regulating production, transfer and stockpiling of small arms. The current legislations related to controlling of the small arms are weak, inadequate and therefore unable to address the new challenges.

Parliament has also important role in directing government to sign conventions related to the control of small arms that will ultimately help government and arms control advocacy groups to tackle with this problem. International community will also help in this process once the government signs such conventions.

Parliamentary oversight of the functioning of the government on controlling illicit trading of small arms is fundamentally important. Globally acknowledged, it is the fundamental basis for making governments accountable in relation to security and arms (IANSA 2004).

The parliament has to pass the resolution to sign the Armed Trade Treaty (ATT) [so far 153 countries have supported the resolution of ATT proposed by Programme of Action (POA) of the UN]<sup>13</sup> that provides broader

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<sup>13</sup> See <http://www.iansa.org/un/ATTvotes.htm> for the full list of 153 countries who voted in support of UN Resolution 61/89 (Arms trade treaty) for details.

collective framework for dealing with trading of arms and control of their illegal trading.

Parliament of Nepal in collaboration with parliamentarians of other South Asian countries have to work for developing SAARC (regional level) ATT to control proliferation of small arms, as arms trading is becoming a regional issue with a need of a regional approach.

Most of the illegal arms enter Nepal via India with more than 1800 km of open border between India and Nepal is providing suitable routes for the arms smugglers and illegal traders. Therefore, the government and the parliament of Nepal should develop a bilateral treaty with India to control illegal trading of small arms.

### **3.2 Role of the government**

Controlling illegal arms trading is mainly the responsibility of the government. Therefore, government must develop a special policy to implement DDR programme. One of the main reasons of the proliferation of armed groups in Nepal is the fragile role of government itself. In the past, the governments failed to separate criminal armed groups from the politically motivated armed groups. Therefore, they invited to talk that legitimised the armed groups and also encouraged others to form similar groups and enjoy the privileges (recognition by the government and security agencies, media coverage and visibility).

The government must formulate policy on small arms control linking with broader national security policies such as development, humanitarian support, criminal justice and urban planning (GISS 2007) to address poverty and reduce economic, social and human costs associated with the misuse of small arms. Trend shows that the illegal trading of arms will even increase in future. Therefore, the government has to be prepared to deal with this challenge.

Poor security governance is one of the catalysts for abundance of small arms. Therefore government should implement security governance and strengthen security providers with resource, knowledge, skills and equipments. Government must oversee the arms taken by former security forces as they retire. It has to be regulated. Politically powerful people are also having illegal arms and, of course, they must be ceased. Strict enforcement of law and order alone can greatly contribute to control illegal manufacturing, distribution and abuse of arms.

One of the important components of controlling proliferation of SALW is to invest in research and analysis. So far, Nepal has done nothing in this area. Therefore, the government must create independent research and analysis centre of small arms, develop its institutional capacity and provide resources.

The government must work closely with the parliament and work on developing a regional arms trade treaty at SAARC level to control proliferation of small arms in the region. This is not easy but it is also a need of the region if the countries in the regions want to achieve regional security. As a strategy of the post-conflict state building, the government of Nepal must initiate dialogue with Indian government to have bilateral treaty with India to control small arms.

The government has to sign Rome Statute (International Criminal Court: ICC) to minimise impunity. One of the prime causes of proliferation of small arms, impunity must not be prolonged. Therefore, ending impunity can greatly contribute to the control of illegal use of arms. Signing in the Rome Statute also helps minimise the possible involvement of political parties in genocide and crime against humanity.

### **3.3 Role of the political parties**

Political parties can be either the promoters of proliferation of illegal arms or their controllers depending upon how they perform their role. If they continue crime and use of coercive force as the means to attain vested interests, it will directly or indirectly promote illegal arms and weapons. If they distance themselves from protecting criminals, criminalising politics and violating rule of law, they can be important players to contributing to state building process.

The main problem with political parties observed so far in relation to the security and arms control is their political interference in the functioning of the state security forces. Since, arms deal is a lucrative business as it provides huge benefits, the traders approach and pay lucrative amounts to the political parties to support their activities. Hence, political parties must distance themselves from such malevolence and should support government to take stringent measures to control these small arms traders.

Militarisation of youths is becoming a major security challenge in Nepal. Political parties now need to change their understating of providing security

to the public. They argue that their militant youth wings are created to provide security to the people. But in fact providing security to its citizen is the responsibility of state and therefore the state security apparatus must be strengthened instead of the practices of creating paramilitary wings by the political parties. Political parties must cease the militarisation of the youths and radicalisation of society that ultimately lead to security disaster (Chapter 10 in this book has more details on it).

### **3.4 Role of the security providers**

Civilian police is the main basis of local security. Police must be more vigilant and develop collaboration with local people. Nepali police force is severely demoralised, brutally politicised, and blatantly abused for the vested interests of powerful elites such as Home Minister and his/her political party, smugglers, criminals, traders and business tycoons. Professionalisation of this force, increasing its existing size and capacity and improving quality of work is crucially essential. It is possible only when politicisation of this force is ceased and neutrality is maintained.

Nepalese intelligence mechanism is not functioning properly. The department of intelligence service under the Ministry of Home Affairs is merely a means of employing supporters and helpers of home ministers. Intelligence is a specialised function. Ordinary people cannot perform it. If this is true, how can a political cadre or ordinary people forcefully employed by home minister perform this specialised task? Even Department of Military Intelligence (DMI) of Nepal Army was not able to demonstrate its ability in intelligence [particularly when UCPN (Maoist) made high profile attacks in district headquarters such as Beni]. The other prominent example of failure of intelligence was the royal massacre of 1st June 2001. Hence, reform in the intelligence mechanism is the precondition to best perform their functions.

### **3.5 Role of the civil society (media, human rights)**

Civil society, particularly the media, could play crucial role in controlling small arms. Awareness is fundamentally important to control the illegal trading of small arms. Global experiences reveal that illegal trading of SALW and increasing landmines have become severe problems in successfully managing violent conflict. Proliferation of small arms always triggers conflict to escalate and poses serious challenge to peaceful settlement. Civil society has been gradually engaged in raising awareness in this area.

### **3.6 Other important tasks**

The following issues need to be addressed if the political actors will to minimise small arms related risk to peace process and state building.

#### **3.6.1 Strengthening police force**

One of the main responses to violent crime and insecurity is to strengthen police force. It means making police well-equipped (providing required equipments), resourceful (physical facilities) professional (competency, commitment, dynamism, ethics, knowledge, skills and information), neutral (operation based on its own motto, not on the interests of home ministry officials, home ministers or associated parties) and accountable to people instead of a certain party (Chapter 11 in this book details this issue up to scrutiny).

Private security providers are emerging and adding new dimensions to security. They are becoming an important part of the security system. Therefore, it has to be dealt with broader national security concerns. Several private security companies are operating in Nepal to provide security and protection of persons and properties mainly. Their services are not always associated with arms and often defensive instead of offensive to cater general level of security services to the private sector, I/ NGOs and individuals. So far in Nepal, they are mainly involved in physical protection, close protection as body guards and helpers, surveillance, risk assessments etc. Hence, a clear policy that supports national security and complements to the state security system is needed.

#### **3.6.2 Neutrality and accountability**

Combating insecurity and achieving stable democracy will be impossible, if security and bureaucracy are not allowed to operate in their professional norms in accordance with the legally defined mandate. One of the main challenges at this situation is to maintain neutrality of security forces and make them accountable. It has to come from both the security forces themselves and the politicians. Civil society can work as a watchdog.

#### **3.6.3 Community security**

Achieving transitional security requires full support and cooperation from the concerned community. A collaborative approach (among security forces, local politicians, community members, media and intellectuals) is crucially important to achieve transitional security. Security forces need information, physical and moral support to combat crime, violence and associated challenges.

### **3.6.4 Border management**

So far, border management is the most neglected but topmost important issue in Nepal. Therefore, it has to be fully taken into account in the new NSP. Border management is the combination of techniques, tools and procedures in administering borders that include handling of people crossing the borders and goods, patrolling and controlling illegal entries and regulating legal process. The following key actors are engaged in border management practices;

- a. Border guards,
- b. Immigration services and officials,
- c. Customs officers.

Often, crimes, corruption, illegal trading of SALW, and human trafficking are border-related common illegal activities. Controlling them requires special knowledge, skills and procedure.

### **3.7 Role of research**

Research and analysis helps policy-makers develop response strategy to tackle proliferation of small arms. So far there is no substantial research performed on small arms. Therefore, research-based policy and strategy are seriously missing.

Developing conceptual understanding on security implications at political and policy level is fundamentally important to deal with the issues of SALW. Evidence-based policy-making on small arms control and security management needs research findings and analysis. If we look at the international instances, the US, the UK, France, South Africa, Germany and many other countries have amply invested in research and analysis. Therefore, their policy makings are evident and efficient. Besides, the UN, OCED and many university research centres have documented success stories on role of research in controlling crime and minimising armed conflict (IANSA 2004).

In Nepal, the real research on small arms is still in the rudimentary state. Just a few scholars and academics have started it (Upreti and Nepali 2006) but the security organisations as well as the government have not paid any interests over it. They rather feel such activities as an encroachment in their territory of jobs. The National Security Council (a constitutional body) of Nepal is doing only minimum jobs, if not dysfunctional yet. Research on small arms in Nepal is so blurred. They mostly rely on the work of investigative journalists. It is good but not enough to develop conceptual and theoretical framework on this issue.

The government of Nepal must create/support an independent think-tank institute in conducting research on small arms and security. University departments also must start thesis and other associated research on the control of small arms.

#### **4. Conclusion**

Improving transitional security is only a short-term strategy. But a long-term security policy is needed to control small arms. Therefore, concerned issues must be framed within NSP, international relations and economic policy to have power over proliferation of SALW. It is virtually impossible to achieve the objectives of state building without the control over increasing illegal use of SALW.

Organised crimes and insecurity will continue and even further expand with activities like extortion, abduction, robbery, looting, narcotics smuggling, rape, girls trafficking, hunting and smuggling of endangered species (e.g., musk deer, valuable furry skin, tiger bones, rare herbs, woods etc.), if the state is not proactive enough to control small arms and improve transitional security. If parties continue their coercive youth mobilisations, police force cannot provide security. Addressing such a grave issue requires collective responsibility of the government, political parties, security actors, civil society, media and the community itself.

Exchange of intelligence information by establishing a 'regional network of information sharing', cooperation among the authorities of the nations in the region, collaboration between the state and civil society are other areas to be considered in controlling small arms.

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## 1. Introduction

At present, Nepal is in the situation of fragile transition to peace. Reconciliation and social and political reintegration (R&R) is one of the fundamental building blocks to make the transition successful and achieve lasting peace in the country. Hence, promotion and strengthening of R&R is extremely essential for successful peace building in Nepal.

R&R<sup>2</sup> basically deals with victims including IDPs and ex-combatants or former soldiers from both sides. According to the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, General Assembly Resolution 40/34, 29-11-1985, "Victims are persons, who individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic losses and substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violation of national criminal laws but of internationally recognised norms relating to human rights". R&R in the context of Nepal covers wide range of conflict affected people (displaced, ex-combatants or and ex-soldiers, physically and mentally injured, children, women, elderly and disabled etc.). As documented by Informal Sector Service Centre (INSEC) in its series of yearly Human Rights Year Books since the beginning of the armed conflict, there are thousands of cases of killings, disappearance, torture, rape, forced donations, threats of attack, arrest other violations of human rights. Victims could be individual and collective, direct and indirect, first generation and second generation.

