

A Paralysed Phenomenon Of Peace Building In Nepal

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Abstract:

Globally, Nepal is one of the 'least developed' countries as well as listed in 143 out of 191 countries based on the indicator's life expectancy, education, Gross National Income, and per capita income (UNDP, 2022) which faced a decade-long Maoist insurgency between 1996 and 2006 (Basnett, 2009). The signing of the Comprehensive Peace Accord (CPA) on 21st November 2006 ended the war. In its aftermath, the peace process remains uncompleted. As an achievement, most of the Maoist former combatants were integrated back into Nepali society, while a minority was integrated into the reformed Nepal Army in 2013 (GTZ, 2010). The new constitution of Nepal was promulgated on 7th July 2015. The Truth and Reconciliation Commission (TRC) and The Commission on Enforced Disappearances (CED) were established on 10th February 2015 to look at the human rights violations during the conflict and create an atmosphere for reconciliation in society. However, justice for the victims of insurgency and the Maoists' 40-point demands, which were directly related to the transformation of Nepal's political economy, were effectively abandoned. Several factors are hindering peace, threatening law and order, and promoting a culture of impunity, which has paralysed the peace process in Nepal. The causes which have paralysed the peace process must be addressed.

Key Words: *insurgency, peace process, achievements, paralysed, transitional justice, finalization.*

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I. Introduction:

After ten years of an indeterminate Maoist insurgency (People's War) and a palace coup, Nepal, economically weak and politically unstable, embarked on a peace-building process. The Comprehensive Peace Accord (CPA) signed by Prachanda (Chairperson, Communist Party of Nepal- Maoist) and Girija Prasad Koirala (Prime Minister, Government of Nepal), witnessed by the Government of India in New Delhi on 21 November 2006, formally ended the war. In its aftermath, the peace process remains uncompleted as it appears stalled, even paralysed. Thousands were killed or made homeless, properties were stolen or destroyed, theft, rape and other crimes multiplied, infrastructure was destroyed, and children were coerced into fighting for the insurgents (Thapa, 2004; IRIN, 2006). Although seventeen years have passed since the signing of the CPA, the victims of insurgency have not received justice; however, the TRC and CED were established on 10 February 2015, and the new constitution of Nepal was promulgated on 20 September 2015 (*Human Rights Watch, 13 February 2018*).

This paper first analyses the development of the peace process (ceasefire). The peace process represented more than the ending of the armed conflict. After years of unresolved conflict, it was meant to bring order, stability, and certainty to Nepal. Secondly, the paper analyses the limited achievements of the peace process. Thirdly, it analyses what has stalled or paralysed the peace process. Lastly, the paper considers what needs to be done to fully achieve the peace process's goals.

II. The Development of Peace Process:

During the insurgency, the Royalist government and the Maoists declared ceasefires in 2001 and 2003 to meet and discuss the terms of peace. However, both meetings failed (Pathak, 2005; BBC, 2006). From the beginning of 2005, both warring parties entered formal peace negotiations to conclude the war because the situation of the country was twisted due to the Royal massacre. After this, Prince Dipendra killed King Birendra and other members of the royal family before committing suicide. The king's brother, Gyanendra, appointed himself king and seized all the powers of the state. The Maoists and the parliamentary political parties united against Gyanendra's autocracy, demanding a reconstruction of the country's political order and formal peace negotiations (Surhke, 2009).

The peace talks were concluded mainly because of the political impasse. Neither the Maoists nor the Gyanendra's forces could achieve a military victory. The peace talks were facilitated and supported by internal and external states and international non-government organisations like the Carter Center United Mission to

Nepal (Kelly, 2009; Thapa, 2008; Vaughn, cited in Kreuttner, 2013). The Nepalese parliamentary political parties were the internal powers represented at the peace talks. India, the United States of America and China were the external mediators at the peace talks between two warring parties, the royalist government and the Maoists (Dhungana, 2006; Mehta, 2004; Hutt, 2004).

