

# Maoists Shift from Armed Struggle to Constitutional Struggle in Nepal

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## I. INTRODUCTION

For the first time after six years of armed conflict since 1996, the government and the CPN-M held direct peace talks in 2001. The peace talks occurred after the royal massacre had opened tactical space for both parties. The king saw the resolution of the armed conflict as a means to establish the monarchy's legitimacy and to respond to a general war fatigue in Nepalese society.<sup>1</sup> The quest for legitimacy also applied to the government of Sher Bahadur Deuba. It wanted to signal a departure from its predecessor by conceptualizing the conflict as a political problem that needed a political solution. For the first time, the Deuba government opened an alternative platform for the management of the conflict that did not only rely on military strategies.<sup>2</sup> Thus, the engagement of the King and the government mainly satisfied political functions.

The CPN-M were divided in their response to the royal massacre. They saw it as an opportunity to increase pressure and garner support for the abolition of the monarchy.<sup>3</sup> However, they also recognized the tactical utility of a ceasefire to consolidate territorial control. Between 1999 and 2001, the CPN-M had established control over most rural districts but also started to feel the first strains of over extension. At the same time, CPN-M fund raising had become increasingly violent, leading to a drop in recruitment and support. A ceasefire was therefore considered opportune to strengthen administrative structures and recruitment numbers.<sup>4</sup>

The CPN-M maintained a tactical advantage over the king and the government because they engaged in peace talks with the tactical flexibility of being able to revert back to military strategies if need be. The flexibility was mainly based on the solid financial situation of the CPN-M. At the end of the 1990s, the CPN-M had increased its revenue base by requesting protection money from everyone with savings but especially from the business community, teachers and civil servants. In 2000, the CPN-M allegedly made between USD 71 million and USD 143 million.<sup>5</sup>

The 2001 peace process was therefore not a genuine attempt to resolve the conflict but rather a coincidence of complementary short-term interests. The process failed when military agendas regained the upper hand, and especially when the RNA replaced the police forces as the main security actor opposing the CPN-M, positioning itself at the centre of Nepal's politics.<sup>6</sup> The RNA jumped on the bandwagon of the global anti-terrorism discourse after September 11<sup>th</sup> in order to attract foreign military assistance.<sup>7</sup> The United States,

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<sup>1</sup> International Crisis Group, "Nepal: Back to the Gun," *Kathmandu and Brussels*, ICG, 2003, p. 10.

<sup>2</sup> B.R. Upreti and Daman Nath Dhungana, "Peace Process and Negotiations: Revisiting the Past and Envisioning the Future," in Shambu Ram Simkhada and Fabio Oliva, eds. "The Maoist Insurgency in Nepal: Causes, Impact and Avenues of Revolution," Geneva, Graduate Institute of International Studies, 2006, pp. 216-218.

<sup>3</sup> *Ibid.*

<sup>4</sup> Ram Sharan Mahat, "In Defence of Democracy: Dynamics and Fault lines of Nepal's Political Economy," New Delhi, Adroit Publishers, 2005, p. 324.

<sup>5</sup> *Ibid.*, p. 323.

<sup>6</sup> *Ibid.*, pp. 300-301.

<sup>7</sup> Man Ranjan Josse, "History and Genesis of Nepal's Maoist Insurgency: Tools for Negotiating Conflict," in Anand Shreshtha and Hari Upreti, eds. "Critical Barriers of the Negotiation of Armed Conflict in Nepal," Kathmandu, Nepal Foundation of Advanced Studies, 2004, p. 42.

for example, provided USD 29 million, which allowed the government to procure new military equipment, training and services.<sup>8</sup>

Even though the 2001 peace process failed, it had a long term possibly unintended consequence for future peace-processes. Not only were the peace talks the first direct encounter of the parties of the conflict, it was also the first time that the conflict was conceptualized as a political, and not exclusively military, dispute.