R&R is a process of continuous engagement in addressing the sufferings, pains and tragedies of the conflict victims, developing their confidence, bringing communities together to develop harmony by better understanding the motives and intensions of offenders and exploring

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<sup>2</sup> R&R, for the purpose of this paper, covers reconciliation and social and political reintegration.

the ways and means to provide justice. Developing confidence, re-establishing mutual trusts and deepening understanding between former enemies is a tremendous challenge but an extremely essential element of achieving lasting peace in Nepal. Writing foreword to a handbook, archbishop Emeritus of South Africa Desmond Tutu has highlighted the essence of reconciliation. His main message is to examine the painful past, acknowledge and understand it, and finally transcend it together to guarantee that it does not and cannot happen again (Bloomfield et al. 2003). R&R reorients people from the adverse and antagonistic relation of the time of conflict to more mutually respected and cooperative ones. Essentially, reconciliation develops healing-relation between victims and offenders that is needed for durable peace. Therefore, it is a process of searching for justice, healing, forgiveness, pattern of cooperation and coexistence as well as that of understanding needs, fears and aspirations of the past antagonists. Similarly, reintegration is a process of acceptance of ex-combatants, IDPs and conflict victims in the community.

In the mentioned scenario, this chapter mainly aims at focusing on the following objectives;

1. Identifying the issues related to reconciliation and social and political reintegration based on the reflection of communities and suggesting measures to promote community-focused reconciliation and social and political reintegration framework strategy.
2. Identifying community based capacity building measures for reconciliation and social and political reintegration.

## **2. Conceptual basis**

Reconciliation is a process of addressing the legacy of the past violence and rebuilding the broken relationships (Bloomfield et al. 2003). Nepalese society is deeply divided because of the antagonistic relations developed by the ten years of armed conflict. Hence, reconciliation is a process of examining their past relations and addressing them. At this critical and historic time, Nepal has got an opportunity to restructuring society and politics as well as establishing rule of law and respect of human rights. In a general sense, establishing democratic processes and structure is fundamental basis for addressing post-conflict challenges. But in specific sense, democracy cannot thrive amidst injustice and legacy of violence. Therefore, reconciliation is an integral part of developing and

strengthening broader democratic process. The major concern in post-conflict societies is ensuring that the people engaged in violence will not resume such acts (Upreti 2006b).

Reintegration is a complex psychological, social, political and economic process. In this process, the demobilised soldiers or ex-combatants, their families and conflict victims start to live a civilian life as active members of either their communities or new communities. In a conventional level, reintegration is a process of assimilation of disarmed<sup>3</sup> and demobilised<sup>4</sup> armed forces of warring parties and their families into the civilian socio-economic life. Reintegration is all about accepting ex-combatants and their families by host communities and developing a feeling of co-existence. Former combatants and other conflict victims have to reconstruct their life styles, community relations and actively participate in civic life. Reintegration is inevitably a lengthy and difficult process.<sup>5</sup> Hence, it is a complex and long-term economic, political, social and psychological process of transition of ex-soldiers from their military life to a civilian life, and of conflict victims from conflict-related stress to normal life (Aditya et al. 2006). Hence, political, social, economic and psychological reintegration is inevitable in successful reconciliation (Tutu 1999; Bloomfield et al. 2003).

Political reintegration, for the purpose of this chapter, is defined as a process by which demobilised soldiers, conflict affected individuals and communities participate in structure and process of social and political organisations in their communities and societies. The political participation of conflict affected people (IDPs, ex-combatants and other conflict victims) is accepted and acknowledged by society in all social and political structures and mechanisms and they could transform their relation to start normal civilian life.

Social reintegration, for the purpose of this chapter, is defined as a process of acceptance of former soldiers and their dependants, IDPs and conflict

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<sup>3</sup> Disarmament is a process of collection, control and disposal of weapons in the post-conflict peace process.

<sup>4</sup> Demobilisation is both a process and an outcome of releasing troops from security service, therefore, a political process. The determination of individuals to be demobilised and their discharge from service is a political decision. A demobilisation programme may include encampment of soldiers, relinquishing weapons and equipment; leaving a unit; exchanging their uniform for civilian clothing; receiving identification papers, medical attention, compensation, short training courses and other forms of assistance.

<sup>5</sup> See Iqbal Riza, Assistant Secretary General for UN Peacekeeping Operations, quoted in *Demobilised Soldiers Speak: Reintegration and Reconciliation in Nicaragua, El Salvador and Mozambique*, Managua, Nicaragua: Centro de Estudios Internacionales, 1995, p 4.

victims by the society. Often, success of social reintegration depends upon the attitudes of communities towards people to be reintegrated and willingness of the targeted people to be part of the integrated community. Further, the perceived historical role of the people to be reintegrated during the time of armed conflict determines the degree of willingness for reconciliation from society.

Economic reintegration is defined as a process of achieving financial independence of retired or demobilised soldiers and conflict affected individuals and communities by securing a livelihood for themselves and their dependants through production or gainful employment. Economic integration has to do with employment opportunities and marketable skills for demobilised soldiers.

We define psychological reintegration in this paper as a process of psychological accommodation of the people to be reintegrated from their present lifestyle to a normal civilian life. In case of former soldiers, their lifestyles were shaped by a hierarchical system of command and control, and guided by rigidly defined formal rules and regulations. Hence, support and counselling is needed to the people to be reintegrated, who often suffer from psychological stress and trauma during the time of armed conflict. The psychological reintegration strongly focuses on the psyche and willingness of ex-combatants or ex-soldiers, conflict victims as well as host community.

There is no short-cut and simple prescription or ready-made roadmap for R&R. It entirely depends upon local context, commitments of the parties involved in the armed conflict and willingness of international community to support indigenous process. R&R cannot and should not be imposed from outside and it has to be evolved with local initiatives. Lessons of war-torn countries such as Guatemala and South Africa tell that every society and community has its own way to R&R and they can develop it (Aditya et al. 2006; Harvery 2004; Tutu 1999). Hence, R&R process is context specific and particularly focused on building collective ownership for dealing with the violent legacy of the past, establishing and promoting working relations with present and building a shared vision, concerted efforts and collective as well as individual commitments for a better future.

R&R concepts are interdependent and twined in shaping peaceful societal system, particularly in a war-torn society. Conflict scholars such as David Bloomfield, Tersea Barnes and Luc Huyse argue that while democratic compromise produces solutions regarding issues in conflict, R&R addresses

the relationships among those who will have to implement those solutions (Bloomfield et al. 2004). Hence, R&R strengthens democracy by developing the working relations necessary to successfully practice it.

Some people view R&R as deliberate attempt of keeping aside the sufferings of conflict victims and an excuse to offenders. This could happen if the reconciliation is either conceptually misunderstood or used as only outcomes (forgive and forget) and not taken it as a process. But important aspect of the reconciliation is its process to address justice, healing and truth. As reconciliation is a voluntary process, no one can impose it. But the victims themselves acknowledge, remember and learn from the past finding ways to live in future with rebuilt relations and expanded hope. Hence, it is a process of deep change of an individual with a reconciliatory 'forgive but not forget' (Tutu 1999) framework. In essence, reconciliation is not an excuse for impunity.

A successful R&R requires right process, appropriate actors and effective instruments to address past and develop common vision of future. R&R has to permanently prevent the use of past as a source of renewed conflict, to break the ongoing cycle of violence, to consolidate peace and to strengthen newly established democratic institutions and political process.

R&R is a continuous and long-term process. A quick fix approach can never achieve lasting peace (Tutu 1999). Being a voluntary process of transformation of relations, it demands change in belief, attitude, aspiration, emotion and feeling of the protagonists, sufferers and even the community members, which is quite difficult and even painful (Galtung 2000; Bloomfield et al. 2003). Breaking negative stereotypes and prejudices requires engaging individuals (once the enemies) as well as communities. Thus, it has to be a broad and inclusive process.

The primary actors of the R&R are victims, offenders and protagonists (parties in conflict). Other key actors are community, government, support organisations (non-governmental, judicial, private or aid agencies). The R&R requires understanding on how the armed conflict affects different social groups such as children, women, elderly people, disables, students, IDPs etc. For example, often women suffer from sexual abuses (mass rape, forced pregnancy and marriage, prostitution and molestation) during the period of armed conflict that promotes social stigmatisation and marginalisation. In reconciling women suffered from sexual offences, the offenders need to be identified and punished. Establishing truthful and

respectful relations between male and female in society is important. The recognition of victims and their empowerment as well as identifying the offenders is an important element in R&R.

The R&R requires effective instruments to achieve the goal. Common instruments practised in this process are 'healing', 'justice', 'reparation', truth commission etc. Making this process successful requires sufficient financial and skilled human resources.

R&R is an integral in healing the fractured society. Therefore, it is not a quick fix. It is a lengthy, continuous and complicated process and path to justice that requires patience, forgiveness and resources. It starts with rebuilding trust, sense of security and confidence for future. If people see possibility of the past horrors to recur, they do not feel secure and do not trust the R&R process.

### **3. Guiding framework for reconciliation and reintegration**

#### **3.1 Political and legal frameworks**

The CPA is the fundamental basis of R&R. There are several sections related to R&R. Among them the section 5.2.4 highlights the requirement of forming a National Peace and Rehabilitation Commission to accomplish process of rehabilitation, providing relief to the conflict victims and to normalise situation. Similarly, the main provision of the section 5.2.5 is to form a high level TRC to investigate the people involved in human rights violation and committed crime against humanity during the time of the conflict and to promote reconciliation in conflict affected society. The provision on the section 5.2.8 is related to the political commitment of parties signing the CPA. It has to do with allowing internally displaced people without any political prejudice to return to their residence, to reconstruct the infrastructure destroyed during the conflict and rehabilitate and reintegrate conflict victims in society. The section eight of the CPA makes provisions of dispute settlement and implementation mechanism. It states:

1. Both parties agree to become responsible and accountable in an individual and collective manner and not repeat in future mistakes committed in the past and also correct these mistakes on a gradual basis (8.1);
2. The National Peace and Rehabilitation Commission shall be set up as per the need for making the campaign for peace successful.

The composition and working procedures of the Commission shall be as determined by the Interim Council of Ministers (8.2);

3. Both parties are committed to settle all kinds of present or possible future differences or problems through mutual talks, understanding, consensus and dialogue (8.3);
4. Both parties express commitment that the Interim Council of Ministers shall constitute and determine the working procedures of the National Peace and Rehabilitation Commission, the TRC, the High-level State Restructuring Recommendation Commission and other mechanisms as per the need to implement this agreement, the Interim Constitution and all the decisions, agreements and understandings reached among the Seven-Party Alliance, the Government of Nepal and the [then] CPN (Maoist) (8.4).

Agreement on Management of Arms and Army, between the Government of Nepal and then CPN (Maoist), accepted by the UN contains provisions of reintegration of ex-combatants, disqualified soldiers and other concerned people. Article 1.1 of the agreement 'Principles' has highlighted the need for immediate rescue and appropriate assistance to children below 18 years engaged in armed conflict. Article 4.1.3 offers provision of registration of Maoist army combatants at cantonment sites. It states, "All Maoist army combatants will be registered at the main cantonment sites. ...Only those Maoist army combatants who have been properly registered at cantonment sites will be eligible for possible integration into the security forces fulfilling the standard norms". This clause has also described the eligibility criteria for integration into the security forces. It gives responsibility to a special committee envisioned in the CPA to facilitate integration process. This document has also set date of recruitment to be eligible for registration and possible integration later. Any Maoist ex-combatant found to be born after 25 May 1988 would be automatically discharged as a minor. A minor will get assistance package. The same clause also envisions the Interim Council of Ministers to form a special committee to supervise, integrate and rehabilitate the Maoist ex-combatants staying in cantonments.

