About WISCOMP

Women in Security, Conflict Management and Peace (WISCOMP), an initiative of the Foundation for Universal Responsibility, a South Asian research and training initiative, provides a unique space between academia and the NGO sector, and positions its work at the confluence of Security Studies, Conflict Transformation and Peacebuilding. The intersection of these with gender concerns provides the focus of its programs.

The WISCOMP symposia are envisaged as integral to the academic enrichment and research component of WISCOMP’s program. It forms part of an attempt to alter the dominant state centered discourse on conflict and peacemaking by grounding it within a more holistic and inclusive framework of human security.

The symposium on Democracies in Transition: Opportunities and Challenges for Nepal is part of a WISCOMP series on South Asian Experiments with Democracy and Peacebuilding which, over a period of two years, attempts to provide a context for young and mid career professionals to enhance their leadership skills and expand their knowledge base so as to be able to engage more centrally with the issues of democracy and peacebuilding within their own nations and also within the broader context of an interdependent Southern Asia. Nepal’s continuing experiments with various forms of democracy and a deeper understanding of the People’s Movement offer an important experience from South Asia that provides a context for learning and reflection.
DEMOCRACIES IN TRANSITION: OPPORTUNITIES AND CHALLENGES FOR NEPAL

A Report

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### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>CA</td>
<td>Constituent Assembly</td>
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<tr>
<td>CPN</td>
<td>Communist Party of Nepal</td>
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<tr>
<td>CPN (UML)</td>
<td>Communist Party of Nepal (Unified Marxist Leninist)</td>
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<td>CRC</td>
<td>Constitution Recommendation Commission</td>
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<tr>
<td>FPTP</td>
<td>First Past the Post</td>
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<tr>
<td>MJF</td>
<td>Madhesi Jana Adhikar Forum</td>
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<td>NA</td>
<td>Nepal Army</td>
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<tr>
<td>NC</td>
<td>Nepali Congress</td>
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<td>NLSS</td>
<td>Nepal Living Standard Survey</td>
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<tr>
<td>PLA</td>
<td>People’s Liberation Army</td>
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<tr>
<td>PR</td>
<td>Proportional Representation</td>
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<tr>
<td>RJP</td>
<td>Rastriya Janashakti party</td>
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<tr>
<td>RPP</td>
<td>Rastriya Prajatantra Party</td>
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<tr>
<td>SP</td>
<td>Sadbhavana Party</td>
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<tr>
<td>SPA</td>
<td>Seven Party Alliance</td>
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<td>SSR</td>
<td>Security Sector Reform</td>
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<tr>
<td>TMLP</td>
<td>Tarai-Madhesh Loktantrik Party</td>
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<tr>
<td>ULF</td>
<td>United Left Front</td>
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<tr>
<td>UNMIN</td>
<td>United Nations Mission in Nepal</td>
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<td>YCL</td>
<td>Young Communist League</td>
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Background Note

The April 2006 mass protest in Nepal popularly known as Jana Andolan II in which an estimated 3-4 million Nepalis participated marked the beginning of a new journey in the political history of Nepal. It marked a dramatic rejection of the past legacy of monarchical rule in which the political sphere had also been dominated largely by hill Hindu Brahmin and Chhetri males. In addition, for more than a decade, the political parties had been trying to carve out a place for themselves in a turbulent milieu marked by violent conflict between the Nepal Army and the Maoist cadres in Nepal’s countryside.

The elections to the Constituent Assembly held in 2008 in Nepal signaled three clear shifts. It transformed the kingdom into a Republic, marking the end of two and half centuries of monarchical rule. It changed the arena of armed internal conflict into one of democratic politics where the Maoists became major players in a pluralistic parliamentary setting. It altered the basic fabric of a non inclusive state ruled by the high castes into a much more inclusive democracy, symbolized in no small measure by the diverse profile of the current Constituent Assembly.¹

Moreover the 10 year long Maoist insurgency had also brought into play significant re-imaginings of the directions that a contemporary state and nation building project in Nepal could take. Quite naturally the moment of these rapid and multiple transformations raised the expectations of the people and called for strategies for transformation that would recognize the importance of not just political but also economic and social rights in creating a vision of inclusiveness.

Nepal at Crossroads: Opportunities and Challenges before the Constituent Assembly

The history of democracy in Nepal has been marked by several interruptions. It was first attained in 1951 through an armed revolution against the century old Rana oligarchy but the Panchayat system with its twin features of active monarchy and partyless system soon replaced democratic rule.² This Panchayat regime collapsed in 1990 when confronted with a people’s movement that organized street protests in Kathmandu (Jan Andolan I), inspired by the east European transition to democracy and provoked in part by the 1989 trade embargo imposed by India. Under pressure from the Nepali Congress Party and the seven party alliance of the United Left Front (ULF), King Birendra first eliminated the ban on political parties

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² Drawing inspiration from the guided democracies of Egypt, Pakistan and Indonesia and from the Rana constitution of 1948, King Mahendra promulgated Nepal’s fourth constitution in 1962 which instituted a 4 tier system of panchayats from the village and town through the district and zonal to the national level while barring political parties. The king retained all executive authority.
and then agreed to the dissolution of the national panchayat and with some reluctance agreed to constitutional reform and a new constitution.³

The nine-member Constitution Recommendation Commission (CRC) made up of lawyers affiliated with the parties and the palace and led by the Supreme Court justice, prepared the draft constitution and presented it to the council of ministers. While the CRC did seek public opinion this was not reflected in the fifth constitutional document of 1990 or at best received ambiguous endorsement. Throughout the process the king and the army exerted pressure to slow down any shift towards democracy. In spite of this the main political parties were able to resist pressure to dilute the document’s democratic credentials and an extensive set of fundamental rights was included. The closed manner in which the 1990 constitution was drafted was a significant factor in the calls for constitutional change that followed the Maoist insurgency. The constitutional document revealed the tension between popular will and royal prerogative, a fact that was exploited by the palace to retain its power through the 1990s.⁴

In any case, the restoration of multi party democracy as enshrined in the 1990 constitution was threatened yet again first by the royal coup of October 2002 and another one in February 2005 where the king seized all power. Following the royal coup of 2005, the 1990 constitution though not formally abrogated (in fact the king claimed he had acted to save the constitution) ceased to become a template for governance and emerged only as a rhetorical point of reference.

The successful Jana Andolan II of April 2006 - an unprecedented mass movement in Nepal – restored democracy but this time the entry of political parties as key players marked a dramatic break from the past. Earlier even after the end of partyless democracy, and the restoration of multi party democracy through the constitution of 1990, their role had been constantly circumvented and limited by the palace and the ambitions of the king. The people of Nepal had remained apathetic to political parties because of the failure to link their emergence to good governance and delivery of services.

The qualitative shift in the status of political parties and consequently a new beginning in Nepal’s politics can be linked to the 12 point pact between the seven party alliance and CPN Maoist in November 2005 that set the stage for Jana Andolan II. Through this pact the mainstream political parties endorsed the CPN Maoist demand for an election of a constituent assembly, the CPN Maoist reciprocated with its acceptance of the multi party system and both mainstream parties and CPN Maoist agreed to launch a peaceful movement against the King.⁵

³ Krishna Hachchetu et al, op.cit.
⁵ Hachchetu, Krishna et al, op.cit, p. 20.
The Need for a New Constitution

Constitution making is a political process in which the contents to be enshrined are determined by the political consensus among the political actors. Recognition that a new constitution (a sixth one) would be an essential part of the new peace deal in Nepal was in keeping with the Maoist decade old demand that has enjoyed the support of various political forces at different times. It grew in acceptance even before the Jana Andolan II forced the king to recognize defeat and relinquish power in 2006 and was formally endorsed by the mainstream Seven Party Alliance in November 2005 when it signed the 12 point agreement pledging to work with the Maoists towards “full democracy.” The Comprehensive Peace Agreement of November 2006 placed constitutional change at the core of the peacebuilding process, stipulating that elections for a constituent assembly should be completed by mid June 2007. The Interim Constitution (IC), promulgated on 15 January 2007 detailed electoral mechanisms and laid ground rules for the functioning of the Constituent Assembly (CA).

The interim constitution currently running in Nepal had explicit provisions for setting up a constituent assembly, elected partially through direct first past the post system and partially through a proportional representation system – this was operationalized through the elections of July 2008 in which the Maoists captured the largest share of seats. The IC is expected to underwrite a new constitution for the country and as such contains the procedures for the making of the new constitution. It also deals with the system of government until the new constitution is adopted. Combining this dual role as constituent assembly and interim legislature comes with a set of unique challenges especially as Nepal envisions a new future for itself following the abolition of monarchy and seeks to institutionalize the gains from the revolution and the movements over the past decades.

In Nepal the making of a new constitution at this conjuncture is seen as integral to the larger peace process, which began with the people’s movement (Jana Andolan II) of 2006. The dramatic restructuring of the state and nation in Nepal signaled by the entry of the Maoists into the constitutional system following numerous negotiations and agreements between the seven party alliance, and the transformation of Nepal from a monarchy to a republican form of governance implies that the very objectives of the state are about to be redefined. This calls for a new constitution that would provide opportunities for reviewing the root causes of the conflict that had produced a cycle of violence in Nepal ever since the Nepal Communist party (Maoist) began its insurrection in rural areas from 1995.

Another imperative in generating demands for a fresh constitution emanates from the fact that in the course of the protracted socio political conflict in Nepal various groups had begun to reflect on their history and identity and several marginalized

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groups and communities had begun to assert their identity. The arrival of the Madhesi parties marks the first round of the battle for representation on the basis of identity. There is the likelihood that Dalits, Muslims and Tarai minorities may also follow the trend. Identity politics has clearly arrived and the importance of a constitution that provides space for defining these identities becomes imperative. Past experience has indicated that the constitution making process in Nepal has run into difficulties whenever it has been seen as excluding certain communities and groups. The proposed new constitution will then be not just about state building but also about nation building. A nation-building project cannot be effective without the engagement of all groups in a process that is and is perceived to be participatory and consultative. The attraction of a constituent assembly is that it is seen as a gathering of a nation in all its multiple identities in order to develop a consensus on the definition, values and structures of their state.

On balance, the new political landscape of Nepal in 2008-2009 appears to mark an “unprecedented and fundamental change in the social and political history of the country”. This could not be addressed by amending the last constitution made in 1990 and requires a completely new framework to reflect the changing aspirations of the people. Nevertheless there are lessons that can be drawn from the constitution making process of 1990, if only to assess its efficacy or lack of it when it came to addressing the basic issues so that Nepal does not, as Surya Nath Upadhyaya notes, “have to go again and again through the pangs of constitution making”.

The Constituent Assembly

In 2008, Nepal formed its new 601 strong constituent assembly with elected and nominated members according to the mixed electoral system. The mixed electoral system includes the first past the post electoral system and the proportional electoral system. Voters cast two ballots – one for the majoritarian system based on first past the post (FPTP) principle, and the other based on proportional representation in which the entire country is treated as a single district. The voting system based on proportional representation system is widely considered to be fairer and more democratic than the FPTP system. PR is based on the principle that a political party should win seats in parliament in proportion to its share of the popular vote. It is often contrasted to plurality voting systems where disproportional seat distribution results from the division of voters into multiple electoral districts especially winner takes all plurality.

Political parties were also obliged under the constitution and the Election to members of the Constituent Assembly Act, 2007, to take into account the principle

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of inclusiveness ensuring that woman, dalits, ethnic/indigenous tribes, Madhesis and other groups are represented according to their population. They were also directed to pay attention to the representation of oppressed groups, poor farmers, and the disabled.⁹

The CA is expected to perform a dual role – as a constitution making body and as a legislature. The CA’s twinning of roles had a precedent in India’s 1946 assembly, which remains the most common model for a dual function legislature/CA. The Indian assembly however was in effect a one party assembly “in the hands of the mass party, The Indian National Congress.”¹⁰ In Nepal what is being envisioned is a virtual restructuring of the state. This is clear from Article 138 of the IC which states that the aim is to “bring an end to discrimination based on class, caste, language, gender, culture, religion and region.” This radical re-visioning would also involve evolving new principles of a federal system.

Consistent with international experience the interim constitution gives the constituent assembly two years to complete its work with a possible six month extension in case of a declaration of an emergency situation. The primary responsibility of the constituent assembly is to prepare a draft constitution, debate it and adopt it. The interim constitution says little about the procedures of the CA other than the system of voting (encourages consensus). There is a clear prominence given to political parties within the CA (rather than civil society) – all representation in fact is through political parties and the onus is on these parties to build trust, ensure democratic principles and ensure a constitution that enjoys public legitimacy.

While civil society has no formal role, it has however taken on the initiative in providing opportunities to people to meet to learn about the process and formulate their recommendations. This is particularly important as a constitution making process must be participatory if it is to address the concerns of the people it claims to represent.

The constitution of 1990, following the Jana Andolan I, was framed in the context of the changing relationship between the king and the people. With democracy as one of its chief goals the constitution propelled Nepal towards a constitutional monarchy where the king had to accept the reality of democratic forces in the country, which would eventually manifest itself in a multi party system.

A new set of challenges and equations have emerged following the Jana Andolan II which resulted among other things in the abolition of the monarchy altogether and the declaration of Nepal as a republic. This was not all. Equally importantly, the elections also dramatically put the Maoists in the position to form the new

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⁹ Section 5 (3) of the Election to members of the Constituent Assembly Act, 2007 and explanation of Section 7(3) of the act, available at <http://www.election.gov.np/EN/pdf/CAE_Election_Act_2064_english.pdf >

government and have a decisive say in shaping the new constitution. It is in this context of the new alignment of forces in Nepal today that the issues in constitution making have to be outlined.

At the conference on Constitution making in Nepal organized by the constitution Advisory Support Unit of UNDP from March 3-4, 2007, some of the following were highlighted:¹¹

1. Reflecting the vision of new Nepal as derived from the Jana Andolan II. Commentators have suggested that the agreements reached between different political parties in the course of the andolan could form one of the bases of the new constitution as these agreements reflected changing aspirations of the people. Prominent among these were the desire to end armed conflict, bring an end to monarchy, establish citizens rights, and end the inequities of the traditional social structure.

2. Nepal is beginning to redefine itself as a nation with multiple identities. The assertion of identity politics has been on the rise and the new constitution would have to deal with these multiple group identities based on language, religion, and region. The identity that formed the basis of the 1990 constitution – that of Nepal as a homogeneous, Hindu monarchy - is no longer valid. One of the failures of the 1990 constitution was its inability to be inclusive. The new constitution would have to recognize the diverse identities that constitute Nepal, the sense of historical socio economic marginalization, and develop a new social contract redefining what people are, what Nepal is, and what the Nepali community is.

3. Inclusion as a concept tends to be used in reference to the membership of the constituent assembly through adequate representation and secondly, to describe the vision of a new polity that will be created by the constitution. This new polity is expected to take into account regional aspirations (by strengthening federal norms for instance). Participation on the other hand, is used to refer explicitly to broad involvement in the making of the constitution. This is not just about the representativeness of the CA but also about the extent to which people’s inputs are integrated into a new constitution. Constitutions drafted exclusively by experts may not be related to the lived realities and a balance has to be drawn between technical expertise and broad based participation by people.

4. The process of democratization is also linked to the notion of social justice. Poverty, social justice, inclusiveness and democracy are integrally linked – the constitution would have to deal with issues of past injustices and provide opportunities to discriminated sections to catch up. As Bharat Mohan Adhikari pointed out all Nepalis should have the right to work, health and education.

Women in the Constituent Assembly: Significance and Possibilities

What are the opportunities that the Nepalese constitution assembly offers for women of Nepal in their endeavor to realize their rights? The new constituent assembly which will be the principal law making body of the country has seen a significant increase in the representation of women to 33 per cent of the elected members and 32.77 per cent of the total membership (which also includes nominated members). It is undoubtedly a moment for women with experience in parliament and public life to take the lead and to support women with less familiarity in political settings. With 197 members in the assembly of 601, a rare opportunity has opened up for women to reflect on their political and parliamentary roles and responsibilities even while squarely acknowledging that women do not constitute a putative block and that gender intersects with issues of caste, class, kinship, community to create a mosaic of complex identities.\(^{12}\)

The existence of a gender friendly constitution and presence of 197 women in parliament do not constitute a sufficient condition for gender equality. The road ahead will be riddled with obstacles given the extent to which patriarchal norms are embedded in South Asian societies. To be able to influence the making of the constitution, women need to organize within and outside the assembly, to be receptive to public expectations and ready to learn. For this they will need support to create knowledge resources and arenas for discussions.\(^{13}\) Can women cut across the faultlines and do this collectively exploring the possibilities of a women’s caucus along the way? Or are the caste and class divisions as well as the impact of the disciplining party whip prevent them from building bonds of solidarity? What are some of the issues that they will need to address so that they can ensure that the constitution works for them?

One of the remarkable features of the constituent assembly of Nepal is that the principle of inclusivity has been applied even when it has come to representation of women in parliament. There has been representation of Dalit women (13 seats) Madhesi women (59 seats), Janajati women (43 seats), women from backward areas (4 seats), making this one of the most inclusive assemblies in the history of Nepal, even in terms of representation of women. The constitution has mandatory provision for maintaining diversity, inclusive of women, while making appointments of the chairperson and members of the National Human Rights Commission.\(^{14}\)

Land and Livelihood Issues

Despite the inclusive and representative constituent Assembly the road ahead is inherently complex as inclusive democracy cannot be achieved when historical

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13. Ibid.

feudal-patriarchal power relations exclude a section of the population from access to land. Consequently, land reforms and wealth creation and distribution which are interlinked will be subjects that will require the serious attention of the constitution makers. Land and livelihood issues will have to be regulated by the constitution and the laws as part of the goal to achieve inclusive democracy particularly because of the centrality of land and agrarian life in the social, economic and political fabric of Nepal.\(^{15}\)

Traditionally in Nepal land was distributed as largesse to service providers of the state and a majority of the people lost their land to these royal functionaries. Dalits and Janajatis were worst affected as they were not part of the royal family staff. Dalits were forced to provide free service to the land owners and the system of *haliya/haruwa* evolved.\(^{16}\) The system of share cropping (*Batiya*) and contracts (*Hunda*) prevented the real tillers of the land from getting land rights. Absentee landlordism abounds and the increasing price of land has resulted in the displacement of poor and marginal farmers from their land. In this milieu the slogan *Jisko jot Usko Pot* (land to the tillers) has been rendered meaningless.\(^{17}\)

The lack of attention to land rights issues was in fact one of the major reasons that generated and sustained the Maoist insurgency in the countryside for more than a decade. Those who have no access to land are also deprived of their entitlements to a share in the benefits of development such as access to bank loans, electricity, water, and the choice of growing cash crops. This provides the major rationale to initiating a land reform program in Nepal today.\(^{18}\)

### Security Sector Reforms and Nepal’s Road to Peacebuilding

The framework of inclusive democracy is of course related to a larger peacebuilding template. In addressing issues of conflict transformation and peacebuilding it is perhaps important to recognize that Nepal is still in a in-conflict situation rather than a post conflict situation. Armed groups in the Tarai which have the potential to disrupt the roadmap to peace and the general militarization of state and society as seen in the emergence of militant youth groups have the potential to create a situation where outbreak of direct violence is always a possibility. The issue of security sector reforms continues to be a live issue in Nepal precisely because of this but its domain and scope needs to be contextualized for Nepal.

The exact scope and ambit of the security sector is in any case contested and has changed with the changing definition of security. In a nutshell “the security sector

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\(^{16}\) Haliya or Haruwa literally means a male who ploughs his master’s field.


\(^{18}\) ibid.
includes all organizations responsible for protecting the state and its citizens, and which are authorized to use force, order it to be used, to threaten to use it, and the civil structures responsible for governance and oversight of these organizations. As such the security community includes the core security institutions (armed forces, police, paramilitary, coast guard, militias and the intelligence services), non core security institutions (judiciary, customs, correctional/prison services) as well as non-statutory security forces (liberation armies, guerilla armies, traditional militias, political party militias, and private security companies). Further, it includes security oversight bodies (legislatures and legislative committees, ministries of defense, internal affairs, justice, foreign affairs, office of the president), financial management bodies (ministries of finance, budget offices, auditor general’s office).

Security sector reform consequently is the transformation of the security system, which includes all actors, their roles and responsibilities and actions, so that it is managed and operated in a manner that is more consistent with democratic norms and sound principles of good governance, and thus contributes to a well functioning security framework. Responsible and accountable security forces reduce the risk of conflict, provide security for all citizens and create the right environment for sustainable development. The overall objective of security sector reform is to contribute to a secure environment that is conducive to development.

Among the plethora of issues that the term raises in the context of Nepal at this point, is the debate on transitional justice which refers to “the range of approaches that society undertakes to reckon with legacies of widespread or systematic human rights abuses 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.” How this can be contextualized and operationalised in Nepal today remains a moot question. Security sector reforms in Nepal is by no means restricted to the question of “transitional justice.” It also raises another fundamental challenge: the integration of the Nepal Army and the People’s Liberation Army. This remains an open question as do issues related to demobilization and reintegration which if not managed properly can cause outbreak of direct violence.

Even as the former PLA members redefine their roles and responsibilities following the decision of the CPN (Maoists) to enter mainstream multi party politics, the Nepal Army also has to work through a new period in civil military relations where the allegiance is no longer to a monarch but to a new democratically elected head of the republic. The democratic control of the armed forces and the principle of

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civilian supremacy needs to be understood differently now with the abolition of the institution of monarchy.

Using a gender compass to map the security sector also yields new insights on the very nature and the direction of these reforms. Given the large number of women cadres in the PLA this assumes a special significance particularly on questions pertaining to demobilization and reintegration – questions that also need to be understood not just in terms of control and surrender of recognized weapons but in the larger context of the militarization of state and society and the emergence of militarized youth groups as well as armed groups in the Tarai.

Striking the delicate balance between the electoral standards and the peace process will consequently remain difficult. Nepal has entered into a new phase of transition but transformation into a sustainable peace and development poses its own set of challenges. These include among others drafting a new constitution within a limited time, promulgating it bringing a logical conclusion to the peace process and addressing the rising democratic aspirations of the people including the goals of the social revolution.

The WISCOMP Symposium

In this backdrop, the WISCOMP symposium titled *Democracies in Transition: Opportunities and Challenges for Nepal* brought together some 40 scholars, practitioners, activists, women in politics from different parts of Nepal and India to reflect upon the processes of conflict transformation and peacebuilding currently under way in Nepal. The aim was to create a repertoire of responses and generate a dialogue on the prospects for democracy and governance in Nepal and the South Asian region. **Focusing on the current challenge of constitution building for Nepal, the symposium also looked at how different civil society groups including women’s groups see their role in the unfolding democratic process in Nepal and in envisioning the new Nepalese identity, as a fresh chapter is carved out in its political history.** The symposium provided a context to examine the conflicts that the newly formed Constituent Assembly is impelled to address and the approaches and methodologies that are available as responses to the emerging expectations of the people of Nepal.

The symposium consequently addressed four major themes:

1. The challenge of constitution making in contemporary Nepal.
2. Land Issues and Land Reform : Prospects and Challenges

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The Challenge of Constitution making in Contemporary Nepal:

As Granville Austin points out in the preface to his well known work *Indian Constitution: Cornerstone of a Nation*, a constitutional document no matter how well conceived, can only establish institutions on paper. Infusing life into them depends on the succeeding generations and how they accept and work the institutions.23

Over the next two years, Nepal will work out how to resolve the tensions between the centralizers and federalists and how to balance the hitherto centralized command and control approach with the federal imperative. Even among those advocating federal restructuring, a debate will have to be initiated on the organizing principles on which such a restructuring can proceed. This will have multiple ramifications. The units of federation will evidently impinge upon the emerging identity politics in Nepal. This in turn may have a bearing on how the women of Nepal could form alliances across federal faultlines.

In favoring the principle of consensus, Nepal has recognized that simple majority rule may not always help resolve the complex “conflict residues” that persist after years of cycles of violence. As a range of suppressed voices seek new articulations, the Constituent Assembly members will have to test how best the principle of consensus can be operationalized so that the means by which a decision is made becomes as important as the decision per se. This will call for setting in place new standards of transparency and accountability and ensuring that public participation and representativeness remain at the centre of the new template of governance. This new template will also have to foster the goal of social revolution and deliberate on how to bring about fundamental changes in Nepalese society.

In 1946, as members of the Indian Constituent Assembly embarked on their project of state and nation building by enshrining the basic principles in the Constitution, they were, as Austin points out, not so chauvinistic as to reject the experience of others. At the same time, they were conscious that the Constitution had to be fashioned to suit Indian needs. Given the nature of the dilemmas of the Indian constitution makers and the fact that perhaps many of these would also have a resonance in Nepal today, the symposium examined some of these points of common concern as well as the significant points of difference between the Indian and Nepalese experiences of constitution making, both in terms of time and context. Ultimately the people bound by a constitution – in this case the people of Nepal – will have to evolve their own unique language of politics and this language or “languages” of politics, to use Morris Jones’ telling phrase, will undoubtedly be shaped over the next two years.

As Nepal stands at crossroads with a new Constituent Assembly in place, which will combine the role of a legislative body and a constitution making body, some see a precedent in India’s 1946 Assembly where different groups, interests and voices jostled for space. Some also recognize that the Nepalese experiment in 2008 is unique in many respects. The changing discourses around rights, inclusion, participation, equity, access and entitlements that gained currency at the turn of the millennium raise a plethora of issues to which the Assembly will now have to respond.

In this context, the opening plenary India and Nepal: Democratic Articulations and Constitutional Consensus in Multi Ethnic Societies addressed some of the following issues:

• What are some of the similarities and differences in terms of the challenges that India and Nepal have had to address at different points of time as they sought to redefine themselves – one as a post colonial state – and the other as a new republic where the politics of violent contestations are now having to yield to parliamentary politics with a definite socio-economic agenda?

• How has the Indian Constitution shaped politics and what has been the manner in which politics has shaped constitutional amendments, as the state continuously responds to fresh challenges and paradoxes of our times.

• How might we delineate the major challenges before the Nepal Constituent Assembly today?

Taking these questions further, the discussion panel, following the opening plenary specifically focused on the element of change and continuity in the constitution making experiments in Nepal which has had as many as five constitutions in the past. How will this constitution writing endeavor make a significant break from the past and what will be the point of departure from the Constitution of 1990? The panel touched upon the issues of federal restructuring, representation, governance and accountability exploring both the possibilities and the challenges that reside before the new Constituent Assembly. In Nepal, the text and texture of the current political discourse would among other things, depend significantly on how erstwhile revolutionary groups, including those who had supported armed insurrection to achieve the goals of the social revolution, morph into lead players in forging a new politics of consensus.

The Roundtable titled The Promise of Jana Andolan II: Towards Gender Sensitivity, Social Inclusion and Sustainable Peace was informed by the fact that the newly constituted Constituent Assembly is the most inclusive assembly that Nepal has ever elected and consequently this is a moment that is replete with possibilities. The principle of inclusiveness has been identified as one of the benchmarks of a sound constitution making process. This implies that the constitution must be a national consensual contract under which all groups can find shelter, not just the majority.
Women occupy 32.77 per cent of its total seats making it the Assembly with by far the largest representation of women in South Asia. This has opened up new possibilities of achieving gender equity and representativeness hitherto unknown. How can the new constitution which this assembly is entrusted to draft, ensure that the document speaks for the women of Nepal? Even as we ask this question we acknowledge that “women” do not constitute a putative block, that women too can be torchbearers of patriarchy and that gender identity is invariably mediated by considerations of caste, class, kinship and community ties. However the representation of Madhesis, Janajatis, Dalits and Muslims including women from each of these groups does indeed create new opportunities for securing a constitutional document that is inclusive and gender sensitive. It also carries with it the promise that the policies that will emanate from this inclusive Assembly will be gender sensitive, particularly in delineating economic priorities and on issues related to economic development.

The movement in Nepal’s troubled Tarai is linked to but also goes beyond the social inclusion component as this has its own complex origins and dynamics and now has the potential to disrupt Nepal’s roadmap to peace. The rise of the Madhesi movement and the militarization of this movement were also addressed in this session.

The Roundtable engaged with some of the following questions;

- What is the theoretical framework within which the concept of social inclusion can be guaranteed in Nepal, a country with multiple castes, linguistic groups, religious denominations and cultural groups and where women, Dalits, Janajatis and Madhesis have been traditionally excluded from positions of power and decision making?

- Given the checkered history of multiparty democracy in Nepal, how is the political arena being redefined now?

- In this milieu, what are some of the new roles and responsibilities that women can assume both in and outside of the Constituent Assembly?

- What are some of the new voices that are being heard as identity politics assumes a new shape and direction in Nepal?

- What is the nature of the Madhesi movement, what are their demands, how can these be accommodated and what bearing may this have on relations with India?

**Land and Livelihood Issues**

The discussion forum on *Land and Livelihood*, based on the premise that land in South Asia is a source of economic, social and psychological security, generated a discussion around a fundamental goal of the social revolution that the Maoists led for more than a decade based on the demand articulated in their 40 point agenda. This pithy statement read: “those who cultivate the land should own it.”
This session engaged with some of the following issues:

- What is the significance of land as a resource in the specific context of Nepal and how can we map and understand the linkages between land, caste and gender?
- Land redistribution was an avowed aim of the social revolution led by the Maoists and in this context what changes will be required in the methodology and strategy for implementing this goal now?
- What have been some of the experiences of the constitutional route to land reforms in other South Asian countries and what are some of the challenges that they have faced which may also be relevant to Nepal?

Discussion Groups: Part 1

One of the formats that the symposium used was small discussion groups so that different voices and shades of opinion can find a space for articulation. On the first day, the symposium participants formed break out discussion groups on the following topics:

- Federal Restructuring
- Women in Politics
- Democratic Representation, Law and Governance
- Land and Livelihood Issues

Participants were divided into these groups based on their interest and areas of expertise and following the group discussion, each group prepared for a presentation.

The second day of the symposium began with group discussions. Each of the groups was requested to make short presentations of around 20 minutes based on the group discussions and this was followed by questions and discussions.

Security Sector Reforms: Mapping the Terrain in Nepal

The panel on Negotiating Security Sector Reforms in Nepal opened with a presentation that examined the current state of the discourse on security sector reforms and contextualized it for Nepal using a gender lens.

The scope and ambit of security sector reform is determined by the changing nature of the way “security” is defined. Security continues to remain a contested term but the acceptance of the human security paradigm has meant that an exclusive preoccupation with the territorial security of the state has given way to recognition of the security of life and livelihoods of people as important constituent elements in any discussions around security. Consequently, security sector reform
in the contemporary world is not just about disarmament or reducing the size of the army but also covers economic and social dimensions relating to allocation of resources, protection of health, life and property. Security sector reforms today can never be implemented as stand alone programs but must be embedded in a peacebuilding and development vision.