### **The Peace Process in 2003**

The palace coup provided the backdrop of renewed momentum for peace negotiations as similar to the 2001 situation – it placed the king in a position to strengthen his legitimacy. With the coup, the King had assumed executive powers, dismissed the government, dissolved the parliament, and postponed elections. Resolving the conflict could therefore provide a better image of the King as a peacemaker and thus strengthen his political position. To this effect, he gave the new government of Lokendra Bahadur Chand a mandate to engage with the CPN-M.<sup>9</sup>

The palace coup coincided with a situation in the battlefield that was described by CPN-M leaders as “strategic equilibrium” and “the right moment for a peaceful way out.”<sup>10</sup> However, the CPN-M’s emphasis on “strategic equilibrium” was rather more indicative of an emerging military imbalance. Foreign assistance to the RNA escalated the conflict and increased the military and financial pressure on the CPN-M.

Disrupted communication networks encouraged individual commanders to act more independently.<sup>11</sup> The CPN-M leadership was also becoming increasingly isolated as the international community supported the RNA.<sup>12</sup> Financial pressure resulted from the territorial expansion of the CPN-M and the requirements of maintaining a high intensity conflict. In early 2002, the monthly maintenance cost of the conflict was estimated as USD 150,000 or USD 1.8 million annually.<sup>13</sup>

However, including expenses for political and administrative structures, costs increased to about USD 71 million.<sup>14</sup> In contrast, revenue sources can be expected to have been lower than in 2000, when they were between USD 71 million and USD 143 million.<sup>15</sup> As the CPN-M relied on the taxation of economic activities, the economic disruption which resulted from the fighting reduced its overall revenue stream.<sup>16</sup>

It was therefore the combination of military and financial pressures that pushed the CPN-M to the negotiation table. The CPN-M’s emphasis on strategic equilibrium, and calls for international mediation, were meant to divert attention from their military weakness, while buying time to regroup and consolidate.<sup>17</sup> In the negotiations that followed the ceasefire of 29 January 2003, the CPN-M had much less strategic flexibility because their financial situation – and the increased strength of RNA made a reversal back to armed conflict a less obvious option. The situation that defined the governments and CPN-M engagement may explain why the peace process represented “by far the most acknowledged efforts to establish a lasting peace in Nepal.”<sup>18</sup>

### **The Peace Process in 2006**

The 2006 peace process was preceded by the realignment of political forces that culminated with an alliance between the SPA and the CPN-M against the King. The king’s dismissal of the Prime Minister on 1 February, 2005 changed the perception of the political parties and the CPN-M towards each other. The SPA

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<sup>8</sup> Amnesty International, “Nepal: Military Assistance contributing to Grave Human Rights Violations, London, 2005, pp. 6-12 available at <<http://www.amnesty.org/en/Library/asset/ASA31/047/2005/en/dom-ASA310472005en.pdf>>

<sup>9</sup> Upreti and Dhurnagana, *op. cit.*, No. 2, pp. 222-223.

<sup>10</sup> Babu Ram Bhattarai, cited from Man Ranjan Josse, “History and Genesis of Nepal’s Maoist Insurgency: Tools for Negotiating Conflict.” In Ananda Shrestha and Hari Upreti, eds. “Critical Barriers of the Negotiation of Armed Conflict in Nepal, Kathmandu, Nepal Foundation of Advanced Studies, 2004, pp. 42.

<sup>11</sup> John Bray, Leiv Lunde and S. Mansoob Mursheed, “Nepal: Economic Drivers of the Maoist Insurgency,” In Karen Ballentine and Jake Sherman, eds. “The Political Economy of the Armed Conflict: Beyond Greed and Grievance,” Boulder, Lynne Rienner, 2003, p. 123.

<sup>12</sup> Josse, *op. cit.*, No. 10, p. 42.

<sup>13</sup> International Crisis Group, “Nepal’s Royal Coup: Making a Bad situation Worse.” Kathmandu and Brussels, ICG, 2005(a), p. 17.