The Preamble of the Interim Constitution provides broader framework for the R&R. Some of its clauses state;

"... expressing full commitment to democratic ideals and norms, including competitive multi-party democratic system, civil liberty, fundamental rights, human rights, adult franchise, periodical elections, full press freedom, independent judiciary and principles of the rule of law",

“... guaranteeing the basic rights of the Nepali citizen to formulate their constitution for themselves and to participate in free and fair elections of the Constituent Assembly in a free-from-fear environment”, “Keeping democracy, peace, prosperity, forward-looking economic-social changes and the country’s sovereignty, integrity, independence and self-respect at the centre of everything” (UNDP 2009, p 54).

Similarly, the Part 4 of the Constitution outlines ‘Duties, Directive Principles, and Policies of the State’, which is one of the fundamental bases for R&R. Among many relevant articles, Articles 33 (Duties of the State), 34 (Directive Principles of the State) and 35 (State Policies) are crucially important.

The Government of Nepal has decided to establish Local Peace Committees (LPC). Such LPCs have the task to promote peace and reconciliation at district level. Therefore, LPCs are vital to help local people overcome differences, find collective solutions and make sure that they work together to build a new future. LPCs are important mechanisms to implement the CPA in districts.

In an assessment report about the ongoing peace process in Nepal (July 2007), the UN Secretary-General Ban Ki Moon observes that though the peace process is on track, the national political scene is becoming more complex and challenging to deliver peace and stability.

International human rights provisions (four Geneva Conventions and additional protocols), international humanitarian laws and various UN Conventions (for e.g., International Convention on the Elimination of All Form of Racial Discrimination, Convention on the Rights of the Child, Convention on the Elimination of All Form of Discrimination Against Women, International Convention on Economic, Social and Cultural Rights etc.) and other international legal instruments as well as national laws are other important guiding frameworks for the reconciliation and social and political reintegration.

### **3.2 Local context and community need for R&R**

This section briefly documents issues and problems faced by communities and their concerns for R&R. The following are the synthesis of the most frequently raised concerns:

- a. Insecurity and fear: Criminal activities are frequent throughout the country. Such criminal actions are either in the form of small-armed groups or by organised criminal groups. Robberies, petty thefts and abductions, killing and threats take place

frequently. Often state security forces are not able to control crimes and make people feel secure. Criminals are misusing messy security situation and fragile transition as an opportunity. People are in a situation of trauma from the combined effects of worsened transitional security and the resultant fear. When insecurity and fear persists in community, promoting R&R encounters difficulties. Revealing truth and healing requires building confidence and trust. However, willful participation and collaboration in facilitating R&R is not possible without building trust and mutual respect. Therefore, addressing the situation of insecurity and fear at local level is one of the pre-conditions for R&R.

- b. Risk of small arms and landmines: SALW<sup>6</sup> were seriously proliferated in Nepal during the time of the conflict (Upeti 2006a). Illegal arm trading from India is becoming a lucrative business during this time. The legacy of the illegal arms trading during the last 10 years is continued and even increased in the Terai region posing serious security challenges. Land-mining and the use of Improvised Explosive Devices (IED) were common practices during the time of active armed conflict. Now, children and ordinary people are suffering from the left out landmines. Residual effects of small arms and landmines have greatly contributed to community insecurity and confidence-building process.
- c. Social stigmatisation: Social stigmatisation and marginalisation of conflict victims (especially the single mothers with unidentified husbands), wounded people etc. are still not getting positive attitude towards conflict victims and survivors. It was reported that many women and girls were forced to have sex with fighting forces and became pregnant. However, once the fighting forces were transferred, the pregnant women used to be left alone. Families and society badly treated these mothers with unidentified husbands. The society does not accept such children. Thus, their lives have become increasingly difficult. Wounded people, widows, children and wives with unidentified fathers

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<sup>6</sup> The United Nations Institute for Disarmament Research (UNIDIR) defines SALW as all conventional weapons that can be carried by an individual or by a light vehicle. These weapons do not require an extensive logistical and maintenance capability. Small arms include pistols, rifles, sub-machine guns, machine guns and ammunition. Light weapons (in addition to small arms) include small-calibre cannons, grenades, landmines, mortars, light anti-tank weapons, anti-tank mines, shoulder-fired anti-aircraft missiles and ammunition (see Chapter 12 for elaboration).

and husbands are suffering from social stigmatisation, as larger portion of Nepalese society is still patriarchal, feudal, traditional and superstitious. Providing justice to these especial groups of people reparation and psychological rehabilitation is crucially important to promote R&R.

- d. Depression: From the interaction with local people, it is known that conflict victims were severely suffered from psychological troubles, insomnia and nightmares. It was said that some of the people, particularly women directly victimised during the time of the armed conflict are suffering from series of mental difficulties such as pessimism, lack of interest, tiredness, loss of interest in life and consequently depression at large. If trauma and resulting depression are not properly taken as an issue during the reintegration process. When ex-combatants/soldiers lack self-confidence and support, they could feel isolated. This can mark the beginning of a tendency to take law into own hand. The consequence may be a reversal of reconciliation/reintegration and nullification of the prospects of a harmonious society. One of the major challenges to be tackled for facilitating R&R is addressing a widely prevalent problem that requires technical skills, constant efforts and material and non-material resources.
- e. Ruining of social capital: The ten years of armed conflict has severely damaged social organisation and relation patterns of Nepalese people. Indeed, it existed long time to maintain harmony and reconciliation such as social gatherings, collective works, cultural activities, public religious ceremonies and platforms, local social networks etc. Reviving some of these capitals is crucial to make the R&R successful (see Box 13.1 for additional details).

**Box 13.1 Erosion of social capital**

An appreciable regular practice of concerted social actions by community members such as regular cleaning of trails, maintaining irrigation canals and drinking water sources, rotational grazing, financial and physical help to the needed ones in the community in the time of natural calamities or social problems were some of the instances of social capital existed in Pawoti VDC of Dolakha District. However, after the escalation of conflict, these concerted social actions are disturbed, members of society are divided and spirit of collective action is almost absent.

- f. Resultant uncertainties: Local people are confused, frustrated and even angry with the worsening security and political situation.

The participants, when some focus group discussions were conducted, frequently expressed their dismay, confusion and anger for the political security chaos and inaction in social and economic reforms. They were citing their higher expectations of positive development on political stability, successful completion of the election to the CA, improvement in security situation and justice to the conflict victims and survivors. Once local people are hopeless and frustrated, it is extremely difficult to make R&R successful.

- g. Coping strategies: During the time of active armed conflict, local people developed different strategy to cope with the adverse situation. The most common strategy was avoidance or passive acceptance of the prevalence of either party. The respondents explained that they avoided issues that bring potential confrontation or tensions or risk for them. Instead, they engaged in such activities that bring collaboration and support for each others on working together for a common purpose. In some instances, they also used religious or social events that bring people together to promote local harmony and encourage forgiveness. Regular assessment of the situation and responding accordingly (for e.g., going out of village for some weeks if they feel that the situation is going to be tensed in the village) was widely practised. Sharing and exchange of information among the close circle and mobilisation of existing networks (friends, relatives etc.) in obtaining information was an important part of their risk assessment.
- h. Waiting for positive result: Despite their frustration, confusion, anger and feeling of uncertainties and insecurities, local people are still waiting for change and positive development. There is hope on young leadership of political parties and civil society. The established leadership in Nepal proved their incapability to manage the post-conflict transition, to bring new constitution in time and to win the heart and mind of the people. Political parties and their leaders going to the government or getting benefits from the tax payers money is not a priority concern for ordinary Nepalese people. Most important for them is the restoration of law and order, stabilisation of market price, respect to their right to work and getting social services from the state, which is largely absent. The established leaders failed to deliver these public

concerns. Hence, they have hopes on the new generation. They have started to examine the cause of war and why it has come to their village, and started reflecting what can be done to minimise its impacts. The process of conscientisation allows local people and victims of conflict to develop and utilise coping mechanisms. These enable them to survive the conflict and they can then be transferred into the economic recovery process during the post-conflict era. In many ways, the conflict in Nepal has provided a unique opportunity to reassess community processes and practices. This is a hope for better future.

#### **4. Strategy for reconciliation and reintegration**

This strategy is based on the perspective, opinion and need of the local people collected during the time of field visit and consultation meetings. The R&R strategy basically highlights the need of clear concept, effective methods and functional procedures. Further it has to focus on healing the wounds of conflict victims, providing justice, revealing truth and historical account and reparation of physical and psychological damages inflicted on victims (Bloomfield et al. 2004; African Rights 2000).

There are no special strategic sequences of R&R. It depends upon local context. R&R does not necessarily follow linear sequences. However, the following are some of the essential inter-connected and complementary elements for a successful R&R:

- i. Replacing fear by non-violent coexistence,
- ii. Building trust, confidence and mutual respects,
- iii. Reaching to compassion and empathy,
- iv. Providing justice and compensation,
- v. Participation and integration into social and political system.

Work of Dina Esposito and Dina Crocker related to post-conflict strategy for Sudan concludes that signing of historic peace agreement alone does not guarantee successful post-conflict reconciliation, reintegration and reconstruction (Esposito and Crocker 2004). Therefore, sustained economic assistance and forward learning decisions must be made essential. The R&R strategy ought to be able to address entrenched hatred, mistrust and uncertainty, reduce rural-urban and centre-periphery asymmetries, keep the R&R process undisturbed from the spoilers, create security

environment, prevent from manipulation and misuse of resources etc. It is essential to use conflict lens while identifying and prioritising R&R tasks and promoting people-to-people dialogue as well as reduce partisan perception. Numerous studies (Kreimer et al. 2000; UNIFEM 2004; Hamber and Kelly 2004; Specht and Carlien 1998; Centro de Estudios Internacionales 1995; Department of Foreign Affairs and International Trade Canada 1997; Mokalobe 1999; Barron 1996; de Watteville 2002, Fusato 2003; Honwana 2005, MacCormack 2003; Palmer 2002; Aditya et al. 2006 and Skaar et al. 2005) have shown that R&R is complicated and lengthy process that requires concerted efforts from government, society and the local people. Therefore, it requires clear strategy, appropriate institutional arrangements and commitment at political and societal levels.



Source: Designed by the author

Brandon Hamber and Grainne Kelly suggested the following R&R process with five interwoven strands that are also important for R&R strategy of post-conflict Nepal.

- i. Developing a shared vision of an interdependent and fair society
- ii. Acknowledging and dealing with the past
- iii. Building positive relationships
- iv. Significant cultural and attitudinal change
- v. Substantial social, economic and political change (Hamber and Kelly 2004).

#### **4.1 Building confidence, trust and mutual respect**

Building and revitalising the local social capitals to promote R&R is crucial in building mutual trusts and promoting peaceful coexistence. The eroded social capitals (social relations, networks, common forums and platforms) in community during the ten years of armed conflict has to be revitalised.

The post-conflict approach needs to focus on rebuilding local social relations and strengthening them. It starts with bringing conflict victims and other key actors of conflict in a common platform to work together, understand and respect each other.

Revitalised social capital entails emergence, promotion and strengthening of local association, community participation, collective accountability, enables collective censure of violence, promotes feeling of security and common identity thereby reducing fears (Colletta et al. 1996)

#### **4.2 Participation in social and political organisations and processes**

Once people get busy in their social spheres, they tend to forget the bitter past. In contrary, if people are isolated, alone and mentally and physically inactive, they recall their horrible past memory and develop mental response accordingly that ultimately leads either to revenge and retaliation or to hopelessness and helplessness. Therefore, engaging conflict victims and conflict actors in social and political activities according to their capacity and ability is vital.