Looking at security sector reforms including issues of demobilization and reintegration through the gender lens also yields new insights and sensitizes us to new challenges which the panel addressed. UNSC Resolution 1325 opened up the larger question of women, war and their multiple roles and responsibilities in peacebuilding and now Resolution 1820 passed in 2008, specifically draws our attention to sexual violence against women during times of violent conflict and the use of rape as a systematic weapon of war. This in turn raises the issue of the steps to be taken to replace the culture of impunity with a culture of accountability, especially in the aftermath of violent conflict – an issue that is at the centerpiece of all security sector reforms.

Some of the central questions at this panel discussion were:

• What are some of the issues around which the security sector debate is being framed in Nepal?

• What are those components of the security sector that have a special resonance for the so called post conflict stage if we map it through a gender lens?

• How do we address the dilemmas inherent in the process of integration of two fighting forces - namely the People’s Liberation Army and the Nepal Army - each with a very different ethos, and trained in very different ways.

• How can the state apparatus with its monopoly over instruments of coercion be used to serve the ends of a new project of state and nation building? What in this context are the new roles and responsibilities of an integrated Armed Force of Nepal?

The panel was followed by a film screening of the critically acclaimed Sari Soldiers, a film by Julie Bridgham which won the Nestor Almendros Price award on the Human Rights Watch festival. Chronicling the stories of six women and their efforts to make a difference to the future of their country, in the midst of an escalating civil war, the film offers the snapshot of a country in the midst of change and turmoil, examining it from several angles and documenting how individuals, in this case, individual women in the midst of conflict can be part of a larger movement and can make a difference. Some of the questions around which the discussion was structured, following the screening of the film included the following:

• What is the link between justice, accountability and the process of national reconciliation?
• How can the voices of victims be foregrounded even as the roadmap to peace is being negotiated?
• What are the tools, processes and frameworks of the justice system that need to be in place to ensure that the culture of impunity is replaced by a culture of accountability?
• From a human rights perspective and in the context of Nepal, should the various mechanisms of what is called the “transitional justice” mechanism such as prosecutions, truth telling, reparations and institutional reforms be sequenced?

Discussion Groups: Part II

Following the discussion around the issues raised by this film, the break out groups discussed and then presented on the cluster of issues around security sector in Nepal. The groups based their discussions around the following cluster of issues:

• Security Sector Reforms in Nepal: Redefining Security using the Gender Lens to Map the Field
• Transitional Justice and its Implications for Nepal: Issues of Accountability and Impunity
• Civil Military Relations in Nepal and Democratic Control of the Armed Forces
• Integration of PLA and Nepal Army: Demobilization and Reintegration through a Gender Lens
India, Nepal and the International Community

The symposium closed with a Panel Discussion on India, Nepal and the International Community: Towards New Partnerships. As Nepal stands at a crucial crossroad and attempts a massive restructuring of its state apparatus, its self definition, its constitution and its institutions to reflect a new vision that incorporates the goals of social revolution (social and economic justice), political change (from monarchy to republicanism) and peacebuilding (moving from armed conflict to consensus building), it will need to also reassess its foreign policy options. As a landlocked nation surrounded by India and China and with the increasing involvement of the international community in its peacebuilding and development projects, what might be the new tools and strategies that Nepal fashions as it redefines its international relations? How would the compulsions of economic rebuilding and aid for infrastructure impact the foreign policy of Nepal? What is the leverage that it now enjoys which it may not have had prior to the Jana Andolan II?

The panel discussion which was chaired and facilitated by His Excellency Dr. Durgesh Man Singh, Ambassador of Nepal to India, and led by diplomats and eminent persons was organized in collaboration with India International Centre, and was attended by members of the Indian cognoscenti and some members of the Constituent Assembly of Nepal.
Introduction

The symposium *Democracies in Transition: Opportunities and Challenges for Nepal* began with introductory comments by Meenakshi Gopinath, Honorary Director, WISCOMP.

Highlighting the efforts of WISCOMP in the area of conflict transformation and peace building, Gopinath elaborated that Women in Security, Conflict Management and Peace (WISCOMP) under the aegis of the Foundation of Universal Responsibility sought to understand the structural constraints operating in the South Asian region that impeded “collective responses to the challenges posed by growing democratic aspirations of the people in the region.” Furthermore, WISCOMP was committed to providing the intellectual, psychological and spiritual space to contribute to the theory and practice of Conflict Transformation and Peacebuilding. In addition, it strove to engender an alternative discourse on security; one that interrogated the parameters of the conventional paradigm of international politics and sought to empower new voices in an attempt to shift the balance in favor of a more people oriented-gender sensitive approach.

Seeking a synergy between experience and potential; between theoreticians and practitioners, this symposium brought together people from across governments, civil society, and political affiliations from different parts of Nepal and India to reflect upon the processes of conflict transformation and peacebuilding currently under way in Nepal. The aim was to create a repertoire of responses and generate a dialogue on the prospects for democracy and governance in Nepal and the South Asian region. She observed that “as a historic process unfolds in Nepal, the people and the states of the South Asian region and indeed the world watch in anticipation, in hope and even admiration.”

The new Constituent Assembly (CA), created as a result of the April 2008 elections, had been entrusted with the responsibility of framing the country’s sixth constitution that would usher in a multi party system reflective of a representative impulse that could set new standards for democratic inclusivity and practice within South Asia. Given that the country was in search of an inclusive democratic mantra for citizenship that would both accommodate and transcend the fault lines of community, caste, class, gender and region, it could provide valuable lessons for other South Asian states.

As Nepal embarked upon the processes of transforming its policy, state structure, religious, cultural identities and its socio economic goals there was a great deal of
interest and concern in the neighborhood about how this trajectory would impact democratic practice, human security, regional cooperation and above all peace and friendship between the two neighbors – India and Nepal. The WISCOMP symposium sought to focus on some of these issues.

She further elaborated that in addition to Nepal, the past two years had witnessed democratic transitions in other parts of South Asia as well—for instance in Bhutan and Pakistan, and more recently Maldives and Bangladesh. Citing a recent study by the Centre for Study of Developing Societies which highlighted “not only how South Asia has been changed by democracy but how the discourse on democracy had been changed by South Asia”, Gopinath underscored that in South Asia “geographically smaller states, were emerging as harbingers of change; altering received scripts on liberal democracies and attuning them to the complexities of the region.”

The WISCOMP symposium therefore provided a unique forum to generate dialogue and understanding through the lens of Nepal’s experience on new approaches to democratic functioning in the region as a whole. It sought to focus on some of the opportunities & challenges in Nepal – both internally (within the country) as well as in the external relations (with other countries). It was hoped that the symposium would provide an exploration of “new opportunities that may present themselves and the pitfalls that need to be avoided,” she elucidated.

Conventionally perceived as one of the smaller developing countries in South Asia, Gopinath remarked that the recent developments in Nepal were a demonstration of a dramatic and unparalleled articulation of people’s power in the country. Providing a recapitulation of the socio-political changes as they had unfolded, she stated that the defining moment in the process (which began with the Jana Andolan of 1989), was the acceptance of constitutional reforms by the monarchy and the subsequent establishment of a multi party parliament in May, 1991. Although this initial period of democratization was followed by a prolonged period of violence and disruption in the form of the Nepalese People’s War launched by the CPM Maoists from 1996 to 2006, the decade long people’s war had ended with the Peace Accord of September and the 12 point Agreement between the Seven Party Alliance (SPA) and the CPM Maoists. Since then Nepal had witnessed a gradual and progressive movement towards establishing a Federal Democratic Republic.

By “rejecting the ossified structures, feudal hierarchies and institutions, this process gave expression to contemporary ideas of equal citizenship”; it set the stage for what many academics called the “Loktantrik Andolan”, a peaceful agitation against the direct rule of the King. Treading through untested waters, the movement brought to the fore completely new and untried processes of negotiations, consensus building and dialogue between erstwhile adversaries to build a preliminary framework of inclusive governance. Although the outcomes were mixed, the process reflected a significant shift from the earlier norms of political cooperation and bargaining.
Formed as a result of a rather elaborate and complex system (approved by the interim parliament) the Constituent Assembly had emerged as the most inclusive parliamentary body that Nepal had ever known, and was a model for other nations in South Asia to emulate. Reflecting on the tectonic shift in the terrain of Nepali politics, she noted that the elections to the CA, in addition to providing a context for the Maoists to become major players in a pluralistic parliamentary setting, had paved the way for transforming a non-inclusive state, ruled primarily by the higher caste, into an inclusive democracy. The long neglected Madhesi community and women too were elected in large numbers, (presently women comprise more than 30% of the CA) with a greater ability to play an influential role. The result was a representative amalgamation in the CA of nearly all ethnic groups that were part of Nepal, an augury to the democratic decision making process, rendering the task of consensus building for drafting the constitution fairly challenging.

The contemporary engagement in Nepal provided a context for learning afresh. Gopinath noted that the new Nepal would require truly innovative and creative approaches to celebrate diversity and inclusive governance especially as it sought to re-envision its social compact in the context of a multi lingual, multi ethnic and multi religious society. Arguing that while in contradistinction to India’s politics of quantitative representation, Nepal has executed the feat of accomplishing both a qualitative and quantitative representative system, Gopinath pointed out that many questions continued to linger, including the capacity of the new constitutional framework to practically address the many contradictions present within Nepali society.

A pertinent question that the symposium sought to explore was “how does post conflict society afflicted by a decade of violent conflict transit to the vocabulary and practice of consensus building and power sharing in preparing the roadmap for an inclusive, equitable and secure future.” In this context, the discussions broadly focused on four themes integral to the public and political discourse in Nepal:

1. Challenges of constitution making;
2. Land issues and land reforms;
3. Security sector reforms; and
4. Rebuilding of partnerships.

24 The unanticipated results of the elections, saw the Maoists winning a majority of seats. Although this majority was not absolute, in the 601 seat assembly, the elections represented a vote for change. The elections gave the Maoists the mandate to lead the constitution making process, something that had not been anticipated by most observers of the Nepali political scene. The defeat of the established and experienced leaders of long standing and their consequent absence in the Constituent Assembly gave a greater sense of leverage to the Maoist majority.

25 The speaker noted that the mutual trust deficit present among the parties enabled the UML, MC and the Maoists to hammer out a consensus on amending the constitution in order to enable a simple majority of the CA instead of a two third majority, to elect and remove the Prime minister.
The symposium aimed to question the modalities of democratic decentralization and the devolution of power – What were likely to be the organizing principles of the federal polity? In this context the following questions gained significance:

- Whether Nepal, like India would be willing to use linguistic reorganization as its federating principle, given that Nepal had a minimum of ten recognized national languages and another hundred indigenous languages, would such a reorganization be possible?

- Ethnically, with its 14 zones and 75 districts grouped into five development regions what would be the geographical rationale for restructuring?

- How will the Pahari-Madhesi dynamics be factored into the federal arrangement? How will the complexities of the movement in the Terai be grappled with and what or who will define Nepal’s roadmap to peace?

- In the process of nation building how will Nepal balance political and economic liberties and rights, especially the right to private property with social equity while meeting the imperatives of land reforms?

Referring to the Indian constitution’s separation between fundamental rights and directive principles (wherein the compulsions of foregrounding the socialistic axioms were designated to the sections on directive principles to remain as aspirations while the nation attempted to focus on economic growth), Gopinath averred that while these issues continued to be crucial for India, they would also be vital for Nepal, as it remained riddled by subsistence and livelihood concerns for a large section of its population. Providing a framework for operationalizing consensus along with setting new standards for transparency, accountability and participatory democracy would be a priority – how will all identities be subsumed within the

Ms. Sanna Selin, Second Secretary, Embassy of Finland, New Delhi with Dr. Meenakshi Gopinath, Honorary Director, WISCOMP
identity of citizenship; will the Indian experience of constitution making, confronted with similar dilemmas of plural, multi lingual, multi ethnic and multi religious societies attempting to forge a unity through diversity, resonate with Nepal’s engagement? She posed the following questions:

- What kind of protection would be accorded to minorities of all hues: religious, political and ethnic?
- How will national security square with people’s security, human security and human rights?
- How difficult will the transition from armed interaction to mobilization through consensus to achieve the goal of social revolution be?
- On a more critical note, would the constitution makers address the growing legitimacy accorded to cultures of militarism in South Asia?
- How will Nepal engage with the discourses of secularism and foreign policy as it transits from a theological nation to a secular one?

The Interim Constitution of 2007 while providing freedom of religion specifically prohibited proselytizing. Comparing this to the debates around the Uniform Civil Code in India, she asked, how would group rights and community rights be crafted in the new equation with personal laws which tend to be regressive from the perspective of gender, caste equity and universal citizen’s rights. Another critical issue was that of land reforms. Remarking that in the psyche of the people of South Asia, the importance of land as a site of both conflict and political interruptions could not be disregarded, Gopinath asserted that on this issue, there were many learnings that could be shared between the two countries.

As far as foreign policy options were concerned, Gopinath noted that given the increasing involvement of the international community in peace building and development efforts, new directions in foreign policy were naturally areas of both interest and concern. Being a land locked country surrounded by India and China, Nepal often got enmeshed in the problematic Sino-Indian conundrum over Tibet. There were a range of issues pending between the two countries. On the one hand, Nepal periodically asserted that India’s “expansionist policies” interfered with Nepali nationalism as well as the latter’s alleged role in stoking Madhesi grievances; on the other hand, India expressed concern over the “revolutionary corridor” for the protracted people’s war in the subcontinent and the creation of a compact revolutionary zone from Nepal across six Indian states including Bihar, Chattisgarh, Jharkhand, Andhra Pradesh and Orissa.

Noting that the links and alliances between the Maoists and the people’s war groups in India were well known, Gopinath pointed out that these ties could either prove to be an asset or a dampener to future Indo-Nepal relations, depending on how it was leveraged. In addition, the tension between India and Bangladesh over the
Siliguri corridor which had a large presence of Nepalese people was another area of significant interest.

Averring that as South Asia stood poised with new engagements offering the world alternative conceptions of power and responsibility, she noted that in this dynamo women would undoubtedly play a major role in shaping the contours of the alphabets for representation and citizenship. Women brought different creative insights to the functioning of the public sphere, and therefore it was no longer feasible or possible to confine them to the private realms. “The abundance of the spirit and commitment amongst the Nepalese women had set a brave example of... making one’s voice count and making the world in some senses a better place”, she asserted. Gopinath shared that WISCOMP had the opportunity to interact with and learn from a formidable network of Nepali women who kept the prospect of peace in the forefront during the height of the insurgency. The women of Nepal, she observed, demonstrated a maturity of political participation that defied the conventional yardsticks of correlating democracy with mere economic growth.

Referring to WISCOMP’s initiatives in Kashmir and Gujarat, Gopinath noted the supreme importance of women’s perspectives in transforming the vocabulary of conflict and attempts to transcend the fault lines of class, religion, caste and region. Part of the resolution lay in dialogue and women could leverage this potential within their expanded often informal networks, whether in their homes, in their communities and in civil society to create conditions and open spaces for dialogue when none seemed to exist. In that sense, interactions such as this symposium were significant. Concluding on an optimistic note, she hoped that women & men in the South Asian region would be able to collectively re-imagine the political space and, work together to build sanctuaries of justice and equity.
India and Nepal: Democratic Articulations and Constitutional Consensus in Multiethnic Societies

In South Asia, democratic articulations have been many and varied; each country in the sub-continent had a unique experience with the functioning of democracy. Furthermore regional articulations gained importance and prominence due to the heterogeneous, multiethnic societies, national governments had to cater to. In this context, the symposium, aimed to “open the accordion, to Nepal’s democratic aspirations one key at a time by initiating the process with a foregrounding in understanding the practices of nation building, the importance of a constituent assembly, and in Nepal’s context, the pivotal role of women.”

The opening plenary at the Symposium was titled India and Nepal: Democratic Articulations and Constitutional Consensus in Multiethnic Societies. Addressing the participants at the plenary, Fali S. Nariman foregrounded the following questions:

1. What were the points of similarity and difference between India and Nepal as they sought to reconstruct themselves – one, as a post colonial state, from the vestiges of a colonial empire – and the other as a new republic where the politics of violent contestations have produced parliamentary politics with a definite socio-economic agenda?

2. How had the Indian Constitution influenced the politics and the politics, the constitution amendments, as the state grappled with fresh challenges and paradoxes of a relatively young nation?

While in most contexts, deliberations on the content of the Constitution, emerged as the core area of contestation; the very process of constitution making itself was fraught with challenges, Nariman opined.

Seeking to demonstrate the various forms and contours the exercise of constitution making could take, he probed whether a nation required a written constitution. He noted that a constitution could contain lofty principals, but it would be valuable only when it worked. Averring that “a constitution is only so good as it works,” he referred to Britain and Israel, two very different countries, but both without a written constitution. Perhaps the justification for drafting constitutions lay in the

26 Comments made by Meenakshi Gopinath, Honorary Director, WISCOMP at the symposium.
fact that “governments felt naked without a book of rules to obey,” which under the
guise of “bringing new hope to people” could be written and re-written. He further
argued that the presence of a written text was not as important as the presence of
a “national leader” who would take the nation through the transition unscathed
and ensure its footing on the road to stability. It was essential to have people of
vision, for instance, it was the inspiring leadership of Jawaharlal Nehru that had
provided this stability to a young Independent India.

Referring to the multitude of opinions prevalent in South Asia, Nariman opined that
drafting a constitution was an arduous task for any nation. India had faced similar
dilemmas with the departure of the British in 1947 wherein the Legislative Councils
which became the Constituent Assembly decided to make a Constitution. Similarly,
for Nepal the task of drafting a new Constitution, was an extremely difficult one.

Adding a caveat, he stated that it was important to ensure that a new constitution
was not an amalgamation of the best provisions from other world constitutions,
but suited to the particularities of a nation-state. Commenting on the unfeasibility
of ‘copying’ constitutions and applying them tactlessly onto the politics of other
nations, he asserted that a constitution must be reflective of the will of the people,
of that nation. If one spoke of a people’s government then it had to be people’s
government.

It was critical to involve citizens in the process of nation making. People must
evolve their own constitution. For the people of Nepal it was important thus to
critically assess how the will of the people would be expressed in the new
constitution? What would be the best system of governance—a panchayati raj, a tier
system, a federal government or a unitary government?

Experiences from India and other countries showed, that those drafting the
constitution must be insiders as “the essence of a constitution is [that] you must
find somebody who is a visionary in your country and ...[who] drafts a small
constitution for his state... It should not be the other way around. It should not be
somebody coming from outside and writing [the constitution] for you.”

Referring to India’s experience of parliamentary democracy, Nariman pointed out
that it was imperative to provide space to diverse and divergent perspectives in
processes of constitution making. Elucidating the inherent system of checks and
balances prevalent in every democracy, he asserted that the constitution as a “good
document of governance, provides an independent judiciary to keep the executive
in check. Furthermore, it was always good to have people who could be relied
upon to stand up when there was any inequity or injustice.” Highlighting the crucial
role that a free media played in this process, he noted that democracy had survived
in India for over sixty years primarily because of the presence of a free media.

He explained, however, that there existed a difference between constitution making
and constitution working. The important lesson about written constitutions was
that they did not work on their own. A constitution, he argued, had to be worked. A constitution would succeed so long as one had constitutional functionaries who were conscious of their responsibilities and aware of their duties. The success of a written Constitution was measured by one criterion alone – viz. whether it worked for its people.

**Constituent Assembly in Nepal: Towards Consensus Building**

Sapana Pradhan Malla’s presentation focused on the major challenges that the CA of Nepal faced.

Asserting that history was a testament to the many political struggles waged to control resources, for independence and power; as well as the high human cost nations suffered in the name of religion, caste and ethnicity, Malla argued that the recent developments in Nepal were truly remarkable in that sense. Nepal had witnessed rapid and unprecedented changes, in a short span of three years during which it had transited from an insurgency to a comprehensive peace process; from a traditional monarchy to a republican state; from exclusion to inclusivity; from autocracy to democracy; and from a centralized unitary system to the commitment of federal structure.

In other words, the new political landscape of Nepal marked an “unprecedented and fundamental change in the social and political history of the country”.

Perhaps, one of the most unique aspects of Nepal’s recent past was the fact that the people’s struggle (in 2004) had been waged for the process of constitution making through an elected Constituent Assembly; the task of constitution making that had been handed to the CA was the result of the Comprehensive Peace Agreement.

Constitution making was an amalgamation of numerous processes. It mandated a congenial political environment of consensus; a commitment to uphold the rule of law; trust and confidence of the people culminating in their participation; the sincerity of the political parties to move towards a democratic constitution; and adequate devolution of power both inside and outside the Constituent Assembly. Noting that, such a process was underway for the seventh time in the political history of Nepal, Malla posed the following question: in what ways was the ongoing process of constitution making as entrusted to the present Constituent Assembly, different from the earlier experiences?

Past experiences revealed that the constitution making process had run into trouble whenever it had been seen as excluding certain communities and groups. Furthermore, the authority to undertake the exercise of drafting the constitution had always rested with the highest offices – whether the Prime minister or the King.
Malla elucidated that the process of constitution making could not be effective without the engagement of all groups in a genuinely participatory and consultative process; the CA could claim to be manifestation of the sovereign will of the people only if it was representative of the diversity of the people.\(^{27}\)

In this sense the ongoing process was truly distinct. It bestowed a sense of ownership to the people, it initiated people into the very process of evolving a consensus on the definition, values and structures that would define the new Nepalese state, it brought people into the critical exercise of constitution making, including those who had so far remained outside these processes – i.e. the socially vulnerable and marginalized sections of the population like Dalits, Madhesis, Janajatis and women.

The composition of the CA was reflective of this. The CA was a montage of these multiple identities, and representative of Nepal’s diversity. A noteworthy development in this regard was the progression of women into the space of lawmaking and politics – a presence that had until now remained nominal. For the first time in Nepalese history, 33% of the CA comprised of women. More importantly this 33% was reflective of the intersectionality of women across the country – with representation of Madhesi women, Dalit women and Janajati women in the assembly.\(^{28}\)

To establish a transparent, accountable and people owned system, time bound rules and procedures had also been drawn up. This further added legitimacy to the process of constitution making.

The election to the CA had initiated a wider process of political transformation—marked both by a growing politics of identity and assertion, as well as a politics of power sharing. While the period preceding the formation of the CA elections, had been defined by issues like abolition of the monarchy, holding of peaceful elections, etc; the current phase was much more demanding and complex. The primary task was to establish an appropriate politico-constitutional framework that would actualize all those promises.

Malla reiterated that the present moment presented a unique opportunity to the people of Nepal, to not only draft a marvelous constitution, but create a system that would facilitate the implementation of the document in both letter and spirit. For this, there was a need to create more accountable and transparent institutions, reform key institutions like the executive, judiciary and bureaucracy and


\(^{28}\) The speaker further pointed out that women had been appointed as chairs in 33.8% of the different Constitutional Committees. However as far as the question of uniting these diverse women and creating a functional process was concerned, despite a 33% presence in the CA, women had not been able to form a prominent caucus.
infuse them with new values, and a new vigor; ensure a system of checks and balances.

Despite a certain political commitment to harness this opportunity, an uncertainty surrounded the process of constitution making in Nepal. The road ahead was riddled with multiple challenges – both internal (challenges within the writing process) as well as external (challenges in the implementation process i.e. in giving ownership to the people and ensuring their substantive rights).

As far as internal challenges were concerned, the current constitution making process continued to be marked by constant political negotiations and bargaining between the major political parties.

Malla referred to some of the issues that remained contentious within the CA. One was federalism. While there was a consensus on the need for a federal structure, there was yet no agreement on the nature of the proposed federalism. Similarly there were problems with regard to the nature of secularism in Nepal.29 What would be the understanding of right to freedom vs. right to religion, she asked. Another area which continued to remain contentious was the system of governance, in particular whether Nepal would follow the presidential system or follow the parliamentary system.

The finer details that were critical to the process of furthering citizens’ substantive rights were yet to be worked out. She elucidated that in Nepal (like in many other countries), only civil and political rights were recognized as fundamental rights. Fundamental rights delineated the negative obligation of the state vis-à-vis its citizens. The positive obligations of the state were confined to the directive principles, as seen in the Indian Constitution. The challenge therefore was to lay emphasis on the positive obligations of the state that were critical to the socio-economic transformation of the country. Unfortunately in Nepal there was no conceptual clarity on the questions of inclusion and equality, which created other problems, particularly in the context of debates on individual vs. group rights31, for instance.

It was imperative to broaden the terms of the current political debates which appeared fixated on the “restructuring” the state, to foreground the need for transforming patriarchal and undemocratic values and mindsets, in addition to transforming the delivery of the state as well as political structure itself.

29 The speaker further noted that Nepal was declared a secular country from a Hindu nation. While there had always been religious diversity, but the challenge lay in translating it into practice, i.e. in ensuring that legal pluralism is based on religious pluralism.

30 Affirmative action was one of the major tools for ensuring inclusiveness but the CA is yet to determine the principle and criteria. For debates on affirmative action in Nepal see Townsend Middleton and Sara Shneiderman, ‘Reservations, Federalism and the Politics of Recognition in Nepal’, Economic & Political Weekly, vol 43 (19), May 10-16, 2008, pp. 39-46.

31 The speaker elucidated that traditionally in Nepal, the mechanism of claiming rights was on the basis of political ideology. While the liberal ideology foregrounded individual rights, on the other side, socialist ideology, focused on collective rights or groups rights.
Given that there were 25 political parties within the CA, the pressing concern was that the differences between the various parties be transcended in a manner so as to bring about a healthy collaboration, and create a balance between them. Furthermore there was a need to evolve a process whereby “people can decide what they want in the constitution with their informed choice”. She noted that the absence of guiding principles for the constitution making process further complicated the ‘consensus building’ exercise within the CA. In Nepal there were fourteen different committees in the constitution making process, however in the absence of ‘guiding principles’, the central problem was how to harmonize the tasks of the different committees. At present there was much competition among the different committees and duplication of work, which prevented them from working optimally.

Arguing that the failure of the CA would not be the failure of one party or government; but instead signify the failure of each political party and each individual CA member, Malla reiterated the need for everyone to build the constitution in consensus.

Elucidating the negative outcomes of the bargaining process between the different political parties eager to gain power, Malla averred that this was not only seriously impeding the constitution making process, but adding to the growing frustration of the populace. This continuing bickering often led to protests, bandhs which disrupted the everyday lives of people. The helplessness of the people was being further heightened by the deepening economic crisis. Such politics may lead to a depleting sense of ownership of the people in the political process, she cautioned.

Remarking that the CA was a negotiating forum, she noted the dialogues/ debates were confined to political parties and the CA members. The need of the hour was to initiate dialogue with people. Referring to the Indian experience of constitution making, Malla asserted that the Indian CA was a remarkable illustration of the process of consensus building and a unique demonstration of the capacity to bind people to the Union. Highlighting the difference between the Indian and Nepali experiments, she noted that while the political history of Nepal was cluttered with instances of creating new constitutions to suit a particular political situation, the Indian constitutional experience was demonstrative of how a constitution could mature with time.

A constitution must be a growing document with the capacity to generate contemporary meaning for each generation. Malla reiterated that Nepal needed a constitution that would display such attributes. She further noted that while at one level the constitution was defined as legal – political document that must address

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32 Here the speaker referred to the experience in South Africa.

33 In Nepal there are 14 different committees in the constitution making process, primary among which is the Constitutional Committee which has the responsibility for finalization of the draft. There are 10 committees which are issue based committees or subject committees and three committees which are process committees, purported to conduct polls, to maintain relations with the civil society and the media and capacity building of the CA members.
the specific grievances of people divided across multiple faultlines like religion, ethnicity, and geography; it was equally important that the constitution be informed by a clear vision of development, as a nation that remained economically backward could not be heralded as politically progressive. Therefore the task before the CA was to draft a politically harmonious constitution that would afford equality, dignity, freedom and justice to the Nepalese people; fulfill their aspirations and bring ultimate happiness to the people.

In his closing remarks, the chair, K.V. Rajan noted that drafting the constitution was the first, admittedly very difficult, yet incomplete step towards realizing the aspirations of the people of a country. In the case of Nepal, there was a need for a combination of things to happen simultaneously and quickly – at different levels and between different stakeholders. As far as the space of the CA was concerned, Rajan noted that while at one level, the Maoists would have to acknowledge that the onus lay with them to initiate confidence building measures; it would be equally important for other political parties to create an environment of consensus and cooperation without which it would be impossible to move forward and have a meaningful constitution. Furthermore, the present moment demanded a shift in the Indian approach as well – a shift from its limited focus on Pakistan to a larger South Asian focus, where Nepal would feature prominently, not only in the official lexicon but also in the multiple conversations between civil society organizations. “Nepal is standing on one of history’s fast treadmills where slowing down or getting off is not an option…”, he asserted.
Representation, Law and Governance

The discussion panel, Representation, Law and Governance: Some Reflections focused on the element of change and continuity in the constitution making experiments in Nepal to explore certain issues that reside before the new Constituent Assembly, like federal restructuring, representation, governance and accountability exploring both the possibilities and the challenges.

Governance and Representation

In his presentation Rohit Nepali addressed the following questions:

• What is the significance of the 2008 elections in Nepal in securing a representative assembly and what are the features that a new template for governance must have to ensure peace and rule of law?

• How is this system of governance linked to the larger peace process that began with the Comprehensive Peace Agreement of 2006 and how is the constitutional change being seen as the heart of the peacebuilding process?

• How can a new template of representative governance address what are described as Nepal’s “conflict residues”—essentially the problems of underdevelopment and poverty, social and economic inequities?

Explicating the significance of the CA elections, Nepali stated that for the people of Nepal, the formation of the CA, marked the beginning of a process of transformation and change – both of society and polity from a traditional monarchy to a modern democracy. For six decades leading up to this election, the CA had been an unfulfilled dream for the Nepalese people.

The 12-point agreement signed by both the Maoists and the SPA in November 2005 paved the way for not only reduced antagonism between the rebellious Maoists and the political parties, but also helped in developing an understanding for them to work together to re-establish democracy in the country. Ultimately, it facilitated the laying down of the foundation of the people’s democratic system post the success of Jana Andolan II. Following the success of the democratic movement and the assumption of power by the leading political parties, the reinstated House of Representatives formally decided to hold the election of the CA at its first meeting. Thus, the CA which, until 2005, had been advocated only by the Maoists and a select group of intellectuals became the priority for the entire country.
The election of the CA was an important step towards strengthening and sustaining democracy in the country and to emboldening the peace process. On April 10 2008, when the election to the CA took place, Nepal went through a silent transformation, witnessing a triumph of democratic impulse rooted in the primacy of ballots over bullets and success of peaceful CA election in a participatory process after a prolonged war.

Although the CA elections produced a fractured mandate, it established the primacy of participatory politics, along with unveiling the mandate for peaceful change. A significant ramification of the same was the need to continue with the politics of coalitions that had been going on in Nepal. The CA election in Nepal strengthened the social base of political power and compelled all political parties to pursue a politics of compromise and foster social democratization.