<sup>14</sup> Bray, *op. cit.*, No. 11, p. 127.

<sup>15</sup> Mahat, *op. cit.*, No. 4, p. 323.

<sup>16</sup> ICG, *op. cit.*, No. 13, p. 18.

<sup>17</sup> Nihar Nayak, “The Maoist Movements in Nepal and its Tactical Digression: A Study of Strategic Revolutionary Phases and Future Implications,” *Strategic Analysis*, Vol. 31, No. 6, 2007, p. 926.

<sup>18</sup> Upreti and Dhurnagana, *op. cit.*, No. 2, p. 223.

joined the alliance because it was increasingly vulnerable to repression and attacks by the CPN-M.<sup>19</sup> The CPN-M entered the alliance out of recognition that they lacked substantive presence in urban areas and thus the futility of trying to capture Kathmandu militarily.<sup>20</sup> The alliance between the SPA and the CPN-M enabled the organization of large demonstrations aimed to expose the King's isolation and mobilize an active civil society towards their cause.<sup>21</sup>

These developments, however, were only possible after the CPN-M had overcome internal divisions towards peace negotiations was opposed to an exit strategy through negotiation because a class struggle could not be concluded with a compromise. Compromise would have entailed at least some continuity of a reactionary political system. For this reason, the CPN-M demanded systemic change and continued their opposition to any approaches relying on the reform of existing structures. Peace negotiations were also perceived as an anti-insurgency tool.<sup>22</sup>

In order to overcome this internal resistance, the CPN-M leadership presented peace negotiations as a continuation of fighting, and a strategy to gain flexibility in military tactics. This "strategic firmness and tactical flexibility" opened the possibility of peace negotiations and alliances with other political parties. It thereby prepared the ground for the alliance with the SPA against the king, a role for India in facilitating the 12-point Agreement of 22 November 2005, and negotiations with the state.<sup>23</sup>

### **Peace Process as tactical extensions of arms conflict**

The engagement of the CPN-M in these three peace process episodes illustrates the role of peace processes as tactical extension of armed conflict. The flexibility of such tactics in this case, however, depended to a large extent on the financial condition of the CPN-M. In 2001, the CPN-M engaged in Negotiations with a solid financial backing, thus allowing it to be to make credible threats that the failure of negotiations could result in the resumption of hostilities. In 2003, the tactical flexibility of the CPN-M was reduced because military pressure increased their maintenance expenses while lower economic activity reduced revenues from taxation. The consequence was a more constructive engagement in the negotiations, including even the development of negotiation agendas. In both 2001 and 2003, the political process remained a tactical supplement to the battlefield. The peace process signaled a pause to develop new funds, strengthen political structures and find new recruits. Thus, it was not primarily about peace, but rather a tactical diversification of the battlefield.

The 2006 peace process was quantitatively different from previous efforts. The process facilitated the new alliance between the CPN-M and the SPA against the king. Key enabling factors for this development were a change in CPN-M perception that the real enemy was the king and not the entire political establishment, as well as some internal changes that made engagement at the political level possible. The engagement of the CPN-M also derived from the acknowledgement of their limited ability in gaining control over urban areas with a military strategy.

### **The Political Situation after April Revolution of 2006**

The political parties started a non-violent democratic movement on the street on April, 2006. This movement was neither fully planned nor fully spontaneous. It was founded on the loose political alliance forged by the parties and the Maoists in November, 2005 with the hope that their joint peace plan would arouse population, who are increasingly disillusioned with the multiple failures of royal rule. Nepal's mainstream parties and the CPN (Maoist) agreed to pursue a joint strategy against what they called "the autocratic monarchy" a plan for constitutional reform that, if implemented, would bring the Maoists into mainstream non-violent politics. In a meeting of the leadership of 7 parties and CPN (M) held in New Delhi on November 17, 2005 to overcome the obstacles to a basic deal with twelve point agreement between the political parties and Maoists was signed which is popularly known as 12 points agreement.