The first joint ceasefire on 23 July 2001 was held with the negotiation of a multiparty parliamentary democracy and the establishment of a constitutional monarchy to replace royal absolutism (Shimkhada, 2004). The second ceasefire took place on 29 January 2003, but the Maoists ended it in Aug 2003, stating that the Government failed to consider their demand for a new Constitution Assembly (Thapa, 2006). After the failure of these peace talks, Nepal's political, social, and economic situation worsened as resources were utilised to strengthen the military capacities of the opposing combatants (Simkhada, 2004).

The third of the peace talks occurred in 2005. A 12 Point Peace Understanding was finally agreed upon and signed by the Maoists along with the other participating political parties, Nepali Congress, United Marxist Leninist (UML), Madhesi Parties and the Nepali government on 22 November 2005 in New Delhi and mediated by India (Thapa, 2006). It was supported by international and national Non-Government Organizations:

The United Nations (UN), the International Committee of the Red Cross (ICRC), Amnesty International, the Centre for Humanitarian Dialogue, the Carter Centre, and Amnesty Nepal (Upreti, 2006). The agreement clarified the constituent assembly election, the formation of a multiparty parliamentary system and the creation of a constitutional monarchy. Wakugawa and et al. (2011) explained that the parties had reached a 12-point restructuring agreement that included constituent assembly elections, multiparty democracy, and an end to the authoritarian monarchy. The 12-Point Understanding created the path for a final peace agreement: the Comprehensive Peace Accord (CPA), which provided a roadmap for further developments in the peace process. The 12 Point Peace understanding also eased the misunderstanding on critical questions of mutual trust between the insurgent parties in the peace process (Capoccia & Daniel, 2007).

The CPA, signed on 21 November 2006, formally ended the ten-year conflict. It proposed significant objectives such as a constituent assembly, an interim constitution, an interim legislature, an interim government, local administration and policing, a constitutional monarchy, the establishment of human rights and transitional justice, the management of arms and armies, and the principles of social and economic transformation (CPA Article, 2006; Crisis Group, 2006). It brought the Maoist rebels into the political mainstream (Pokhrel, 2015).

III. Achievements of the Peace Process:

According to the Comprehensive Peace Agreement (CPA), the interim government established the Interim Constitution Draft Committee in 2007 (ICG, 2007). This was the first step in the peace process. The Interim Constitution established a federal state with a president as head of state to replace the monarch and a transition from a Hindu to a secular state. The interim constitution provided that formerly marginalized groups were to be represented proportionally in the new political and state institutions (Tamang, 2012).

The CPA was also crucial in developing the mechanisms for monitoring the management of weapons of the royalist state and the Maoist insurgents and establishing the constitutional assembly election. The Agreement on Monitoring the Management of Arms and Armies (AMMAA) was signed by the Maoist leadership and the government on 26 November 2006, witnessed by the UN representative, Ian Martin. This agreement gave the UN oversight in the monitoring of the management of weapons. Similarly, temporary accommodation in 28 cantonments for 19,602 former Maoist combatants was built in southern Nepal and monitored by the United Nations Mission in Nepal (UNMIN) (Thapa, 2017; Guruswami, 2010).

About 17,052 insurgents participated in this UNMIN process. Among them, 1,444 Maoist combatants were incorporated into the national army, while 15,602 ex-combatants voluntarily "retired" and were given a cash payment (Subedi, 2013; Upreti, 2011). Officially, the formal process of integration and reintegration was concluded in 2013 as another achievement of the peace process.

Another fundamental aspect of the CPA program was the election of a constitution assembly, which was held on 10 April 2008. For the first time, a constituent assembly met to draft a constitution in Nepal (CCD, 2009). However, the constitutional assembly failed to deliver a new constitution. It was dissolved because of the political differences over the delineation of a federated state, which included the questions of identity politics and communal tensions (Hachchethu, 2014). Another constitutional assembly election was held on 19 November 2013 to prepare a new constitution. However, this assembly was also unsuccessful in delivering Nepal's new constitution due to disagreement over issues relating to federalism, such as the number, name, and demarcation (Tiwari, 2014).