The first sitting of the CA declared Nepal a federal democratic republic with a mandate to draft a new constitution; strengthen democratic structures based on popular sovereignty, create an inclusive state and usher in durable peace.

Averring that while the CA elections were truly historic, there were multiple challenges that marked the socio-political landscape of Nepal prior its formation, he noted that to understand the challenges that lay ahead of the CA, it would be critical to first comprehend these complex set of variables.

The dramatic restructuring of the state and nation in Nepal, was propelled by the entry of the Maoists into the democratic system following a complex process of negotiation. While on the one hand it signaled the transformation of Nepal from a monarchy to a republican form of governance, on the other hand it implied that the very objectives of the state were about to be redefined. The new constitution therefore would have to provide opportunities for reviewing the root causes of the conflict that had produced the cycle of violence in Nepal ever since the Nepal Communist party (Maoist) began its insurrection in rural areas in 1995.

Furthermore the process of mainstreaming the Maoist (CPN) political parties in the CA election process in adherence to democratic principles laid down by the political parties, was maneuvered by the Nepali Congress (NC) and Communist Party of Nepal Unified Marxist-Leninist (CPN UML). For these parties, the success of the process was dependent on how well they were able to persuade the rest to join the democratic process. For the Maoists, it was contingent upon them accepting the conditions put up by the then leading political parties, which included dissolution

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34 The speaker also provided a vivid description of the impact of the ten year Maoist insurgency that started in 1996. He noted that it cost around 13,995 lives, private and public property including development infrastructure was destroyed, public services were withdrawn or suspended, development activities were disrupted, the law and order situation collapsed and human rights were violated. The rural youth were compelled either to join the Maoists or to migrate to the cities. Madhesi rebellion groups also followed suit, to assert their independent identity in Terai, which displaced many people from hills and mountains.
of the Maoist’s people’s army, people’s courts and people’s government, disbandment of the Maoist-affiliated Young Communist League (YCL), time-bound integration of the Maoist army and disposal of or surrender of weapons to the state, return of the property confiscated by them; rehabilitation of displaced people and; cessation of intimidation, threats and extortion.

This phase was also beset with tensions because of the fact that the process mandated a drastic change in the existing power equations. The transition from a monarchical set up to a functioning democracy required the ruling elite particularly the monarchy, the royalists and the army to respect the verdict of the people. Furthermore, some democratic players like the Kathmandu centric establishment – NC, CPN UML and other parties of the ancient regime – RJP, RPP – too remained anxious about the possibility of a radical turnaround in the political scenario with the impending elections to the CA purported to accommodate emerging political forces such as the CPN (Maoist) and regional parties such as the MJF, TMLP and SP. Consequently, there was the fear that traditional political parties would resort to unlawful means to change the voting results. As far as a change of guard within these parties was concerned, it was felt that the low nomination of the potential youth candidates among NC and CPN UML, despite the emergence of youth leadership in favor of party restructuring could create agitations during the CA election.

In the course of the protracted socio political conflict in Nepal various groups had begun to reflect on their history and identity and several marginalized groups and communities had begun to assert their identity. It was clear thus that the manifestation of sovereign will of the people would be articulated in the constituent assembly only if it was representative of the diversity of the people. Therefore it was critical that the electoral process facilitated the political representation of broad segments of people in the assembly, so as to ensure the inclusion of the hitherto excluded like the Dalits, indigenous people and women in the electoral process. Furthermore, there was the challenge of ensuring the genuine participation and presence, of the Madhesi political parties and the regional parties, that had emerged as an offshoot of the identity based Madhesi movement, in the electoral process.

Therefore while the CPN (Maoist) that emerged as the biggest political party in the elections was given an opportunity to transform its wartime ideology, structures and goal into a mass-based competitive party, old parties like – NC, CPN-UML, RPP, RJP, etc were compelled to democratize internal party structures and

35 The reference here was to the increased political clout of CPN (Maoist) among the marginalized social groups and NC dominated constituencies of Terai and the reactions of NC and CPN UML on the unexpected results.
leadership. The emergence of new political parties – CPN (Maoist), MJF, TMLP and SP – that provided mobility to new social groups in politics – was another important development. It substantially increased the representation of various social groups including women, youth, Dalits and ethnic groups in the 601 member strong CA. The advent of such under-represented groups/ communities to the centre of mainstream politics was perhaps the most prominent feature and achievement of the political process in Nepal.

All these factors exacerbated the possibility of violence given the lax security arrangements that were characteristic of this phase. There was also an authority vacuum in the countryside. Therefore, the challenge was to create a congenial environment for the successful enforcement of the new Election Code of Conduct by the Nepal Election Commission and ensure that the elections were peaceful, inclusive, participatory and gender sensitive. Much depended on the capacity of Nepal’s Election Commission to efficiently manage 74 political parties with diverse ideologies and histories that had registered themselves with the commission, of which 54 actually contested.

As far as participation of the people in the electoral process was concerned, introduction of a new election system in a country with rampant illiteracy, weak public communication, feeble civic education and voters’ information created uncertainties about the possibility of holding free and fair elections. It was feared that insufficient education and sensitization of voters’ regarding the importance of their participation in the CA election, could dampen the process. Furthermore the fear psychosis regarding participation in such processes that had gripped many voters during the Maoist struggle, fed anxieties about the possibility of holding peaceful and effective participation of the voters in the rural and remote areas.

Furthermore the presence of many national and international election observers during the CA election also created suspicion and fear of external influence, electoral manipulation and extra constitutional support towards certain forces. There were doubts regarding the sincerity and commitment of the International Community and Agencies to the ongoing process. There were grave concerns about the management of the PLA inside the camps by the UNMIN in accordance with international conventions, without interfering in the CA election.37

Despite these tensions brewing underneath, the process succeeded due to the concerted efforts of many civil society organizations. After having contributed significantly to making the Jana Andolan II a success, civil society organizations again played a critical role in the phase leading upto the formation of the CA.

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37 The speaker here referred to the possibility of involvement of the two big neighboring countries – China and India, coupled with the US which could move the CA process either in favour of democracy and/or communism.
In this phase, they worked in tandem with political parties and international agencies to resurrect democratic participatory structures in Nepal. The successful completion of the election dispelled all the fear, anxiety and doubts that civil society had with regard to the integrity, commitment and sincerity of political parties, Nepal Election Commission and the UNMIN, given their past histories.

Nepali asserted that despite the reinforcement of the primacy of participatory politics, and fostering of social democratization, the phase leading up to the election also had a flip side. It had unfortunately toughened processes of ‘ethnicization’ and ‘territorialization’ of politics and weakened the country’s sense of national identity. The current political equation, therefore required an adjustment of new forces beyond the ruling coalition, formation of a coalition government, addressing people’s basic needs, ensuring equitable distribution of power and resources by the state and a partnership between public, private and international community for the peace-promoting exercise. The distribution of votes among the parties had given a mandate to build a shared future, abolish the perfidies of authoritarian political culture, engage the political actors into a politics of compromise to make a political transition from authoritarianism to constitutional democracy and institutionalize responsive governance.

Asserting that the new constitution would have to be an embodiment of all this, Nepali reiterated that peacebuilding was connected to addressing the conflict residues, improving the situation of human rights, eliminating conflict producing causes, such as poverty, unemployment, unbalanced regional development, social and political exclusion and drafting of a rational social contract that guarantees the rule of law. Therefore the biggest challenge that confronted the CA was to replace the culture of violence with the culture of participation so as to secure social harmony in the Nepalese state, he concluded.

### Constitutional Legacies: Change and Continuity

Pushpa Bhusal’s presentation Nepal’s Constitutional Legacies: Change and Continuity focused on some significant developments that marked the several rounds of constitution making in Nepal.

It was widely acknowledged that the history of democracy in Nepal was dented by several interruptions. Most of these interruptions resulting from the overthrow of the incumbent political ruler, the installation of a new ruler, and the adoption of a new constitution – Nepal’s fluctuating political history was captured by the fact that

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Nepali civil society supported the democracy movement early and actively through writing, creating a discourse, and organizing street protest action under different banners. During the pre-election phase it prepared a “code of conduct” for the election commission and political parties, drafted inclusive Proportional Representation (PR) process, and documented the demands of the Dalits, Janajatis, women and other marginalized communities. They constantly pressured the Maoists to create a better environment for political parties to campaign in the rural areas. Similarly they lobbied with Madhesi rebels, who by then had virtual control over the Terai, the southern plain adjoining north India, to take part in the CA election. See Nepalnews.com, September 27, 2005.
in a period spanning six decades, Nepal had experienced six constitutions.

For many political commentators, Nepal’s constitutional legacy was thus one pilfered of stability and continuity. While acknowledging that Nepal had seen many rounds of constitution making, Bhusal argued that despite the numerous constitutions, each constitution had its own history, its own raison d’être. There was much to learn from Nepal’s constitutional history and cull out important lessons from its distinct constitutional experience, in additional to drawing on the rich international experience in constitutional making, she averred.

Averring that the history of constitution making in Nepal was unique and complex, she argued that to understand this, one would have to recognize that it was characterized by processes of continuity and change. As far as the elements of continuity were concerned – each constitution from the Interim Constitution of Nepal of 1951, the 1959 constitution, the 1990 constitution, to the present Interim Constitution – endorsed the indispensability of fundamental rights, representative government, parliamentary democracy, independent judiciary, and a multiparty system, Bhusal pointed out.

In order to extract valuable lessons from its constitutional history, it was important to understand the specific socio-political configurations that marked each of these phases. Bhusal pointed out that the adoption of each constitution signaled the overthrow of the dominant political leadership. This was first attained in 1951 through an armed revolution against the century old Rana oligarchy. However, the Panchayat system with its “twin features of active monarchy and partyless system soon replaced democratic rule”, she stated.39 This Panchayat regime collapsed in 1990 when confronted with a people’s movement (Jana Andolan I). Under pressure from the Nepali Congress Party and the SPA of the United Left Front, (ULF) King Birendra was compelled to remove the ban on political parties. He subsequently agreed to the dissolution of the National Panchayat and with some reluctance consented to constitutional reform and a new constitution.40 The major transition that marked the post Jana Andolan I phase was the shift from monarchy to a republic, from a unitary to a federal system and from a single-language to a multi language framework.

39 Nepal’s Fourth Constitution instituted a 4 tier system of panchayats from the village and town through the district and zonal to the national level while barring political parties. The king retained all executive authority.

The 1990 constitution was written in the aftermath of a mass movement that took place in the early years of the 90s.\(^{41}\) Noting that while at one level this constitution brought about important constitutional changes, in a remarkable deviation from the past constitutions, there was a fundamental problem that 1990s constitution failed to address, and that was the incorporation of people’s voices into the constitution making process. Although there were cursory attempts (the Constitution Recommendation Commission had sought public opinion)\(^{42}\) it failed to translate into anything meaningful as far as the constitutional document was concerned. Throughout the process the King and the army continued to exert pressure to reign in any process towards meaningful democratization. Although the main political parties were able to resist pressure to dilute the document’s democratic credentials and an extensive set of fundamental rights was included, people started to raise questions. They demanded direct ownership in the constitution making process in Nepal.

The closed manner in which the 1990 constitution was drafted became a significant factor in the growing demand for constitutional change that followed the Maoist insurgency. The successful Jana Andolan II of April 2006.

The politics of peace settlements which the political parties followed in 2005 led to a qualitative shift in the ‘perception’ of political parties. The Maoists joined the political mainstream and their alliance with other democratic forces resulted in a largely nonviolent but radical constitutional transformation effected by the Interim Legislature under an Interim Constitution, which declared Nepal a federal democratic republic.

The formation of the CA was another historical landmark. It gave a fresh reinvigorated mandate to the political parties to draft a constitution that would be socially inclusive.

Since it was formed in the aftermath of the very successful Jana Andolan II, which pushed the agenda to create a democratic republic, and build sustainable peace, there were some major challenges that confronted the CA. The primary challenge was that this period of transition in Nepal was a test in consensus-building. There were also problems emanating from the dismal state of governance and law and order.

Bhusal noted that the need of the hour, for all involved in the constitution making process was to work together despite their ideological differences so as to a build


\(^{42}\) The nine-member Constitution Recommendation Commission (CRC) made up of lawyers affiliated with the parties and the palace and led by the Supreme Court justice prepared the draft constitution and presented it to the council of ministers.
a strong and unified Nepal. There was need for this consensus building across the political spectrum to achieve change. This would assess the strength of the ongoing political integration under a multi party system, especially in the context of the maiden entry of Maoists into the democratic system – and their movement from insurgency to peaceful competitive politics. Furthermore, the present moment demanded that political actors forsake their desire for power and concentrate instead on the constitution making process.

Arguing that there was no model constitution to be replicated, Bhusal noted that the constitution of each country had to reflect the need of its people. The constitution must act as an instrument of social and economic change and it must have a degree of flexibility to adjust to the changing times. Citing examples from Weimar Germany, Afghanistan and South Africa, she asserted that political integration was the most powerful instrument of cohesion. The constitution of Nepal, therefore must be based on due respect for human dignity and human rights. It must incorporate affirmative action in favor of the minorities, Dalits, Madhesis, indigenous people, Muslims and women’s groups so that they could enjoy equality of opportunity.

The road ahead was indeed an extremely difficult one for the CA. Its success contingent on how well it could work through such a complex situation, tackle the multiple challenges, and draft a constitution that would act as an instrument of social and economic change.

**From Armed Struggle to Consensus Building**

A delicate experiment was underway in Nepal post the success of the “people’s movement”, with an attempt being initiated to put the country on the track of democracy and peace. Far-reaching changes had started with the process of integrating the Maoists into the political mainstream brought on by their emergence on the front-stage of open politics.

To what extent had the Maoists been able to change the terrain of Nepal’s polity, and had this led to the emergence of a new thinking among the Maoists themselves on these issues? Member of the CA, Hari Roka sought to answer these questions by recording some of his observations on the transition of the Maoist party from the phase of armed struggle to the politics of consensus building.

The successful election of the CA ushered Nepal into the second phase post Jana Andolan II – the phase of constitution making. While the strain of the post Jana Andolan phase was on the need to institutionalize the achievements of the peace process and write the constitution, Roka argued that three main contradictions
remained in Nepalese society. The first was between the capital and the countryside; the second contradiction was based on identities like religion and caste; and the third was based on class.

As far as the first contradiction – between the capital and the countryside – was concerned, the post Jana Andolan period had witnessed strong demands for a federal republic. It was argued that unless and until power and resources were fairly distributed amongst the different regions, and not remain concentrated in Kathmandu, existing fissures would not fill up. Therefore, only the creation of a federal republic would be able to address this contradiction.

The second contradiction emanated from faultlines based on identity. In Nepal, the majority had remained under the rule of the minority for the longest time – for over 250-260 years. The issue of identity had become very complex in the last few years. The identity that formed the basis of the 1990 constitution – that of Nepal as a homogeneous, Hindu monarchy was no longer valid. One of the failures of the 1990 constitution was its inability to be inclusive. Nepal was beginning to redefine itself as a nation with multiple identities. The historical socio economic marginalization of different groups and communities like Dalits, women, Janajatis etc for centuries had led to the strengthening of identity politics across the country – those who had for long been kept away from the centre of politics, began to redefine themselves in this phase of identity politics.

Unfortunately even under the Interim Constitution those in power failed to work on their promise of establishing a federal republic. This led to widespread discontent – the spiraling of the Madhesi Jana Andolan was a case in point. There was a demand for a new kind of federal system. Finally, the second amendment to the Interim Constitution rectified this problem. To respond to the growing demands for representation/participation from groups like the Dalits, women and the Janajatis, the proportional representation system was introduced. The presence of about 33% women in the CA was a direct outcome of the proportional representation system.

The second phase of the Jana Andolan was therefore marked by the struggle of different segments of society demanding a more inclusive system. Socially, the centripetal forces led to a demand from virtually all groups, whether of gender, sector, ethnicity, language, or locality, for inclusion in the new-order distribution of rights, resources, and privileges.43 Noting that assertions of identity politics continued to gain strength, the challenge for the new constitution was therefore to deal with these multiple group identities based on language, religion and region, Roka asserted.

The third contradiction emanated from divisions based on class. Class contradictions in Nepalese society are yet to be resolved. Roka pointed out that

this continued to fuel maximum debates within the CA, primarily because of the divergent perspectives of the different political stakeholders on how to address this fundamental contradiction.

Extreme divisions caused by a multiplicity of social factors (especially ethnicity, language, and caste) had led to a skewed distribution of resources and exploitation of the majority of the population. Despite the introduction of several new economic policies between 1984-2007, problems continued to grow. Roka argued that this situation was not unique to Nepal, it had been recognized across the world that such faulty economic policies would not work. Highlighting that this had only heightened tensions by providing, on a continuous basis, evidence, anecdotal and empirical, of how deprived large sections of world population remained, Roka argued that there was thus, a need to re-consider the criticality of the socializing of the means of production and regulation.

The challenges accruing from these contradictions were immense. Given the complexity and enormity of these challenges, it was imperative for all the major political players to work in tandem. However, there continued to be differences on various issues.

Noting that there was a growing talk of restructuring the state, Roka probed what restructuring the state would entail. "What is the meaning of state? How many things are involved in the state? What form of democracy was most suited to Nepal?... Does it entail socio-economic restructuring, political-bureaucratic restructuring, restructuring in the field of security?", he asked.

There was also the question of federalism. Attempting to untangle some of the threads of this complex debate on the proposed federalism, Roka pointed out that a few options were being discussed in the CA.

The first was the Cooperative model of federation. Averring that this was the model that India had adopted, Roka argued that if one looked at the Indian experience of cooperative federalism for the last sixty years, it was evident that the lopsided power equation (with more power and authority remaining with the centre, as compared to the states), had created a lot of difficulties – as large sections of the population, continued to live without basic amenities like food, housing, education and health care.

The second model was that of competitive federalism, as adopted by a few countries around the world. Even this model had its own share of problems. Third was the mixed model.

On the question of which model would work best in the context of Nepal, Roka asserted that the people of Nepal were divided across multiple faultlines. There

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44 Ibid.
were more than 120 languages, 100 races and 7 major religions, plus a significant division between those living in the hill districts, plains and forested areas. Even in terms of administrative units, there were 75 districts.

Given the range and extent of diversities, it was extremely challenging to build a consensus on this issue. Within the CA, while there was an evident slant in favor of a tiered system, the more difficult questions were yet to be answered. How many tiers should be created? How should it be made viable? How will it provide services to the people? Referring to a recent proposal to create 800 districts, Roka argued that such proposals were completely unviable, primarily because the funds required for installing structures on such a large scale were not available.

Another critical area which continued to be marked by a lack of consensus was that of land reforms. Similarly the question of asset distribution and wealth distribution remained equally critical. As far as food security was concerned, only six districts had sufficient food, 35 districts had average supplies, while the remaining districts had sparse or no supplies. Given the enormous deficits in food supplies, what type of distribution system would Nepal need? The state of law and order also remained an area of concern. What type of rights and duties would be made available in the federal system? What would be the state policies on taxation and distribution system? What system of distribution would be needed? There were many such questions that confronted the new Nepalese state and its people.

Perhaps the poorest and most underprivileged sections of the population were concentrated in rural areas. Roka highlighted that most people in the rural areas were living under extremely difficult conditions. 45% of the peasantry in Nepal did not even have 0.5 hectare of land. This indicated that a large section of the population remained without subsistence livelihood, irrigation, or health care. Since 1960s, only 26% budget expenditure had been allocated to agriculture, in a country where more than 86% people were dependant on agriculture. Hardly any attention was paid to these sections, Roka lamented. In this context, one of the major contributions of the Maoists had been to bring all these critical issues to the forefront, and ensure their incorporation into the political-economic agenda.

Seeking to further elaborate the contributions of the Maoists, to the current phase of ‘consensus building’, Roka highlighted some of the positive steps taken by them to achieve the goal of social revolution and address the existing socio economic disparities.

Referring to some of the significant initiatives by the government, Roka pointed out that the Common Health Program for instance had been an extremely significant measure, in a country where the issue of access to public health continued to be limited. Another significant step by the government had been the determination of minimum wages. The government was also trying to provide employment to youth through infrastructure building.
Highlighting that the process of consensus was an extremely challenging one, he asserted that often times, there were issues on which building a consensus seemed impossible. To illustrate this he pointed out that a significant step by the government to fix minimum wages, had come under severe criticism from certain sections like members of industry and commerce, some of whom even went to the extent of calling it undemocratic.

While acknowledging that the government and political parties were working hard to tackle these multiple problems, the severity and complexity of the issues could not be overlooked, he noted. At the same time there was a need to recognize that the desirability of accommodating competing demands in a pluralistic society foreclosed the possibility of imposing political agenda of any one party as an option. The solution perhaps lay in placing people’s perspectives in the context of their respective needs, motivations and interests, at the centre of the ongoing political process.

**Discussion**

Discussion centered around the pressing need for different political parties to work together/through their party/ideological differences in order to build consensus on the substantial issues confronting the country. This was stated in the preamble of the 12-point Agreement of the SPA and Maoists when they came together. However the unrestrained bickering amongst different political parties and the subsequent breakdown of the alliance had further complicated the situation. On the issue of inclusion within the CA, questions on whether any mechanism/systems were being evolved to channelize the voices of the voiceless so as to ensure their participation in the constitution making process, were raised. The role of the Maoist party in the current set up also generated a lot of debate, particularly with regard to strengthening the institutions of governance in the country; their commitment to the democratic ethos as well as their position on India-Nepal relations.

Concurring with the participants that the challenges were enormous, the panelists noted that there was a need to continue deliberations and negotiations not just inside the CA, but also outside it. The primary task of the CA was to draft the new constitution within the stipulated time frame. As far as rising animosities were concerned, it was pointed out that the government had already started negotiations with several conflicting groups and political organizations.

The chair, KV Rajan, observed that going by the number of questions around the role of the Maoists in the democratic system, it was easy to deduce the high expectations that the people of Nepal had from them. Noting that a great movement had taken place in Nepal much of which could be attributed to the Maoists and their subsequent participation in the mainstream democratic process, he asserted that there was a natural tide of expectations within and outside Nepal as a result of these achievements i.e. how well they would work for the benefit of the people of Nepal. Arguing that despite these successes it was necessary to recognize the
pitfalls and mend ways, and this “self correction should be a matter of concern both to the political parties and civil society in Nepal and to its well wishers, and particularly to India for obvious reasons”, he asserted. Finally, it was crucial that people remained committed to respecting and celebrating diversity; tolerant towards dissent. Eventually the success of the process would be contingent on how inclusive it remained. “It was important to also carry as many people as possible along so that it will not be the vision of one leader, one party, however gifted they might be, which ultimately is sought to be pushed through at a pace which the people cannot take or cannot understand or cannot adjust to”, he concluded.
Towards Gender Sensitivity, Social Inclusion and Sustainable Peace

Significant to the process of generating demands for a fresh constitution, was the fact that in the course of the protracted socio political conflict in Nepal various groups had begun to reflect on their history and identity and several marginalized groups and communities had begun to assert their identity. The arrival of the Madhesi parties marked the first round of the battle for representation on the basis of identity, followed by assertions of identity by groups like Dalits, Muslims and Terai minorities. Identity politics had clearly established in the socio-political landscape. As Nepal began to redefine itself as a nation with multiple identities, the need for a new constitution that would provide space to these multiple group identities based on language, religion, and region became imperative. In that sense, the new constitution would not only have to provide space for defining these identities, but create a new social contract redefining what people are, what Nepal is, and what the Nepali community is.45

Underscoring the complete rearrangement of the political landscape, the Chair, for the session titled ‘The Promise of Jana Andolan II: Towards Gender Sensitivity, Social Inclusion and Sustainable Peace’, Meenakshi Gopinath noted that the periphery, comprising the people of the state, had moved to the core of political participation. The primary question was to explicate how these structural changes would translate into a concrete social inclusion policy on the ground that would guarantee the substantial recognition of people’s democratic aspirations.

The session, focused on three distinct dimensions in the process of Nepal’s constitution making – social inclusion, gender sensitivity and the peace process. It also sought to analyze the structural inadequacies in the erstwhile political system to understand the politics of identity that had become so central in Nepal.

A Framework for Social Inclusion

Manju Tuladhar in her presentation titled “Creating a Framework for Social Inclusion” focused on the current discourses around the concept of social inclusion in Nepal.

Laying out the theoretical framework within which social inclusion was being understood and debated in Nepal, Tuladhar put forth two definitions of social inclusion. The first was the definition proposed by the World Bank which defined social inclusion as the removal of institutional barriers and the enhancement of incentives to increase access of diverse individuals and groups to development opportunities. The second derived from Nepal’s 3 Year Interim Plan. More than a

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45 A conference on Constitution making in Nepal organized by the Constitution Advisory Support Unit of UNDP from March 3-4, 2007 at Kathmandu, highlighted the issue of identity.
proper definition of inclusion as such, it delineated a set of categories, phrases and words to help clarify the government’s understanding of inclusion. It stated that inclusion was about ‘respecting dignity and culture’ ‘reducing disparities between excluded and advantaged’, ‘reducing gap in existing opportunities and access’ ‘rightful sharing of power and resources for their active participation’.

To understand the discourse on inclusion, it was important to identify first the barriers that hindered processes of inclusion at both the state and societal level, she noted.

The first could be attributed to the notion of multiple identities. Tuladhar argued that barriers related to gender, caste and ethnic identities were not the only important ones. There were other identity barriers that existed, for instance there were also those related to language, religion, and geographical divides. Further arguing that while new dimensions like region and geopolitics had been incorporated in the discourse of inclusion (the confrontation between the hill people and Madhesis was a case in point), Tuladhar pointed out that other identities like age and disability had failed to become as prominent. Understanding inclusion, was dependant on the acknowledgment of multiple identities, not simply one category, like the gender dimension or ethnicity or caste, but would involve understanding the different intersections and overlaps.

Moving on to the second barrier, Tuladhar noted that in Nepal, the system of patronage remained a big issue. Referring to Dor Bahadur Bista’s usage of the *afno manchhe* syndrome (i.e. into your own person)⁴⁶, whereby he elucidated the impact of patronage on who had access to what, what opportunities were available etc, Tuladhar argued that ‘patronage’ had a definitive bearing on the opportunities open to an individual to enhance her capabilities or gain access to power and resources.⁴⁷

Identifying “the other rules of the game”, she drew attention to structural inclusion/exclusion – the institutions and the norms. Who determined one’s inclusion or exclusion? What were the quantitative determinants of the criteria of selection? How did one gain entry / access to the state or national level?

Stressing that mere presence did not translate into substantive outcomes, Tuladhar noted that it was important to assess capabilities as a parameter of influence and agency. For instance how much were the 33% women able to impact decision

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⁴⁷ This was not only in terms of caste but also in terms of ideology and nepotism.
making? What was their level of agency? How much were they able to influence powerful structures?

Moving from the theoretical articulations to the situation on the ground, she pointed out that Nepal had witnessed a great deal of change post Jana Andolan II. New dimensions had been added to the social inclusion discourse. For instance federalism or the change from the unitary / or centralized state structures to federal state structure, had gained tremendous momentum post Jana Andolan II. While earlier autonomy was attributed only with decentr-alization, i.e. with the question of how to make state more responsible, how to bring decision making closer to the people, post Jana Andolan, it had come to be associated with state restructuring and identity politics. Another significant gain was the shift in focus to the devolution of political power, in addition to the devolution of administrative power.

Describing the movement as one which provided space to fight against discrimination and inequality, Tuladhar noted that it had led to the widening of the social inclusion sphere – empowering the people to demand accountability; arming them with the “right to contest [against] discrimination [and for one’s] identity” and ensuring the right to representation.

There had been a slow but constant movement on issues of devolution of power and self determination from the core to the periphery. Reiterating that there had been significant shift in the discourse on inclusion, Tuladhar noted that the composition of the Constituent Assembly was indicative of this shift. The CA had transformed into a more diverse-colorful space. The discourse on inclusion was
no longer “only about the Janajati, only about women…only about certain goods …but also about people coming from a set geography, certain cultures and speaking certain languages.”

Despite the widening discourse on social inclusion, Tuladhar pointed out that structures impeding structural inclusion were still intact. She questioned the validity of 33% reservation for women, when influential and key positions on committees of governance and administration continued to remain under the influence of the Hill Brahmin Chhetri males. “Therefore [when] talking about social inclusion in, Nepal [one must look] at exclusion as a structural as well as a ‘mindset problem’. It has got to do with how we think, how we express, what belief systems influence our articulation, behaviour, attitude. So it is a very complex phenomenon… Only affirmative action is not going to tackle all those institutionalized barriers,” she pointed out.

Underscoring the need to make the transition from numbers to form; from quantity to quality; from descriptive representation to substantive representation, she scathingly critiqued the state, and its inability to bring about substantial changes in the structure.

Furthermore, social inclusion also required one to probe – “who was creating the knowledge system, what does identity mean, who had the inherent authority to determine which group was advantaged, which was disadvantaged, who was an elite, and who required affirmative action?” For instance, despite the presence of more than 103 ethnic identity groups, the formal listings only mentioned 49 groups. Processes such as these-continued to have an impact on who was included, and who remained excluded. Therefore, there was an urgent need to avoid such glaring pitfalls in the processes of social inclusion (both at the level of state and society).

Tuladhar reiterated the need to bring together the state and societal elements into the idea of social inclusion in Nepal. She stressed on the need to move beyond concepts of formal equality, to incorporating changes that would provide equality of opportunity for the marginalized/underprivileged groups in Nepal. Furthermore there was the need to devolve power and undertake institutional reforms. Noting that changes would be threefold – at a structural level, cultural level and through internal reforms, Tuladhar concluded that the amalgamation of these would lay the basic foundation for the building of a vigorous social inclusion policy in Nepal.

**Women in Politics**

Moving away from a macro discussion on the social inclusion of women and marginalized communities in Nepal, the presentation by Chitralekha Yadav titled ‘Women in Politics: Opportunities and Challenges’ focused on exploring the role of women (particularly those involved in the political process) in bringing about the current transformation in Nepal.
Beginning on a cynical note, Yadav stated that those involved in politics seldom walked their talk. “Politics was more about talking and less about doing. If you have to translate yourself as a doer in the political arena, then your job is finished, because politics expects you to talk more”. Further lamenting on the scenario that politics in general represented, she asserted that a spool of gloom and despondency had come to mark the realm of politics. For this particular reason, talking about women in politics had become even more difficult.

What were the primary challenges that continued to face women in Nepal as they sought to redefine the political space? Was it possible for women in politics to change the extant path and trend of politics? she asked.