This move pulled the pro-democracy movement of April 2006. The movement was remarkable for the breadth of popular participation and the speed with which it gathered momentum – both beyond the expectations of the mainstream parties and the Maoists. King Gyanendra's capitulations on April 24, 2006 in the face of a mass movement marked a victory for democracy in Nepal and with a ceasefire between the new government and the Maoists now in place, the start of a serious peace process. King was forced to acknowledge the 'spirit of the people's movement', Gyanendra accepted popular sovereignty, reinstated parliament and invited the mainstream seven party alliance to implement its roadmap including election of a constituent assembly to

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<sup>19</sup> Gunther Bachler, "Adapt Facilitation to a changing context," In Federal Department of Foreign Affairs, eds. *Swiss Peace Policy: Nepal*, Bern, Federal Department of Foreign Affairs, 2008, pp. 115-116.

<sup>20</sup> Nayak, *op. cit.*, No. 17, p. 930.

<sup>21</sup> Bachler, *op. cit.*, No. 19, p. 18.

<sup>22</sup> Mahat, *op. cit.*, No. 4, p. 334.

<sup>23</sup> Nayak, *op. cit.*, No. 17, p. 931.

rewrite the constitution in line with the parties five month old agreement with the Maoists. This historical moment not only transformed Nepal's political landscape but ushered in a lengthy and challenging road to peace.<sup>24</sup>

On April 29, 2006 the House of Representatives (HOR) met after four years<sup>25</sup> and committed itself to hold elections for a constituent assembly. A government under Prime Minister G.P. Koirala was formed. On May 18, the HOR declared itself 'sovereign' and 'supreme' body, brought the army under the civilian control, declared the state secular, dissolved the royal privy council and drastically reduced the power and privileges of the King among the other measures. On May 26 after the first round of government – Maoists talks, a 25 point code of conduct was announced to ensure a peaceful environment during the period of ceasefire. On June 16, SPA and Maoists signed an eight point agreement which also marked the first public appearance of Maoist Chairman Prachanda in Kathmandu.<sup>26</sup> On August 9, the Government and CPN (M) leaders sent identical five point letter to the United Nations seeking assistance in the management of arms and armies of both sides and monitor ceasefire code of conduct among other issues. On November 8, leaders of SPA and Prachanda signed a landmark deal on arms management and political issues like constituent assembly, interim Parliament and interim government.<sup>27</sup>

Nepal's government, headed by SPA and Maoist rebels signed a Comprehensive Peace Agreement (CPA) on November 21, 2006, declaring an end to the ten-year civil war, thus paving the way for inclusion of the rebels in mainstream politics and for elections to an assembly that would write a new constitution. The CPA charts a course towards election for a Constituent Assembly (CA) following formation of an interim legislature and government including the Maoists.

The tri-partite agreement on arms-management of both the Nepali Army and the Maoists People Liberation Army (PLA) was concluded between the UN, the Government and the CPN-M on November 28, 2006.<sup>28</sup> In a detailed agreement, the Maoists have committed to cantonment of their fighters and locking up their weapons under UN supervision; and the Nepalese Army will be largely confined to barracks. The Constituent Assembly, to be elected through a mixed first-past-the-post and proportional system, will also decide the future of the monarchy. Amid lots of doubts and suspicion, both process fairly went well. The CA elections established Maoists as the biggest political party giving them about ½ of the total seats in the Parliament giving them upper hand in drafting Nepal's new constitution.

