

# research evidence for policy



Late Girija Prasad Koirala, then Prime Minister, and Pushpa Kamal Dahal ("Prachanda"), chairman of the former Nepal Communist Party (Maoist), signing the peace agreement. Photo: Bhaswar Ojha/SAs NCCR North-South.

## Nepal's peace process and challenges ahead

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Case studies featured here were conducted in Nepal

### Policy message

- The basic components of the peace process in Nepal – such as power sharing, transitional justice, transitional security, security sector reform, peace dividends, and addressing the issues of ex-combatants – have not received due attention.
- The Constituent Assembly was unable to write a new constitution within the first deadline, leading to frustration. Completing a draft of the constitution in the extended time requires sincere work from the Assembly members.
- Despite all these challenges, the Nepalese people aspire for peace and stability, and for the development that depends on peace.

- Nepal is facing tremendous challenges in post-conflict times. Studies by the Nepal Research Group on institutions, governance, and conflict transformation have found that important tasks outlined in the 2006 Comprehensive Peace Agreement (CPA) have not been implemented. This failure results from differences in understanding of state restructuring, disagreements on provisions in the Constitution and the CPA, an inability to offer peace dividends, politicisation of the security forces, conflict over power sharing, confusion about security sector reform, and politicisation of the rehabilitation and integration of Maoist ex-combatants. Achieving peace and stability requires changes in the behaviour and actions of political decision-makers.

### Context and policy connections

- When the Communist Party of Nepal (Maoist) [CPN(M)] and the Seven Party Alliance government signed the CPA on 21 November 2006, an opportunity arose to transform the centralised monarchical state into an inclusive federal republic. The Interim Constitution, elections to the Constituent Assembly (CA), and the declaration of a republic were other foundations to this end. Political parties, the international community, civil society and the United Nations worked collectively to achieve peace and stability. The United Nations Mission in Nepal (UNMIN), along with many international agencies, has been assisting the peace process.

However, the UNMIN was discontinued as of mid-January 2011, and its work has been transferred to the Army Integration Special Committee (AISC). The AISC is a constitutionally mandated mechanism headed by the Prime Minister and represented by all major political parties. It is now responsible for all the tasks previously done by the UNMIN in accordance with Articles 146 and 147 of Nepal's 2007 Interim Constitution as well as the CPA. Daunting challenges lie ahead for the AISC, particularly in translating the agreed provisions into action. The most contentious issues of integration are senior posts, total numbers, and procedures. A functional dispute resolution mechanism

## Featured Case Study

### Failure of the CA to resolve contentious issues

Writing of a new constitution is the most important issue facing Nepal's peace process. The political parties and the CA (which is divided along political lines) have failed to agree on various key issues: the state restructuring and federal structure (name and number of federal states and their boundaries), the model of the government, and independence of the judiciary.

The CA, the government and the political parties have also not been able to form a constitutionally provisioned state restructuring commission.

The CA completed its initial two-year tenure on 28 May 2010 without promulgating a new constitution. This nearly resulted in a constitutional crisis. On the last day of its tenure, the political parties agreed to extend its deadline for one more year. Half of the extended time has passed so far without substantial work. This is mainly because of power struggles.

The new constitution has to provide a framework for national security, foreign affairs and economic direction. However, the CA has not been able to finalise these issues either. This is a major challenge to the peace process, as the new constitution has to institutionalise the achievements made so far and provide a framework for the future of the country.

### Selected provisions of the CPA

- Writing a new constitution
- Restructuring of the state
- Peace dividends
- Integration and rehabilitation of Maoist ex-combatants
- Return of confiscated property
- Addressing the root causes of armed conflict

- within the AISC will be crucial to addressing potential conflicts during the integration process.

- The CPA and the Interim Constitution provide frameworks for managing the political transition. They put emphasis on consensual politics. However, major political actors have deviated from this framework, started competitive politics, and engaged in a harsh power struggle. Such activities have directly affected the objectives of the CA to promulgate a new constitution within the stipulated time. The main reason for the political tension among the CPA signatories is their ideological differences, which have led to blatant partisan interests and the CA's failure to write the new constitution on time. Major political parties have also interpreted the provisions in the CPA, the Interim Constitution and the CA itself differently. As a result, the implementation of the promises made in the CPA is obstructed.

- After failing to meet its deadline, the CA was extended for a year in May 2010. This revived hopes for a peaceful settlement. Nonetheless, no progress has been made since on writing a constitution.

### Armed groups and ethnic aspirations

- According to the Ministry of Home Affairs, 109 armed groups are active in Nepal, mostly in the Terai-Madhes (southern plain area). This, with the radicalisation of some ethnic groups, has posed new challenges. Political parties have failed to develop a common understanding of the concerns of the ethnic issues and the Terai-Madhes people. Only a consensual government can tackle these problems, but the political parties are yet unable to form one. Power struggles have created room for armed groups and radicals.

### Success and setback

- The peace process was widely appreciated in the beginning. The signing of the CPA, the revival of parliament, the formation of an interim government, the promulgation of the Interim Constitution, and the successful election to the CA were major achievements. But over time, the spirit for peace has weakened, and problems have mounted.

This was the result of the election after which CPN(M) emerged as the largest party, against the expectations of other big political parties. It led to non-cooperation and tension among them. All the confidence-building measures envisioned by Article 5 of the CPA were overlooked.