Yadav averred that the recent political developments in Nepal had undoubtedly ushered in an exciting time for women in politics. In the present scenario, the CA had played an extremely positive role. It had emerged as an enabling space for the realization for women’s rights in Nepal. There was a need thus for those in parliament and public life to take the lead and extend support to those women who had so far remained outside the political realm. The presence of over 33% women in the CA was a rare opportunity that had opened up for the women of Nepal to reflect on their political and parliamentary roles and responsibilities.

Averring that women’s participation in the democratic processes of Nepal could turn the tide in politics, she pointed out that women must evolve a different language
and vocabulary of politics, which would look at issues of power, even go beyond it, to talk about structural constraints, in the arena of politics. Women had to empower themselves with the skills to transact it.

While acknowledging the opportunities that the current constitution assembly offered in enabling Nepalese women to realize their rights, Yadav pointed out that the presence of women in parliament, by itself did not constitute a sufficient condition for gender equality. She cautioned that the road ahead would be riddled with obstacles given the extent to which patriarchal norms were embedded in our societies. To be able to influence the making of the constitution, it would be important for women to organize within and outside the assembly. She stressed on the need for women to work collectively, across party lines and to stand their ground and fight for their rights in a united fashion. Furthermore it would be important for women in politics to come together across fault lines, at times even defying tradition to attain gender equality and justice.

Further stressing on the need to re-envision politics, she noted that there was a need to infuse spirituality in the political realm. Highlighting the role that women could play in propagating righteousness in the politics of Nepal, she noted that the presence of women in politics would enable others to negotiate the challenges that lay ahead from a spiritual perspective.

While transparency, accountability and the fostering of pluralism were the prerequisites to strengthen the Constituent Assembly as an institution, she added that there were three important traits that must be displayed by those framing the constitution – honesty, wisdom, commitment. Articulating that all political decisions must be based on honesty, she argued that there was a need for a paradigm shift towards New Humanism. It was vital for “the safe and secure future of the Nepalese people, for the peaceful inclusive, just and strong nation…” that all Nepalese people worked together in concert.

Challenges from the Terai

It was widely acknowledged that the current phase of politics in Nepal was defined by identity politics. It was the arrival of the Madhesi parties which, in a sense marked its beginnings. The presentation by Prashant Jha, explored the possibilities of, “building sustainable peace and challenges from the Terai Region” to achieving that goal.

Jha began his presentation by detailing the strategic importance of the Terai region in Nepal which on the Indian side of the border stretched from Siliguri to Uttaranchal; from Poorvi Champaran to Purnia. Attempting to delineate a workable definition of ‘who is Madhesi’? Jha explained that Madhesis were people
“who largely but not exclusively reside in the plains; [who] largely but not exclusively belong to the Hindu caste structure\textsuperscript{48}, [and finally], these are people who share extensive linguistic, kinship, familial, cultural ties with people across the border in Bihar and UP [Uttar Pradesh].”

Proceeding to provide the background of the Madhesi movement, i.e. “the earlier attempts at political mobilization, and what the Madhes movement stands for,” Jha laid out four reasons to explicate the importance of the Terai:

- First, was demographics. 50% of Nepal’s population was in the Terai. The census stated that 33% of Nepal’s population is Madhesis, which in reality was much more. Apart from the Madhesis, people of the hill region lived in Terai, these included the Tharus and other indigenous groups. The combination of the aforementioned factors created a population pressure that made Terai extremely significant to Nepalese politics.

- The second was the economy. The region formed the key agricultural belt in addition to being an industrial hub. Madhesi activists claimed that at least 80% of agricultural produce of Nepal came directly from the Terai region.

- The third reason was the border. As a landlocked country, entire Nepal was completely dependent on the border areas for securing a smooth supply of resources. Any disturbance in the border areas of the Terai would completely cripple the other areas as well as the capital due to their inaccessibility to fuel and raw materials.

- The fourth reason was the historical significance of the Terai. All the movements in Nepal started from the region, beginning from 1951, the underground efforts leading up to 1990, the first Maoist rebellion from Jhapa in 1971, to the Maoist conflict from the 1990s. The political significance of Terai was therefore undisputed within the national framework.

Highlighting that there had been a protracted history of discrimination against the Terai, Jha asserted that to grasp the complex nature of the Madhesi movement, it was important to understand both its similarities and dissimilarities with other people’s movements that were part of what is popularly referred to as the DaMaJaMa (Dalit, Madhesi, Janajati, Mahila Andolans). Akin to these movements, the Madhesi movement also made a strong plea for representation, especially in the bureaucracy, politics and the army. However Jha argued that the Madhesi movement was perhaps the only movement which sought to alter the very notion of Nepali nationalism – it was this specific trait which in fact distinguished it from the other movements. For instance, while the Janajati movement fought cultural oppression; the Dalits, caste hierarchy; and the women’s movement, patriarchy; the Madhesi movement sought to make a dent in the prevailing notion of Nepali

\textsuperscript{48} The speaker noted that there exist Muslims who identify with the Madhesi identity.
nationalism – which rested on very narrow conceptions of the Nepali language and the prioritization of the hill elites as the only true Nepalese. In that sense the Madhesi movement was a movement that sought to produce a more inclusive and united understanding of the nationalist identity.

Tracing the history of Madhesi politics in the Terai and the nature and direction that the movement took in the years preceding Jana Andolan II, Jha pointed out that the Madhesi movement reveled in its history of political mobilization. The Nepali Terai Congress was the first party to have propelled the Madhesi cause in 1951-52 and then subsequently the Sadbhavna Parishad which was formed in the 1980s. The main demands of these parties revolved around the recognition of the Hindi language. Contrary to claims by the Maoists, it was the Sadbhavna Parishad, and subsequently the Sadbhavna Party which first articulated the idea of federalism. Their demands revolved around citizenship rights, which the Madhesis were deprived of for a long time.

On the other hand, Maoist politics had transformed the Madhes issue into a politically powerful one, over the course of the past decade. While earlier parties defined the Madhesi issue in terms of the inaccessibility of citizen’s rights, the Maoists defined it as one of semi colonialism, bringing to the surface the lopsided relationship between the capital and Terai, claiming that the former extracted all resources from the latter.

The January 2007 promulgation of the Interim Constitution acted as the catalyst towards Madhesi political mobilization. Constitutional silence on the issue of federalism by the Maoists was viewed as an act of betrayal by the Madhesi constituency. Furthermore, they felt that the electoral system was inequitable, as it did not provide proportional representation for Terai despite the region’s population. The cumulative result was a spontaneous popular mass uprising, later referred to as the third Jana Andolan –that emerged as the keystone for the movements that would follow.

Moving on to elaborate on some of the current demands, and the strengths and weaknesses of the movement and how it impacted the current peace process under way, Jha noted that certain events defined the political mood of Terai, as well as the reactions from Kathmandu.49

While the Madhes leadership sought to use the combination of the inherent structural weaknesses prevalent in the Nepalese state, and their economic stronghold as leverage, the Nepali state had consistently exhibited a high degree of insensitivity towards the Terai region. Asserting that the Madhesi political movement was as much a movement for symbolism as it was for substantive change, Jha explicated that the gradual disillusionment of the people in Terai due to the state’s lackadaisical

49 Here the speaker was referring to incidents of blocking of trade routes leading up to hill areas, including the Capital, by the Madhesis.
support, was reinforced by the latter’s actions over a significant period of time – for instance as exhibited by the state’s reluctance to recognize Terai’s martyrs, the delay in setting up a commission to investigate police atrocities in the Terai movement; and the failure of the then Prime Minister GP Koirala to recognize Madhesi problems – cumulatively resulted in a massive trust deficit, further increasing the alienation of the Madhesi populace.

There were internal problems that plagued the Madhesi movement as well. Primary among these was the duplicity and the hypocrisy displayed by the Madhesi leadership and their inability to consolidate a political platform to articulate the just demands of the Madhesi people. Given the existence of multiple Madhesi parties, another major problem lay in the inconsistent behaviour of the Madhesi leadership as they moulded their politics in accordance with the political environment in Madhes, Delhi and Kathmandu. Jha explicated that “while in Madhes they pretend radicalism but in Kathmandu they utilize Madhes in an instrumentalist way; a policy that in time will boomerang.”

The third factor to afflict Terai was statelessness. As a result of the Maoist conflict, in the later stages of insurgency, the Nepali government had been compelled to withdraw from the Terai – even police posts were removed from the region. After the peace process began, the Madhes movement gained strength before the state could secure its lost footing again. This resulted in the administration going back on a defensive. The situation was further worsened by the heightening of the ethnic divide – as government offices like the office of Chief District Officers continued to remain exclusively with the Paharis.

The administrative weaknesses due to the legacy of war in addition to Kathmandu’s insensitivity, the Madhesi leadership’s inability to channelize the political discontent and statelessness, led to the emergence of multiple armed groups.\(^50\) Jha argued given that the line between politics and crime was blurred in Terai, it was hard to differentiate whether the aforementioned groups were political groups or criminal groups. The use of non-state elements by political parties for election purposes in Nepal was also prevalent.\(^51\)

The fifth feature, that had remained fairly consistent over the past two years, was the class and caste character of the Madhesi leadership. The base and leadership of most of the Madhesi parties came from the intermediate castes (such as the Yadavs), while the Maoists mobilized the landless and the Dalits during their insurgency in the eastern Terai. Arguing that the core contradiction lay between the Yadavs and the Dalits, the relationship between the Madhesis and Maoists

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\(^50\) The speaker elucidated that for many of these groups political independence was the only solution and they often cited the 1816 Treaty and the 1950 Treaty to justify their cause.

\(^51\) He further noted that politicians were using criminal activities, and criminals were using a political cover. Furthermore as a result of the improvement of law and order under Nitish Kumar in Bihar, activities revolving around extortion and killing were now concentrated in eastern Terai.
became antagonistic, Jha explicated that paradoxically the contradiction did not exist between the big landowners and the landless, instead the major contradiction was between the landless and the middle sized landowners, who were threatened by the Maoist agenda of land reform. Jha pointed out that this had resulted in a situation unique to Madhes, “creating multiple fault lines and multiple layers of conflict.”

Despite a positive step towards addressing the trust deficit (in terms of political representation) with the creation of an inclusive CA, that included significant Madhesi representation, certain problems still remained. Primary among these was the disconnect due to perception – while Kathmandu felt that the inclusion of so many Madhesis into the national framework was significant, on the other hand, Madhesis did not feel the same sense of satisfaction, as people continued to feel that the changes had been superficial. As the tangible/immediate power relations remained unaltered, the sense of anger and alienation continued to linger amongst the Madhesis. Jha explained that such a change would depend on for instance the inclusion of Madhesis into administrative and bureaucratic ranks, i.e. through the appointment of Madhesi Chief District Officers and Superintendents of Police, personnel with whom the common people directly interacted. However, the present context continued to be marked by the invisibility of any such significant attempts to bring about structural changes.

Jha asserted that presently there existed a mix of rage, disillusionment, helplessness and fear amongst the people – while there were apprehensions regarding the intentions of those in Kathmandu, there was anger brewing against the Madhesi parties for not having done enough. Drawing on Peter D’ Souza’s exposition that while at one level greater democratization led to special interest groups having access to power structures; at another level it also resulted in their flouting of all codes of procedure, and using that influence to exercise a political veto, Jha asserted that this was the exact situation in Terai with the political parties having assumed the role of the erstwhile monarchy.

Underscoring that the situation at present was fragile, Jha pointed out that the failure to channelize the grievances of the people could result in the creation of a political vacuum, as the anger of the people continued to simmer. Who would eventually take advantage of that political vacuum was yet to be seen, he submitted.

Moving on to the relations between India and Nepal – Jha delineated two distinct responses to India’s role in Nepal. While many nationalists in Kathmandu held India responsible for fomenting the Madhesi rebellion, others in Terai accused India of having used them as pawns and never really supporting them. Arguing that the first allegation was baseless, Jha retorted that the primary reason for the upheaval was the persistent policy of discrimination that the Kathmandu

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establishment had followed against the people of this region. While acknowledging
that India had channeled some of the sanctioned development assistance to the
Terai region as well (since 2003), whether this shift in approach had an underlying
political motive, continued to remain a contention, he noted.53

Noting that the present situation remained extremely grim, Jha avowed that Terai
was steadily moving towards intractable conflict. There was a need to look at the
Terai in the context of national politics. If national politics was to move smoothly
and if all the political parties in Kathmandu were to work together, then Madhes
would have to come on board, as seen during the Constituent Assembly elections,
he proposed, and the final solution to this conflict would emerge when the genuine
issues of dignity, respect and representation, were addressed, he concluded.

Discussion

Taking the discussion on minority rights forward, Mohamadi Siddiqui highlighted some of the concerns
of the Muslim community in Nepal. She pointed out
that the Muslim community in general, and Muslim
women in particular, continued to be sidelined in
mainstream political processes54. Foregrounding the
question of group/community rights in a secular
constitution, she pointed out that despite persistent
demands that Muslims be recognized as separate
religious community in the constitution, even the Interim
Constitution, had failed to accord due recognition to
the community.

The second discussant, Durga Sob brought attention to the situation of the Dalit
community in Nepal. Arguing that the Dalit community had historically been one of
the most disadvantaged in society, Sob stated that even in the present context, the
community continued to lag behind other sections of society on most indicators of
human development.55 Although the PR system had ensured that all marginalized
groups found representation in the CA56 including men and women from the Dalit

53 The speaker noted that the Government of India was steadily investing in the peace process even while
it followed an ambiguous policy towards the Maoists and Madheri parties.
54 In Nepal, the Muslim population is scattered. They live not only in the Terai but also in the hill region of
Dadeldhura and Gorkha regions.
55 The speaker noted that the Dalit community was one of the most disadvantaged sections. As against
the national average of 31%, poverty within the Dalit community was 47%. The average income was
also very low. 44% of the Dalits were landless. In terms of life expectancy, though the national average
is 59 years, for Dalits it was 50 years. Infant mortality rate was 72/1000 but for Dalits it was 165/1000.
56 It was pointed out that for the first time in the history of Nepal there were more than 40 representatives
from the Dalit community in the CA – there were 49 Dalits, of which 24 were women. However despite
such a good representation, there was no Dalit representation in the 25 Ministries. The representation
of Dalit women in this regard was abysmal. In the recently constituted Committees of the CA, only 2
Dalit men and 6 women had been included. Unfortunately not a single Dalit woman was part of these
committees.
community, this had not translated into concrete action on the policy front as illustrated by the failure of the Interim Constitution to take caste discrimination into consideration.

Seeking to further nuance the debate on social exclusion, she highlighted the entire issue of double and triple disadvantage, as experienced by women from the Dalit community – who faced not only gender based discrimination, but as Dalit women faced both gender and caste discrimination. There was a need therefore to ensure that the rights of Dalits and Dalit women were protected in the new constitution.

Building on the issues raised in the presentations and the discussion thereafter, Sangini Rana Magar placed the very category of ‘women’ under the scanner. Arguing that women did not constitute a monolithic block, she suggested that the specificities of women’s experiences given their specific locations/ affiliations in/to different caste, class, regional, religious, ethnic backgrounds must inform formulation of all policies. Raising the concerns of women from the indigenous community, Magar pointed out that despite the presence of 43,05,314 indigenous women, the Nepalese state had failed to give due recognition to this section of the population. Focusing on this politics of exclusion, she noted that representatives of the indigenous women movements had consistently highlighted the 3Ds i.e. Discrimination, Domination and De-recognition. These were reflected in the constitution, as well as the different policies and provisions of the government. To elucidate that these discriminations were built into the very paradigm of development that the Nepalese state had adopted, she elaborated that even after almost two decades of the initiation of development programs, women from indigenous, Dalit and Madhesi communities, continued to be excluded from government development programs, thereby rendering them voiceless, and creating hurdles for them to participate as equal citizens in the otherwise seemingly heterogeneous-inclusive political arena.

Ms. Durga Sob
Founding Member and
President, Feminist Dalit Organization, Nepal
Land and Livelihood

One of the issues central to the goal of achieving inclusive democracy was land reforms. Inclusive democracy would be difficult to build, so long as historical feudal-patriarchal power relations excluded a section of the population from access to land. Given the centrality of land and agrarian life in the social, economic and political fabric of Nepal, the discussion forum on land and livelihood sought to underscore the opportunities and challenges of carrying out land reforms in the present context.

Seeking to explore the debates on land and agrarian reforms from a historical context, the Chair, Bina Agarwal pointed out that it was with the communist revolutions in Russia, China and Eastern Europe that “the dreaded question [of land] became key”. Although it emerged as the central concern of these movements, the issue of land and land reforms was not limited to only the communist and socialist context, even in other theatres like North America, Africa, Albania, and of course in South Africa, the question of land reforms had been vigorously debated and discussed.

Noting that significance of the land question was undisputed, as a majority of the population continued to remain dependent on agriculture, she argued that the critical importance of land however extended beyond the issue of livelihood. Land was an equally crucial asset for establishing one’s social status, one’s identity, and one’s physical security. The issue of land also extended to the larger question of natural resources. Averring that ownership of land made a difference to the
strength of political clout and social status, she elucidated that “who has land makes a difference, not just in terms of who is able to have the bread…”

Reiterating that it was a much broader question, that could not simply be understood through the lens of sustenance/ livelihood, Agarwal pointed out that many economists found it difficult to understand people’s unwavering obsession with owning a tiny piece of land and their willingness to go through generational struggles just to retain the same, despite debates around the economic viability of really small land-holdings.

In recent years there had been a resurgence of interest in land reforms and the agrarian question, albeit in new contexts and new ways— wherein the World Bank was pressing for market led reforms in some countries like South America\(^57\). In these revived debates, land markets were being seen as the basis of reforms.\(^58\) In India, too there had been a resuscitation of the entire question of land reforms after a long time, “partly because of the crisis of agriculture and the crisis of non-inclusiveness and quality that persisted.”

**Contemporary Challenges**

In her presentation, Renu Rajbhandari highlighted some of the contemporary issues and challenges pertaining to the issue of land reforms in Nepal. The following questions were foregrounded in the presentation:

- Traditionally what has been the significance of land in understanding the social, economic and political fabric of Nepal?
- What has been the link between caste, gender and land ownership in Nepal?
- How does one envision the trajectory of the social revolution being institutionalized in Nepal? How can one cultivate a consistent program of land reforms that promises the land to the tiller through feasible constitutional and legal routes?

Land in Nepal was a means of power, identity and citizenship; it determined social relationships; and even how a person was construed as a citizen of the state. Citing the example of the flooding of the Kosi river, Rajbhandari recounted the government’s protracted delay in coming to the aid of the affected (landless) dalit majority in comparison to its swift action in places where the displaced people were landed.

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\(^{57}\) These were along the lines of reforms implemented in South Africa.

\(^{58}\) The chair questioned the assumption that markets could lead to redistribution since markets had never in the past been egalitarian.
Referring to the previous discussion on social inclusion, she highlighted that in the current political landscape of Nepal, the intrinsic relationship between the question of social inclusion and land reforms was undisputed. To understand why land continued to remain such a contentious issue, it was imperative to comprehend what had been the basis for land distribution in the past. Averring that as an agrarian country where land was the real means of production for the people, she pointed out that historically the ruling class in Nepal had used land as a tool to gain control over the means of production and thereby establish its dominance over the majority. Moreover, Nepal’s feudal and patriarchal structures further complicated the issue of land reforms. Forms of bonded labor like Haliya and Charuwa systems, though illegal, continued to exist in parts of Nepal. Feudal and patriarchal inequities and hierarchies remained deeply ingrained, resulting in the maintenance of the status quo. The entire process could be defined as a vicious circle of exploitation—with self worth attached to land ownership, disallowing the landless their identity and self esteem, she noted. The need of the hour therefore was to challenge the concentration of land ownership and destabilize the extant relations of power.

The history of democratic struggles in Nepal was intimately linked to the land issue. Land was the key issue for most people-centric democratic parties/ movements. It was well recognized that any substantial change in power relations in Nepali society would only accrue from altered land relations.

Briefly tracing the history of land reforms in Nepal, Rajbhandari noted that in 1950, when the first democratic movement took place in the country, the stress was on returning the “land to the tiller”. Regrettably, in a decision that could only be described as “one step forward and two steps backward, the government reverted its earlier decision and decided to give back land to the landowning classes”, thereby sowing the seeds of generational conflict in the country and paralyzing its democratization process as well as governance structure.

Moving on to more recent experiences of land reform, Rajbhandari turned her attention to the 1990 and 2006 people’s movements. In 1990, the land issue was identified in the people’s movement. Heralded as first phase of land reform, it was marked by the growing desire of the people to alter relations of production, to embolden the democratic fervor in the country. However, when the first democratic government came to power, land reforms were not given priority in the government’s agenda. This exacerbated the Maoists dissent on the issue. Infact the strengthening of the Maoists could be traced to the centrality of land reforms in the Maoist agenda. Given that land relations kept the majority in the lower rung of the social hierarchy, they found representation of their issues and concerns in the Maoist agenda, resulting in its historic ascendance to political power.

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59 The surplus value generated by the majority of people who were forced in one way or the other to serve as bonded labour, was used by the minority to establish power and position. This was offered as an illustration by Renu Rajbhandari of how a small minority could enhance its power at the cost of the majority.
Although the alliance between the Maoists and Left parties was a good sign for the country, Rajbhandari pointed out that in the 12-Point Agreement, signed between the Maoists and other parties, the emphasis on land reforms had been compromised.

Furthermore, while the “rainbow” character of the new CA had to be acknowledged, Rajbhandari asserted that it was important to carefully analyze the recently conducted Constituent Assembly election. Arguing that only in areas where representation had been made mandatory, had people from underprivileged/disadvantaged groups come in, she observed, that there was not much willingness to share power amongst veteran ruling groups who wanted to retain as much as possible. In that sense there had been no proactive attempt towards promoting inclusivity, and that all measures taken were pre-empted by mandatory provisions in law; leaving most exploitative relationships and power structures intact.

Underscoring the need to view land rights in a more ‘inclusive manner’, i.e. through the gender as well as caste lenses, Rajbhandari asserted that land must belong to those who manage it, i.e. women. Therefore it was essential to conduct land reforms keeping women in mind. Conceptualizing and implementing land reforms in an inclusive manner was perhaps the biggest challenge confronting Nepal’s renewed experiments with democracy.

Any sincere attempt towards land reforms in the country, would depend on how the political leadership (in this case the Maoists and the Left majority) tackled the following key issues:

- Since Nepal’s bureaucracy was nurtured by political patronage over the years, it would be essential to work towards depoliticizing the bureaucracy to ensure that policies on land reforms are implemented without political interference.

- In the context, of increasing presence of multi national corporations and international donors in Nepal, it was vital to protect land from monopolization by new actors. If land fell into the hands of these actors it would mean mere replacement of monopolists and not elimination of monopoly.

- In order to curb trafficking of women and exclusionary politics it would be essential for Nepal to dismantle the practices of landlordism and adopt holistic reforms and not just place limits on the size of holdings.

**Addressing Inequities**

Hari Roka began his presentation by reinstating the centrality of the question of land reforms in the present political-economic context of Nepal.

Referring to the crucial moment in the history of land reforms in Nepal, he pointed to the phase of land reforms initiated under the premiership of B.P. Koirala. Inspired by the version followed in Japan, South Korea and Taiwan, this model laid emphasis
on giving ‘land to the tiller’. As per the Census records of that time, only 6% households were landless. However the subsequent overthrow of the government by the King, resulted in the termination of this phase of land reforms. According to the 1970s census 17% of households remained landless post the reforms. Under the premiership of Sher Bahadur Deuba too a land reform program was initiated, by providing ceiling or an upper limit to land ownership per households. Subsequently in 1994 when the CPN captured power a Land Reform Committee was set up, to determine the ceiling of land per household.

Arguing that statistical figures could not be taken at face value, he pointed out that there was a need to dissect these figures further. For instance, 45% of those statistically boxed as having land, in reality had only 0.5 acres. He stressed that given that fact that 28% of around 50 lakh households, still remained without land, or any other source of sustenance – the need to carry out land reform was immense.

Arguing that Nepal was a society in transition, he asserted that there could be no transition without transforming land ownership. A democracy where a majority of citizens continued to remain without food, health, education could not be called a democracy. The Nepal Living Standard Survey (NLSS) that began in Nepal in 1995-96, showed that more than 68% of the population remained below the poverty line. Since they had no ownership of land, their condition remained extremely deplorable. In this context, there was no alternative, but to carry out immediate land reforms.

The problem acquired graver overtones when seen in conjunction with the fact that industry in Nepal was not correlated to agriculture. There were three main commodities – carpets, garments and pashmina weaving – which amounted to 68% of the country’s exports. Therefore, more than 67% of its exports remained non aligned with the agricultural sector.

Seeking to explicate the nature of the proposed land reforms in Nepal, Roka pointed out that since in Nepal investment from outside was not easily flowing, the only option was to seek voluntary renouncing of land from the owners. He urged that those in positions of power, must take the lead in doing so. In any discussion on land reform, it would be imperative to assess who needed land the most? Raising this extremely critical question, Roka elucidated that understanding who the landless were involved not just statistics but gauging the situation in all its complexity.

Land reforms did not simply mean land redistribution. It was also linked with the issues of wealth creation and distribution. As far as banking was concerned, there were several banks in Nepal – private as well as commercial. Seeking to explicate the nature of lending policies that were being practiced, he noted that prior to the 1990s the commercial banks earmarked 70% of their lending priorities for the

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60 The speaker highlighted the different models of land reforms, that were available from the varied experiments carried out in other countries in this area – from the American model, Chinese and Russian models, to the new models introduced in Japan, South Korea and Taiwan.
agricultural sector. In practice, however only 2% was provided, despite involving brokers who helped the banks to extend agricultural loans. This made the task of empowering people even more difficult. Therefore the question to pose was, out of the 50 lakh households who received loans from the commercial banks, why only 200 families were being given loans at simple interest rates? This practice had resulted in the concentration of around 80% of all benefits to only 200 households. He further pointed out that 20% out of 80% mentioned was marked out for only a handful of families. This made the scenario in Nepal an extremely grave one.

However, the biggest challenge was the unwillingness of the ruling elite (most of whom were also the landed elite) to disturb the status quo. The primary reason for their reluctance to part with their land, emanated from the fact that land continued to remain a great source of power and authority in Nepalese society.

Categorically rejecting the model of market-led reforms that the World Bank had pushed for in many other countries, (for instance, endorsing the idea of creating a “Land Bank” for assisting the poor in accessing land assets) Roka argued for the “old fashioned land reforms…and fixing of the ceiling for redistribution”.

Concluding his presentation, Roka re-emphasized that priority must be placed upon the nation’s transition. He repeated that first and foremost the land belonged to the tiller, and it was time the political parties went past their selfish motives and interests to bring about concrete change – as removing the gaps between the stated laws and the manner in which it was actually implemented was the key to political transformation.

Discussion
The lead discussant for the session, Kailash Nath Pyakuryal, commenting on some of the relevant issues raised by the previous speakers with regard to the World Bank’s proposal to set up land banks, elucidated that in Nepal it was being argued that this move may work for the benefit of the landlords and not in favor of the poor and landless. The explanation was that landlords’ lands had already been captured by the Maoists. Therefore if the Bank provided loans to the ‘tillers’ to buy the land, it would indirectly benefit the landlords as they could sell the land under the pretext that they were

61 The World Bank’s Background Paper on Nepal: Priorities for Agriculture and Rural Development, states that Tenancy restrictions, high land fragmentation, absentee landlordism, and unequal distribution pose key challenges to tenure security and, in turn, private investment. Land disputes are common, yet most cannot afford to file court cases, and judicial process can be lengthy. Moreover, policy restrictions, such as on large-scale contract farming on various commodities (excluding tea), still remain. The idea of creating a “Land Bank” for assisting the poor in accessing land assets by the Government are worth exploring. For details see <http://go.worldbank.org/D9M3ORHVL0>
not directly working on the land. Therefore, the entire clamor over ‘land banks’ needed deeper probing. Remarking that a similar tussle had begun in Nepal over the ownership of water resources, Pyakuryal asserted that land and water were natural resources, and hence nobody had the right to stake claim over it, or have the right to own it.

To understand the complexity of the land problem in Nepal, it was important to first understand the relationship between landlessness and conflict. The 2001 census showed the skewed distribution of land in Nepal. Farmers had very little land—they had large families, but they had very small pieces of land. On an average these holdings approximately measured 0.6 acres of land per family. During the 10th Five Year Plan (2002-2007), poverty levels reduced from 42% to 31%, on the other hand, however, the income inequality during the same period increased from 0.34 to 0.41%.

To further compound the problem, there was asset inequality as well. At present, more than 20% households remained landless. Arguing that landlessness and poverty were not necessarily correlated, he cited a NLSS Rashtra Bank census, to point out that as per the Census data, despite 90% of the households having land in the far-western and mid-western region, the region continued to witness extreme poverty.

As far as the issue of women’s land rights was concerned, in 1991-92, only 7% women owned land. After a decade there was only an increase of 2% in their land ownership. However, recently concessions had been given to encourage land registration in the name of women, with proposals being put forth for joint ownership of land.

In their 40 point demand the Maoists stated that ownership of land should remain with cultivators, thereby demanding that the land of the rich landlords be confiscated and redistributed to the landless.

Pyakuryal further noted that the most important question was how would a country like Nepal ensure that all households had viable land holding? One perspective was that land redistribution would lead only to poverty redistribution as it would cause fragmentation – the need was therefore to undertake scientific land reforms, and fix ceilings based on different criteria. The other perspective was one promoted by the World Bank which emphasized greater productivity to justify larger holdings. Another option was the possibility of allowing farmers to work as tenants on someone else’s land but ensuring fair distribution of produce instead of overemphasizing ownership. There was need thus to sift through all these diverse options, to find which would be most suitable for Nepal.

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62 The speaker added a caveat that the statistical data available in Nepal was highly suspect.
In this context, would there be private ownership or community ownership of land? There was also the issue of whether or not there should be compensation for those who lost their land. Furthermore, what would be the nature of land reforms; and who would decide that? Given the ongoing debates around federalism, will the decision be made at the centre or will the decision making powers in this regard be given to the districts? He put forward the following questions for deliberation:

- What sort of property rights was Nepal looking to have?
- Whether there should be further privatization or can Nepalese think of collective ways of owning and using land?
- What sort of compensation should be provided?

Concluding that the question of land reforms was extremely complex and challenging, he noted that there were multiple questions that confronted Nepal as it sought to redefine itself as a working democracy.

Responses from the audience ranged from questions on how the fundamental right to property conflicted with the agenda of land reforms; the demand of business groups claiming indigenous land; the ‘correct’ way of going about land redistribution (gender, size, political inclinations, economies of scale); whether confiscation and redistribution were the most suitable mechanisms for land reform; women’s rights in land reforms; denial of basic human rights as a result of landlessness; and land reforms versus agrarian reforms.