Social, religious and philanthropic organisations, forums and mechanisms exist in every society. Engaging conflict victims and people to be reintegrated in these organisations is the beginning R&R. Once they start to engage in social activities, they gradually develop confidence. Then they have to be given more responsibility. Finally, it is essential to bring them to the leading positions incorporating in the political process.

Hence, engaging them and assigning responsibility is the way of social and political reintegration.

Studies of Rebecca Linder in Afghanistan and Alcira Kreimer, Paul Collier, Colin Scott and Margaret Arnold in Uganda show that post-conflict transition is very much determined by the security situation at local level, trust of people on government and assurance of justice, accountability, economic opportunity and social well-being (Linder 2006; Kreimer et al. 2000).

### **4.3 Revealing truth and healing**

Revealing truth helps personal healing of survivors and enables victims and perpetrators to come to normal life. It also assists in the reparation of past justice, establishing non-violent relationships between individuals and communities and bringing former enemies into a common vision and shared culture (Bloomfield et al. 2004).

Truth, justice and R&R are strongly interrelated. If we revisit the history of conflict-ridden countries, many inquiry commissions have been established for 'truth and reconciliation'. Revealing truth and seeking accuracy about the past is extremely important to shape the R&R process. Seeking truth and giving justice to the victim and making offenders accountable to their wrong doing can only heal the wound of war and re-establish relations. There is no standard method or universal model of R&R that anyone can just pick up and apply. As a process, it is context specific, actors-specific and evolving.

Healing is a strategy, process and activity which improves the psychological health and social well-being of individuals exposed in violent conflict. Hence, healing is intimately linked with rehabilitating and reconstructing communities and societies exposed in the armed conflict that restore and normalise everyday life of people and develop their sense of belongingness. Though, interconnected with community and society, healing is basically focused on individuals.

Once the truth is revealed, punishment or amnesties are two ways ahead depending upon the situation and the context. Amnesty is a part of healing process. Healing is a process of recovering from emotional and psychological scar of the armed conflict. It depends upon the intensity, duration and scale of the violence (longer the violence, harder the healing), level of the hurt caused by the opposition, division in people, stability in society, the past culture of community and commitment and willingness of the transitional and new governments. Healing of pain, guilt,

emotion and hatred of the people who or whose family member(s) are killed, tortured, bereaved, maimed, assaulted, raped, injured, abducted, homeless, intimidated and humiliated is difficult and time-consuming (Porto, and Parsons 2003).

Bloomfield et al. (2004) describes the following things in the guiding framework for healing:

- Social justice as a foundation of healing,
- Proper understanding of the context,
- Using local resources and capacity,
- Linking healing with broader post-conflict transformation process,
- Implementing psychological and counselling programmes for individuals,
- Training local communities with psychological support skills,
- Organising victims in self-help groups and economic activities,
- Implementing symbolic forms of healing (symbolising memory of the past in monuments, museums, plaques etc.),
- Reparation and compensation,
- Organising specific rituals and ceremonies,
- Apologies and forgiveness.

In the healing process, localised coping mechanisms and models of social and emotional resilience need to be supported and strengthened. Hence, healing initiatives need to be a part of socio-economic and political strategy of the government in the post-conflict phase.

#### **4.4. Recognition, respect and collaboration**

Recognition and respect to conflict victims is a crucial psychological force to bring them into social mainstream. Recognition and respect develop confidence of conflict victims and promotes their integration into society, encourages to collaborate in social and political activities and forget the bitter past memories.

One of the best ways of promoting R&R is to include people to be reintegrated in development activities, social service and political process. Literatures have documented that extending collaboration with them and

giving responsibility to them is proved to be the effective and efficient means of R&R.

Case studies of UNIFEM (2004) in Liberia and Papua New Guinea show that process of reintegration of conflict victims and ex-combatants and their families to adapt economically, socially and politically in civilian life depends upon recognition and respect in addition to provision of package of compensation (in cash or kind or symbol) and training and engaging in economic activities. Collaboration with conflict victims promotes respect and reorganisation between conflict victims and host community.

The same studies have found that it is difficult for female conflict victims to socially, economically and politically reintegrate compared to their male counterparts. Hence, special consideration is needed in this hallmark issue.

#### **4.5 Providing justice**

The victims of forced displacement, abduction, arbitrary detention, killing, destitution of property, physical assault and torture, extortion, rape and sexual abuses, amputation etc. should get justice. Justice is an integral part of reconciliation. Peaceful co-existence, trust, empathy and healing are possible only if victims get justice, and the past crimes gets acknowledged and punished. The following forms of justice are essential to promote R&R depending upon the local situation:

- a) Retributive justice, based on the principle of prosecution of perpetrators
- b) Restorative justice<sup>7</sup>, based on the mediation between the victims and perpetrators,
- c) Administrative justice<sup>8</sup>, covering disciplinary measures taken to perpetrators outside criminal courts
- d) Historical justice, based on the exploration of truth and acknowledging the wrong-doing, and
- e) Compensatory justice, based on paying compensation, also called repairation.

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<sup>7</sup> In restorative justice, there is a full participation of victims and concerned community in discussing the problem, identifying the causes of misconducts and violations and defining sanctions. It is solely concentrated in restoring victims and victimised communities.

<sup>8</sup> In administrative justice, police, military and war-time guilty officials and other concerned people who had committed aggression are punished by disqualifying for the job at present and future, barring them from public services, early and forced retirement, travel banning etc.

Government needs to adopt combination of these forms of justice to promote R&R.

Transitional justice is one of the fundamental elements in securing fairness to conflict victims. It refers to a range of approaches that society undertake to recon with legacies of wide spread or systematic human rights abuse as they move from a period of violent conflict or oppression towards peace, democracy, the rule of law, and respect for individual and collective rights. Truth seeking, prosecution, reparation and reconciliation are some of the major focus of transitional justice.

Justice helps in long-term psychological rehabilitation of conflict victims and women and girls who have suffered from specific sexual violence (such as sexual abuses, rape etc.). Legal aid and support to combating discrimination (in both private and public spheres) against the conflict victims is needed. The government needs to provide such legal assistance to them.

#### **4.6 Reparation and rehabilitation**

Reparation is a key element in R&R and political transition from war to peace (Bloomfield et al. 2004; Slim and Eguren 2004). Reparation is recognised by international human rights and humanitarian laws (for e.g., Geneva Conventions, ICC Rome Statute etc.). Often reparation, restitution<sup>9</sup>, compensation, rehabilitation, satisfaction and redress are interchangeably used in the discourse of post-conflict transition (Bloomfield et al. 2004). Basically, reparation redresses past wrong doings, guarantees for non-repetition through human rights training and other mechanisms and provide remedies and concrete relief.

Restoration of the citizen's liberty and rights, return of property captured by warring parties and rehabilitation of conflict victims providing employments are often the parts of the restitution practice. Compensation is a part of reparation. It makes financial payments to victims as recognition of the wrongs committed and loss suffered in the past. It also includes compensation for lost opportunities. Similarly, rehabilitation is a process of restoration of physical and mental health. It also includes provisions of medial and psychological care, and legal and social services.

The satisfaction of the conflict victims in the phase of transitional justice focuses on:

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<sup>9</sup> Restitution is a practice of re-establishing the situation which existed before wrongdoing by the perpetrators.

- a) Verification of the facts and disclosure of truth (for e.g., searching for abductees and disappeared people),
- b) Apology and forgiveness,
- c) Sanctions against perpetrators, and
- d) Commemoration of and tribute to the victims.

Large scale reparation (both individual and collective as well as material and symbolic) requires huge amount of resources (funding, trained and committed people, legal and regulatory mechanisms etc.). As the state has obligation to respect and protect human rights and freedom of its citizens, reparation should be its own responsibility.

The government needs to focus on rapid restoration of essential services to assist conflict victims, ensure their safety and security and help rehabilitate in their previous houses and communities. The Mozambique is often cited as a model for post-conflict reconstruction, reconciliation and reintegration (DFID 2005). The disenfranchised groups were socially, politically and economically reintegrated into the mainstream there. It had also helped reduce partisan perception there. The success of Mozambique was achieved through a concerted effort of the government, private sector and civil society.

#### **4.7 Community rebuilding and creating symbolic unifiers**

Communities during the time of the armed conflict were deeply divided. Characteristics of the communities that existed before the starting of armed conflict (such as common identity, cooperation, social networks and inter-personal relations, respect and trusts etc.) change during the stay of violent conflict. Field study reveals that Nepali communities are struggling to promote reconciliation, maintain harmony and re-start collaboration. Hence, community building should be the priority of national as well as local government, NGOs and political parties. Post-conflict Reconstruction Task Framework (DFID 2002) highlights that community rebuilding is crucial in post-conflict stay.

One of the meaningful ways of reconciliation is the creation of various symbols, platforms and mechanisms that unify divided members of community, promote healing and bring people together for concerted actions. Establishment of peace parks, gardens and community halls, erection of statue/sculptures of people killed during the time of conflict, establishing memorials, awards and prizes, declaring certain roads, public

places in the name of conflict victims etc. are some of the possible activities. The government of Nepal needs to create such symbolic unifiers.

Resource should be allocated to train facilitators and conflict victims on how to help traumatised children or abducted people. Similarly, people wounded or disabled from the armed conflict, chronically-ill because of exposure to armed conflict need medical care, counselling, rehabilitation facilities and training. Sensitising to conflict victims on adjustment is fundamental. Similarly, it is essential to connect R&R to the national strategy of post-conflict development and political transformation. It is always essential to be aware of the elite capture of resources allocated for R&R.

#### **4.8 Promoting structures and mechanisms**

Pragmatic and bottom up strategy as well as appropriate structures and mechanisms are essential to promote reconciliation and social and political reintegration at local level. For a successful post-conflict transformation, security is an absolute prerequisite. In addition, building state institutions, developing local governance, re-establishing rule of law, reconstructing infrastructures, reforming public services and reviving health and education and protecting environment are essential for it to happen (Junne and Verkoren 2006). Experiences of war to peace transition in Sub-Saharan Africa have also indicated the prime need of addressing legacies of armed conflict through appropriate R&R mechanisms and structures (Colletta et al. 1996; Gleichmann et al. 2004).

If prosecution is used in providing justice to victims of armed conflict, primarily it has to be investigated and prosecuted domestically. Criminal prosecution mechanisms and national tribunals can be established to provide justice to the victims of conflict. Hybrid mode of prosecution may be needed only if domestic judicial mechanism is unable or unwilling to facilitate the process of giving justice. International prosecutions may be needed through ICC (but Nepal has not yet signed the Rome Statute of ICC) or by establishing commissions of inquiry to establish facts and prepare basis for the court case, if the country is not willing or able to take appropriate action. The ICC has jurisdiction over the most serious crimes such as genocide, crime against humanity and war crimes. Addressing R&R requires the following:

- Formation of the TRC
- Formation of the Community Justice System (CJS)

- Criminal prosecution mechanisms
- National tribunals
- Act and regulations for the operation of TRC, CJS and other instruments needed for R&R.

#### **4.9 Capacity building needs and mechanisms**

Achieving R&R requires capacity (knowledge, skills and attitude) of the people engaged in the process as well as ability and willingness of conflict victims to participate in the R&R activities. Confidence building of conflict victim is a must. It depends upon technical training and skills as well as mobilisation of local knowledge.