Eventually the Maoists joined the parliament and the government. They had four ministers in the government. They however, resigned in October 2007 on the grounds that the government is still being controlled by royalists and foreign powers (particularly, USA and India), and that such powers are planning and conspiring to undermine the radical potential of the Constituent Assembly elections.<sup>29</sup> While leaving the government, the Maoists have however affirmed their commitment to the political process itself and reaffirmed that they are not going to "go back to the jungles", and also that they will respect all agreements relating to ceasefire and commitment to rule of law. Prachanda said that, "his party would not go back to the jungle to wage war again; rather we are ready to launch a Kathmandu centered revolution."<sup>30</sup> Of course, sometimes the views of the Maoists conflict with each other.

On the one hand, they have adopted a strategy of combining people's war, people's movement and diplomacy. However, on the other hand, their resolve to respect rule of law and "the need to continue ceasefire and the peace process, given the international and national situation," seems to safely rule out people's war and emphasize only on people's movement. Even at that level, what diplomacy might mean for the people's movement, "given the international and national situation," is an open question.<sup>31</sup>

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<sup>24</sup> For Reporting on the early stages of the pro-democracy movement, See Crisis Group Asia Briefing No. 49, "Nepal's Crisis: Mobilising International Influence," 19 April, 2006. Available at [http://www.crisisgroup.org/home/index.cfm=40738/=/](http://www.crisisgroup.org/home/index.cfm=40738/)

<sup>25</sup> HOR was dissolved on 22 May 2002 by the King.

<sup>26</sup> Padmaja Murthy, "Examining the Role of Maoists in the New Political Experiment in Nepal," *World Focus*, July 2007, p. 249.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> Saroj Giri, "Taking the Bait: Maoists and the Democratic Lure in Nepal," *Journal of Contemporary Asia*, Vol. 38, No. 2, May 2008, p. 282.

<sup>30</sup> Baral, L. and G. Mukhia, "King Shouldn't be given space in interim Constitution," posted at <http://www.ekaitpur.com> on 13 August 2006 (downloaded on 21 October, 2007).

<sup>31</sup> "Document of the Fifth Expanded Meeting of the Central Committee of the Communist Party of Nepal (Maoist)," August 2007, *Dishabhumi* (Nepali monthly), Vol. 10, No. 1, 2007, p. 42. Cited in S. Giri, *op.cit.*, No. 29.

What the shift from a strategy of people's war and urban insurrection as part of the preparation for "New Democratic Revolution" to one of "people's war, people's movement and diplomacy," involves, therefore, is the Maoist's complicity in the political process which displaces the question of revolution to one of "socio-economic transformation". This readily translates to an economist and progressive capitalist inclusive democracy, democratic restructuring of the state, land reforms and so forth. The paradox, however, and one that gives the lie to the political process, is that the political process does not sit at all easily on a society that was so thoroughly revolutionised recently by the *people's war*. Above all, the Maoist's guilty ridden midwifery to slowly sail the revolution into the icy waters of the so-called political process is itself occasionally interrupted by their refusal to play along as they surmise the failure of the revolution, and, yet in pointing out some foreign or royalist conspiracy, which is out to scuttle the political process, they stop short of seeing the invisible hand of the political process itself. Thus, even as the Maoists party's recent expanded meeting of the central committee was rocked by serious questions about how the revolution is advancing with the present strategy, the leadership pushed the strategy of remaining committed to the present political process.<sup>32</sup> This means only that the political process has not yet been able to establish itself as a really "neutral", or "free and fair" process untainted by underlying social divisions: the classic liberal dichotomy between the political and the economic has not set in yet so that the "crisis" is not confined only to the political sphere but is "tainted" by social and economic contradictions, giving us the instability of instability. The paradox is that the Maoists and its supporters are still unable to as though the political is actually autonomous of the economic, it is occasionally unwilling to present the lie as the truth and is treating the lie as such.