In her closing comments, the Chair, Bina Agarwal, argued that the people’s will behind the issue of land reform, questioned who would bring about the change and what it would look like. How does one identify those who should get land so that one doesn’t contribute to further landlessness? Are there participative processes (for instance Lok Adalats) or other methods by which the poor can be identified?, she asked.

Responding to some of the pertinent issues raised during the session, the Chair observed that there was a complete neglect of agriculture. No investments were being made in infrastructure to make agricultural land more productive. Although this was prevalent across the world, the issue was far more serious in South Asia. For instance, despite owning land, many people continued to live in abject poverty. The reasons could range from the unproductivity of piece of land to the lack of credit, to lack of provisions for other input.

Land and livelihood issues would have to be regulated by the constitution and the laws as part of the goal to achieve inclusive democracy in Nepal. Given that land reform was a policy issue, it would be important to differentiate between agricultural land and homestead. Referring to the Indian experience, Agarwal pointed out that in the 11th Five year plan, a recommendation had been made that no household in
rural India would be without their own homestead. It was further recommended that 9-11% of land should be given only in the woman’s name so as to enable her to build a hut and a kitchen garden. This was not agricultural land, however, it was included in the agrarian reform package.

While indicating that the thrust on pattas,\(^6^3\) may not necessarily be the most appropriate, she was even more critical of the proposals to hand over joint pattas to women in stead of individual pattas.

Countering a comment made earlier\(^6^4\), apropos of the higher productivity of larger landholdings, she averred that such an argument in fact undercut the argument for reforms. Drawing from the Indian experience, she noted that comparative study of output levels pre and post the Green Revolution, showed that smaller holdings had higher productivity. In fact the experience in Japan had been similar, where there were huge yields, despite the plots being very tiny. Productivity therefore depended on inputs as well.

Reiterating that ownership holding need not be the unit of cultivation, she argued that there would never be enough land to redistribute, when 90% of population was engaged in agriculture and 20-30% of national income was sourced from it. However, what had been recognized was that even if the plots were small, there was at least the possibility of negotiating in the labour market and starting other livelihood systems. The key however was that “although there were no huge economies of scale, there may be some economies of capital investment, and one way to overcome this is that if you redistribute land, people may own small plots but can come together for cultivation.” “That one can actually bring together land, is an important aspect”, she noted. Referring to a successful experiment in the southern Indian state of Andhra Pradesh, she noted in contexts where land holdings were very small, there was a need to think of collective ways of farming it. Here the stress was on devising bottom up approaches as opposed to the top-down large scale coercive collectivization that took place in many states.\(^6^5\) The alternatives could be found in encouraging group enterprises that would allay the fears of fragmentation—for instance, groups in micro-credit, self-help and women groups in pisciculture.\(^6^6\)

As far as the question of getting land from the market was concerned, Agarwal opined that the idea should not be entirely discarded. However in that context, the

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\(^6^3\) Patta literally translates to land strip.

\(^6^4\) This comment was made by Kailash Nath Pyakuryal.

\(^6^5\) The speaker was referring to socialist regimes and similar experiments that took place in non-socialist states like Tanzania, Ecuador, Nicaragua and in South Asia.

government’s reform package must include measures that would enable the poor to operate on a more egalitarian basis in the markets. She stressed that this must not be construed as a suggestion to eschew redistributed land reform and ceiling, but only as an option that must be made part of the package.

What were the other critical issues? One was the feminization of agriculture. In Nepal, 90% of women as compared to only 60-70% of male workers were in agriculture. Since this percentage was indicative of women who knew farming, the ‘women’s’ question could not remain just a welfare question, it was equally a question of reviving agriculture. Bringing that onboard centrally rather than allowing it to remain on the side was important both in India and Nepal, she argued. Women had to be empowered as a group, and not looked down upon as individual women subjected to violence. Referring to debates in India around Succession and Property Rights, Agarwal asserted that laws related to Agricultural land which were discriminatory had now been made gender equal.\(^\text{67}\) Briefly touching upon the linkage between the women’s question and the land question, Agarwal argued that the “women’s question” must hold centre stage, and be prevented from getting “submerged within the class question.” Gendering the land question would remain critical, especially with regard to the new possibilities it could open up for enhancing women’s land access, she avowed.

She further argued that the identity question of communities must also be analyzed through the lens of gender equality, and the constitution must be the basis for rights rather than shifting customs that were open to interpretation. There was no merit in going backwards on custom, especially when one was framing a constitution which promises equality, she opined. Asserting that the documents should provide all humans rights rather than existing customs, Agarwal concluded by stressing on the need for both India and Nepal to share their learnings and experiences.

\(^{67}\) The chair mentioned the amendment of the Hindu Succession Act in 2005 (which allowed daughters, married and unmarried, to have the same rights as sons in joint family property; enabled them to ask for partition of their ancestral home; entitled married daughters to return home by right) allowed for elements of gender equality to pervade into the lawmaking discourse, and had huge implications for the women’s potential security. Agricultural land which was discriminatory is now gender equal. The extension of the argument being that land owning women were protected; making them less likely victims of domestic violence.
Security Sector Reforms

The issue of security sector reforms remained a live issue in Nepal. The panel discussion *Negotiating the SSR in Nepal – Possibilities and Challenges* sought to explore the domain and scope that SSR would take in the specific context of Nepal. Some central questions were chalked out for deliberation:

- What are some of the issues around which the security sector debate is being framed in Nepal?
- What are those components of the security sector that have a special resonance for the so called post conflict stage if we map it through a gender lens?
- How do we address the dilemmas inherent in the process of integration of two fighting forces – namely the People’s Liberation Army and the Nepal Army – each with a very different ethos, and trained in very different ways?
- How can the state apparatus with its monopoly over instruments of coercion be used to serve the ends of a new project of state and nation building? What in this context are the new roles and responsibilities of an integrated armed force of Nepal?

Mapping the Terrain

In her presentation titled, *Security Sector Reform: Mapping the Terrain*, Rita Manchanda, laid out the contours of the SSR debate as it had developed internationally, specifically in terms of the work done by UN in the context of post conflict societies.

Arguing that the scope and ambit of the security sector stood contested, she stated that the definitions of the same had changed with the changing definition of security. In a nutshell “the security sector includes all organizations responsible for protecting the state and its citizens, and which are authorized to use force, order it to be used, to threaten to use it, and the civil structures responsible for governance and oversight of these organizations.”

Security Sector aimed to create a secure environment for the growth of democratic states and institutions based on the rule of law. Security sector reform consequently referred to the transformation of the security system, which included all actors, their roles and responsibilities and actions, so that it was managed and operated in a manner more consistent with democratic norms and sound principles of good governance. It relied on the ability of a state to mitigate its people’s vulnerabilities through development, and to use a range of policy instruments to prevent or address
security threats that affected society’s well-being. It thus sought to contribute to a well functioning security framework. Responsible and accountable security forces reduce the risk of conflict, provide security for all citizens and create the right environment for sustainable development, poverty reduction, good governance. The overall objective of security sector reform was to contribute to a secure environment conducive to development.68

The thrust of the SSR was the establishment of appropriate civilian oversight of security actors. This broadened the definition of SSR to include a broader range of state institutions, with the military seen as one instrument among many69. Civil-military relations was one of the key areas for SSR. A center piece in the whole SSR discourse, it refers to the democratic control of the army or the civilian oversight and control over the army, Manchanda explicated.

Another reference point in SSR – was the rule of law. This referred to the importance of accountability and the rule of law in the functioning of institutions of coercive power – and the necessity for a greater deal of transparency. She elucidated that the subject of the rule of law, opened up the whole security issue to questioning – What is security and who is security for? In traditional parlance, state security referred to territorial security, security against aggression, security against internal civil war and so forth. In this context, the question of rule of law, facilitated a re-imagining/fashioning of security, by foregrounding the notion of accountability – accountability of the military not just to the political dimension, but also to civil society. In this way, the security question no longer remained confined only to state security.

SSR was deeply tied with the expanding notion of security. It was not military centric or state centric alone, but had very important interfaces with human security. It facilitated the understanding of security in a much more holistic way – in fact it introduced the concept of human security that is security of livelihood, security of health, security of education, thereby opening up the entire debate.

Manchanda pointed out that some argued that opening up/ or expanding the notion, may result in weakening of the core. Recording her discomfort with such arguments, she asserted that security could no longer be understood through the narrow traditional framework. Therefore even in terms of institutions, that fell within the purview of SSR – in addition to traditional security actors (such as the armed forces and police), it would have to include oversight bodies such as the executive and

69 The security community includes the core security institutions (armed forces, police, paramilitary, coast guard, militias and the intelligence services), non core security institutions (judiciary, customs, correctional/prison services) as well as non-statutory security forces (liberation armies, guerilla armies, traditional militias, political party militias, and private security companies). Further it includes security oversight bodies (legislatures and legislative committees, ministries of defense, internal affairs, justice, foreign affairs, office of the president, financial management bodies (ministries of finance, budget offices, auditor general’s office). Ministry of Foreign Affairs, Developing the Security Sector: Security for whom, by whom?, <http://www.minbuza.nl>, December 2007, p.9.
legislature; civil society organizations; justice and law enforcement institutions such as the judiciary and prisons; as well as non-state security providers. Furthermore, there was a pressing need to take deliberations on ‘security’ out of the chambers of army personnel to the space of civil society. The need for greater vigilance by civil society on these issues was undisputed.

Within the discourse on SSR, there was growing recognition that there must be local ownership of how SSR is defined in particular context, rather than “imposing something that comes from donors.” Averring that this line of argument had also found support from the UN, Manchanda reiterated the need for people to discuss and debate SSR for themselves, given their specific contexts.

Moving on to the specificities of the Nepalese context, Manchanda elaborated some of the important issues regarding SSR that resonated for Nepal.

Some of the primary questions related to the democratic control of the national army, the issue of re-envisioning civil and military relations and democratizing the security discourse to include civilians. She averred that as far as the question of democratic control of the national army was concerned, Nepal’s legacy/history had been fairly ambiguous on this count. Infact the first democratic PM of Nepal, B.P. Koirala (1959 to 1960) wrote in his autobiography *Atmabrattanta*, that his biggest mistake was the failure to ensure democratic control of the army.\(^70\) His short tenure witnessed the symbolic transiting of the army elite guard from the Singh Darbar (which was the seat of government) to Narayan Heti Darbar signaling the transfer of control back to the palace. The King became the Commander in Chief, and the use and operations of the army were placed under the King’s order. Although there were a series of developments in the following years, it was only with the 1990 constitution that the characteristic ambiguity that marked civil-military relations in Nepal was cleared.\(^71\)

Drawing attention to the current situation in Nepal, Manchanda pointed out that the present context too was marked by a certain discontent between the civilian government and the military. Much of this discontent had accrued from the recent controversy over recruitments. She elucidated that while it had been agreed upon in the comprehensive peace agreement that a status quo would be maintained, reports of the army inviting applications for recruitment led to friction between the two sides. While acknowledging that the truth was probably many sided, Manchanda argued that what such incidents revealed was the ambiguity which continued to prevail in civil-military relations in Nepal.


\(^71\) The village of Holeri is set high in the foothills of the Himalayas. It is where the Maoist insurgents in Nepal carried out their most successful attack against Nepali Government forces. The Holeri incident happened in July 2001 when the Maoists encircled the police and other district officials. Seventy-two police officers were captured and one was killed. See ‘Nepali Maoists tell of world plans’, July 28, 2001 available at <http://news.bbc.co.uk/2/hi/south_asia/1461630.stm>
In this context, the fundamental challenge was to delineate processes through which the security discourse could be democratized to include civilians. Manchanda indicated that this would require a two pronged strategy – at one level, it would involve the executive, parliamentary committees to look at security issues; at the other level, it would need institutional mechanisms that could bring in civilians for a dialogue and debate on the whole gamut of issues in the security sector, including those of the rule of law and accountability.

Furthermore, critical to these processes of ‘democratizing’, would be the incorporation of a gender perspective in the discourse on SSR, Manchanda opined.

Reaffirming that it was important to bring in a gender perspective, she argued that in the context of Nepal there were two specific aspects of this debate. The first was with regard to UN Resolution 1325 which proposed “the official legitimation of the recognition of women as a category in the context of security and peacebuilding and the need to involve women at every level.” Another more recent resolution, UN Resolution 1820 talked about sexual violence in conflicts, i.e. recognizing the issue of rape as a weapon of war. Arguing that the issue of sexual violence was intimately linked to question of impunity, Manchanda pointed out that in situations of conflict, increasing impunity/non-accountability on these issues, actually worked to reinforce this culture and resulted in increasing levels of sexual violence, both in the public and private spheres. Noting that this was a critical issue for Nepal, she asserted that there was a pressing need to take cognizance of the issue of sexual violence during the conflict, demand accountability for these crimes, and bring the perpetrators to justice.

The other aspect, (which was in a sense unique to Nepal) was the presence of large number of women combatants – almost one thirds of the Maoists combatants were women. Presently the official estimates put the number of women combatants in the UN supervised Cantonment at 3,842 of the total 19,692 combatants. Arguing that experiences of women combatants in other theatres of conflict, revealed that their issues were largely marginalized/ ignored, the challenge for Nepal was whether it would be able to facilitate a gender sensitive integration be or not.

Seeking to further expound the theoretical formulations on SSR that resonated for Nepal, especially in the current debates on integration of the PLA and the Nepalese Army, Manchanda stated that contemporary debates on security sector reforms embraced three inter related dimensions. The first was the political dimension, the second was institutional dimension, and the third was the civil society dimension.

The political dimension dealt with active political control and oversight of the military sector. It indicated that the core of reforms was good governance, including the capacity of the civil society to facilitate debate on security priorities as well as civilian oversight of the security forces. Averring that there was also the question

of the intersectionality of the technical and political dimension of integration, Manchanda pointed out that at present in Nepal there was much reluctance to discuss this issue, especially on the Maoist side.

The institutional dimension involved the institutional reform of the police, the army, the armed police and the paramilitary groups. Elucidating the Nepali context of the institutional dimension, Manchanda noted that while one could not compare the Nepal Army (which was the national army) with the army in the cantonment (PLA); the fact of the matter was that both saw themselves as undefeated. Noting that in this context the entire issue of ‘victor-vanquished’ did not come up, she remarked that this was a unique challenge of post conflict reintegration and rehabilitation in Nepal. There was a need perhaps for a completely different kind of vocabulary.

This was further compounded by the question of reintegrating women combatants. There was another subset- the issue of child soldiers. Any effort to push them back into society could backfire. As witnessed in Sri Lanka, this could lead them to either join the paramilitary groups or get re-recruited. Child rights groups stated that about 10000-12000 soldiers had been sent back. According to the UN, there were about 3000 child soldiers in the camps, who had not yet been sent back.

The third dimension was the civil society dimension. Manchanda elaborated that an important dimension in democratizing the security sector entailed institutionalizing civil society participation in policy reforms for the security sector. Even after the termination of armed conflict, in Nepal the army and police continued to be sources of fear and insecurity, due to their involvement in many cases of human rights violations. This was also indicated in a survey based study done by SAFHR World in 2007 which revealed that people had the lowest trust and confidence in the police, even in comparison to the army. Another aspect related to the institutional dimension was the regional/ethnic exclusions and the politicization of the structures of the police.73

In a context where there was widespread break down of trust, Manchanda asked, how could trust be restored in state institutions, especially in the face of growing polarization, like the one being witnessed in Nepal. Referring to an experiment carried out in South Africa, whereby Army and civil society members were brought together in peace committees,74 Manchanda noted that in Nepal, a similar attempt could be made with members of civil society and the police.

The agenda for reform in Nepal would also include reforming the hierarchical and feudal culture of the army. As far as police reforms were concerned, there was an impending need to work towards the incorporation of a gendered perspective on

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73 The speaker also noted that there was proliferation of the paramilitary groups, for instance the Maoist YCL, Youth Force and the Taran Dasta.

policing. Furthermore there was a need to challenge the factors leading to the militarization of Nepali society at large – with the formation of local militias, proliferation of small arms etc.

Manchanda concluded by stating that the only way to move forward was to place the entire gamut of issues on the table, and work towards building alliances to push forward the debate on SSR in Nepal.

**Challenges of Integration**

CB Gurung in his presentation titled *PLA and Nepal Army: Challenges of Integration* focused on the fundamental challenges confronting the project of integrating two fighting forces with contending ideologies, i.e. the Nepal Army and the PLA.

Gurung noted that the integration of Maoist forces into the national army was part of the 2006 Comprehensive Peace Agreement, which ended the brutal decade long civil war, leading up to the transition of Nepal from a monarchy to a republic.

The political leadership had reiterated that democratizing Nepal’s military and making the PLA a professional army would be a top priority for the new government. He argued that this was perhaps one of the most critical tasks facing the political leadership in Nepal, which would involve working out the modalities of the proposed integration of approximately 23,000 rebels of the Maoist People’s Liberation Army, or PLA, into a unified national army.

Adding to the problem was the fact that there were also differences on the issue amongst the major political parties. For instance, the Nepali Congress was opposed to integration, while the Maoists staunchly supported it. On the other hand, the UML was rather cautious, and had suggested that only those Maoists who were combatants, and had been properly rested in the Cantonment be made eligible for possible integration into security forces, on the condition that they fulfilled certain standard norms. Therefore there was a lack of consensus on the finer details of the proposed integration.

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75 At the request of the Nepalese government and Maoist party, the U.N. Mission in Nepal, known as UNMIN, was established to assist with elections and facilitate the peace process. The United Nations monitors the seven main Maoist camps where weapons are registered and locked away. UNMIN has also been responsible for screening Maoist soldiers. To enter the national army, one must be at least 18 and a proven combatant. To date, about 19,600 of 31,000 candidates have passed the vetting process. The UNMIN was scheduled to expire in late July 2009 but its term was extended to January 2010. For now, some 20,000 Maoist forces are stationed at seven main cantonments, which are monitored by the United Nations at the request of the existing government and Maoist party. The UN mission tasked with facilitating the peace process maintains a 24-hour presence at each cantonment to monitor fighters and the storage of weapons.
Many feared the country might face the worst case scenario – while dealing with the difficult task of carrying out such a merger of two erstwhile adversarial groups, given the complex nature of the issue at hand. Gurung asserted that an encouraging sign was the raging public debate on it, particularly in the media.

Drawing from his own experience as a member of the old Cadre, he elucidated that there were a number of issues that would have to be taken into account to evolve a new thinking on the subject.

The first was related to civil-military relations. Nepal had witnessed radical changes in the last few years, and in this changed political climate, the Nepalese Army, was faced with the task of grappling with the dynamics of a democratic system. This was particularly challenging given its history, Gurung noted. The Nepalese Army, that had for very long functioned as the Royal Nepal Army – with its loyalty to the monarchy, was now faced with the task of accepting the supremacy of the civilian authority. Reaffirming his faith in the capabilities of the army, Gurung noted that despite being faced with this challenge, the army would rise to prove its credentials again, as it had done, many times in the past. In its long history spanning 240 years, it had proved itself at each historic juncture, including the more recent turn towards democracy – during the “2006 April elections, during the CA elections or during the declaration of the Republic in Nepal”, he asserted.

Gurung further argued that those working out the modalities of the proposed integration would have to take into consideration the issue of military ranks, hierarchy and protocol. Noting that one of the biggest challenges of integration of the Maoist combatants and the Nepalese Army would be the harmonization of senior appointments in the days to come, he highlighted that the challenge would be to suitably reconcile the aspirations and interests of officers from both sides in this process. Attempts to integrate the PLA into the military command structure may create seniority problems, and lead to a discordant spurt in the relations, Gurung cautioned.

Furthermore, the integration of Maoist forces into the National Army could also be tampered by the inflated size of the standing army. The numbers of the standing army had swelled from 50,000 troops (when fighting broke out in 1996) to its current level of 93,000, in addition to the 5700 police and another 25,000 armed police personnel (which had come into being only post 2001). Therefore a critical concern was the management of over 200,000 armed security personnel including the Maoists in the present context, Gurung pointed out.

76 The speaker elucidated that Nepal’s 240-year-old monarchy has been abolished. The military – long known as the Royal Nepal Army – has always been loyal to the king. A split remains within the military establishment between senior officers from traditional soldier castes who believe the king should retain a symbolic role, and those who have worked their way up through the ranks and want the king removed forever from the political scene. Also see Jason Motlagh, “Democratic Nepal’s Army Issue”, San Francisco Chronicle, June 30, 2008. Available at <http://www.pulitzercenter.org/temp/Chronicle%2006-30-2008.pdf>
He further asserted that while employing was easy, the challenge lay in slicing numbers. Since recruitment to any military service was justified by the need to fight for a cause, in the context of Nepal, any proposal to rescind, would only be justified with the fulfillment of the stated cause. This remained a contentious proposition since both sides continued to perceive themselves as undefeated.

Affirming that “integration of the two armed forces must go as per the need[s] of Nepal when it is turned into a federal nation,” Gurung argued that the number of armed/security forces would have to correspond to the state’s requirements. There was also the separate issue of more than 3500 female Maoist Army combatants and high ranking officers. “The challenge was how to manage these figures? Should there be specific provisions, or put these number under the gender equality terms and address it in totality?," he asked.

Given the extent of problems, Gurung suggested an important step would be a national security policy, which would act as the guide on the road to SSR in Nepal. He also mentioned that there was a proposal for the formation of a technical team of the CA which would be empowered to take decisions on integration, after the CA finished drafting a policy on restructuring the state and designing a broader national security policy. It would be important to assess the nature of the recommendations that are made by this technical committee, he opined.

The road ahead was difficult given the complexity of the task at hand. It was imperative thus to evolve a major political consensus on these issues. Noting that while technical experts could provide critical input, reform would be a test for the political leadership, claiming to “represent the expectations and the will of the people in a democracy”, Gurung posited. “If you believe that the liberty of the people is important, then there is a need to really have a bigger vision and understand the complexity of this whole problem and then guide us because that is the only way we can solve this problem... Democracy is the name of the game, and there’s no way out,” he concluded.

SSR through a Gender Lens

Sarita Giri in her presentation titled Security Sector Reforms: Through a Gender Lens foregrounded the following questions:

- What are the steps that can be taken to depoliticize the armed forces and ensure that it evoked trust?
- How can the security discourse be engendered and what were the challenges to civilian oversight over public security through a gender lens?

Giri pointed out that debates on SSR had become extremely important across the world. Seeking to trace
the changing parameters of these debates, she noted that there had been a paradigm shift with a growing consensus that security of human beings and their livelihood and not merely the security of the territorial state should constitute the core of the security sector reform discourse.

In the post Cold war phase, 90% of the conflicts had been intra state conflicts rather than inter state conflicts. At one level, the deployment of the army, generally raised to fight external enemy, against one’s own people by the decision makers complicated the scenario. At another level despite the entire focus of academics, activists and policy makers on understanding the dynamics of the internal politics of the country, the presence of international organizations as well as partners definitely brought in new elements. In an era of globalization, growing international assistance and cooperation, SSR was no longer an internal issue for any country. There was increasing regional and global cooperation in the face of global and regional nature of terrorism, issues of environment and climate change, energy crisis. Furthermore the recent financial crisis had increased the mutual dependency of nation states to cooperate on security issues.

Giri stated that SSR in a post conflict situation or in a situation marked by the absence of war, constituted four major issues for debate and discussion. These were instituting peace, institutionalizing democracy, establishing rule of law and paving the way for long term stability.

The situation was more critical in the case of those countries where democracy had not yet been institutionalized; the conflict had in the past caused a break down or created discontinuity in the system of governance and politics, thereby affecting the national politics in entirety and not just in parts. Here the situation in Nepal was different, from a country like Sri Lanka where the conflict had affected only a part of the country.

Where did Nepal stand? Nepal was at a very crucial stage, since the range and complexity of impending issues had the potential to completely derail the peace process. In this context, the need for dialogue on SSR became essential in Nepal for four most obvious reasons.

• First, the attitude and role of the Nepal army in the past towards democracy and democratically elected representatives.

• Secondly, the integration or accommodation of the PLA into the Nepal army as per the Peace Agreement had become a contentious issue.

• Thirdly, the issue needed deliberations from a gender perspective, whether women had been equally affected by conflict – either as peace makers, or as war makers/combatants.

• Fourthly, the non-inclusive composition of the National Army.
The integration/accommodation of PLA into Nepal army was the dominant issue in the security debate scenario in Nepal. Within the political circles in Nepal, the integration issue had been approached from the angle of taking the peace process to its logical conclusion; and not from the broader perspective of security sector reforms. Many had even failed to foresee the possibility of a confrontation with the army. She noted that “the issue gained heat due to the ideology of PLA combatants and Maoists’ insistence upon Jan Gantantra (People’s democracy) as their political goal.” The integration of PLA into the Nepalese Army was being disputed not merely because of the fact that PLA soldiers were ideologically different but also due to the fact that the traditional army in the past had not been supportive of democracy. In the past, Nepal had a political culture where the army had been used to meet vested political interests, therefore there was a fear that this could happen in the future as well.

On the other side, the controversy over fresh recruitments in the army, further led to a deterioration in NA-PLA relations. Arguing that the entire controversy was not simply one of numbers, Giri asserted that it was the politics behind the entire issue that made it so complex. While as per the constitution the Nepal Army was under the control of people’s government, there was a belief that old dynamics continued to remain active. On the other hand, there had been indications from the Maoists circles that they would not be inclined towards integrating the PLA combatants into the NA until and unless they got placement in the command structure. Proposals had been made thus to retain the PLA as a separate unit.

Recently the trust deficit had increased after the Maoists at their National convention passed a resolution stating that they could go for another round of insurgency or programs aimed at seizing state power, if they were forced out of government through legal process. Meanwhile the government in its present policy and program had stated a new Security policy would be formulated. “Until and unless a new security policy was brought to the parliament or the people, it would be very difficult to say which position; which direction the SSR will move”, she asserted.

There was also very little talk about women in PLA. Although there were conflicting claims about the number of women in the PLA – some claimed that 30% of the PLA cadres were women, while there were also reports that only 3000 out of 19000 are women combatants – the issue of integrating women combatants into the army remains crucial. Therefore a discussion on how the participation of women could change the discourse on peace and conflict continued to be sidelined.

Arguing that women fought war to make peace, and not for the sake of war, Giri elucidated that to understand the reasons why women joined the PLA in such large numbers one would have to look at the socio-political context of the late 1990s Nepal. Women joined the Maoists Army primarily because the democratic

77 During the discussion, CB Gurung shared that in three-four years time nearly 20% of the senior army personnel were going to retire. This would be a natural way of downsizing the Nepali Army.
regime of 1999, in the hearts and minds of the rural women, symbolized the same old face of patriarchy and feudalism, she pointed out.

The involvement of women in PLA did have a significant impact on the peace process as well. She argued that had women not been “a critical mass in the rank and file of the Lokaraj, we would have been away from the peace agreement”. While women’s pro-life and pro peace attitude affected the outcome of the war, the political leadership had failed to give women their due place in the decision making process. Not even a single woman was included in the Special Committee on Integration.

Another critical issue was the issue of representation in the army. Large part of the population did not accept the army as the national army or their own army. This was largely due to non inclusive nature of the army – infact representation from the Madhesi groups, minority groups, as well as the indigenous people was either zilch or negligible. For instance, there were only 700-800 Madhesi personnel in the 92000 strong Nepal Army. To many Madhesis, such a huge gap signaled that Madhesi had historically been considered untrustworthy by the established authority at the centre. This was a major sore point on the entire peace process, although the centre was not paying much attention to this. In the Eight point Agreement between the Madhesi parties and the Centre, it was agreed that Madhesi would be included in groups so that the army could acquire a national form. This had not yet happened. Persistent grievances against the non-inclusive nature of the army infact had resulted in some raising their own semi-militia in Madhes. The situation could worsen as many political forces remained committed to political independence of Madhes, and if the issue continued to be unresolved, it could make the political process very complicated, even catapult into another serious conflict in the future.

However the discourse on SSR in Nepal remained constricted to traditional concerns around state security and the army, despite consistent efforts by civil society organizations, women’s organizations and human rights activists to bring attention to human security vigorously. In the aftermath of the conflict, Nepal was yet to define itself as a nation, and so long as processes of nation building remained preeminent, any serious expansion/redefinition of the scope of the debate on SSR to encompass the issue of human security would remain suspended. SSR was furthermore related to state restructuring as well.

The expansion/redefinition of the terms of the debate on SSR, or foregrounding of human security paradigm must also bring into its fold other institutions endowed with the task of maintaining law and order like the judiciary, police, administrative and investigative authorities and intelligence agencies. This becomes vital, since the administrative and the intelligence agencies have in the past been completely politicized, with complete allegiance to those in power.
The possibilities and challenges would depend upon how the new security policy addressed the impending questions. Some of which were the following:

- What should be the size of the army in Nepal looking at its geopolitical situation? How would the composition of the army be altered to make it more representative, while at the same time ensuring that the number of troops corresponded to the country’s requirements?

- Should the army be deployed in internal conflict? Should a model like South Africa be put in place whereby the national army is not deployed against its own people, in an internal uprising or an internal movement?

- How should the army be mobilized? Should power lie with the institutional head or should it lie with the parliament?

- In terms of chronology, how should Nepal proceed? Should PLA be integrated and then the constitution made or adopted or vice verse, or should both processes progress simultaneously?

The success of the peace process would depend upon the kind of answers, or consensus that would eventually emerge around these questions, she concluded.

**Discussion**

Sushma Sharma Ghimire former PLA cadre and present Member of CA, in an evocative intervention shared her own personal story of struggle for equality and justice and asserted that she represented “all those women who have been tortured, killed, mutilated, and those women who have been denied the right of motherhood by inserting sticks into their vagina and by mutilating their breasts.”

Nepali society was marked by grave inequalities, Ghimire noted. She argued that despite the overthrow of colonialism, and the establishment of democracy, the dominance of men over women continued. For decades, women had been denied equal rights. Her own struggle began with the realization that the struggle for equal rights would remain shallow, until and unless the underlying unequal power relations were challenged. There were only two ways through which women could gain their rights – one was through the shastras (scriptures) and the other was through astra (arms). Traditionally women’s duties and responsibilities were delineated in religious texts. However the Hindu varnashrama system denied women the right to education and even restricted them from taking up arms. Thus the second course of taking up arms was the only option left. Asserting that her grandmother and mother had to fight for their rights, Ghimire said that she joined the armed struggle to fight for her rights. It was this realization which eventually led her to join the people’s movement.
Asserting that while the prolonged struggle waged by Jan Mukti Sena and the army of the Maoists, had resulted in the overthrow of the 238 year old monarchy; however as far as gender relations were concerned, “we have not been able to defeat the feudal monarch inside us”, she noted. Therefore there was a long struggle ahead of all those fighting for women’s rights. The struggle for gender rights had to be fought both within the CA and outside. Reiterating her commitment to the issue, Ghimire concluded with the hope that there would be greater support inside the CA to struggles like this.