In a breakthrough on 30 June 2015, the Constitution Draft Committee (CDC) endorsed the first draft of the long-pending constitution. The new constitution was finalized and promulgated on 20 September 2015, although some political parties and their members are still unsatisfied and protesting it (*Kantipur*, 29 June 2015). Due to this, the political situation, especially in the southern part of Nepal, borderline to India, is from time to time in unrest.

According to CPA, the political economy of Nepal must be addressed for complete peace as it remains the same as before the insurgency (Subedi, 2012). The Maoist insurgency ended Royal rule in Nepal, replacing it with a republican system where the Nepalese democratically elected their preferred leaders, and political equality was extended to all social castes and minorities in 2006. Nevertheless, most of the original 40-point demands of Maoists were never fulfilled. Due to the political mistrust, absence of constitutional habits, failures to enforce party laws and codes of conduct, cross-coalitions of leaders to remain in power, and involvement of party leaders in corruption, the peace process has not been completed yet (Bhatta, 2012). The transformation of Nepal's political economy has been effectively abandoned. The people were shown the Maoist demands at the beginning of the insurgency, but nearly all of them remained unfulfilled. No governments have tried to solve it instead of a power game. The negotiated peace primarily brought only an end to the conflict and the management of arms and armies of both the warring parties (the government and the Maoists).

One of the significant tasks of CPAs was to deliver transitional justice to the victims. For this, the Truth and Reconciliation Commission (TRC), as well as The Commission on Enforced Disappearances (CED), were jointly formed in February 2015 under the CPA agreement to deliver victim-centric justice (transitional justice) for human rights violations during the conflict and create a forum for social reconciliation (Kantipur, 2015). The Nepal government did not establish these commissions for nine years due to a lack of political consensus between the Maoists and the political parties (Rausch, 2017; ICTJ, 2011). The function of TRC was to investigate human rights abuses, including the circumstances, factors, and context of such violations, allowing the victims the opportunity to tell their story, constructing an impartial historical record of the past, and drafting a reparations policy and recommendations of measures to prevent future violations of human rights (Tutu, 2023). Hence, these commissions are expected to deliver justice for the victims of the conflict, but such outcomes remain undecided because these commissions are in a dysfunctional condition now. Due to a major controversy of the TRC Act since the beginning, as the act was against the constitution and existing international obligations, transitional justice has largely failed. Tabling the bill in the parliament in 2022 to amend the TRC Act remained widely criticized as this bill did not consider war crimes and crimes against humanity as grave human rights violations, creating a possible pathway for amnesties. An incomplete TRC Amendment Bill was passed by both upper and lower houses of parliament in 2023 (Prasai, 2023). Similarly, the TRC of Nepal has collected 63,718 complaints, including claims of torture, rape, and murder, among others, by both security forces and Maoists. The CED of Nepal also received 3,288 disappearance cases (Kapali & Baranwal, 2023).

IV. The causes which have paralysed the peace process:

According to the Comprehensive Peace Accord (CPA-2006), the peace process was meant not only the re-integration of the Maoist ex-combatants, the creation of a federalist state structure and the promulgation of a new Nepalese constitution (Subedi, 2012). The primary task is to provide truth, justice, reparation, and institutional reform, ensuring non-occurrence to the victims so they feel peace in their hearts (Prasai, 2023). Additionally, the country's economic development for the people's peaceful life is another essential goal of the peace process. Despite 17 years since the signing of the CPA, justice, economic development, and stable government remain incomplete and have paralysed the peace process.