Millions of Nepalese people have been suffering from the armed conflict during the last eleven years in the country. They need to develop confidence, capacity and willingness to participate in R&R for they require systematic and continuous efforts. Proper understanding and facilitation is another need. It demands huge number of skillful facilitators. Further, all people need to be aware and sensitive on the issues of R&R. Hence, the government should incorporate R&R in formal and informal education system as well as in non-formal training programmes. Development agencies have to incorporate R&R issues in their training and facilitation process. Media mobilisation is another important strategy to promote R&R. Political parties have to incorporate R&R in their training and orientation to their cadres as well as need to include in their manifestos and strategies.

Establishing training centres, community resource and counselling centres to deal with R&R should be priority of the government in the post-conflict situation. National Planning Commission, all ministries, departments and local offices have to incorporate R&R in their programme activities. Similarly, NGOs and CBOs need to engage in R&R. In fact, R&R should be the priority issue for all people and organisations, ranging from government, VDC/DDC, NGOs, INGOs, political parties civil society and economic institutions. Post-conflict experiences of East Timor demonstrate that building capacity is extremely important to make transition successful (DFID 2005). The UN Transitional Administration in East Timor had arranged training to assist the new East Timor to develop its institutions and departments gradually (DFID 2005).

In Nepal, resolving grievances arising from the past ten years of conflict is crucially important to normalisation of situation at community (DFID 2005). Both formal and informal mechanisms need to be mobilised to

resolve grievances. Therefore the government needs to use strategy of mobilising these mechanisms.

## **5. Monitoring and coordination**

Successful R&R depends upon monitoring and coordination. It is not possible to achieve R&R without them. Hence, all agencies and individuals engaged in R&R need to develop human resource and allocate some financial resources to monitor and coordinate R&R activities.

There is always risk of perception of host community towards R&R, of especially ex-combatant, as the community feels it as a 'reward for committed atrocities'. The local communities may also feel that they are excluded from the reparation packages. Hence, there can also be resentment from host communities. Hence, government through means of monitoring and coordination need to take preventive measures by dialogue and awareness rising discussion in advance. Receiving communities must be informed in advance about the purpose, intention and procedures, reintegration package, and potential impacts. Finally, it is also needed to collect their feedback and suggestions.

## **6. Conclusion**

The conclusions are drawn mainly based on the empirical study. They are complemented by the related conceptual and theoretical literatures.

R&R is extremely essential to strengthen the newly restored or introduced democratic institutions, to promote harmony among and between the individuals and communities. It has to be an agenda for the ongoing process of constitution writing and state building.

Post-conflict transition goes beyond reforming and/or introducing norms, institutions and procedures fitting to the changing context. It deals with the recognition and protection of individual rights. Also, it makes the state responsible to provide redress in the violation over these rights and individual freedom by the state security forces and the insurgents.

No single comprehensive R&R model is available. However, there are several useful positive and negative experiences and lessons from Peru, Sierra Leona, Rwanda, ex-Yugoslavia and South Africa from which Nepal could learn a lot.

R&R is not an isolated process. One of the main agendas of the state building, it has to be intrinsically linked with wider reconstruction and

rehabilitation process. It is a complicated process and therefore requires specific skills, experiences and a huge amount of resource. Reconciliation process should be domestic and inbuilt in Nepalese social system, but international support in the areas of sharing experiences, providing technical expertise and financial resources is essential. Nepal can benefit from the huge experiences and rich lessons of Office of the High Commissioner for Human Rights of the UN, UNDP and the European Union. There is a growing tendency in the international community to impose conditions for their assistance when dealing with the financial issues over TRC. They often do it without realising the local dynamics, but it could be harmful (Bloomfield et al. 2004). Therefore, external roles should be limited to support facilitation of domestic policy of reconciliation rather than imposing conditionality.

Experiences of Northern Ireland, Rwanda, Guatemala, South Africa, Mozambique and Cambodia demonstrate that reconciliation is one of the most effective means of conflict transformation and peace building when internalised by the key conflicting actors. It enables victims and perpetrators to get on with life and live in a society and also helps establish political dialogue and sharing of power at local levels.

Social and political reintegration must take care of the following:

- Prepare the immediate, short-term and long-term reintegration package for youths and the conflict victims by identifying effective mechanisms to mainstream them into broader socio-political systems.
- Facilitate psychological recovery of the people affected by armed conflicts through the establishment of critical social networks that bolster feelings of empowerment and security.
- Develop effective programmes for the participation of conflict victims in social events, political activities and economic opportunities in order to facilitate reintegration and prevent potential for returning to violence.
- Facilitate solidarity networks, meetings, gatherings and social events that reduce distress and trauma and promote healing and reconciliation.
- Create environment for the direct engagement of local communities in supporting the conflict victims.
- Ensure that R&R packages give special attention to the situations of youth, children, girls and women who have experienced

abuses (sexual and others), and who are isolated from families and/or communities due to the conflict.

- Ensure participation of the conflict victims in political processes by facilitating the establishment of working groups on political issues relevant to them.
- Articulate a strong political agenda that place conflict victims as central partners in peace and development in post-conflict settings and mobilise them in political activism and contribution to societal process.
- Identify specific training needs for the conflict victims that will develop confidence, ensure short and medium-term relief to economic hardship and assure stable livelihoods.
- Support programme activities that cater to disabled, wounded and the other people with special needs.
- Facilitate especial package of basic support schemes for reconciliation and social reintegration, especially tracing unaccompanied children and reunifying them with their families or relatives, arranging them for food and proper shelter, education, healthcare and employment.
- Help the conflict victims emotionally, address their livelihood needs and poverty, improve social provisions such as access to school, healthcare, and employment and facilitate them to be the active citizens.
- R&R of the conflict victims of armed conflict should go hand-in-hand with larger strategies of post-conflict social development and political transformation.
- In the political reintegration process, the conflict victims should be made participate in social organisations and the state's basic political structures.

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## Contradiction and duality: Deterring state building in post-conflict Nepal

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### 1. Introduction

Nepal is emerging from violent conflict and currently stands at a crossroad of conflict transformation and status quo. The new Nepal is expected to take on a federal character, democratic polity and inclusive state. People have high expectations of change in terms of secured livelihoods, functioning of state, public security and social justice. At this juncture, this country faces a number of challenges including contradiction and duality on major issues for state building. This chapter deals with concepts, international experience, state building challenges and Nepalese experience on contradiction and duality. It also offers suggestions on how Nepal could manage contradiction and duality for state building.

Conceptually, many people are uncomfortable with contradictions. Contradictions are largely perceived as a misfit within elements, between them, between different activities, or between different development phases of a single activity (Kuutti 1996). They have also been characterised as conflicts (Dippe 2006), as tensions (Basharina 2007; Berge and Fjuk 2006) and as historically accumulating tensions (Engestrom 2001). Contradictions emerge as disturbances which are visible manifestations of contradictions (Capper and Williams 2004). They are confrontations, opposing ideas, disruptions, problems, as well as ruptures, breakdowns and clashes in activities. However, Engestrom (2001) argues that contradictions are not simply conflicts and problems but are historically accumulating structural tensions within and between activity systems. They generate not only disturbances and conflicts, but also innovative attempts to change the activity and/or the proposition in question. Contradictions are important not in and of themselves, but because they can result in change and development.

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Duality is the quality or character of being twofold or dichotomous. It is the characteristic of society today that any area of thought, belief or action is viewed in a dualistic manner, either positively or negatively. Much of the dynamic of society is determined by interaction, competition or conflict between those holding such polarised perspectives on any issue. It is also perceived that dualities are opposites that complement each other. It reminds us that there are two sides to a story. Duality creates conflict and conflict brings challenges and opportunities.

Contradiction and duality are seen at different levels - individual, group, and societal. They may overlap and are contextual. They develop as major challenges as well as opportunities for any post-conflict state building process. History shows that even the states have arisen out of the conflict (between and within countries) and societies have moved forward through conflicts. So, contradictions and duality are major part of the rise and fall of societies and civilisations in the world. There are many efforts undertaken and experience gained while dealing with contradictions and duality in post-conflict countries. Experience gained at national and international level, particularly of countries affected by violent armed conflict, would be of immense importance in shaping Nepali post-conflict state building processes.

## **2. International experience**

There were many serious conflicts in various parts of the world in the 1990s. Some of them have calmed down recently. Nevertheless, the actual situation in many countries remains fragile and the countries face a multitude of problems for the reconstruction of stable societies. Within broad context, there are three distinct types of cases facing conflict transformation and nation building (Diamond 2006). First are the post-conflict states that are emerging (or trying to emerge) from a period of civil war. Many of these countries have been in Africa — South Africa, Mozambique, Sierra Leone, Somalia etc. Some have been in Latin America (Nicaragua, El Salvador, indeed much of Central America), in Asia (e.g. Cambodia, Sri Lanka, Pakistan and Nepal), and in the Middle East (Lebanon, Algeria and Iraq). Second are the countries that are in the midst of civil war or ongoing violent conflict, where central state authority has largely collapsed, as in the Democratic Republic of the Congo. And third are the states that, while not yet gripped with large-scale internal violence, are at severe risk of it because of weak or weakening state authority and capacity, high levels of crime and privatised violence, and increasing polarisation of

domestic politics (for example, Nigeria). Each of these three types of cases requires specific kinds of strategies for democracy promotion.

Internationally, contradictions and duality have been dealt with two approaches, one relates to culture and the other to the communicative context in which they occur. According to the culturalist approach, the way we deal with contradictions and duality can be markedly affected by culture, so that people from cultural environments with different social practices are more or less inclined to accept contradictions. In particular, this approach predicts that Easterners are more likely to search for a compromise between two conflicting view-points than Westerners, who tend to follow a logical principle of non-contradiction. In contrast, the evolutionary approach considers that when contradiction occurs in a communicative context, universal mechanisms designed to deal with the problem of managing deceptive information go into effect and lead to the tendency of giving more weight to one's own belief than to the other's conflicting view (Van der Henst et al. 2006).

### **3. State building challenges**

Dealing with contradictions and duality becomes a vital part of post-conflict state building process particularly in cases of violent armed conflicts followed by difficult and fragile peace processes. Post-conflict challenges are deeper than the war itself as post-conflict states are vulnerable to a range of old and new forms of violence. Feudalistic distribution of land, its ownership patterns and land administration systems in place by the state in favour of ruling elites have been the means of claiming control over people and maintain political power. This has been the historical cause of conflicts fueling the larger conflict in the country. Using the existing conflicts, Maoists backed the landless peasants to capture the land from landlords, politicians and bureaucrats during the armed conflict. This has become a new form of violence and contradiction during the post-conflict period. Increasing militarisation of youths owing to Maoists experience of becoming powerful political force in relatively short period of time, rising identity-based politics, mushrooming of armed groups in Terai for economic benefits and general acceptance of violence as a legitimate form of political force have caused the state to experience new forms of violence. Growth of urban violence rates resulting from weak law and order situation are other forms of violence facing the state in transition. Some specific chapters in this same book have dealt with the mentioned issues. In a nut-shell, one can firmly say that the post-conflict Nepal is

near to a whirlpool of insurmountable challenges. Devising the tackling strategies with them is deemed a must.

Absence of proper identification and management of existing and emerging contradictions add further complexities in post-conflict challenges. The first phase of state building is extremely difficult to implement, because the necessary capabilities are widely spread out among a host of government and civilian agencies. In addition, there are host of legacies of violent conflicts too. Contradictions and duality are further complicating already challenging post-conflict state building.