The first government after the election, led by a Maoist chairperson, was not able to implement the provisions of the CPA. Complexities arose over integrating Maoist ex-combatants, forming a Truth and Reconciliation Commission, ensuring transitional security, providing transitional justice, offering peace dividends, returning confiscated property, and sincerely implementing previous agreements and understandings. These complexities were mainly because of tension among the political parties.

Finally, the CPN(M)-led government collapsed because of its decision to terminate the Chief of Army Staff. The CPN(M) also vehemently opposed the new government and obstructed its functioning, demanding that it step down. Again, the major reason was mistrust between it and other big parties.

### Bottlenecks

A competitive approach will not make the peace process successful. The major political parties have to go for the consensual politics through power-sharing arrangements. The contentious issues include the following:

**Power sharing:** The size and acceptability of political parties have largely been determined through the election to the CA. The CPN(M) is the largest political party, followed by the Nepali Congress and the Communist Party of Nepal (United Marxist Leninist) [CPN(UML)]. Despite being the largest stakeholder in the peace process, the CPN(M) has been kept out of the current power-sharing arrangement. Cooperative power-sharing is essential to move the peace process ahead.

### Integration, adjustment, and rehabilitation of Maoist ex-combatants:

According to Article 4.4 of the CPA, the government has responsibility to rehabilitate and integrate Maoist ex-combatants. However, this is not happening because both sides have

used this issue as a strategic bargaining tool. The 19,602 UNMIN-verified Maoist ex-combatants are still in temporary cantonments. This issue must be resolved as per the provisions of the CPA.

#### **Democratisation of the Nepalese**

**Army:** Article 4 of the CPA states the need to democratise the Nepalese Army. However, this has not materialised due to the differential interpretation of the concept of democratisation. Right-sizing, professionalisation and modernisation of the security organs are preconditions for the success of the peace process.

**Demilitarisation of youths:** The Young Communist League, a Maoist group, is a militarised youth group. Other political parties demand that it be disarmed and move out of barracks, but the Maoists have not done this. Further, the CPN(UML) has formed a similar militant group, the Youth Force. These militant groups pose serious challenges to the peace process. The political parties must demilitarise them.

**Return of seized property:** The CPA clearly stipulates that property be returned to its respective owners. The Maoists have agreed several times to this, but the issue is not yet settled. This has become a source of mistrust. The political parties must work together to resolve this issue immediately.

#### **Transitional justice and security:**

Healing the wounds of conflict is possible only through strong adherence to the established means of transitional justice. Article 5 of the CPA underlines the measures to deal with conflict-related violence and human rights, but no progress has been made so far. Rather, impunity is increasing, and the politicisation of crime and the criminalisation of politics are becoming established phenomena. The political parties must agree to restore transitional security and provide transitional justice. This is possible only if the political parties do not interfere with the legal process.

**Contents of new constitution:** Some contentious issues are the system of governance, state restructuring (its forms), the electoral system, and

independence of the judiciary. The political parties and the CA members are unable to settle these issues so far. The parties must agree on the constitutional principles and collectively settle contentious issues to enable the CA to write a new constitution.

#### **Definitions**

**Peace process in the Nepalese context** refers to a socio-political process combining contents, mechanisms and procedures related to ending the decade-long (1996–2006) armed conflict and restoring peace and stability by implementing the provisions of the CPA signed by the Maoists and the Government of Nepal.

**Peace dividend** is an arrangement of providing economic and social benefits. Once the conflict ends with a peace agreement, people expect benefits as the government reduces the defence expenditure and reallocates expenses to social sectors. The peace dividend is also about providing reparation and psycho-social packages to people affected by the conflict.

**Nepal Research Group (NRG)** is a loose network of research organisations that includes researchers from the Human and Natural Resources Studies Centre of Kathmandu University, the Central Department of Geography of Tribhuvan University, the Community Self Reliance Centre, Nepal Institute of Development Studies, and the South Asia Coordination Office of the NCCR North-South.



Verification of combatants by UNMIN after the signing of the peace agreement on 21 November 2006. Source: UNMIN and SDC/Nepal.



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## Policy implications of NCCR North-South research

### Lack of attention to the basic components of the peace process

Political decision-makers are not giving proper attention to the basic components of the peace process: arranging power sharing, providing transitional justice, strengthening transitional security, restructuring the security sector, providing peace dividends to conflict-affected people, and facilitating the integration and rehabilitation of Maoist ex-combatants. Changes in the current approach and new power-sharing arrangements among the major political forces are required to address these problems.

### No new constitution in time

The Constituent Assembly did not come up with a new constitution within the original time period, leading to frustration among the Nepalese people. The main reason for this failure was the divergent positions of the political parties. The Assembly members need to agree on the constitutional principles as a framework and work within this to finalise a new constitution. Major differences are still not settled. Hence, completing a new constitution by May 2011 (the extended deadline) needs harder work from Assembly members, particularly the members of the Constitutional Committee.

### Hopes and aspirations of Nepali people on peace process

Despite all the political difficulties and challenges, the Nepalese people still have enthusiasm and hope for the successful implementation of the provisions of the Comprehensive Peace Agreement and the promulgation of a new constitution within the extended time frame.

### Further reading

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