For the last 17 years, several factors have hindered peace, threatened law and order, and promoted a culture of impunity, which has paralysed the peace process in Nepal (Prasai, 2023; Bhatta, 2012). The major factors include factionalism in large political parties like the Maoist party, the personalisation of these parties by their leaders, the lack of internal party democracy, the absence of constitutional habits like protesting on the street and destroying the public structures (Kantipur, 2015), the proliferation of regional parties (D'Ambrogio, 2014), the cross-coalitions of leaders in order to remain in power with the help of factional leaders from other parties or even parties with absolutely different political opposite ideologies or making and breaking of governments (Prasai, 2023), the overt militarisation of the parties' sister organisations (Carter Centre, 2011), the rise of armed non-state actors in southern flatlands bordering India and the eastern hills, the involvement of party leaders in corruption and crime. In the first step, the constitution-making process also fell behind schedule due to misunderstandings and mistrust between the political parties (Bhatta, 2012).

The Maoists and all other political parties in Nepal understood the peace process as a power-sharing agreement between them. However, in the struggle for immediate benefits of power-sharing and longer-term realignments among and within parties, the principal components of the peace process have been reduced to bargaining assets (ICG, 2011). The major political parties are now more interested in establishing a monopoly of power shared between their leaders, passing from one to another. It resembles a syndicate system with a rapid turnover of prime ministers and other senior ministers. This is because of the absence of an established process for political participation in the new Federal Democratic Republic of Nepal. As a result, democracy and the peace process have become casualties of the power game of the political syndicate.

Moreover, some critical issues of federalism, republicanism and secularism were decided without consultation from the Nepalese people. They were not even demands of the April movement. This is a crucial reason Nepal's finalisation of the peace process has been paralysed (Bhatta, 2012).

Successive post-2006 governments have failed to win the Nepali people's confidence because of the uncompleted peace process (Bhatta, 2013). The 12 Point Understanding has, paradoxically, only deepened the instability and uncertainty in the country (Ghimire, 2012, pp. 62-63). Except for secularism, federalism, republicanism, a new constitution, the construction of a federated secular state, transitional justice, the development of Nepal's political economy and fundamentally, the Nepalese people's lives and welfare have been bypassed in the peace process (Prasai, 2023). There has been a remarkable increase in outside powers' influence on the country's politics (Bhatta, 2013). The Nepali political leaders have been influenced by other countries, especially India (Adhikari, 2022). For example, India provides scholarships to the children of political leaders (irrespective of their competency) and those of high-profile bureaucrats and civil society elites; they will act in India's interests in Nepal (Bhatta, 2013). Moreover, the CPA was completed in Delhi (Kantha, 2011). None of the political parties and leaders is focused on Nepal's peace process unless it benefits India.

Competitive geopolitical factors influence Nepal's internal peace because of its strategic location, new and frail state institutions, and turbulent politics. India wants to diminish Chinese, EU, and US influence in Nepal (Khan, 2023; Hall, 2011). Nepal is critical to India due to its profound historical and cultural ties and the vast southern population of recent Indian heritage. Nepal is strategic to India because it borders China, which aspires to South Asian dominance. As a developing political power in southern Asia, India does not want China to influence Nepal and southern Asia.

On the other hand, China is concerned about security due to pro-Tibet activities by Tibetan communities, human rights NGOs, and political party leaders in Nepal (Neupane, 2022). Because 'Tibet independence' forces threaten China's unity and security (GoPRC, 2008). Tibetan refugees' anti-China protests in Kathmandu in March 2008 and every year, especially on the anniversary of a failed 1959 uprising against Chinese rule in Tibet, supported this dangerous perception. As a result, India, the EU, and the US share Tibet's interests, but China wants to neutralise it (Neupane, 2022). China wants to limit Tibetan refugee flight and control Tibetan émigré discontent in Nepal (ICT, 2021; Hall, 2011).