In the post-conflict state building process, the state's ability to function properly is challenged by several forms of contradiction and violence. First is the friction between order and freedom. The post-conflict state needs an authoritative and capable public security establishment. But building up the security is in tension with the goal of empowering and privileging political actors. The state must have the legitimate use of force. This must be constructed carefully with the mechanism and norms of civilian supremacy and respect for human rights, so as not to create a new, antidemocratic security. The public sentiments arisen out of the immense desire for freedom contradicts with government's strict control to enforce law and order through the use of force. Tensions also occur when government intends to reinforce law and order using existing security mechanisms perceived as tainted with previous undemocratic regimes.

Second is the issue of SSR, a concept emerged first in the 1990s in Eastern Europe. It is mainly envisaged for the fragile and post-conflict societies. The SSR is part of a democratisation agenda and post-conflict state building strategy. It is a fairly new, ambiguous and still evolving concept (Thapa 2008). Till date, there is still no universally accepted definition of SSR. Clearly, the concept is lacking a comprehensive and coherent framework. There is no distinctive operational guideline nor are there any endorsed normative principles of SSR (additional discussion is included in the second chapter of this book under the subsection of SSR). Thus, it can range from a limited to a limitless concept (ibid). From a maximalist viewpoint, the agenda almost overlaps with the state-building formula. In a post-conflict context, state building mainly refers to the process undertaken to revitalise the society (fragile, failing or failed) by erecting robust political, social and economic orders. A minimalist approach, however, could confine the parameters to reform of the core security actors or the non-statutory security forces. Another aspect of SSR worth mentioning is DDR. There is

quite a bit of confusion between DDR and SSR. Some treat DDR and SSR as two completely separate disciplines while some take the completion of DDR as a precondition for initiating the SSR agenda. For countries emerging from conflict, integration of ex-combatants into society and security forces is a challenging task for the nation, political parties, civil society and ex-combatants themselves. Internationally, many countries initiated DDR after peace agreements while only a few considered SSR. There have been a number of successful cases of integration between armed groups and state security forces.

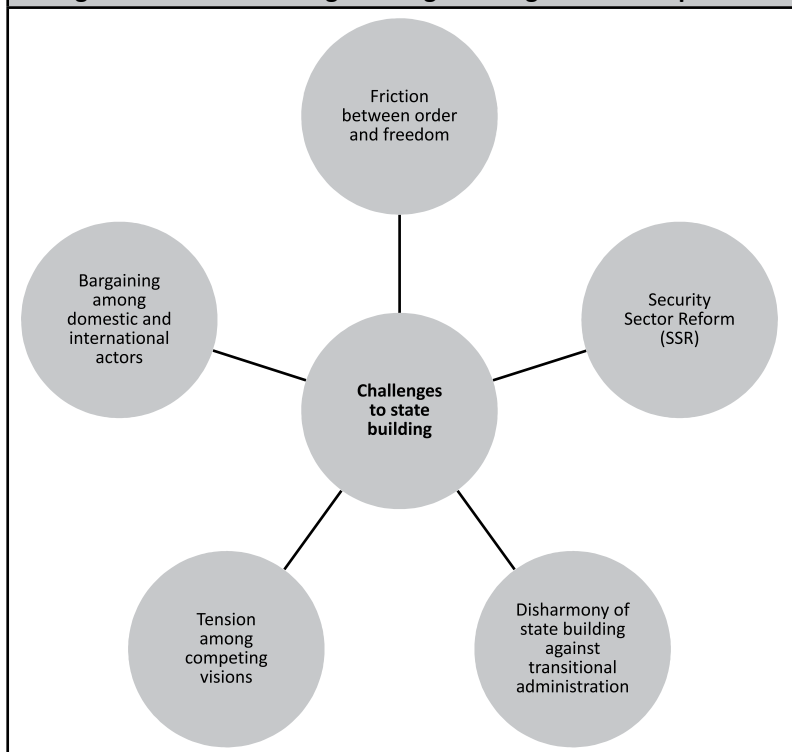
Third is the disharmony between post-conflict state building against post-conflict administration and stabilisation. Knaus and Cox (2005) present the case of the Bosnia and Kosovo interventions where a post-conflict situation is dominated by undemocratic leaders, parties and movements, and by overriding ethnic or political divisions among them. A transitional administration must be strong enough to control, contain and face down undemocratic elements, especially if they are armed and violent, and yet flexible enough to allow and indeed cultivate the emergence of local initiative and control, the development of democratic self-governance. This may not be an impossible combination, but in the fragile post-conflict situations, it is a difficult one.

Fourth is the tension between two competing visions of post-conflict stabilisation, one deeper, longer-termed and costlier, the other easier to secure but far more vulnerable to failure. There is a temptation in a country that has been torn by war to reach for a false sense of peace because it is quicker and easier to obtain—to defer indefinitely the hard challenge of SSR and management and integration of arms and armies. This happened with the first false start at peace in Sierra Leone, Angola and Iraq, which led to the resumption of civil war and subsequent rising levels of violence.

Fifth is the concern arisen from negotiations and political bargaining among the UN and domestic political elites (Barma 2005). These interactions are constrained by the macro-structural context determined by the historical path of each country's political and institutional development. The preceding conflict is the most proximate event in such a path, since it determines the distribution of power and other political resources (such as money, militia control, and ethnic/interest group support) among domestic elites. Other explanatory variables take shape further back in the historical trajectories of the countries examined, including pre-existing political institutions and the historical antecedents to and nature of the

preceding conflict. Domestic elites interact and bargain with each other and with the UN empowered by and within these historical-structural constraints (Figure 14.1).

**Figure 14.1 State building challenges during transitional period**



Source: Designed by the authors

## **4. Nepal's experience**

Contradictions have been the driving forces for change and development in Nepal. They cannot only result in tensions, but also be helpful in bringing transformation in Nepali socio-political and economic conditions. Nepal has experienced contradictions and duality in all past political transformations including the people's movements of 1990 and 2006. The recent political changes are founded on the contested political negotiations starting from Twelve Point Understanding in 2005 to the CPA in 2006 and several other agreements between major political forces thereafter.

Ideological contradictions and duality among different political and social forces in understanding the society, change and development is the reality of Nepal's past, present and immediate future. The tensions between the new ideas and technology with existing systems such as in managing the natural resources by the community themselves have yielded positive results in the past (see an instance of community forestry management by Community Forest User Groups in Nepal in detail in Chapter 4 in this book). In some cases, contradictions have been the major source of radical transformation, such as the case of state restructuring vis-à-vis the issue of federalism. When UCPN (Maoist) put forward the demand of federalism to restructure the existing state, none of the other parliamentary parties was ready to accept it as a viable option to transform the ongoing conflict. However, over the years with people's pressure, peace negotiations with the Maoists and uprising in Terai for autonomous federal state, they were forced to accept the idea eventually agreeing to amend the Interim Constitution for federal structure of the governance in the future. It is seen that when certain contradictory views or issues are aggravated to a greater extent, those who were against such view(s) begin to start questioning their own norms and values or to maintain positions on certain issues. With time and pressure from the public, they ultimately come to agree on the proposition through a negotiated settlement. There are several cases of such contradictions and duality being resolved amicably in Nepal by different political parties and social forces.

Contradictions on use of language (a case of Vice President taking oath in Hindi instead of mother tongue (Maithili) or in Nepali) have been a major issue in the current Nepali politics. Identity-based groups advocating for certain languages have been divided over this issue. The Supreme Court, using the prevailing law, had made the oath-taking illegal and office of the Vice President nonfunctional for several months. This issue was resolved with the provision of oath taking in own mother tongue and/or in Nepali language by making the sixth amendment of the Interim Constitution-2007. Despite this consensus on agreeing to solve the language issue related to functioning of Vice President, numbers of issues regarding the use of languages remain. Some Terai based parties continue to advocate for making Hindi an official language stating that it is a link language for multiple ethnic and linguistic groups living in Terai. In contrast, other parties and groups within the country are not in favour of this because of greater cultural invasion and interference of India as a big neighbor. As contradictions exist, this is going to be a crucial issue to be dealt by the CA while finalising the constitution.

It is believed that the dynamic interplay of unified opposites results in ongoing and inevitable change for relationship partners. Maoists, since several years, have been able to play with contradictions among the mainstream parliamentary parties (mainly Nepali Congress and UML) by responding positively to one at the cost of negating the other temporarily and vice versa. Playing dual role, the parties were successful in negating one at the cost of the other and switching back and forth at other times. This resulted in changed relations among powerful parties in a dramatic way with ups and downs leading ultimately to the government changes at several occasions during the decade long armed conflict in Nepal. Maoists were even using intra-party contradictions to replace one leader by another within the governing party (example of the formation of Deuba-led government by replacing his own party leader- G.P. Koirala) as party leaders were trying to use Maoists as a tool to change power structure within the party. Maoists were able to use such moments and changes in their favour as well as negotiate with the parties. However, they were not effective in trying to persuade parties for radical changes due to powerful presence and ownership of the Monarchy over the state machinery (particularly the army) and overall decision making (example of three failed peace talks over the issue of election to the CA). At some points, playing with such contradictions was useful to bring changes in the relationships leading to peaceful negotiation (results of the Twelve Point Understanding between the Seven Party Alliance and Maoists in 2005).

This game of playing with contradictions and consensus based political negotiations in dealing with contradictions ended after the results of election to the CA in April 2008 in general (where the Maoists emerged as the largest party with 40% seats in the CA) and election of the President (Maoists losing to combined opposition candidate) by the CA in particular. The Nepali Congress and CPN (UML) were badly defeated with their senior leaders losing the election. Following the defeat in the election to the CA, the Nepali Congress government led by G.P. Koirala reluctantly handed over the power to the Maoists after four months (in July 2008) of political maneuvering and only after Maoists agreeing to amend the Interim Constitution to replace consensus politics (2/3 majority) by simple majority government provision. This was a turning point in the Nepali peace process where the parties finally ended the consensus-based political culture developed after Twelve Point Understanding in 2005.

Despite general consideration that contradictions in Nepali society or political front have been transforming, it does not happen automatically. In some cases, contradictions also result in disabling progress towards

change. Democratisation process of the Nepal Army has been halted after the Maoists-led government tried to sack the then Chief of Army Staff in March 2009. This was taken by the other political parties in opposition as a Maoist's strategy to capture the state power. This resulted in the President revoking that decision with support of all other parties in opposition. Citing the reason of lack of civilian supremacy and foreign interference in all the development leading to President's decision, Maoist supremo Prachanda resigned as the Prime Minister that led to further deteriorations in relationship among the parties. Existing contradictions among the parties ranging from integration of two armies, state restructuring and forms of government to provisions for inclusive participation of all the excluded groups and communities widened further. It slowed down the post-conflict state building process.

In some cases, the most difficult contradictions, hard to identify and invisible in the society, could deter the transformation. Political parties in Nepal may not even recognise such contradictions as difficulties, such as understanding each other's position over certain issues (can be a case of management of disqualified combatants). Government could not agree to the Maoists' demand of providing cash compensations or any incentive package to former disqualified combatants to start an economic activity (such as fruit farming in Karnali region in government land leased for number of years). Other parties and the government were in favour of providing skill development training so that they could be employed in this sector. This was rejected by the Maoists as well as the combatants. Finally, the Maoists agreed to discharge them from the camp without a clear incentive package to start a 'new life'. The contradictions here are mainly related to how certain things are to be done or how certain relationships are to be managed. The United Nations Mission in Nepal (UNMIN) without major decision-making role and not having sufficient mandate to pressure the parties had to complete the discharge process. Another example is the democratisation process of the Nepal Army. It appears to be the forgotten issues in the current political debates on the ability of Nepali political leaders/ forces to resolve the contradictions amicably.