Deepak Bhatt briefly commented on civil military relations in Nepal. While it was widely acknowledged that civil military relations was an important component of the security sector reform discourse in Nepal, there was some discomfort around the terminology. While all other stakeholders agreed with the term SSR discourse, it was not acceptable to the Maoists given their disdain for the liberal enthusiasm around ‘reform’, without addressing structural concerns. For the Maoists, therefore the thrust had to be on either transforming or completely restructuring the security sector.

Historically, relations between the civilian government and the military had not been extremely cordial. Beginning with the army support to the coup by King Mahendra in 1960 to overthrow the government of Koirala which had a 2/3rd majority in Parliament to more recently King Gyanendra’s move to usurp power with the support of the army.

Civil military relations during the 1990s too were not smooth, despite the perception that the army had accepted civilian supremacy. Although a National Security Council (NSC) was established, the civilian government kept the military at a distance, especially in matters like the defense budget. The Holeri incident revealed the gulf between the two sides, when a request by the then PM to the King, who was the Commander-in-chief to deploy the army was shot down.

The relations in the present context too were extremely complicated—the entire controversy around recruitment to the NA, was a case in point. The simmering tensions between the two sides were marked by a paradox of sorts. He argued that while the army had in the recent past exhibited their willingness to be under the civilian government, despite its prolonged history of subordination to the monarchy/ royalty, the civilian government’s attitude had been lax-in particular on the entire question of the integration of the PLA and the NA.

Despite the Interim constitution stating that the PLA would be integrated in the security forces, not necessarily with the NA, the political leadership had not taken any decisive steps. There was still a lot of ambiguity over fundamental questions like whether the integration would be limited to the NA; or whether a new paramilitary

78 The speaker was referring to the move by the Nepal Army to hire 2000 personnel which was resented by the Prime Minister.
force would be created. Even the structure of the Army Integration Special Committee (AISC) of the political parties had not been finalized. Although there were talks on forming another expert committee, the delay in forming the AISC had adversely impacted the process.

Another looming threat was the militarization of society during the civil war. While on one side the PLA had heavily armed its cadres, on the other side, to counter the Maoists, the army had distributed arms to many in the rural areas; supported the formation of small/local self-armed groups that could defend the villages against the Maoist. In that sense, the cycle of militarization of society was now complete. Porous borders with India further facilitated the circulation and distribution of small arms. In this context, with the strengthening of identity politics and growing assertions by groups like the Madhesis\(^79\), one of biggest challenges for the civilian government would be to address the ensuing militarization.

Till these issues remained unresolved, the Peace process would not reach its logical conclusion. The challenge therefore for the CA was to evolve a consensus on these issues, alongside fulfilling their primary responsibility of promulgating a new constitution for the country.

During the discussion, a range of issues were raised by the participants. Apropos the civil-military relations, it was pointed out that given the internal dynamics of the army, it would be imperative for the civilian government, to wholeheartedly take

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the military on board, to address all these issues comprehensively. On the issue of integration, it was suggested by some that giving the PLA a separate but important role such as an internal security or the border security role, where they have their own structures may be more practical. In the coming years, eventually the success of civil-military relations would depend on how well politicians, bureaucrats and military leaders could work in national interest.

Another participant argued that it would be important to remember, that “the security discourse in Nepal was scripted by… an alliance between the palace, the king and the RNA…. and that was enshrined in all the constitutions, and even when there was a democratic constitution in 1999 ostensibly. Article 118-119 clearly stipulated who was going to deploy the army. So to transform civil military relations overnight is going to be very difficult and so we have to keep that at the back of the mind that this transformation is not going to be easy.”
From Impunity to Accountability: Transitional Justice in Nepal

When considering the question ‘should we remember?’ it is very important to firstly ask, has any victim forgotten? Could they ever forget? Secondly we should ask, who wants to forget? Who benefits when all the atrocities stay silent in the past?

– Roberto Cabrera
Should We Remember?
Recovering Historical Memory in Guatemala, 1998

Seeking to foreground the issue of human rights violations in Nepal, the film Sari Soldiers was screened at the symposium. The film captures the varied contributions of the women of Nepal and their different experiences in bringing about social change in Nepal.

The film documents the different roles and contributions that women made to the political struggle in Nepal. It traces the political journey of Nepal through the eyes of six women who had actively participated in the political transformation from monarchical rule to democratic governance. It is a portrait of a country struggling with abject poverty and ancient beliefs, coming to terms with the necessary realities of democratic space, freedom of expression and non-violent dissent, in the absence of just governance.

Devi, Kranti, Krishna, Rajani, Mandira and Ram Kumari are part of the faceless, nameless masses, till they are drawn into a nationwide fight for justice and democracy. From Devi, who wants justice for her murdered niece and daughter; Kranti, the erstwhile Maoist brigadier commissioner and now a member of the Constituent Assembly of Nepal; Krishna, a staunch monarchist with no time for politicians, and a deep hatred of the Maoists; Ram Kumari, a student political activist; Rajani, a recruit of the erstwhile Royal Nepal Army, now called the Nepalese Army; to Mandira, the winner of the International Human Rights Defender Award in 2006 and 2007, this film takes a deeply insightful and sensitive look at the multifaceted tapestry of thoughts, ideas, ideologies and opinions that have moulded the political, social and economic conditions in Nepal over the last few decades and still continue to do so.

The film traces a dramatic transformation – from a pervading sense of fear, violence and despair to a resounding sense of hope, joy, and development, brought about by a massive people’s movement which compelled the monarchy to finally bow to the wishes of those, it ruled. It captures the political, social and economic atmosphere – from the guerilla wars in dense jungles to the massive rallies of over fifty thousand people on the streets of Kathmandu.
In its quest and desire for justice, it reveals the strong links between the political sphere and the socio-economic lives of the people, and shows how the fight to define a democratic space evolves into a fight to eradicate social evils and economic disparity, and truly becomes a people’s movement in search of a better world.

Discussion

The discussion following the screening sought to explore the complexity, the challenges that women faced in their quest for justice, how impunity persisted and how difficult it was to challenge it.

Mandira Sharma, one of the protagonists in the film, shared that there were many issues around Human Rights Violations that continued to resonate in Nepali society. By tracing her own life’s work as a human rights activist, she raised two important questions—firstly, can sustainable peace be secured in the absence of justice; and secondly how can the prevailing culture of impunity, be challenged?

Commending the film, Sharma asserted that films like this became significant as they documented the oft forgotten/ or rather erased, presence and contributions of women in processes of social change; for instance the role that women played in ushering democracy in Nepal in the recent past. Acknowledging that it was difficult to bring in all the different perspectives that women brought to the struggle, Sharma focused on her own personal journey as a human rights activist, to identify some of the major challenges that activists faced in their struggle for justice.

Sharma shared that the success of Jana Andolan II ushered in a new era of hope for the Nepalese people who had suffered gross human rights violations, during the many long years of the conflict. The people’s expectations were also raised by the various political parties, which sought to garner popular support by promising that all necessary mechanisms would be established and the perpetrators brought to justice. This brought hope to a society emerging from a phase of violence and human rights violations that the political leadership would secure necessary mechanisms that would ensure that the truth would be told, justice done and reparations provided to all the victims.

During the people’s movement in 2006, Nepal, was going through a unique democratic experiment of nation-building. During this phase, it was due to the persistent efforts of activists that political parties agreed to incorporate the human rights (HR) agenda in the peace agreement, and a commitment to initiate processes to “investigate truth about those who have seriously violated human rights and those who were involved in crimes against humanity in course of the war and to

Ms. Mandira Sharma
Executive Director
Advocacy Forum Nepal
create an environment for reconciliations in the society”. This was incorporated in the Comprehensive Peace Accord, signed by the Government of Nepal and the Communist Party of Nepal (Maoist) in November 2006. The document which emerged out of the peace process, therefore included provisions for setting up transitional justice mechanisms, mechanisms such as truth and reconciliation commission, commission of inquiry on disappearances, high level peace commission to investigate the many cases of gross HR violation, of humanitarian law and abuses that occurred during the 10 years of insurgency.

However, the expectations were soon compromised as even after the termination of conflict, human rights violations continued to occur. A fundamental problem that stalled any sincere efforts was the persistence of a culture of impunity. Despite the documentation of several hundred cases, hardly any perpetrators had been brought to book. Asserting that this exposed the gloomy side of the peace process in Nepal, Sharma argued that this would cast a shadow on the democratic future of Nepal. Until and unless a system of accountability was established and the confidence that people had at the onset of Jana-Andolan II was restored, the democratic aspirations of the people would not be fulfilled, and the peace process would not reach its logical conclusion, she asserted.

Sharma further pointed out that within the existing criminal justice system it was the responsibility of the state to carry out all necessary investigations in cases of human rights violations. The police was supposed to prepare all the necessary evidence and take it to the public prosecutor, who was responsible for bringing the case to court. These procedures further debilitated the victims, by denying them direct access to the court in such cases. The problem was further compounded by the fact that in the absence of any other mechanism, it was almost impossible to register cases where the state machinery was itself involved in the crime. In such cases, there was absolutely no investigation, no accountability, she highlighted.

Affirming that this was not just a problem of law, she argued that this was actually rooted in the historical inequalities that existed in the Nepali society. “This is the question of power as well, this is the question of equality as well, because those who are in power cannot be challenged at all. It has not happened in the history of Nepal”, she noted. For instance during the 1990s movement, a commission was formed to investigate human rights violations. Despite a number of perpetrators being identified by the commission, a decision was taken to provide blanket immunity to those who were involved in HR violations in that period. The argument was that it was necessary to forgive and forget to stabilize and secure the nascent democratic processes in the country. This really destroyed people’s confidence in the system. It was during these years that the Maoist struggle gained strength – with the Maoist movement making the quest for justice, fundamental to their struggle.

Furthermore most actors involved in HR violations in the past, continued to remain in power. Elucidating that “neither the Maoist army nor the Nepalese army feel that
they are defeated, and other political parties who were in the government at that time when most HR violations happened... are still in power in the existing system”.

Therefore, despite the incorporation of provisions to deal with the past injustices and pave the way for truth, justice and reparation, the complete lack of commitment to the cause and willingness to address the issue was the biggest roadblock.

To enact the government's proposal to set up a truth and reconciliation commission, a legislation had been drafted. This initial draft of legislation included a clause that any crime committed for achieving the political will or duty would not be persecuted and the accused would be given pardon/amnesty. This was fiercely contested by civil society organizations (CSOs), who argued that this would absolve both the Maoists and the security forces of violations committed by them under the pretext that the crimes were committed to further their respective political duties. Faced with increasing pressure from CSOs, the government finally decided to not incorporate this clause.

Sharma argued that questions of this nature would have to be thoroughly examined in any proposal on security sector reform, as failure to do so would deeply dent the establishment of peace in the country. Restating that the legal apparatus and state institutions only worked to secure complete immunity to those in positions of power, infact working to institutionalize it, she asserted that in this context it was critical that an independent body like the national human rights commission be given the mandate to carry out criminal investigations of this nature. Only then could we hope to strike at the root of this culture of impunity, she remarked.

The struggle was to overcome such structural problems – for instance, the inherent problems in the criminal justice system under which people struggled to find justice for victims of HR violations. Sharma asserted that it was important to analyze the structure of the justice system. Since Nepal was on the verge of drafting new constitution, there was a pressing need to rethink these aspects. It was the perfect opportunity for Nepal to confront its past and ensure that such mistakes were not repeated in the future, she asserted.

The lead discussant Sushma Sharma Ghimire, highlighted the significant role that women had played during the course of the people’s war. Remarking that woman’s participation was critical to the progress of any country, she noted that Nepal’s success too was contingent on recognizing the immense contribution that women had made in the past and continued to make at different levels.

As far as the agenda of security sector reforms was concerned, Ghimire argued that SSR would only work if it was conceptualized and implemented in a comprehensive fashion. Given that the culture of impunity was so widespread and deep seated in Nepalese society, SSR could not be merely limited to the army – it would also have to look at the judiciary, police, and the bureaucracy. “Without
reforming the bureaucracy, without reforming the judiciary, without reforming the police and armed police, and the army it cannot move ahead”, she argued.

Moving on to the issue of integration of the PLA with the Nepalese Army, Ghimire asserted that any such move would have to necessarily be preceded by a process of identifying and bringing to justice, all those accused of committing HR violations (HRVs), from the Nepalese army. A similar stance should be adopted with regard to the rank and file of the PLA as well. The process would not be successful unless all those who were guilty – whether from the army, PLA, party leaders, comrades or allies – are brought to justice, she asserted.

By way of closing the session, the Chair, Rita Manchanda proposed that a comparative framing of the issue of HRVs was perhaps in order, given that each nation in the South Asian region had multiple experiences of HRVs – whether it is in Nepal, Kashmir or Sri Lanka.

From the gender perspective, one such issue was the question of women’s role in combatant forces. As far as the experience of women combatants in Nepal, was concerned, Manchanda pointed out that they were constricted to very strong gendered roles despite their entry into the armed groups. A case in point was the popularity of women cadres in tasks like parachute folding–since women had nibble fingers, they were better at parachute folding, she explicated. Referring to Hisila Yami’s book *Women in the People’s Liberation Struggle*, Manchanda asserted that women’s role as combatants had resulted in a complex debate on whether this led to women’s empowerment, or only furthered the militarization of society. She concluded by saying that this was the big black hole, which confronted feminist theorists and activists all over the world.
India, Nepal and the International Community: Towards New Partnerships

While the preceding sessions had attempted to explore the many processes underway in Nepal as it attempted a massive restructuring of its state apparatus, its self-definition, its constitution and its institutions to reflect the goals of socio-economic justice, namely, political change from monarchy to republicanism and peace building, from armed conflict to consensus building, the final session of the symposium shifted focus to the impact of this internal transformation on its external relations, in other words the need for a reappraisal perhaps of its foreign policy options, specifically with regard to its bilateral relationship with India.

The first speaker of the session, Dipankar Banerjee remarked that Nepal was at a moment in history, where it was bustling with new opportunities, to create a new Nepal and a national order. Currently, Nepal was engaged in building a multi-party democracy based on inclusiveness, accommodation, dialogue and the recognition of the supremacy of popular will. Simultaneously it was confronted with new challenges in this phase marked by tremendous upheavals and transformations. It was indeed a unique and historic opportunity for Nepal. The unique resolution of complex political problems through a peaceful mobilization, was in fact, a remarkable example that had been set forward in international relations.

The new agenda of the government was to bring about socio-economic transformation of the country. In this context, cooperation of the international community was vital. Inter-nationalization and engagement with the world in a comprehensive, cooperative manner was a necessary condition for the rapid socio-economic development of Nepal as it would provide the enabling conditions which could facilitate the realization of these goals.

Banerjee noted that the democratic and republican Nepal of today was a Nepal with a favourable global image, and considerable amount of goodwill. As the winds of change blew over Nepal, the onus lay with the people of Nepal to delineate how they wanted to engage with the International Community – what would the new ideas, new parameters, and new means and measures of engagement be?

Therefore, it was a historic time for Nepal, to strengthen its commitments to win partnership with the international community to bring about the desired socio-economic transformation in Nepal, and demonstrate to the world the commitment and the capabilities of the Nepalese people.
For Nepal, it would be important to learn from the best practices across the vista of international relations as well as international development. In this context the development of the constitution would play a vital role, as the establishment of the rule of law was an absolute pre-condition for further development. He further noted that this also provided a tremendous opportunity for the international community to partake in this historic endeavour, and extend support to the people of Nepal.

However there were tremendous challenges confronting both Nepal and the world, at this critical juncture. Internally, the lack of infrastructure was the biggest challenge to Nepal's development. One potential that Nepal could tap was hydro-power development. Furthermore, it would be critical to develop and work according to a time frame to match the requirements and the compulsions fulfilling its commitment to the Millennium Development Goals.

The world was reeling under an unprecedented global economic melt down, which had far reaching consequences. One was the recoiling of support that the developed world offered as Global investment funds were no longer available, and the investment climate remained inadequate. It would therefore require strong policies to promote cooperation between countries in the future.

Furthermore, the current challenges of global food insecurity and climate change too confronted Nepal. Banerjee pointed out that Nepal was one of the countries most susceptible to rapid climate change. Unfortunately, till date no strong international action to rectify the possible damages of climate change had been taken in the region.

Banerjee hoped that despite these numerous challenges and hurdles, the international community would respond in a positive manner. Much would depend on the manner of its engagement and eventually the future will be shaped and determined by the Nepalese themselves, and through effective diplomatic engagement amongst all stakeholders.

Partnership with international community could be established by setting an example within the SAARC. Banerjee argued that although the process may take time, there were enormous possibilities within sub-regional organizations like SAARC, which needed to be further explored. Commenting on India-Nepal relations in the age of new partnerships and its impact / ramifications on the SAARC Process, Banerjee asserted that India was very keen to bolster its ties with Nepal in the future. While reactions from the Indian side were extremely positive and good, much was dependent on the way in which Nepal would move to re/define its relationship with India. For India, Nepal would always remain a close partner, he reiterated.

The second speaker, Shyam Saran began his presentation with the assertion that the transformation which had taken place in Nepal had several dimensions. The first dimension was its generational character. Given that a large section of its
population was fairly young, and had exposure to the rest of the world which perhaps
the earlier generations of Nepalese did not have, Saran stated that as a young
country, it needed a different direction, a different kind of vision. Therefore the
people who wished to re-structure the politics of Nepal, needed to acknowledge
the generational change that had taken place in Nepal, he opined.

Another dimension of this change, was that “the entire diversity of Nepal had come
bubbling to the surface”. For many decades – the diversity of Nepal in terms of
different ethnicities, religions etc had not been very apparent to the rest of the
world, perhaps it wasn’t so apparent within Nepal itself. With the first phase of
democratic change which took place in the early 1990s, as well as the many years
of political conflict and turbulence in the country, many groups who were voiceless
in the old order – (for instance many ethnic groups, Madhesi groups in the South,
some lower caste groups in the north) – began asserting themselves. For the first
time in the history of Nepal all these different, diverse sections of Nepal’s society
started crying out not just for recognition of their identities, but also for inclusion in
the ongoing re-structuring processes. These assertions manifested in claims that
the new democracy could no longer be an elitist democracy that had emerged
from the early 1990 movements. Therefore, the constitution making structure, the
CA had perhaps emerged as the most inclusive forum – with the presence of myriad
groups. Stating that “this genie can no longer be put back in the bottle”, Saran
said that the neighbourhood and the world were looking at how Nepal would meet
this particular challenge successfully.

What were the international aspects of the transformation in Nepal and how would
the international environment impact on what Nepal wished to do for itself? Nepal
was one of the most recent examples of a transition from a very debilitating
insurgency (that had ravaged the country over the last several years) into a
participatory democracy. This was one of the most important assets for Nepal;

Amb. Shyam Saran, Special Envoy of the Prime Minister of India on Nuclear Issues and
Climate Change Issues, speaking at the Panel discussion
a very rare success where different political groups, antagonistic for a considerable period of time had come together to establish democracy.

Although many had expressed scepticism about the potential of democracy to succeed in Nepal, Saran argued that despite the fact that it was a work in progress, this success must not be underestimated. Infact in the past couple of years, there had been several instances where interests/ positions of various stakeholders had collided, sending out alarm signals about the future of Nepal. However despite certain rough patches, a complete breakdown had been averted, through timely negotiations, and compromise. Arguing that all these were important features of democracy, Saran noted that the “constant bargaining/ horse-trading should not be looked down upon as compromising the essence of democracy.”

Reiterating that Nepal was one of the few successful examples of such a transition in recent years, Saran pointed out that there was tremendous goodwill that Nepal enjoyed in the world community. Infact there were many who were eager to claim the success in Nepal as their own–like the UN, EU and even India. He argued that there was a positive slant to such ‘claims’ as well – and very few countries had such a benign and supportive international environment as Nepal did. Given the range of challenges facing the country, it was critical for Nepal to draw upon all this sympathy, and make this their developmental requirement. However, “whether or not Nepal could take advantage of it depends upon how Nepal itself orders its domestic affairs,” he stated.

Another great advantage for Nepal was its location–situated amidst two continental sized economies – China in the North, and India in the South. One of the most interesting coincidences in history was that both these continental sized economies were two of the most dynamic and fastest growing economies of the world. However many in Nepal were sceptical that their location, was like “a yam between two stones … forever in danger of being crushed”. He noted that the threat perception was perhaps stronger vis-à-vis India – assertions that Nepal was India locked, was reflective of this sense of siege.

Saran averred that there could be a completely new perspective on the country’s location – “not as always threatened but perhaps as unique that you have two continental sized economies on your door step, and both have a great deal of goodwill towards Nepal.” With regard to India, Saran urged that the Nepalese should not perceive themselves as India locked, but instead look at themselves as being “India open”. A changed perception would enable Nepal to look at the benefits of having a complete open access to India – a huge growing economy. Again this was an advantage very few developing countries in the world had, and it was up to the people of Nepal to leverage this to their advantage, he pointed out.

Elaborating on Nepal’s relationship with India, Saran stressed on the complementarity which existed between India and Nepal. This complimentarity was unique, because of historical reasons, and the cultural affinities that the two
countries shared. Furthermore the fact that there was a completely open border between the two countries and the economies of the two countries were in fact very closely interlocked, also added to this.

One of the challenges for Nepal was to successfully attract industries and investment. Since the Nepalese market was by itself rather small for attracting investments, it would be beneficial for Nepal to develop itself as a platform for accessing the Indian market, through its open borders. This would enhance the image of Nepal for investors – for it would not remain a market of just the 20 million Nepalese, but into a market of 1 billion Indians plus 20 million Nepalese. This could be translated thus into a lucrative opportunity for Nepal. Furthermore because of the open border, there were many cross border infrastructure projects in the pipeline, for e.g. there was a major Terai road project. Once these projects were successfully rolled out, the economic complementarily between India and Nepal would further grow.

The success of Nepal would be contingent on how well it developed its resources – both material as well as human. Although at present Nepal was perhaps one of the poorest countries in south Asia, it was very suitably placed in terms of its assets and resources. For instance, hydro-electrical power resources were a big asset, waiting to be harnessed. Another potential that Nepal was yet to fully exploit was its tourism industry. Nepal was a mountain country with some of the most beautiful terrains in the world, it could therefore look to developing some good ecologically viable tourist resorts, international health centres, and educational centres, Saran suggested. If Nepal managed to emerge as a politically stable country, from amidst the current turmoil, it had the potential/prospects to emerge as one of the richest countries in South Asia, he concluded.

Sarita Giri’s presentation focussed on the future of Indo-Nepal ties, specifically in the context of the strengthening of the Madhesi movement. Reiterating that the transformation that had taken place in Nepal was tremendous – it had been both intense and immense. For a country which had never been governed on federal lines, to be declared a federal republic, after a decade of peoples’ war – Jana Andolan and Madhes Andolan, was momentous.

This historic struggle had compelled the world to see Nepal in a different light. It had proven to the world the fortitude and strength of the Nepalese to peacefully resolve a violent conflict, and the potential to work through ideological differences to build a consensus, to come together despite differences as a nation. Asserting that this had given Nepal a distinguished place in the international community,

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80 The Terai road project is to upgrade about 1500 km of roads all around the Terai region and in addition the two governments are setting up Integrated Check Posts which will make the trade smoother and cut down delays at the border.

81 The speaker suggested that good international schools and international universities be set up. These will not only be a source of income but will allow Nepal to access international standard education. If 20% or 25% of the total seats were made available to the Nepali citizens, this could potentially transform the whole educational situation in Nepal and develop its human resources.
She also noted that that credit for this successful transformation was also due to its international partners, including India – as during the long years of conflict, the people of Nepal drew important and meaningful lessons from them – especially on issues like the rule or law, human rights and democracy.

Despite this historic turnaround, and the cessation of the armed struggle, many challenges/conflicts remained in Nepal. For instance, assertions by groups like the Madhesis, and some hill/indigenous communities were on the rise.

The situation was particularly disturbing in the Terai region. Despite a very strong and intense Madhes movement, the current scenario in the region remained highly uncertain and unpredictable. Many Madhesi groups were raising their own semi militia/militant groups to press for their demands for autonomy. Tensions were further mounting because of increasing differences within the Madhesi parties/groups on questions like, whether there should be one autonomous Madhes Pradesh, or should the Tharus, i.e. indigenous groups residing in the Terai have a separate province and Madhes a separate province? These questions remained unresolved, adding to the growing anger and frustration in Madhes.

Stability of the Madhes region was highly significant for the rest of the country. Arguing that historically, people from the hill area or the hill communities had been more susceptible to giving in to the pressures of the armed struggle (be it the 1950s revolution led by the Nepalese Congress, or the Maoist conflict), she noted that Madhes acted as a counter balance to any kind of extremism that had raised its head in the hilly region. The reasons for this were its geography, the nature of its population and its strong cross border social, cultural linkages. Therefore in the present situation, the absence of a common agenda amongst the Madhesi parties, and the ensuing militarization in the region were extremely disturbing. She further argued that the volatile situation in Madhes while an internal matter of Nepal, had tremendous implications for India. Given the proximity of Madhes to Indian borders, it could have an impact on the stability of the entire region, therefore it was important for India, to also review its position on the situation in Madhes, Giri opined.

As far as the prospects for Nepal-India relations were concerned, she pointed out that Indian development assistance had in the past been guided more by welfarism i.e. “India believed that the welfare of the people of the two countries is interlinked,” she explicated. Despite this approach, and assertions from the Indian side that Nepal should consider itself as “India open”, a tremendous trade deficit existed between the two countries which went against Nepal. Even post liberalization, when Nepal supposedly had access to Indian markets, regions like eastern Madhes recorded zero growth. This is perhaps one of the explanations – specifically the economic explanation of the Madhes uprising, she argued. The flow of resources-

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82 The speaker pointed out that of the four Madhesvadi parties which had led the two phases of Madhes movement, two were in the government, while two were outside and they disagreed on several issues.
both financial and human was concentrated in Western Madhes. \textsuperscript{83} In the present situation, thus it was important for India, “to revise its welfare approach towards its northern neighbour.”

Critical to India and Nepal’s new partnership would be the management of the open border. There was a need to assess who was benefiting from this open border – were the common people benefiting from it or were there certain groups who were reaping maximum dividends, she asked. Reiterating that a semi-anarchical situation existed in Madhes, she pointed out that incidents of killings, extortions, kidnap, and violence against women were sharply rising in this area. Averring that this was a challenge for policy makers on both sides of the border, she asserted that if well secured, the border could actually become an ideal example for the world of what “the free flow of goods and people could achieve.”

At the national level, the rivalry between the main political actors, emanating primarily from their conflicting ideologies remained a serious concern. She added that if this was not resolved amicably, it could throw the country back into violent conflict.

Nepal was dealing with different conflicts at different levels. While on one side there was the monumental task of addressing the development and security needs of the people, on the other side there were ongoing struggles to push ahead the agenda of equity, inclusion, social justice, institution building, federal governance, so as to give voice to the powerless, weak and poor. In this context, it was important to assess and discuss some of the imperatives of foreign aid for infrastructure building, realization of the MDGs and its impact on foreign policy choices, Giri argued. These were challenges that those involved in the Constitution making process would have to work towards resolving by laying out the founding principles or basic principles of the constitution.

The parameters of the foreign policy remained unchanged in the aftermath of the Madhes Andolan and Jana Andolan. The official stance in Nepal was that it would maintain equi-distance with the two neighboring countries – India and China and have friendly relations with all other countries. Acknowledging that China had played a positive role during the people’s movements by respecting the will of the people for peaceful change in the country, India too played a very important role as a facilitator to help resolve the Maoist conflict. In the coming days, however much would depend on how India responded to the ongoing crisis in Madhes. Giri asserted that despite the official position of being equi-distant, given its historical, cultural and economic linkages, Nepal would always have a special relationship with India. \textsuperscript{84} The future of this friendship would depend on the spirit of cooperation and understanding that is extended by India.

\textsuperscript{83} The speaker attributed this argument to Dr Shankar Sharma, Former Vice-Chairman of the Planning Commission.


Remarking that relationships between two partners could be strengthened only through dignity and respect for certain underlining values, mutually agreed upon, Malla stated that to sustain any long standing relationships, it was equally necessary to repair the dents along the way. The same applied to bilateral relations between two countries – to ensure that sovereignty of the nation was recognized, development was supported, security was safe guarded and human relations were respected.

Nepal and India shared a very special relationship, but there had been times, when one party had transgressed, overstepped the boundaries mutually agreed upon. As Nepal is attempting to secure a new future for itself, perhaps there was a need to renegotiate those aspects, which had caused friction between the two neighbors in the past. In this context, there was a need to revisit the Indo-Nepal Treaty signed in 1950, with particular focus on the clauses and provisions that had been the reasons for anxiety in Nepal.

Elucidating the specific socio-historical context in which the Indo-Nepal Treaty was signed, Malla pointed out that Nepal signed this treaty at a time when Nepal was not a democracy, but under the Rana regime of Mohan Shamsher who was struggling to retain his power. India too was just opening up to the world, after gaining independence. Arguing that for India, perhaps the Treaty was significant from the security perspective, as this was the post Second World War phase, and the Cold War was setting in.

In addition to the Indo-Nepal Treaty, Nepal and India had signed other treaties like Extradition Treaty, Peace and Friendship Treaty, Treaty of Trade and Transit – which were binding on both countries as per the Vienna Convention, requiring both to perform these with good faith under the principle of Pacta Sunt servanda. All these treaties were signed on the basis of equal rights on a reciprocal basis. For instance, a provision in the Peace and Friendship Treaty stressed that equal treatment must be given to a nation in terms of property and residence. Furthermore in the treaty of Trade and Transit, equal respect was the defining principle, i.e. equal respect towards participating in industry and for economic development.

Although equality and reciprocity formed the basis of all these treaties–in practice, these were hardly respected; certain clauses in particular became the bone of contention, and cause of much anxiety for the Nepalese. She asserted that equality was a relative term, and must be measured only as per the impact of its provisions on the nation and its people. In the case of Nepal and India, while both countries were sovereign units, they were vastly different in terms of territory, population, economy and development. Therefore it was not easy for Nepal to measure upto India on many aspects such as ownership of property or citizenship.
She noted that while it may be difficult to “find any unequipped provisio/glaring loopholes…in the treaty”, the many Letters of Exchange, between the two countries to expand the rights under the Treaty over the years, remained highly contentious and discriminatory as far as Nepal was concerned. Despite the Indian government’s corrigendum (in a Letter of Agreement), that since Nepal may not be able to compete with India, especially in trade and transit, some protection measures must be incorporated (the nature and extent of which shall be determined by mutual agreement), in the last 58 years no such measure has been included, Malla pointed out. She proposed that perhaps the solution lay in institutionalizing the idea of non-reciprocity and such practices as recognized by the Gujral Doctrine (that India gives and accommodates what it can in good faith and trust).