Similarly, Washington sees Nepal as the ideal window for monitoring India and China's relationship and influence in South Asia (Nayak, 2014) because it can easily monitor China and India's activities in Nepal and influence Nepal's policy. The US continues to push Nepal to treat Tibetan refugees humanely and allow them to travel to India (*The Himalayan Times*, 30 June 2015). These operations and interests confuse how to balance the geopolitical engagement of China, India, and the US in Kathmandu (Paudyal, 2019; Bhatta, 2012). The confusion regarding these outside forces' moves has paralysed the peace process because Nepal must focus on geopolitics instead of peace.

IV. The possible way to establish/complete peace process in Nepal:

The "Maoist conflict" or "People's War" scared the people, their communities and their country. There were destroyed and damaged buildings, displaced individuals and families, the disruption or cessation of public services, the withdrawal of investment, and instability of the weak, predominantly agricultural economy (Pathak, 2005). These scars have not healed in the fragile peace.

The causes which have paralysed the peace process must be addressed. To end the deadlock of peace, specific issues must be resolved. They are the welfare and security of the victims of Maoist violence and the welfare and social integration of the large number of former Maoist insurgents throughout Nepal. Most importantly and primarily, the government of Nepal should focus without delay on providing transitional justice to the victims of the Maoist insurgency as per the investigation of the numerous human rights abuses that occurred during the insurgency and the restitution of the victims through the TRC and CED. There needs to be a better solution than extending tenure to the TRC (Bhetwal, 2023). Secondly, the commencement of State-directed economic development programs in the country's poorest regions is as vital as the transitional justice for the security of people's lives.

However, the government focused on the integration and rehabilitation of the former Maoist insurgents but neglected victims of the conflict. According to the Ministry of Peace and Reconstruction (MoPR), 89,571 people were internally displaced and found refuge in the makeshift slums surrounding the capital, Kathmandu (Sapkota, 2004; Hada, 2001). These people still await a response and a solution to their problems. There are no relief packages or programs to help these victims. They remain neglected and forgotten in the peace process.

The integration and rehabilitation process declared that 4,008 former Maoist insurgents were disqualified from integration into the Nepal Army. Instead, they were offered a money payment of USD 400 (Rs 50,000) and USD 500 (NRs 80,000) based on their rank in the Maoist army. They refused because they were dissatisfied with the 'disqualified' tag and the insignificant cash payments. The 4,008 former insurgents initially rejected the offer but later accepted the money. Their discontent and the continuing social and political

instability could lead to an outbreak of violence. Leader of one of the new Maoist factions, Netra Bikram Chand (Biplab), stated that a new revolt could occur if the legal and institutional changes, federalism, and the restructuring of the economy for the benefit of all people were not implemented (Pradhan, 2021). This social problem must be addressed constructively to create the conditions for social peace in Nepal.

Integral to the establishment of the Interim Constitution and the CPA was the need to investigate human rights abuses to ensure justice for the victims of the conflict and to end the pervasive impunity for those who committed crimes during the conflict. It has taken nine years after CPA established the Truth and Reconciliation Committee (TRC) to create an atmosphere for reconciliation in society and the Commission on Enforced Disappearances (CED) to solve the 1530 cases of enforced disappearances and human rights violations during insurgency (Adhikari, 2021). The TRC and CED recommendation committee considers that the TRC will deliver justice to the victims of the Maoist insurgency (Adhikari, 2021). The TRC has yet to begin its hearings. Only in time can its commitment to the victims of the conflict be assessed. Each political party must cooperate to ensure the work of the TRC brings justice and reconciliation for the conflict's victims. However, the formation of TRC remains challenged in the Supreme Court as 234 victims have jointly appealed against the act. There are also two other petitions against the formation of the recommendation committee by the political parties, including the Maoists (Adhikari, 2021).