Equally, contradictions can also help to identify 'dynamic forces of change'. Introduction of inclusive policies by the government of Nepal (quota systems, reservation while recruiting in civil service and universities) after the CPA-2006 are the results of efforts of the political forces to resolve existing contradictions. Such policy changes are expected to bring positive changes in the socio-political situation of the disadvantaged communities

deprived of state privileges since several years. However, there are continuous contradictions on giving such special privileges to certain section of the society while others are being marginalised (such as recent protests by Kshetri Samaj Nepal) against introduction of such policies targeted only to some groups. Similarly, certain contradictions, such as on addressing ethnic, gender inequalities or social exclusion issues are not discussed openly by the political forces. They think that it might backfire on their own interest in future. Or they may not be willing to share power or existing privileges. In this situation, such contradictions, which may result in positive changes, are kept hidden or suppressed deliberately. Some kind of general consensus (also duality in what they say and do) can also be seen among political parties as all of them feel threatened of their own existence in future due to expected changes.

The situation dealing with contradictions is somewhat delicate in the post-conflict transition. The leadership is not held responsible and accountable to forge national consensus on national issues incorporating views of the citizens. In the absence of lack of internal democracy within the parties and no mechanism among any of the parties to enable constituencies to assert themselves against the party machinery or make the elected representatives accountable to these constituencies (Mikesell 1999), this state of affairs itself presents major contradiction and duality in the post-conflict state building in Nepal. In this context, Maoist strategy is shaped by a tension between purity and pragmatism. Although they stick to certain established principles, they have long been willing to shift course if they identify strategic weaknesses (ICG 2007) while mainstream political parties favour the status quo in conflict resolution. The recent visit to Nepal of UN Under-secretary General for Political Affairs B. Lynn Pascoe underscores the increased confusion and heightened suspicions among Nepali political parties vis-à-vis UNMIN (Prasai 2010). The following are some of the potential contradictions and dualities prevalent in the post-conflict state building.

#### **4.1 Legality in question**

Contradiction and duality exist among the major political parties on what is legal and illegal in terms of people's resistance against the state or existing rule of law. The Maoists' way of legitimising working-class's resistance to existing legal framework is termed as illegal by the mainstream parliamentary forces. The Maoists, however, characterise the struggles of the peasants, working class, disadvantaged and proletariat

against the ruling elite/class or the state as morally legal. They believe that the people have the right to rebel and question the 'legality' of the ruling state. It is now manifested in the form of confiscating land and properties which is against the CPA. They link it to illegal possession of natural resources and/or state property by ruling class using existing legal mechanisms meant to protect their own interests. Because of this duality in defining the rule of law or legality issue, the country is experiencing difficulties in number of fronts ranging from labour unrest in industrial sector to disturbances in education sector. Further, contradiction and duality in understanding development, human rights and security exists among the major political players of the country. The Maoists think that politics need to be put at the centre of the discussions of development, human rights and security. Whereas other parties believe that one needs to adhere to the 'rule of law' or game of the democratic norms to ensure security, promote development and protect human rights.

#### **4.2 Constitutional trade-off**

Political forces in Nepal are sharply divided in shaping the post-conflict state building ranging from the state restructuring, forms of governance, electoral systems, fundamental rights, use and management of natural resources to guaranteeing the rights of minorities, indigenous and Dalits. This has emerged strongly in the CA deliberations and discussions. The draft prepared by different thematic committees of the CA has highlighted these divisions. As the status quo political forces are gaining more power and prominence in the national politics and those seeking radical changes are left outside of the political mainstream, it will become increasingly difficult to deal with the ongoing and emerging contradictions. The ultimate results will be the usual 'blame game' to each other and jeopardising opportunity of socio-political transformation. Duality in managing contradictions by the mainstream and the so-called big parties have given ample space for other fringe and emerging parties, identity and region-based, to cleverly capitalise upon the inchoate prejudices, suspicions, fears and insecurities prevalent among the public. They have been able to inject enough venom and play with people's sentiments and emotions to intimate them as far as possible in order to fulfil their own interest rather than of country at large. Country may have to pay heavy prices, if major political and social forces fail to recognise that somebody else is trying to capitalise on their differences and/or manage these contradictions for broader socio-political transformation. India and China may undermine Nepal's fragile democracy by influencing Nepal's domestic politics and security.

### **4.3 'Powers' that are not powers**

There is a list of 'powers', making it seem that the powers of government are being handed over to the people (Mikesell 1999), but these are no 'powers' of governance, they are just procedural rules. Political parties are always in conflict and contradiction in terms of empowering local government, citizen participation and ensuring downward accountability. There is no autonomy in local planning as it must adhere to the instructions given by the Ministry and the National Planning Commission in respect to plan formulation and implementation. Moreover, poor and disadvantaged people are either not able to participate or not allowed to participate in local governance processes. Moreover, some powerful political leaders make the final cut and paste on whatever comes from below and that becomes a major part of the national budget. This sort of duality has continued even after the recent political changes.

Power is overly centralised and top-down. There is also a question about whether the political parties only have the authority without any real powers to make changes. Why are they powerful yet so weak in defending national interests?

### **4.4 Foreign interference in foreign relations**

Nepal is a strong supporter of the non-aligned movement in the past and its foreign policies are based on the same principle. However, the close proximity to India and her influence over social, political and economic fronts as well as the pressure from the northern neighbor- China make it difficult to survive independently. Foreign policy is thus greatly influenced by powerful and influential neighbours, particularly Indian interest and policies. With the open border, cultural and religious ties, economic dependency and the political submission, India has tremendous influence and interference in Nepal's foreign policy. It has created suspicion and hesitation among the ruling political elites in number of independent decision-makings such as in dealing with Madhesi issues because of the perceived Indian interest over it. It has allowed the external forces to play with this duality.

There are no common agreements among the political parties over India's role and interest in the political changes in Nepal in 1951, 1960, 1990 and 2006. There is inferiority complex among many Nepali politicians and this has manifested in the much debated India-Nepal Peace and Friendship Treaty of 1950. The Maoists are of the opinion that time has changed, democracy has come in and people's aspirations have changed so Nepal

has to update the Treaty for the time being. There are certain provisions like treating each others' citizens equal, with open borders. Even within Maoists and obviously with other political forces, duality exists when dealing with such sensitive issues. What they say for public consumption is not what they intend to do in reality.

There are contradictions in receiving and managing foreign aid in Nepal. Foreign aid is tied to its foreign policy objectives and it may contradict national strengths and priorities. While foreign aid can assist in managing contradictions for positive change, it can also be used by foreign powers as a political tool to play with contradictions. It may be used to advance political influence and values, collect security intelligence, expand market and 'divide and rule' politics in the country.

#### **4.5 Ethnic and identity crisis**

Ethnic and identity politics have become a major force in Nepali politics. Strong sense of identity with respect to ethnicity has emerged with contradictions among major political players. Principal political parties have vague and differing ideological perspectives in terms of dealing with ethnicity and identity issues. Some parties are playing with ethnic and identity sentiments to capture and maintain their vote banks. The Maoists were on the forefront raising ethnic and identity issues, but were unable to deal in practical terms when they came to power.

There are interesting and widely varied discussions within parties and CA members on how to deal with ethnic and identity issues in the new constitution. Interest-based political forces and groups are playing with existing contradiction and duality of political parties. They are blowing it out of proportions to arouse psychological insecurities to reshape the framework of the public discourse on number of issues. There is also the tendency of political forces to come to terms once it becomes a public discourse and much talked issues without giving much thought to it but later regret about it.

#### **4.6 Security sector reform under party politics**

There have been disagreements between the Maoists and the Nepal Army from the very beginning about implementing SSR or DDR. The Maoists have maintained that there is a need to restructure the whole state apparatus, including the Army, and the national army should be developed by integrating Maoists ex-combatants into Nepal Army. Further, they argue that Nepal needs to reduce the size of the army in the long-term

and instead of having such a huge number of army, the country could go for trained militias who would defend the country at times of war and during emergencies.

Parties are interpreting the CPA clause on integration of armies differently and playing with the vagueness of the wording. Initially, UNMIN wanted to use the DDR process but was unable to do so due to a strong objection from the Maoists. The rationale for the UNMIN to adopt DDR is based on the UN's own experience of supporting DDR processes in post-conflict countries for the management of ex-combatants. The UN has implemented DDR process in Sierra Leone, DRC, Liberia, Haiti, Burundi, Sudan, Aceh (Indonesia), Afghanistan, Somalia and Uganda. The rationale for other parties is basically aimed at detaching the combatants from Maoists party and avoiding the bulky integration into national security forces- the Nepal Army.

The win-win (uniqueness of Nepali peace process) between the Maoists and the other parties has created contradictions in the SSR. Earlier the mainstream political parties did not want the integration of the Maoist ex-combatants, particularly before the election to the CA, and now the Maoists do not want this to happen before the promulgation of the new Constitution. Upreti (2010) comments that there is no uniform understanding on the national security in Nepal. Nepali mainstream politics still perceive national security as the sole responsibility of the military, which is incomplete. Furthermore, he warns that South Asia in general and India in particular is increasingly facing the problems of global terrorism. Though Nepal has not yet been directly targeted by global terrorist networks, the spillover effects of terrorists' act in India could penetrate in Nepal because of the open border that stretches 1,800 kms.

#### **4.7 Land reform in talks**

Distribution, ownership and access to land resources have long been divisive in Nepal. Land issue is structurally related to landless people as social injustice, marginalisation, exploitation, poverty and violence. Maoist's war received impetus by these generation-old land-related grievances. Maoists made 'revolutionary land reform' a key component of their agenda for social change. Consequently, the CPA-2006 reflected a commitment 'to end feudalism' and ensure 'scientific land reform'. Similar provisions are contained in the Interim Constitution-2007. Despite this consensus among the major political parties on the need for land reform, the issue has remained very sensitive, politicised and contradictory in the post-conflict state building process.

Contradictions among the political parties on land capture and return exist. The return of land captured by the Maoists during the conflict is a pressing and politically contentious issue in post-conflict. Responding to the failures to return the captured land, other parties are questioning the Maoist's commitment to the peace process. Maoists fear of losing political support among part of its constituency if they ask their supporters to return the land. Political parties are taking dual strategy to embarrass their opponent(s) rather than having will to settle this issue. Madhesi political parties simply resist land reform discussions owing to elitist nature of the leadership. They perceive land reform as an attempt of the Pahadis to grab the land in Madhes and change the demography of Madhes. Other parties have been trying to mobilise marginalised Madhesi communities (Dalits, Janajatis) against Madhesi ruling elites. Historical alliance between political elites (landlords) in Terai and the state, to benefit from the status quo, clearly exists. Prevailing contradictions show that they may lead to the rise of peasant's movement against the Terai landowning elites in future.

#### **4.8 Civil society in mist**

Civil society is a contested territory around varying interests, purpose and values. It is today taken as a conduit for democratisation, leadership change, economic liberalisation, good governance and peace building. Many of them are articulating alternative vision, perspectives, methodologies and proposals, providing information that are useful in policy formulation, implementation, evaluation and critical review and offering means by which people as stakeholders fulfil their legitimate needs. In many cases, Dahal (2006) argues that international support efforts and contextual understanding were also less forthcoming as donors were focusing more on conventional quantity of activities on 'democracy, human rights, good governance, decentralisation, empowerment of women and the market economy', rather than a qualitative discourse, encompassing the transformation of certain dominant ideas of the hierarchical caste, class and gender relations, for a rational reconstruction of the social and political order. This idea assumes civil society to be a purely instrumental process whose parameters were decided by donors and which turned many NGOs, indigenous people's institutions and social organisations into projects (Pearce 2005). There is also a love and hate relation between civil society and political parties when the latter is in opposition and in government respectively.