As per the Letter of Agreement, foreign assistance for the development of natural resources and industrial projects in Nepal, could only be given to the Indian government or to Indian nationals. Such discriminatory clauses had created multiple obstacles for the Nepalese, she pointed out. The issue was not simply restricted to the matter of garnering foreign assistance for development projects or accessing different technologies. At a more fundamental level, it had over the years adversely impacted Nepal’s chances of developing bilateral relations with other countries, thereby creating an imbalance of sorts in Nepal’s foreign relations.

Furthermore, as per the Treaty, India was obliged to facilitate the transportation of arms and ammunition and unrestricted rights for commercial transit. Providing an analysis of these clauses from the Nepalese perspective, Malla argued that the fundamental problem here was that these rights were not provided to Nepal as rights available to a land locked country. When seen in conjunction with provisions of international law, such as the Convention under Transit, Trade and land locked state, the Geneva Convention, and Convention on the law of High Sea 1958, the loopholes in the Treaty become too glaring. There was a need thus, to revisit this, from the vantage point of Nepal being a land locked country, which would imply that rights to unrestricted transportation, be extended to Nepal as a matter of right and not as a matter of consideration, Malla opined.

Malla further noted that there were a few clauses which needed to be immediately revised/reassessed from the lens of human security. One such point of contention was related to the status of migrants. Remarking that in Nepal, identity remained a

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85 The Gujral Doctrine is a set of five principles to guide the conduct of foreign relations with India’s immediate neighbours as spelt out by IK Gujral, first as India’s External Affairs Minister and later as the Prime Minister. Among other factors, these five principles arise from the belief that India’s stature and strength cannot be divorced from the quality of its relations with its neighbours. It, thus, recognises the supreme importance of friendly, cordial relations with neighbours. These principles are:

- With neighbours like Bangladesh, Bhutan, Maldives, Nepal and Sri Lanka, India does not ask for reciprocity, but gives and accommodates what it can in good faith and trust.
- No South Asian country should allow its territory to be used against the interest of another country of the region.
- No country should interfere in the internal affairs of another.
- All South Asian countries must respect each other’s territorial integrity and sovereignty.
- They should settle all their disputes through peaceful bilateral negotiations.
very sensitive topic, primarily because of the country’s size and geographical structure, she asserted that issues related to the influx of migrants for instance became extremely controversial. This resulted in certain extremely discriminatory provisions in law. This was exemplified by the Nepalese state’s stance on matters of ownership and citizenship. On these, Nepal followed a restorative approach, as a result of which children of Nepalese women who were married to Indian citizens, were deprived of their Nepalese citizenship. Malla stressed that whenever the political leadership expressed their willingness to revisit these treaties, it would be imperative to assess all provisions and clauses from a gender lens.

Similarly in the Extradition Treaty, in which 16 different offences were mentioned (in the list of extradition), it was evident that the thrust was completely on territorial security, and not on the security of the people. For instance crimes such as human trafficking, violence against women like rape were not included. Malla reiterated that unless contemporary forms of offences were incorporated in this Treaty, its importance would be severely limited.

Although marked by grave anomalies, there were certain positives. A case in point was a clause in the Treaty which bound the neighbours to share information with each other during any instances of severe friction with other neighboring countries. On this, a spate of information had been exchanged between India and Nepal. Another provision which could appear discriminatory in letter had actually been rendered non-discriminatory in practice. This was related to a Letter of Exchange (1956) on the import of arms, that allowed supply of arms, uniforms, training of the army, by the Government of India. This channel had to be followed, even when it involved collaboration with countries like US and Britain. While this provision appeared highly discriminatory in letter, in practice the Indian government had been very respectful in this regard. Infact the Nepalese army chief, continued to be Honorary Army Chief of India and the Indian Army Chief was the Honorary Army Chief of Nepal, she highlighted.

Although India and Nepal shared a very distinct and special relationship, Malla asserted that due to such discriminatory provisions, there was a certain threat perception vis-à-vis India in the minds of the Nepalese.

Unfortunately revisiting or renegotiating the Treaty was not on top of the agenda for either side. To sustain this special relationship, it would be important to therefore “re-negotiate the language and identify aspects that need to be covered in the new social and political context,” Malla opined. It would be important to initiate a debate/dialogue on the discriminatory aspects to strengthen the existing relations. Furthermore timely/periodic review would also work to ensure that due respect was accorded to protect legitimate interests on both sides, ensure free mobility and residence.

Underscoring that people on both sides suffered whenever relations spiralled downwards, Malla argued that it was in the interest of both countries to work
together. On the economic front, while India was striving ahead as an economic giant in the world, Nepal was slowly moving towards development, political stability and peace. Partnerships with India would be crucial for the development of Nepal. Collaborations on issues like environment and climate change, river water management would also be important. Given the territorial proximity, any problem in Nepal would also have serious implications for India. Therefore it would be difficult for India to be a witness or silent observer, to any turbulence in Nepal, she noted.

In her conclusion, Malla asserted that, “we cannot be threats to each other, our friendship is our security. We are building relations not on threat but on confidence. Peace and friendship can only be achieved through development and we really need to focus on the new political context from the development agenda so that aspirations of people can be adequately met and we can achieve sustainable peace. We are one family but with boundaries, with [our] own space and therefore what we require for peace and friendship is space and identity of each other to be respected.”

Referring to the session’s proceedings, Hari Roka noted that there appeared to be a certain despondency about the multitude of problems that had compounded in Nepal, post the Jana Andolan II. Arguing that there was a need to change the tenor of debate, he pointed out that one need not always look at a situation of conflict or the multiplicity of problems, as essentially disadvantageous. Noting that it was simply a matter of changing one’s perception, he asserted that without problems/conflicts, no society could move forward.

The recent history of Nepal illustrated this progression—the transformations/changes that had followed each phase of conflict, each period of struggle had pushed the country in a new direction. The success of Jana Andolan II, illustrated the potential of the Nepalese people to work through ideological differences. While the CPN Maoists raised the slogan for a new communist republic, the other political parties were pressing for a democracy, with the king as the constitutional head. Despite such staunch differences, they were able to come together to establish a democratic republic.

Nepal was a fairly young democracy, with limited political experience, even as far as the major political parties were concerned. On the other side, the different communist parties, had no experience with democracy. He remarked that Nepal had just begun to democratize, and at each step it was learning how to grapple with the vagaries of democracy, as it played itself out in different ways, creating new challenges and difficulties.

At present the constitution making process was underway in Nepal. While at one level, differences amongst various political stakeholders continued to persist, at another level, assertions by different groups across faultlines of caste, ethnicity and region had also intensified, giving rise to sceptical voices about the possibilities of evolving a consensus. On the economic front, also Nepal was faced with many
challenges. The economy was in recession, and the rate of inflation was 14.6%. Roka pointed out that this was giving rise to a lot of confrontationist politics—not just amongst political parties, but on other fronts as well.

Averring that there was a positive side to such struggles, he elucidated that people on all sides had started raising their voices, articulating their grievances and assertively demanding their rights—this was a tremendous onslaught on status quoism. “The indigenous people are talking about their rights, Madhesi people are talking about their rights, Tharu people are talking about their rights, hill people, mountain people…all [the] people are opening their mouth, [to assert that] we have problems,” he stated. Therefore despite multiple challenges/hurdles, the present socio-political landscape was truly dynamic and exciting. He reiterated that despite these differences, the people of Nepal would continue to move ahead, since there was an overwhelming desire to create a new Nepal. “So long as we are struggling, we will manage everything…my confidence is that we will make a new Nepal,” he remarked.

Affirming that on its new journey, Nepal would require the support and cooperation of other countries, Roka noted that India’s role in this context would be very significant, as India had played a different role in Nepalese politics.

Although some people were critical of India’s attempts to establish its hegemony in the region, India could play an extremely significant role in Nepal’s future, like it had played in the past. Acknowledging the support extended by the people of India, Roka yielded that Nepal was grateful for this support in its quest for democracy, for integrity, and for development. There were many crucial lessons that Nepal could learn from Indian democracy.

Nepal had a porous border with India, the biggest country in South Asia. This had a definite impact on trade relations between the two. Nepal was a small economy, with long standing trade relations with India. While 68% of Nepal’s trade volume was with India, despite a vibrant, shining economy, India’s trade volume with Nepal remained below 1%. Averring that Nepalese economy was in doldrums, Roka brought attention to the fact that since Nepal was largely an agrarian economy and its external trade was not agro based, majority of the population was unaffected by any gains in trade, unless the nature of trade transformed. Nepal could therefore tremendously benefit from improved trade relations with other countries including India and China both of which had tremendous potential as markets for Nepali goods. In this context, he noted that Nepal’s trade relations with China need not be viewed with suspicion as the bilateral ties of Nepal with either China/India could not pose a threat to the Indo-Chinese trade relations that reached the 50 billion mark recently.

Remarking that while historically India and Nepal had worked closely on developmental issues, he underscored that there was a need to shape the development discourse in a way that would be beneficial and manageable for
both countries. For instance, even a cursory assessment of the irrigation projects, would reveal that these projects were not beneficial, instead they were causing extensive damage to the ecology – from rendering land non-cultivable; to heightened occurrences of flood in low lying areas. There was a need thus to reassess the development policies of both countries. He elucidated that a development policy which did not benefit people, was fundamentally flawed, and therefore had to be immediately altered.

In the past, bilateral relations between the two countries had been good, and it was important that the relations between the two countries continued to grow in the future as well. In this context, it would be important to revise, renegotiate the unequal terms of reference in the Indo-Nepal Treaty for instance. Reiterating that the spirit of the treaty was dented by the presence of certain disadvantageous clauses, Roka argued that amicable relations between the two countries would be contingent on the revision of these discriminatory clauses. This would also ensure that there was mutual respect and recognition between both partners, that each had the potential to grow and develop. Asserting there was no way of altering the geographical congruity, both countries would always remain neighbours, he concluded by saying that since we cannot live in isolation, it would be essential to strengthen our bilateral relations, so that we could continue to live together amicably and peacefully.

Reaffirming that the country was in transition mode, Chitralekha Yadav asserted that after a prolonged phase of violent conflict, the people of Nepal had attained peace. The sufferings during these years were tremendous, but people had no other option but to accept the high cost of the conflict. However, the termination of
the armed struggle ushered in a new period of hope and optimism, and the desire
to fulfil a long cherished dream—“the dream to build a new Nepal; a new peaceful,
just, inclusive, prosperous and strong Nepal.”

To build on the positive shifts, and to build a strong and secure Nepal, the people
of Nepal were looking to the international community, especially its regional
neighbours for support and cooperation.

The most critical task facing the country was drafting a new constitution. On this,
much support had been extended by the international community to the CA
members in the form of suggestions and inputs on how the constitution could be
drafted in the best way, in the most inclusive fashion. Nepal had also ratified many
international conventions, and was committed to fulfilling the MDGs. The support
of the international community would be indispensable in this as well. So far, the
indications had been extremely positive, she noted.

No meaningful democracy or republic is possible in the absence of the rule of law.
This was one of the biggest challenges for Nepal, as many regions of the country
were reeling under extreme lawlessness. Politics too had been highly criminalized.
Furthermore, strengthening and consolidation of the rule of law was contingent
upon two things – popular control and equality of rights. While equality of rights,
would be enshrined in the constitution, as far as popular control was concerned,
there was a complete lack of collective decision making. These were pressing
concerns.

Asserting that political stability and establishment of a rule of law was extremely
important for Nepal at this point in time, she opined that there was much that
Nepal could learn from the international community. However, the anarchic
conditions in some parts of Nepal acted as huge deterrent to the international
community’s desire to come forward and extend support to Nepal. Perhaps, there
was a need for a politics of compromise, she avowed.

The breakdown of the Comprehensive Peace Agreement was very disheartening
after so many years of struggle. There was a need to revive the commitment to the
process of nation building, renew the vows of political honesty, and create institutions
of governance, whether through the CA or the executive on the principles of
transparency, plurality and inclusivity, she noted. It was only when such an
environment was created that international assistance would become meaningful
and produce concrete results for the people of Nepal.

In his closing remarks the Chair, Durgesh Man Singh, observed that although there
were many elements of stability, Nepal was still a country in transition, a country
reeling under multiple conflicts. Much would depend on the resilience of the people
of Nepal and how well they were able to respond to the changing facets, dynamics
and complexities of the different conflicts – among communities, among regions,
or sub-regions within the regions.
As far as the Indo-Nepal Treaty was concerned, the chair noted that despite certain strong “apprehensions” of the Nepalese people vis-à-vis the treaty, there was also a desire to institutionalize the positive aspects of the Treaty. There had been signs from the Indian side that they were willing to revise the treaty. However, the revision process would require thorough preparation on both sides, so that all long-standing issues can be resolved in the most amicable and mutually beneficial manner. This would be crucial for strengthening the ties between the two in the future. It will give credence to time-tested civilizational partnership in mutual trust and equality, and also in leveraging the new buoyancy and democratic credibility that the CA had. Noting that the friendship between India and Nepal was the foundation for a secure region, he concluded with the hope that this partnership would reflect the growing aspirations for peace and cordiality in the entire South Asian region.
Working Group Discussion and Recommendations
An important component of the symposium was the working groups. Designed to facilitate an exchange of ideas on certain specific themes, the working groups were conceptualized as an exercise in consensus building – a mock CA to enable the participants to understand those processes of consensus building, in a context overflowing with different and distinct voices, opinions and ideas.

A set of guiding questions was provided to each group. These questions were merely indicative in nature, and it was the prerogative of the group to prioritize the issues deemed most important or to add new ones to the agenda. After deliberations each group presented a summary of the issues discussed and the level of consensus achieved and dissenting voices.

**Group 1: State and Federal Restructuring**

The guiding questions provided a sort of blue print for re-imagining the federal state in Nepal–the problems, the possibilities and the challenges.

**Guiding Questions**

- Is there a consensus emerging among the Constituent Assembly members in terms of the organizing principles of an emerging federation? What would be the units of federation in such a state?

- What are some other provisions that may be incorporated in the constitution to strengthen and supplement the principles of federalism?

- Given the fact that several proposals for boundary demarcation have been suggested that are based on ethnicity, language, region, religion, administrative convenience among others, what kinds of challenges will federal restructuring pose? How can these be managed?

- Would the aim of the federation be the advancement of social justice/ inclusion and participation/ economic development/ self defense and national integrity or a combination of some/all of these?

- Is the Constituent Assembly likely to consider the inclusion of special provisions for the protection of the rights of ‘new’ minorities that may emerge due to state restructuring?

- How should the regional aspirations of groups like the Madhesis, Janajatis etc. be accommodated? What are some of the problems of accommodating these aspirations as articulated by the different groups and/political parties?

- While the election for the Constituent Assembly included a provision for proportional representation, are there reasons to continue using this method of representation in the new legislature?
• In the present context of debate on state / institutional restructuring, in what ways should the state be restructured to be responsive and accountable to the needs of women?

• Is a consensus emerging on the division of economic powers between the central government and units of the federation? What policy making responsibilities should be centralized and which ones should be decentralized and to what extent?

• In the emerging federation, how do you see power being shared between the centre and the states on the issues of land ceiling? Who will set the maximum and minimum land holding standards?

• Is the Constituent Assembly considering provisions for genuine devolution of powers through village and town councils as a means for political and socio-economic empowerment in the light of past experience?

• One of the key elements of a federal system is to include effective institutions and mechanisms for consultation and cooperation among the federal units and between them and the centre. In the light of this, what institutional mechanisms and procedures need to be established to address the issues that arise from:
  – Natural resource management
  – Distribution of revenues
  – Disputes between the different tiers of government

• What level of flexibility should be provided in the Constitution to ensure that future challenges that emerge over boundaries/powers can be adequately addressed? What should be the role of the federal units in this process?

• Are there any specific processes that could contribute towards building consensus on the allocation of responsibilities between the center and federal units and lead to greater acceptance of the new Constitution by the different groups asserting their identities?

**Group Members**

Chitralekha Yadav
Hari Roka
Manju Tuladhar
Mohamadi Siddiqui
Prashant Jha
Pushpa Bhusal
Sangini Rana
Shobha Gautam
The Deliberations

The members of the group deliberated on some of the provisions that could be incorporated in the constitution related to federalism including devolution of power, self determination, identity rights, access and control of the resources including the natural resources, power sharing as well as balance of power.

Noting that there was an overwhelming consensus on the need for a federal set up, the presenters noted that a consensus was yet to emerge on what the organizing principles of this federation would be. The consensus that Nepal would be a federal state was in itself a tremendous sort of a movement, an exercise in consensus building, however the specific details, the operational details, were still being discussed. The stress must be on registering people’s concerns and voices, and for that the process of public consultation must actually be mainstreamed in the constitution writing process.

As far as the units of federation were concerned, there were some proposals. One of these was the model proposed by the Sadbhavana Party which suggested that the federation be based on provincial lines with 50% reservation to ethnic groups like Madhesis, Janjatis and other identity groups. The Maoists had also prepared their own proposal and based it on ethnicity, language and various other criteria. Another seminal work was by Hark Gurung who had proposed that from the existing 75 provinces 35 provinces be created. Another proposal had been made by Pitamber Sharma with a different set of recommendations.

Since all territories are interlinked and interdependent, problems could emerge on the question of resources mobilization and resource utilization. The allocation of resources will be a challenge. Perhaps, the most viable approach to solve this problem would be to not limit these discussions to the CA, instead have vigorous public discussion, consultation, so that ideas are generated by the people themselves.

While it was imperative that there be respect for, protection of and fulfillment of economic, social and cultural rights, it was equally important to ensure that certain special provisions were put in place, like affirmative action. Furthermore it would be critical to ascertain who the advantaged and disadvantaged within the marginalized groups were. It was not only about rights of certain groups but equally about economic development, and giving people the right to impact decision making as well as the allocation of resources.

The group acknowledged that questions about the emergence of ‘new’ minorities in the wake of state restructuring were being discussed in the Constituent Assembly. In the new federal set up, present minorities may emerge as future majorities. Parties or the groups which are now marginalized may become the prime actors. The boundaries of who will be included and who will remain excluded will be impacted by this shift as groups transit from quarters of marginalization to positions of authority.
On the question of accommodating the regional aspirations of the Madhesi and Janajati groups, the group felt that the CA should adopt a positive attitude and respect their demands. While recognizing the importance of fulfilling these aspirations, there were several problems associated with competing visions of different groups, especially with regard to drawing of boundaries of the regions. However, it was important to note that when there are regions or when there are provinces, there are likely to be regional parties. The existing regional parties should acknowledge that just the way they are demanding equality and non discrimination, once the federation is realized similar demands will arise within the regions, which they will have to respect. It is only when parties move into negotiations with this positive outlook that solutions to the various issues about representation can be crafted.

The election for the Constituent Assembly included a provision for proportional representation. The method had been very successful, and therefore it would be important to continue using this method of representation in the new legislature. The group proposed that there should be a closed list of PR, which would prevent the political parties from shuffling names. Also in addition to the existing PR system as a measure towards fulfilling the needs of women 33% of seats must be reserved for them.

On the critical issue of the division of economic powers, the group noted that there was unfortunately absence of any debate in the public sphere. There was no public knowledge of whether there was a consensus or whether there was a discussion even about the division of economic powers between the central government and units. What policy responsibilities will the center retain and what will be devolved to the local level or provincial level? There was absolutely no information with the public on this. On all issues of such nature, especially those frontally dealing with the devolution of powers, there was a need to stress on a genuine process. In this regard, it would be important for the CA to conduct public hearing on various issues, and ensure that it does not remain merely a formal process of consultation.

One of the key mechanisms of federalism is to include effective institutions and mechanisms for consultation and cooperation. This can be done both at the level of state and civil society. Only when an informed public is included, consulted and involved will the process become truly democratic and inclusive.

Given that Nepal had historically been a unitary state and federalism was a new experiment, a new process, a high level of flexibility was desirable. This would provide space for any adjustments that may be needed. The process of amendments would have to be incorporated in the Constitution.
Group 2: *Making the Constitution Work for Women*

**Guiding Questions**

- What have been some of the concrete ‘women’s’ issues that have come up for discussion in the Constituent Assembly? What are some of special measures that must be included in the constitution for the protection and advancement of the interests of women?

- Besides changing discriminatory provisions in the old constitution(s), what are some of the ways to ensure that the continuing impact of past discrimination which tends to reinforce dominant standards based on male experience and interests are successfully challenged?

- What kind of support mechanisms are needed in the aftermath of political violence and human rights violation particularly for women? What can women do to ensure that spaces for reconciliation are not foreclosed and victims are enabled to move beyond retribution?

- Why is it considered important for women to be properly represented? Should we assume that women members will be the only effective voice for women?

- How can women’s effective participation in the future parliament be guaranteed?

- What are the challenges that women members have faced or are likely to face in the Constituent Assembly? What kind of issues have the women members actually been raising in the Constituent Assembly?

- Women have been visible through the Jana Andolan II. Post Jana Andolan II have they been included in decision making bodies within the Constituent Assembly? What is their representation in standing committees and commissions that are being set up in the Constituent Assembly and parliament?
• What are some of the conditions that would enhance women’s political effectiveness both inside and outside the Constituent Assembly / legislature? What kinds of legal frameworks and services as well as packages of technical support are vital for the creation of an enabling environment?

• How can the women members of the Constituent Assembly organize to make the most of the opportunity? In what ways can women members of the Constituent Assembly be supported?

• What are some of the issues around which women members have worked as a group in the assembly, i.e. the occasions and issues on which they have cut across party lines and joined hands? What has been the efficacy of women’s caucuses in this regard? What are some of the other ways in which women members can come together across party lines?

• What are some of the strategies that members can develop for dealing with their own parties to ascertain that women’s concerns and issues are rooted firmly on the party agendas? How effective have the women’s wing of the major political parties been in this regard?

• Are there any fundamental issues that would concern women in Nepal irrespective of their location? Can a consensus on such ‘fundamental issues’ be reached? If yes, how? Are there a set of questions about gender-related/women’s issues that have become politically significant in the recent past?

• Is there a need for a closer co-ordination between women’s organizations and the elected women representatives to strengthen the struggle of women for equality and justice in the economic, social and political sphere?

• What strategies can be employed by women from different sectors to network and propagate issues of concern (Peer groups etc)? What are the spaces available in Nepal to facilitate such networking?

**Group Members**

Ava Darshan Shrestha
Babita Basnet
Bandana Rana
Deepthi Khakurel
Mira Gurung
Pingala Basnet
Sarita Giri
Sharda Rana
Sharmila Karki
Shrijana Yonjan
The Deliberations

The peace process coincided with the opening up of a historic opportunity for women in Nepal. The election of 33% women to the CA has brought attention to the role of women as elected representatives and their contributions to the ongoing process in Nepal. This extraordinary achievement was the outcome of a prolonged struggle by the women of Nepal to make their voices heard, and register their presence at different levels, not only in the political sphere, but equally so in the bureaucracy, media, civil arena, academia and in society at large. It was to the credit of the many women’s rights activists, media, human rights activists, feminists, that a gender sensitive agenda had been pushed forth at the Interim Parliament, to include concerns like:

- Demanding at least 33% representation at all levels in the state mechanism.
- Granting citizenship in the name of mother
- Ending all forms of violence
- Guaranteeing Reproductive rights

As far as the electoral process was concerned, the members of the CA fell into one of the three categories – those elected in the single member constituencies under the First Past the Post System, those elected through the Proportional representation (PR) system whereby political parties received seats in proportion to the percentage of votes they garnered and those nominated by the Council of Ministers under the eminent nationals category. In terms of numbers the PR system had ensured maximum representation for women. However, the presence of large number of women in the CA was also attributed to the Maoist movement and women's presence in it. Presently there were 74 women from the Maoist Party in CA – 24 women members came in through the direct election system, three out of the six nominated members are also from the Maoist party.

Having 33% women in the CA was indeed a remarkable achievement, not only for South Asia, but a historic feat for the world. Despite a critical mass of women (over 30 per cent) in the CA, concerns were being raised about the extent to which women members have been able to influence institutional norms, policy priorities or policy outputs so far. The question that needs to be posed in this context is has the increase in the descriptive representation of women translated into an increase in the substantive representation of women? If not, why?

However there were many challenges that continue to persist. One was the impending challenge of institutionalizing the process. Institutional constraints, norms, and pressures operate to minimise the emphasis women legislators place on issues associated with women. They have limited access to institutional resources such as positions on powerful legislative and oversight committees to advance the issues typically of concern to women and perhaps also face institutional sanctions for doing so. In Nepal, women have only come in through the political parties. Even those nominated, were covered by political parties’
nominations. Therefore, there are no neutral voices in the CA today, as all voices were filtered by political whips and directives. With regard to the political parties, lack of gender sensitivity, is evident not just in their manifestos but their internal structures, constitutions and functioning. While the official line of all major parties is that more and more women should be included in the process, no efforts are being made to make women’s participation meaningful. Therefore in Nepal, the representation of women in political spaces was still largely descriptive and not substantive.

Women’s participation in the political process is critical both to the strengthening of democratic traditions and to their struggle against oppression. But they are obstructed in such participation by power relations that operate at many levels of society from the most personal to the highly public. This unequal balance of power between the sexes is reflected in patriarchal mindsets, attitudes and norms. Often the argument against inclusion of women in Nepal has been articulated in terms of women’s inability/lack of capability to engage in political processes. It is necessary therefore to appropriate spaces in mainstream political arenas and reshape them, and foreground gender concerns, so as to move towards structural transformation in the organisation of society and the economy, and that which politically addresses questions leading to alterations in the relationships of dominance and subordination. These would include: a shift towards a broader concept of gender equality that necessarily implies change in patriarchal norms and values; incorporation of a gender perspective into the mainstream political agenda; an equal political representation of women to ensure that women will, numerically, be part of the mainstream; and a shift in the institutional and organizational cultures of political decision-making.

A beginning has to be made with the process of constitution writing itself, so that the critical political, social-cultural, and economic rights of women are secured by the Constitution.

The group made the following recommendations for addressing some of the women’s concerns:

Firstly, to protect political rights- 50% representation for women at all levels must be guaranteed – from ward level, district level to national level in political parties. Equal participation of women and men should be there from grassroots level to national level. The emphasis must be on meaningful participation. One way could be to make the registration of political parties conditional on the political parts internally reserving 30-50% seats for women.

Secondly, women’s social-cultural and economic rights should be guaranteed. The issue of violence against women should be addressed in the constitution through various mechanisms and most importantly, the deep rooted patriarchal values and norms that re/produce women’s subordination should be challenged.

Promoting employment in all sectors – agriculture and non-agriculture, guaranteeing equal wages and securing access to and control over resources, for
example, land, credit, and inputs are some of the measures that can be considered. Furthermore women’s household work should be accounted for in the national GDP.

Health and reproductive rights must be guaranteed. However, there is need to shift the terms of the discourse from women health issues being assessed only through the lens of reproductive rights of women, which tends to reinforce women’s reproductive roles, to the exclusion of a more holistic/inclusive discourse on life cycle.

Women’s overwhelming presence- public and political participation post the CA elections can definitely be regarded as a positive pointer towards the strengthening of women’s politics in future. However, given that women do not form a putative homogenous bloc, i.e. women are divided across other socio-economic faultlines, and that gender reality is indeed layered reality. It would be critical to build ties across party lines. There was an urgent need to ensure that women not only made symbolic presence in the legislature but were included into senior rungs of decision making as members and chairs of the legislative committees and subcommittees. The CA had not succeeded in doing this. In many constitution making processes where women have been able to make an impact, they have done so partly through caucuses, or groups with shared interests, within Parliament. In Nepal, also women members could form a caucus, the objective being to promote equality between women and men, to further the implementation of women’s rights and to introduce the perspective of women into the drafting of parliamentary Bills’.

Women CA members across all political parties must come together on issues of national interest, (for instance how to restructure the state) and not limit their solidarity to discuss only issues of particular interest to women. There is a proclivity to relegate women to certain soft issues. There is hardly any presence of women members in committees such as Defense, military, restructuring, budgets, i.e. on the so called hard issues, as if these issues do not have a bearing on women. Therefore it will be very important that debates on an issue of crucial importance like state restructuring that is going to affect every Nepali citizen, must enlist women’s voices, concerns and perspectives. There should also be increased interaction and dialogue between CA members and civil society.

During the discussion, participants also deliberated on the question of quotas within quotas, and the dangers of treating women as one putative bloc, of pulverizing them and erasing the categories within. A woman member of the CA pointed out that at times, it was important to act strategically to further a gender sensitive agenda. Another suggestion was made that the National Women’s Commission must be made a constitutional body, akin to the human rights commission.
The issue of how autonomous women are was raised. Responding to this query, the Chair, Sumona DasGupta, referred to a discussion during a conference held in Kathmandu, where the idea that women parliamentarians must come in through direct elections not proportional representation (so that the scope for manipulation is reduced to a great extent) was widely endorsed. It was not just a question of having women, but including autonomous and independent voices, it was noted.

**Group 3: Representation, Law and Governance**

**Guiding Questions**

- What are some of the steps that can be taken by the Constituent Assembly to address exclusion of different ethnic groups such as the Janajatis, Madhesis, Dalits and Muslims?
- Can affirmative action be proposed as a constitutional measure to correct historical injustices and exclusions in Nepal? If so, what could be the precise nature of such measures?
- Other than affirmative action, what are the other legal and constitutional mechanisms that could be adopted to ensure transparent and accountable governance and ‘administrative justice’ in Nepal?
- What have been some of the reactions to the demands for proportional representation in the Constituent Assembly? (For example, the demands articulated by Nepal Muslim Ettehad Organization in January 2007)
- What do elections represent for women? Is there a new agenda that they bring to it?
- What are the possibilities that a Constituent Assembly opens up for women – in other words, what is the relevance of a constitution, for women? Over the next five years what are some of the steps that can be taken to strengthen democratic processes? Can women be empowered through it? Should women contest? Is there a different/new agenda that they bring forward?
- What are some of the relevant historic and socio-political learnings from earlier constitutions that could be used positively to formulate Nepal’s new constitution which aims to encourage participatory and representative governance?
- How can decentralization of state resources be used as a method to strengthen and consolidate grass-root democracy and development?
- How can peoples’ trust, faith and respect for public institutions such as the judiciary be restored? What are the 3-4 steps that can be taken in this regard?
- In what ways can the legal system be improved to become more accessible and gender sensitive, especially in cases of violence against women?
- How does customary law impact the lives of the women living in Nepal? What would be the challenges of reconciling individual and community rights, with the intent to challenge the existing feudal – patriarchal norms, values
and customs? What have been the experiences of women within different communities? Are there instances of women negotiating rights within communities?

- In addition to Fundamental rights for all citizens, are certain special rights required to address the concerns and needs of the women of Nepal?
- Are the existing laws, under the Interim Constitution, gender-balanced? Are there laws which continue to embody unequal treatment for men and women? (with regard to issues of land, property, citizenship, customary laws, violence, marriage and inheritance, health, and work.)