In 2023, the TRC bill's incomplete amendment was passed, but transitional justice's success depends upon some factors (Prasai, 2023). The TRC Act should earn the trust of victims. Similarly, severe crimes like killing, torture, sexual violence, abduction, crimes against humanity and war crimes must be categorized as no amnesty. Likewise, the committee and special court selection must be independent and free from political influence. Additionally, the provisions of the law should be sufficient to prosecute the perpetrators, recommendations of the commission must be mandatory, and the issues of child soldiers and the crimes committed against security personnel and rebellions with their families must be addressed. Finally, the limitations for filing the cases should be removed.

Apart from transitional justice, for the permanency of peace, there must be planned development in every sector, especially in economic activities, to ensure that all Nepalese have secure and stable lives. During the insurgency, 2,646 developmental structures were damaged (Gyawali, 2009; Nepal et al., 2011). They should be rebuilt so that the people may re-commence productive activity.

Similarly, the insurgency severely disrupted Agriculture, industry, employment, and foreign aid programs (Pradhan, n.d.; Jha, 2010). These sectors should be the focus of government policy to stabilize and develop the Nepalese economy. Since Nepal is an agriculturally - based country with two-thirds of the labour force engaged in this sector, agriculture contributes one-third of its GDP (Karkee, 2008). As such, agriculture's share of GDP was 45% in 1991, which fell to 33% in 2007 and to 23.95% in 2022 (Mishra, 2023; NRB, 2022; Jha, 2010). If scientific and environmentally appropriate farming methods were adopted and low-interest State loans were provided to farmers, Nepalese agriculture would increase productivity, provide work for many of its rural people and benefit the Nepalese economy.

Although 17 years after the CPA, the insufficient development in Nepal's political economy reflects an uncertain social peace. The different sectors of the political economy are still uncertain. The country remains increasingly dependent on the inflow of remittances. Like many economically weak countries of the global South, Nepal has steadily increased its dependency on remittances (MoF, 2012; Sapkota, 2013). In 1974/75, remittances comprised only 1.23% of the GDP. It increased to 3.33% in 1999-2000, and by 2022 was 22.76% (ADB, 2023). Nepalese migrant labour numbers rose from 3,605 in 1994 to 3.5 million in 2022 (GoN, 2022). These figures indicate how Nepal, with a population of 30.89 million, has become increasingly dependent on overseas remittances. The increase in Nepalese working abroad and their remittances are indicators of the country's structural poverty (MoF, 2012; Sapkota, 2013). The rise in Nepali migrant workers between 1994 and 2022 reveals the lack of adequate jobs and opportunities within the country, the stoppage of all developmental works and the closure of industries during the insurgency and afterwards (Thapa, 2017). Even the internal remittances received by households are declining in the country. 44.7 per cent of households received internal remittances in 1995/96 while only 23.0 per cent in 2022/23 because there is a lack of adequate job opportunities within the country due to the absence of developmental works (*My República*, 11 November 2023). The Nepalese state must provide job and life security to its young people to stay and build the country.

V. Conclusion:

Although the Nepalese state has thus far failed to fulfil its core functions because of political instability and weak, corrupted institutions, the current political process has made little effort to bridge the 'sovereignty gap, authority gap, and legitimacy gap' (Ghani & Lockhart, 2008). In Nepal, the main problem has been the failure of the political parties to negotiate the peace process successfully. There should be a comprehensive outline to guide and enact an egalitarian peace-making process. The present Nepalese government is unable to maintain social peace and stability in Nepal. So far, the peace process negotiations are protracted, if not

paralysed. For as long as these problems remain, the future of Nepal and Nepalese people is uncertain. Peace and development in Nepal are being squandered by political calculation, corruption, and opportunism. The political parties and their leaders place their interests and power above those of all Nepalese. Only through the democratic process with established rules and regulations, state-directed development works, and a balanced, stable political economy will Nepal find the social peace that an economically weak country deserves after years of violent conflict. The promise and will of the political parties and their leaders to follow international practices without delay can finalise the peace process and provide justice to the war victims in Nepal, helping to establish peace in society as the victims and perpetrators can live together.

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