Civil society has always played a fundamental role in the democratic movement in Nepal with the support from the people and international community. Key civil society and human rights organisations and media have played a significant role in civic education about the CA, human rights monitoring and restructuring of the state and the need to deliver basic services in the rural areas. But, once democracy is restored, civil society has been somewhat in the confused state and less effective in consolidating democratic practices and lasting peace in the country. This may be because much of Nepalese civil society is driven by self-interested leaders, influenced by the internal desire to enter into power politics and divided along partisan lines.

## **5. Conclusion**

Contradiction and duality can be the sources of change or violent conflict. They are inevitable in the post-conflict state building. The issue is not to ignore them, but to deal with them constitutively and forge national consensus. In some cases, contradictions also result in disabling progress towards change. Nepal needs to learn from the international experiences of identifying and in dealing with them constructively. There is time sensitivity and more lingering of the issues can push the nation to the point of zero-sum game.

Under contradiction, some kind of general consensus can also be seen between political forces as all of them feel threatened of their own future existence. Sometimes, they may be culturally difficult to confront. In Nepal, contradictions are rooted in the culture, systems and institutions, and also at individual levels. They are not fixed, rather space and time dependent. There are very little efforts made in understanding how contradictions are dealt with and resolved and whether they are able to yield positive changes in the society and improving relationships. There have been enormous shifts in political positions taken by different parties over the years and resolving contradictions.

Duality has been adopted as a kind of tactical tool to deal with many of the political contradictions publicly. The existing contradictions among the political parties and key stakeholders form the core problems that the country is facing today. History shows that Nepali politicians do not learn sufficiently from their own strengths and weaknesses and thus make similar mistakes. They fail to critically assess existing contradictions and duality and manage for Nepal's progress and prosperity. Blaming one another for all the failures and taking credits for every single positive change has been

the usual rule of the game for all of the political parties and leadership. We need to make sincere efforts in understanding how contradictions are dealt with and resolved for the benefit of society and whether they are able to yield positive changes in the improving relationships for positive thinking, attitude and behaviors.

Management of contradiction and duality during the present post-conflict state building in Nepal is a must and a critical component. If the country refuses to learn from past mistakes then it is destined to repeat them again. It is not impossible to transform the nation if the people are able to handle every contradictions and duality for positive change. The onus is on the political parties to deal with contradictions and duality with due care and attention. There should be careful management of public expectation arising from such consideration so that the potential for further damage and misunderstanding can be avoided, or at the very least, minimised.

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## 1. Context

Post-conflict states are almost always divided, socially, economically and structurally, and many which were weak (institutionally and in resource terms) before the conflict are even weaker after it. Nepal is no exception in this regard. Many of the institutions in Nepal are weak and fragile, and the country is psychologically divided like never before. Development, peace and stability in such post-conflict situations require effective and legitimate states capable of fulfilling key responsibilities and providing core public goods and services, including security. In this book, we have attempted to view state-building as essentially an endogenous process, based on the broad context of variations and relations, including negotiations and contestations, between the state and different societal groups.

The preceding chapters in this book have dealt with various such aspects of state-building in today's post-conflict Nepal. The first two chapters have dealt with the broader conceptual issues of state-building, while chapters three to seven have highlighted some of the pertinent economic and associated issues related with state-building. These issues range from exploring the role of the private sectors in state-building to highlighting the potentials of tourism in sustainable growth. Chapters eight to twelve have tackled the emerging social trends and issues in post-conflict Nepal and the challenges they have brought for efficient state-building, while the next two chapters attempt to look into the future and deal with issues such as R&R, and contradictions associated with them. As each chapter has shown, all of these are very important issues, and without properly addressing them, Nepal will find it very difficult and challenging even to enter into the process of state-building.

But there are some other equally important issues that have been left out in the discussions above, namely, role of education system in state building,

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importance of strong and independent judiciary system, and potentials of transparent and accountable economic and financial structures, and so on. In a dynamic state, proper functioning of all these institutions are extremely vital. There is a need of further research in these areas to show a clear and tangible relationship between each of these issues and state building. Without doubt, all of these issues, together with the issues discussed in the preceding chapters, are all critically important for a smooth post-conflict transition. The complexity and context specificity of the issues demand serious efforts as well as research and policy innovation at national and international levels.

Another conspicuous omission in the discussions of this volume has been that on the significance of the concept of nation building. We have attempted, in this volume, to separate state building from nation building. We believe that these are two different concepts altogether, albeit there is a substantial amount of overlapping and inter-linkages between the two, both at the conceptual and the practical level. Nation building incorporates issues such as constructing a national identity using the power of the state, unification of the people within the state, fostering equitable and inclusive growth and enhancing social harmony, all of which are extremely crucial in the post-conflict transition, but are beyond the scope of this book.

We thus would like to wrap up the discussions of this volume by synthesising the concepts discussed and highlighting the complexities of post-conflict state building.

## **2. State building in post-conflict transition**

There is an increasing concern amongst academicians in both the domestic and international arena regarding process and implementation of state building in the countries in transition, especially in those that are in post-conflict situation. States, whichever phase they are in, have the central responsibility for assuring the safety and security of their people, protecting property rights and providing public goods to enable a functioning market. Many states do more, taking on critical welfare functions for their populations. However, states can also be a source of oppression and insecurity, both domestically and internationally. In Nepal, until recently, more specifically until the last years of monarchy, state formation and the process of state building was one of suppression

of ethnic and religious identities, forced compliance with national laws, and norms set by unrepresentative elites. As a result, many groups and communities had limited access to and expectations from the mechanisms of the state.

This, however, has started to change with the end of the decade-long Maoist-led insurgency and the starting of the peacebuilding process that began in 2006 with the signing of the CPA between the Maoists and the government. Realisation that state building and restructuring are absolutely necessary for peace implementation has come to most of the stakeholders and actors of development, although there exist fundamental differences in the perception of development and process of peacebuilding. These differences can be debated, and a realistic compromise can be reached. For that, context-specific analysis of the historical and contemporary dynamics of social contract negotiations must be the basis for state building efforts. This is what the different chapters of this volume have attempted to highlight.

### **3. State building in the context of state formation**

OECD (2008) defines state building as a purposeful action to develop capacity, institutions and legitimacy of the state in relation to an effective political process for negotiating the mutual demands between state and societal groups. In such a process, however, the state-society relationship is not permanently fixed, as it needs to be understood in the changing dynamics of the present and historical context of the past. Legitimacy, which again may be embedded in historical context and institutions, will be a major key to the effectiveness of the process of state building. Equally important are capacity and resources, institutions and an effective political process, some of which have been discussed extensively in the previous chapters (chapters 1, 4, 7 and 14).

In the process of state building, it is of vital importance that state-society negotiation be given due importance. Any policies that are made to address state building need to appreciate and acknowledge the fact that a state is not just the collection of its formal institutions, but incorporates historical movements and moments that have shaped it. Hence, it is more than just establishing key institutions for a functioning state (Fritz and Menocal 2007).

## **4. Setting priorities**

One very difficult question for policy-makers and stakeholders in a post-conflict country like Nepal is: where to start first when everything is a priority? As chapters 10, 11 and 12 have shown, maintenance of security and law and order within Nepal has been a major challenge, and it is important that it needs to be addressed urgently in order to create a safe and secure Nepal. Does this mean that building the state's security capacity should be priority number one? Or should the economic recovery and alleviating poverty (discussed in chapters 3, 4, 5 and 6) be given a higher priority? What about addressing issues such as land-based discriminations and migration and their effects on socio-economic structure of the society? Any answer to these questions must start with a strong caveat about the intertwined causes and the complex nature of Nepal's conflict and the range of settlements that have emerged from it. However, in broad terms, there is a growing consensus in the literature that three dimensions of policy should be the focus of post-conflict engagement: political processes that legitimate the state; development of the framework of the rule of law, including for economic governance; and the re-establishment of a framework of security, including but not limited to reconstitution of the state security apparatus (see chapters 2, 11 and 13 for detailed discussions). Other issues will then take a gradual process in which many reforms are implemented simultaneously, but in piecemeal steps.

This set of priorities may be controversial, especially among audiences with a commitment to or focus on economic recovery and transitional justice. However, comparative experience suggests that while transitional justice can be delayed for some period, restoration of legitimate governance can not. Similarly, while economic recovery is an important part of prospects for stability, research findings by Collier (2008) and others suggest that early investments in economic recovery may not reap rewards and that delaying intensive spending until core economic and political institutions can be established will be more effective. As both Forman and Patrick (2000) and Collier (2008) have noted, however, spending patterns of donors tend to be the opposite: lots of upfront spending, with real disbursement problems and a steady decline in spending and attention after roughly three to four years – precisely the period when renewed investment may have a chance of generating productive economic activity. This is as yet far from definitive research, however, and warrants significant further analysis. This result is nevertheless definitely something the international

actors currently involved in Nepal can pay more careful attention to when planning their engagement. There are, of course, many other ways the international actors can make an impact in this transition.

## **5. Role of international actors**

Countries in post-conflict situation, by definition, are in an unstable environment. They are usually divided, as can be seen in the cases of today's Sri-Lanka and Nepal, or South Africa in the aftermath of end of apartheid regime. More than often, international actors get involved in these countries, sometimes facilitating the peace process, and sometimes further complicating it! But assuming the international actors are there with good intentions, they will have to recognise that different domestic state actors will have different pathways to stability, some more compatible than others with internationally accepted standards of human rights and democratic values. Whichever the pathway, however, it is likely to be shaped, at least partly, by economic performance. International actors therefore are likely to be more effective in their missions if they also have economic incentives in their agenda that work towards economic capacity development of the country, that continue even after three to four years of end of conflict, as argued above. This sort of incentive is still limited in Nepal, as most of the involvement is getting, it appears, more and more political lately.

Successful state building will almost always be the product of domestic action, though it can be significantly enabled by well-targeted, responsive international assistance. Ultimately, it is the local leaders who drive national political processes. International intervention can provide technical assistance to such processes. New entities such as the Mediation Support Unit at the UN Department of Political Affairs are recognising the importance of this assistance. In case of Nepal, a special mission called UNMIN was created to support the peace process. It was established in response to the letter to the Secretary-General sent in August 2006, in which the then Seven-Party Alliance Government and the then CPN (Maoist) requested United Nations' assistance in creating a free and fair atmosphere for the election to the CA and the entire peace process. However, now in its fourth year in Nepal, the role of UNMIN has not been without controversies. It has been more than once criticised for lack of impartiality and independence on some sensitive issues of peace process. But it has in many ways played a commendable role in mediation and facilitation in this process. This kind of third-party mediation has attracted

a growing body of research lately. A critical examination of the roles of international, regional, bilateral and national actors in post-conflict state building is warranted to identify areas for more concrete policy concentration. Even a cursory examination of recent efforts, however, highlights the central role of neighbours (for example, India and China in case of Nepal) in shaping the diplomatic, economic and even political options available for policy.

## **6. Finally...**

State building in post-conflict situation is not only a critically important function, but, also, at the same time, a highly challenging one. The complexity and context specificity of the process, as well as limits of external influence, mean that this is a terrain that requires sustained and serious efforts, which could take years and be not straightforward. As such, it warrants serious and transdisciplinary research and policy innovation. It could be cumbersome and lengthy, but successes will contribute to human security, development and even international stability. All these benefits are worth of receiving substantial national and international engagement.

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