Maoists have pointed certain factors that led them to give up their strategy of people's war and urban insurrection, and join the political process. Briefly, there are three: first, the lack of economic productivity to sustain the base areas, particularly in hilly areas. Secondly, the international situation was supposed to be such that any urban insurrection would have precipitated the entry of foreign imperialist troops leading to uncontrolled violence, and, as the Maoists said, an "Afghanistan like situation". Thirdly, was the need to first develop a much more solid support base in urban areas, which was extremely difficult to carry out in the midst of people's war and as an underground party. All three factors could, it was argued, however, be turned around the made favourable if only the party could intervene directly at the level of political power at the central, national level.<sup>33</sup> Thus, corresponding to the three problems, the party advanced the three prolonged strategy of combining people's war, diplomacy (including negotiations) and people's movement once they came above ground.<sup>34</sup> While the question of the factors that led to the adoption of the present strategy of the party to join the political process is very important, it looks as though – regardless of these factors – the subjective understanding of the party also seems to have led the party in that direction. This relates to the Party's theoretical understanding of the character of the present political process, which will be discussed below.

### **Political Victory or Political Defeat**

The Maoists in Nepal could not capture state power through armed force, through their declared strategy of combining people's war and armed urban insurrection. Nor did they enter into any open surrender or compromise. In fact, unlike most other revolutionary organizations, Maoists in Nepal came into open politics not in the face of military defeat and political marginalization but on a wave of major political victories and military confidence, if not, victory. They had made major gains through the people's war, bringing about a socio-economic transformation of sorts and controlling large areas of the country. On the other hand, mainstream parliamentary political parties had no choice but to align with the Maoists to save themselves from total oblivion. This was a revolutionary party, with a ten-year history of an openly declared armed struggle, historically, morally, politically anachronistic, which now is the party at the helm of affairs in a nation known as the "Zone of Peace".<sup>35</sup>

Maoists are also the strongest, most visible, active political force in the urban areas today. There is not a sphere of society, politics or economy where they have not intervened in a politically meaningful manner, particularly through the Young Communist League. All of this was possible since the Maoists decided to join the political process beyond the people's war.

Since they had not surrendered or formally compromised, the Maoists joined the political process without formally surrendering their army or explicitly renouncing their ideology and party apparatus (ideology, army and party being the three key elements of the revolutionary party). Even as part of the political process today, Maoists still retain all the elements and factors that made them what they were – a revolutionary party

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<sup>32</sup> B. Dahal, "Maoibadi Vistarit Baithak," *Dishabodh* (Nepali Monthly), Vol. 10 (1), 2007, p. 20.

<sup>33</sup> Saroj Giri, "Social Transformation and Political Power: Maoist in Nepal," *Economic and Political Weekly*, 41, 21, pp. 2147-56.

<sup>34</sup> "Document of Fifth Expanded Meeting," 2007, *op. cit.*, No. 31.

<sup>35</sup> Giri, *op. cit.*, No. 29, p. 287.

spearheading the people's war. For example, the PLA is now deactivated but the Maoists have access to their arms and they declare that if need be the PLA will pour out into the streets at short notice.<sup>36</sup>

According to the fifth expanded meeting of the Party's Central Committee, held in August 2007, the Party understand the present political process as one which is neither one for a new democratic republic nor for a bourgeois parliamentary republic. It declares that the present political process is one related to multi-party competition (republic). That is, the Party thinks that apart from new democracy and parliamentary democracy, there is a third socio-political form of the state called a multi-party democratic republic. The document of the Fifth Expanded Meeting of the Central Committee, as quoted by Prachanda, states:

The party has regarded the democratic republic neither in the form of bourgeois parliamentary republic nor in the form of the new democratic republic. With an extensive restructuring of the state power, this republic will play a role of transitional multi-party republic as to resolve the problems related to class, nation, region and sex.

Understood as a progressive political form, multi-party democracy is then presented as only a transitional sub-phase to a new democratic republic. CPN-M called this phase as a transitional state of compromise to institutionalize through constituent assembly a new type of democratic republic.

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<sup>36</sup> Press Communique (2007) 12 August 2007, by Prachanda, <http://cpnm.org/new/English/Statements/PressStatement0807.htm>. accessed on 24 March 2008.

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