**Group Members**

CB Gurung  
Deepak Bhatt  
Durga Sob  
Leena Rekkila Tamang  
Mandira Sharma  
Sama Shrestha  
Sapana Pradhan Malla

**The Deliberations**

The group noted that several measures could address the issue of exclusion of various marginalized groups. For instance it would be important to ensure their participation in different drafting committees. Furthermore given that Nepal for the first time had such an inclusive Assembly, attention must be paid to the capacity building of members. Many of the CA members, do not have prior experience as members of representative bodies and therefore their capacity related to rules and procedures needs to be strengthened, so that they can transform the space of the CA, into a space where a diversity of voices are articulated.

Networks can be formed so that the voices raised in the CA can be heard by other civil society organization. The issues under discussion in the CA, often remain confined to the chambers of the assembly, there are no channels of communication, or processes of dialogue to connect the representatives and the people. This results in a top down system, where instead of the concerns of people at the grassroots informing debates on public policy etc, things are handed down from above. Therefore, it would be important to build certain linkages across stakeholders, something that can draw out linkages between the macro and micro levels—so that voices of the poorest of the poor can be heard. Such dialogue processes have to be initiated at various levels, not only at the central level but at the district and community level. It would be important to mobilize different civil society organizations, various NGOs, advocacy groups, user groups. The media too can play an important role in this.
Endorsing the need for affirmative action, the group brought attention to the need for a two pronged strategy. For social injustice, or historical injustice, there could be temporary measures for a stipulated time period, so that those historical injustices can be redressed. For e.g. in the sites of social injustice, maybe provisions like representation, quota at various levels, from government to community level – needs to be ensured. In addition to this relief for marginalized in terms of social-economic support must also be provided. For other differences, like biological difference in the case of women, a more permanent mechanism must be put in place, for instance, provisions like maternity leave, child feedings – need to be included. The thrust should be on the empowerment of marginalized groups, and the commitment towards inclusion must be reflected in the laws, policies, and practices.

The current outlook of the CA is to focus exclusively on quotas which were also applied through the PR system, with electoral quotas for different identity groups. However demands for institutionalizing this system permanently, would have to be preceded by an assessment of the perils and dangers of the same. For instance in Nepal, PR may refer to either PR electoral system, or it may refer to PR of certain identity groups. These are two distinct things. In the last elections, electoral quotas were applied only to members coming through the PR system. If we were to apply it to the First Past the Post system (FPP system), then the mechanism would have to be different. These distinctions are important from the point of view of women politicians for various reasons. For instance, in the last election as far as the selection lists were concerned, political party leaders had tremendous power to select candidates after the elections, it was like a “selection of selection.” Secondly, the mindset remains that “real politicians” only come in through direct elections, the ones who come in through quota are not genuine representatives.
As far as the party leadership is concerned they consider only those candidates as powerful who come in through direct elections, this mentality has to change. Lastly, among the political parties voluntary representation to women candidates was limited. Only the Maoists fielded many women candidates, other major political parties like the Madhesi parties had only three women candidates and 100 men; similarly Nepali Congress fielded 200 men and only 20 women. Unless this outlook changes women may be included in the political process only for symbolic reasons.

Suggesting some other legal and constitutional mechanisms that could be adopted to ensure transparent and accountable governance and ‘administrative justice’ in Nepal in addition to affirmative action, the group highlighted the following options:

- Institution of commissions against abuse of authority
- Public auditing
- Equal Opportunity commission and annual reporting at the BDC level
- Setting up accountability measures

Noting that the last elections had marked significant changes for women, the group pointed out that in the election preceding this one, which was called by the King, only 19% of women voted and women’s presence in the Parliament was an abysmal 5-6%. Even if one looks at the numerical ascendance, having 33.77% of women in CA is phenomenal. It has basically set the tone for future elections. It was not just the outcome (of so many women being elected) that was noteworthy, but the very process that led to that outcome was striking. Demands like the number of women in the elections, women monitors in election, who all would be present in the Election Committee, the number of human rights activists being made observers, all these procedural elements were critical. It worked as tool of transformation with many issues being brought to the table. It is now the responsibility of the representatives to take this to its logical end, in making their presence and participation in the CA meaningful.

In Nepal, the judiciary has been in a sense above the law, with provisions that exempt it from any interrogation or questioning. Judges are not required to declare their assets publicly. However given the rising incidence of judicial corruption, there is an immediate need to make investigations strong. Anti corruption mechanisms should be put in place. It will be important to conduct trainings for judges on the provisions of CEDAW, UN Resolutions like 1325 and 1820. Alternatively, separate institutions/ courts could be set up to investigate gender based violence and for dealing with untouchability. The judicial system also has to be made more accessible, affordable and should be able to dispense speedy justice.

A member of the group pointed out that an important lesson learnt, from (experimental) committee/WG, was that the real difference of opinions are often pushed under the carpet. In the name of consensus building, many important voices are silenced. A similar trend was visible in Nepal, where the desire to
build a consensus was actually deepening the conundrum. The political leadership was only pushing/skirting the real issues. This persistent failure to attend to these issues, would only result in their manifestation at a later stage, in a much more complex manner.

The discussion steered on the issue of affirmative action. It was pointed out that while there was a political agreement for the affirmative action, the contention was over how to ensure inclusiveness. Sapana Pradhan Malla noted that one of the criterion adopted was to include the marginalized groups presently identified as marginalized. However, there was a need to keep the option open for future reassessment of who was identified as marginalized. Also, was there a need to consider intersectionality within each marginalized group, and what was the nature of the inter-sectionality? For instance, if one was to look at the Dalit population, there were many differences within the group especially in terms of economic status. Then should economic status be made another basis and treated as a compounded form of discrimination in addition to caste identity? Which gives rise to another challenge – how do we measure economic status? Does Nepal have the capacity to measure socio economic (condition) of each individual or each individual household? Subsequently, questions about the narcissism of identity and how to determine the actual mechanism for allocation of resources were raised.

As far as the process of deliberation within the working group was concerned, one of the group members noted that there was some degree of symbolism that crept into the deliberations. No code of conduct or procedure was agreed upon at the beginning of the deliberation, the process evolved. The stress was on efficiency rather that registering differences in opinion. The attempt was to reach a quick consensus, that would allow convenience to prevail in the end.
Group 4: *Land, Livelihood and Social Justice*

Guiding Questions

- What possible strategies could the Constituent Assembly adopt to counter the unequal power relations in the landholding system which causes discrimination and exploitation against women, the Dalits and other marginalised communities?

- How will this generation of land reforms be different in their scope and implementation from earlier generations of reforms?

- What administrative tools would be needed to create a less disputative legal order and simplify the elaborate court procedures, for the successful implementation of any land-based policy in New Nepal?

- How would you analyse the approach of donor agencies which have altered the intent of land reforms – from their traditional aim of making the tiller the owner, to the principle of money-based land holdings. Is this an aspect of globalization that is likely to bring about positive change? What impact will it have on the larger goal of social justice?

- Can private-public partnerships play any role to ensure productive investment, ownership by the community, preserving indigenous knowledge and increasing access to land and other natural resources?

- What means will be used to achieve the CPm Maoist party’s radical agenda of land reform, given Nepal’s commitment to democratic values, post 2008?

- What is the percentage of landowners in the current Constituent Assembly? How do you assess their genuine commitment to transformative land reforms?

- How will the land reforms rationalize the contentious relationship between ownership, size of land holding and productivity?

- In the emerging Federal Democratic Republic scenario, how do you see power being shared between the Centre and the states on the issue of land ceiling? Who will set the maximum and minimum land holding standards?

- What body would be in charge of land administration and be the final authority for collecting comprehensive land-based information?

- In the past there have been several land-based issues: ineffective land-use policy; unplanned settlements; fixing of compensation for those displaced due to expansion and establishment of national parks and wildlife sanctuaries; dual registration of land and double distribution of land ownership certificates, etc. What new mechanisms will administer such issues more efficiently?

- How can we make the land reform process more inclusive? Are land owners also being included in all land debates?
• How can the Government expand the narrow land-ownership perspective, to include other alternative livelihood options for the poor and landless, which could empower them to make informed choices?

• Can the development and growth of the hydro-power sector provide alternate livelihood options? What strategic role can enhanced Indo-Nepal ties play in this direction?

• What 3-4 important steps can be taken to ensure social justice and equity in Nepal?

**Group Members**

Bishnu Raj Upreti  
Kailash Pyakuryal  
Nirmala Thapa  
Purna Bahadur Nepali  
Renu Rajbhandari  
Rohit Nepali  
Srijana Adhikari  
Sushma Sharma Ghimire  
Tulasalata Amatya

**The Deliberations**

The group on *Land, Livelihood and Social Justice* in their presentation focused on three things – the background to land reforms, some of the major challenges to land reforms, and the possibilities for solving these problems.

Noting the immense significance of land reforms in the context of Nepal, the group pointed out that discourse on land reforms brought to the fore the concerns of the landless and the forgotten. It highlighted the unjustified chasm which existed between the haves and have-nots, the complete lack of justice and dignity that marked the lives of large section of the population. Land provided a sense of identity and dignity to their lives, land was the basis of power relations in Nepalese society.

Due to the conflict, opportunities in the non agricultural sector were deeply constricted. The long years of violence and conflict had gravely impacted job opportunities, trade, industry, commerce had been completely derailed. Furthermore during these years, the rate of migration also increased tremendously heightening people's sense of despondency. The all round collapse increased people's dependence on land. That was one of the major problems.

Given the tremendous importance of land in the lives of people in the country, the immediacy of carrying out reforms was obvious. In Nepal more than 25%
households, were landless. Only six districts had enough food leading to large number of starvation deaths. Land reforms must, therefore, be approached as a human rights issue. It should be oriented towards justice and equality, especially food security. Furthermore the emphasis should be on enhancing productivity and total production, i.e. enhancing the capacity of land. This can be carried out only through land reform structure that addresses some of the following pertinent issues:

- Reform should be approached from a human rights perspective. Since lack of reform is connected to hunger and malnutrition, both human rights issues, solutions must come keeping this in mind.
- The right of every Nepali citizen to own property and possess land-whether marginalized or women must be respected.
- Malpractices in the government during implementation of land reform policy, like nepotism, favoritism must be checked. Some mechanisms, through which people’s trust can be restored need to be put in place. The independence of such structures would be vital.
- The state must ensure that globalization does not negate the gains made from land reforms. If the state does not have a clear focus for its programmes and policies globalization could lead to people being disposed of their land by large MNCs.
- The size of holding per household, the type of land to be re/distributed and the amount of land are all the most critical as well as most challenging issues.

As a structural issue, the issue of land was an extremely complex one to resolve. Therefore the state must act accordingly, and take specific measures into account. Some of the specific measures could be:

- Availability of Integrated land information system, for the proper implementation of land reforms.
- A thorough review of land related law and policies, especially those which might act as hurdles.
- A comprehensive appraisal of the concerns of different stakeholders.
- An integrated approach should be adopted, i.e. land reforms should not be carried out in isolation.

Given the plethora of ambiguities associated with Land reforms, a high level Land reforms Commission should be formed. It should have complete authority, to resolve the multiple problems. It should also look at non agricultural employment opportunities, alongside addressing important issues related to land reforms. It should have a holistic perspective, and intensive research should be done in this regard.

During the discussion, participants noted that Right to Information (RTI) would be a very important tool. The vulnerability of the second generation – children of
farmers, who had some education, but could not find suitable employment and neither could they go back to agriculture, was also raised.

Further explicating the complex process of land, a participant pointed out that given the context of globalization and the inflow of large MNC’s which were able to produce more food, any policy on land reforms would have to be linked to the question of unemployment, in which case, the discourse was not confined to just a question of irrigation, cultivation, or breaking up large unproductive estates, and giving land to the landless, but would also mean providing employment, i.e. include issues like agro-based industries, urbanization-shifting people from the rural to urban sector, etc.
The second cluster of Working Group discussions focused on Security Sector Reforms. The groups based their discussions around the following sub-themes within the broader area:

- Redefining Security Sector Reform: Engendering the Discourse
- Transitional Justice and its Implications for Nepal: Issues of Accountability and Impunity
- Civil Military Relations in Nepal and Democratic Control of the Armed Forces
- Integration of PLA and Nepal Army: Demobilization and Reintegration through a Gender Lens

**Group 1: Redefining SSR – Engendering the Discourse**

**Guiding Questions**

- What are the conditions that would make a Nepali citizen feel “secure” in today’s Nepal? What are the some of the threats to a woman’s security in contemporary Nepal?
- Who/what threatens this sense of security and safety?
- To what extent do citizens of Nepal especially women have the capacity to facilitate debates on security priorities? Are these citizen voices being heard? Are there informal women’s networks that can work towards making these citizen voices heard by policy makers and the security experts?
- What aspect of security sector reforms do women in Nepal feel empowered to impact? Are women being included in the decision making bodies on security issues? What are the new insights that your group feels that women can bring to the debate on security sector reforms?
- To what extent have resolutions 1325 and 1820 helped frame a new discourse on women and security (particularly on issues of impunity) and is this new discourse being heard by those who are framing security policy?

**Group Members**

Ava Shreshta
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Women have always been thought of as a homogenous group. Women and children are not homogenous categories; they belong to diverse castes, classes, communities, economic groups, and are located within a range of geographic and development zones. Consequently, some groups are more vulnerable than others. Mapping and addressing the specific deprivations that arise from these multiple locations is essential for the success of planned interventions.

To understand the threats to women’ security in contemporary Nepal, it is important to first understand the main threats and challenges faced by people particularly women during the conflict. The group in this context used some categories to highlight the specific problems women faced.

As mothers women have gone through extreme mental, physical and psychological torture and violations of every form. In addition to the various kinds of sexual violence, women have been subjected to foetal bereavement, the loss of unborn children. The pain of this loss has transformed many women into revengeful people from forgiving, soft, gentle beings. Although many men have also gone through similar loss, they have been able to better cope with this loss due to the
privilege of moving outside the home. Women on the other hand, have restricted movement and are therefore constantly reminded of their loss.

Even among the youth, girls are doubly disadvantaged as they have had to cope with constant fear of rape, displacement, migration. The long years of conflict have lead to only elderly and young children being left behind in the villages, compounding this sense of insecurity.

While civilians, who were neither on the side of the army nor the Maoist side, bore the brunt of violence, the families of combatants on both sides had their own problems. When an army man died during battle, his family received some compensation but similar provision was not made from the Maoist side. It is believed that 8500 Maoists combatants have now been declared ‘shaheed’, and a nominal sum of Rs. 10 lakh is to be given to their families.

In addition to these widows, during the conflict a large number of people went missing in action. For women in this group who do not know whether their husbands are alive/ dead, their social as well as economic position is left in a limbo.

The conflict also had varied impacts at different levels.

• At the economic level, it meant sacrificing limited resources without any option of negotiation. For instance members of poor households in rural areas were required to provide food to the Maoist troops, which drastically impacted their own limited stocks of food grain.

• At the socio-cultural level, the long years of conflict led to disruption of every day life and destroyed social fabric creating multiple divides.

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• The mammoth infrastructural damages caused by the conflict to houses, roads, schools, telecommunication.

• Human rights violations like rape, torture and insensitivity towards women.

• The complete lack of agency of the commoners. The elderly, old or pregnant, for instance being required to walk long distances just to attend mass gatherings organized by the Maoists.

Some of the threats to women’s security in contemporary Nepal are:

• Impunity the law and order conditions are abysmal. There is lack of access to justice.

• Mushrooming of armed groups especially in the Terai – Madhes region after the peace process.

• Increased incidents of violence against women like murder, abduction, sexual exploitation cases, especially in the border areas.

• Challenges faced by erstwhile women combatants in reverting back to so called “normal life” or domesticity. The prevalent biases against women make it extremely difficult to go back to normal life – have a family, raise kids, go back to school, get employment. Unfortunately the government too has failed to devise mechanisms to address these issues.

The termination of the conflict, did not automatically pave the way for women’s participation and access. During the peace process, the presence of women was naught. Even in the Interim Constitution four women members were added subsequently, initially there was no participation of women. In all major peace agreements, whether it was the 12 point, 8 point or 25 point, there was no women’s participation. Women were neither part of the high level commissions of peace, nor the high level commission on army integration.

Even within the CA, despite 33% reservation, concerns are being raised about the efficacy of women’s voices, i.e. are women within the parties and CA able to make an impact? These are questions that the women’s movement has been raising for sometime. Women politicians in their riposte argue that their voices get lost in the male dominated CA, and issues/ concerns raised by them in the CA are not covered by the media. Therefore the patriarchal norms that prevail in Nepali society continue to undermine women’s voices.

There is persistent belief that inclusion of women into the political process or governance would change the way in which the politics of development is carried out. Women’s participation must therefore be secured in all sectors, whether at the level of decision making or formulation of public policy.

In this context, UN Resolution 1325 and 1820 can also help to frame a new discourse on women and security. Resolutions 1325 and 1820 have been important tools for the civil society and the women’s movement. When the armed conflict
ended, the presence of women (political participation) was very nominal. Women were only regarded as victims and not as peace agents. However with 1325, women have been able to advocate for women’s presence, women’s participation, in all Peacebuilding processes. One of the outcomes of this intervention has been the formation of the Peace Ministry and the subsequent inclusion of women in the local peace committees. The Peace Ministry is in the process of making the National Action Plan on 1325. Although the participation of civil society has been solicited, much more involvement and engagement by civil society actors is required in the process.

Recommendations have been made to form a Truth and Reconciliation Commission, so as to ensure that women who have faced exploitation and victimization during the conflict period can get access to justice. As far as mechanisms for the same are concerned, the National Commission for Women needs to be strengthened. The other is that 33% participation of women in all peace committee must be spelt out in all the policies as well. 1325 and 1820 have given the women’s movement in Nepal a language of congruence. It has been able to cut across all faultlines of women’s activism, and translate into a mantra that all can identify with.

**Discussion**

Countering the point about whether tools like 1325 have been important in pushing a feminist agenda in Nepal, a participant noted that women’s oppression and disempowerment had been part of the armed struggle, from the very beginning – questions of control over resources, productivity, and sexuality were all foregrounded in the Maoist struggle of Nepal. 1325 and 1820 had been primarily used by organizations in urban centres like Kathmandu, but had failed to make a dent on community level activism. Some participants brought up this issue of unintended positive consequences of conflict, as seen in Sri Lanka, Rwanda and even Nepal – where through the course of the conflict, women had begun to assume roles that they had been hitherto kept out of, including heading households, and lobbying to get access to property and inheritance rights, negating assertions that women were fit only for particular kinds of duties.

This led to a discussion on women’s role in legal combative forces, equality between the sexes, and what constituted ‘empowerment’? Comparing the situation in Nepal to Sri Lanka and the participation of women combatants in the LTTE, some participants pointed out that this question has been at the centre of many academic-activist debates, i.e. to what extent does women’s participation in armed struggle, traditionally understood as a masculine domain, impact gender ideology, and prevalent gender roles? Referring to earlier discussions on the Big Black Hole for feminist politics, participants noted that the issue was an extremely complex one, especially in the context of the ongoing debate on demilitarization (opposing the militarization of state and society) versus equity of access.
Participants also debated the meanings of SSR, and its implication for women. It was pointed out that SSR debates were extensive and could be all things to all people at one level. It was not just military centric, but also looked at the political dimension, economic dimension, legal dimension and indeed the social, which is why it’s such a huge agenda. The attempt should be to therefore not box it in a purely military centric understanding. Since the term SSR was contentious, there was a growing acceptance of Security Sector System (SSS), so as to not constrict it to a reform category. The emphasis was instead on system, looking therefore at a human security paradigm, and not just military centric issues like demilitarization, demobilization and reintegration.

**Group 2: Transitional Justice and Implications for Nepal – Accountability and Impunity**

**Guiding Questions**

- As Nepal moves from a period of direct violence into a peace process how relevant are the transitional justice mechanisms commonly classified as truth seeking, prosecution, reparation, and reconciliation?
- Were some of the dilemmas and issues that emerged during the discussions related to the truth and reconciliation commission prepared and brought forth for discussion by the Ministry of Peace and Reconstruction in September 2007?
- Do you as a group of Nepali citizens trust the police and the judiciary in Nepal? If yes, how can this be sustained? If not, what are the concrete steps that can be taken to ensure that respect for public institutions particularly institutions of justice and security agencies is restored?
- What are the legal obligations in place now to prevent human rights abuses, investigate past crimes, ensure respect for international law, and facilitate timely justice for victims of human rights?

**Group Members**

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The Deliberations

As Nepal transits to peace from violent conflict, the need for certain processes and mechanism, that would help to provide a feeling of justice to the victims of past violence, strengthen institutions, restore public confidence in the system, and also prepare some ground for reconciliation by contesting the deep rooted culture of impunity is intensely felt. It is only through resurrecting mechanisms of transitional justice that these concerns can be addressed.

While noting that it would be crucial for Nepal to draw on the best lessons and experiences from other parts of the world, the group asserted it would however be unsuitable to copy another model from another part of the world, not even a model like the Truth and Reconciliation Commission (TRC) in South Africa, because the religious context, the nature of conflict was completely different in South Africa from that in Nepal. The group noted thus that it would be important to devise a model most suited to the specificities of the Nepalese context.

As far discussions within Nepal on Truth and Reconciliation were concerned, it had been discussed as a mechanism/commission to provide amnesty or facilitate amnesty. That was (projected) as the ground for reconciliation. Some of the commissioners who served in the South African commission, were invited to help unpack the myths associated with TRC in South Africa, primary among them was the inability to create strong mechanisms for prosecution, to challenge impunity, which perhaps further contributed to the recent conflict in the country.

The group, therefore, reiterated the need to not focus only on prosecution, but also explore other mechanisms through which people’s faith in the system could be restored. For instance, ensuring that perpetrators were removed from their positions of power would help to make the system more accountable and go a long way in restoring people’s faith in the system.
The provisions for reparation too would have to be extremely comprehensive. So far, in Nepal, reparation was attributed to monetary compensation. Noting that reparation was not just monetary compensation, the group pointed out that it would also entail acceptance and recognition by the state that harm had been done to a particular victim. Furthermore, there were instances, where not individuals but the entire community had been affected. In such cases, it would be important to provide medical support especially psycho-social and trauma healing, through appropriate counseling centres in villages. All these must be included in the reparation policy.

The transitional justice mechanism for Nepal should include not just truth, reparation, prosecution, reconciliation, but also reforms of the institutions and guarantee from the state against recurrence of similar violations. Reitering that it would be critical to not repeat the mistakes of the past, where justice had been compromised (primarily due to the non implementation of the recommendations of such commissions), the group noted that due attention must be paid to chalking out in detail what should be the mandate, what should be the appointment procedure, implementation mechanisms of the commission's recommendations.

It would be important to bring people back into the debates, especially those who have been victims of human rights violations during the armed conflict. Only when the process is transparent, inclusive, and driven by civil society, can the possibilities of implementation be high – i.e. it has to be process centered. For all this a sustained dialogue and debate has to be initiated through which decisions are made on what processes and mechanisms need to be put in place.

Averring that some of the dilemmas that civil society organizations faced emanated from the problems of demarcating the threshold of acceptance/compliance with what the government proposed on these matters a reference was made to the dilemmas faced during the drafting of a bill for setting up the TRC by Ministry of Peace and Reconstruction. The group pointed out that the biggest challenge at that point in time was to comprehend the government’s intention behind doing so. This disdain emerged out of the fact that this move was not preceded by any consultation, with either victims or the civil society organization despite persistent demands for a national level discussion on the mandate, the appointment procedure, etc. In a complete negation of this demand, the government decided to form a task force to draft the bill. It was made public only after significant pressure from civil society organizations. On review it was found that the draft bill included provisions which were unacceptable to many, especially from the perspective of human rights. Giving in to the building pressure from civil society activists, the government organized four consultations on this subject in four regions. It was to the credit of civil society that the bill was revisited and revised a number of times. However another demand for conducting a thematic discussion around the bill has not yet taken place. This was a major dilemma, whether to engage at all with such bills or not, which were extremely problematic from the perspective of human rights.
Another concern was with regard to the timing, i.e. whether the time was right for setting up the TRC – whether the people were ready to face the past?

There is also a need to engender the process. Past experiences have shown, women victims are unable to comfortably share their experiences. How can we ensure that women can feel a sense of empowerment, when adopting these mechanisms (commissions), and sharing their experiences? How can we prepare conditions where society accepts that it takes fortitude and strength to share such experiences, and understand that it is by engaging with such personal stories and narratives that we will be able to understand as well as document the nuances of our own history? How can we create that environment? Until that environment is created, it will be very difficult for victims of rape for instance to use these forums/spaces to testify. A gender sensitive approach has to be adopted at all levels. From mobilizing local groups to prepare the ground, to more specific measures like appointing women commissioners in the commissions, or women staff in the commissions. The media too can play an important role.

Furthermore there was a need to strengthen the National Women’s Commissions. It may be viable to set up a new commission on violence against women, as well as ensure that there were separate units within these mechanisms. The group argued that if one looked at the levels of violence committed, one would recognize the need to have a special commission, even if it were for a stipulated period. This process should be parallel to the process of strengthening of the National Women’s Commission. Given the range of crimes committed, it was impossible for civil society groups or feminists, to document all cases and bring them out. Therefore there was a need for a better mechanism to address these issues. It would also require a revision of the whole methodology of the commission.

Noting that TRC was not the only mechanism in Transitional Justice framework, the group pointed out that the need for Disappearance commissions, state restructuring commission, SSR Commissions must be discussed. In terms of sequencing, perhaps it would be important to first set up a Disappearance commission. This would also provide an opportunity to assess whether such mechanisms were able to make any meaningful intervention that civil society organizations were expecting.

Pointing out that as far as restoring confidence on the police and judiciary was concerned, given their legacy and involvement in human rights violations, the process would be extremely difficult. Some steps that could be taken to restore public confidence in these systems were, to completely stop political interference, i.e. make police independent from Political control, and install independent oversight of the police. Making these institutions accountable should be the top priority. Therefore public monitoring/scrutiny of their activities should be stressed. In terms of legal obligations/provisions for human rights cases, the constitution provides fundamental human rights. In addition, Nepal has ratified several international human rights treaties, but the enforcement mechanisms continued to remain very weak. This was another area of concern. To deal with gross human
rights violations in the past, it would perhaps be important to formulate a new set of legal instruments.

There was a debate among participants on whether it was better to work under one umbrella organization, in this case the Women’s Commission, and create specific divisions with in it or to create several commissions. Concerns were raised about how one might lead to artificially drawing categories and the other might lead to complications of jurisdiction and power.

**Group 3: Civil Military Relations in Nepal – Democratic Control of the Armed Forces**

**Guiding Questions**

- Are civilian voices being heard in the Security debates in Nepal? What is the role of society in deciding the nature of civilian oversight and control of armed forces?
- What steps are being taken for the rehabilitation of child soldiers, ensuring gender equality, taking care of women combatants, preventing violence against women in times of war?
- What has been the change in the role of the army pre and post elections? What changes are needed in the recruitment policies of the army to make it more representative of the ethnic, caste, class diversity of Nepal? Are there elements in the army who oppose this?
- Post conflict, the army along with the police is often seen as a source of insecurity. How can this perception be changed? What are four or five ways in which the army can be reformed to make it more accountable, reduce impunity and possibilities of human rights abuses and convert it into an institution which is respected and trusted by the citizens of Nepal including the women of Nepal?
**Group Members:**

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Prashant Jha
Sangini Rana

**The Deliberations**

Setting the context for the ongoing debate on civil-military relations, the group pointed out that for the longest time, the army had remained sans any constrictions of civilian oversight. It was only post 1990, during the constitution making process, that the monarch was constitutionally appointed the Supreme Commander of the Army. However the following years were marked by certain unwillingness on the part of the democratically elected governments to lay down processes and institutionalize civilian oversight of the army. Instead, the emphasis was on forming relations with the military top brass, since the army was seen as pro monarchy. The dealings between the political leadership in a sense defined the ‘civil-military’ relations during those years. This created a chasm between the army and the people as different stakeholders and civil society actors were completely excluded from the discourse.

The terms of the debate changed with the onset of the Maoist movement. The fear that the army evoked earlier was challenged by the strengthening of the people’s movement.

As the conflict neared an end, it was the army and police which were on the backfoot. However the cessation of armed conflict saw both armies perceiving themselves as undefeated, and this created certain complications. While the Nepal army felt that since their role was to not rout the Maoists, but only to draw them out into the political process, they had succeeded in doing so. On the other hand, the Maoists construed the military stalemate as their victory. The subsequent defeat of the monarch and the victory in the elections, were also seen as retrospective justification of the people’s war, and a political victory for them. This created a situation where both sides felt that they had the better of each other.

However, the group noted that despite these complications, the army had continued to play a credible role in the peace process, by accepting the supremacy of the civilian government. There was a need to now strengthen all these institutions.

The group went on to state that the process however would be fairly complex as it would have to address a number of extant issues on both sides.
As far as the civilian government was concerned, the group averred that none of the political actors were keen to institutionalize civilian control. This lack of political will to institutionalize civilian control perhaps emanated from the uncertainties that continued to mark the political landscape in Nepal. Key political actors wanted to use the army to push their own specific agendas. The proclivity to control the army had persisted through the years. When GP Koirala was the PM he wanted to remain close to the army, so that he could use it against the Maoists, i.e. use it as a balancing force. Likewise in the present situation, the Maoists too did not want to institutionalize civilian control, rather they want to control the army, so as to create fear among non Maoist actors. In this context, the challenge therefore was to create independent non partisan institutions, which can establish civilian control. To assuage the fears of non Maoist actors, it would be important to create parliamentary oversight committees which include people from all parties.

There were numerous problems that would have to be addressed within the army as well. First was the issue of representation and inclusiveness. Presently due to historical and socio-cultural reasons the army remains a largely non representative institution, with limited/ no representation of Madhesis and other minorities. A major challenge in the coming days would be to rectify this non representative-exclusive character of the army.

Secondly, measures to ensure accountability and transparency would have to be included, especially on matters like promotions and transfers. The challenge was to dismantle the system of patronage that existed within the army. This had damaging effect on all the trust factors between state and society, as well as different actors, and agencies within the state. While talking about peace process, it was important to also debate how this system of patronage could be demolished. What would be the implications of this at various levels and across various groups within the state institutions? While looking at the macro situation, where does trust come in? What is the democratic aspect of trust? How does civil society ask for trust from the government, from the parties, leaders, male members within families? These were all very critical questions that would have to be answered from a larger perspective.

Reiterating the need to instill accountability through parliamentary oversight committees, the group pointed out that at present there was hardly any information available in the public domain on the questions of finances, budgets for defense, on how much peacekeeping money came in, etc.

The group asserted that the formulation of a National Security Policy would be crucial to emboldening civil-military relations in Nepal.

**Discussion**

Referring to the debate on SSR, Gurung pointed out that the terminology of SSR was largely absent in the third world. For instance, even in countries like India, SSR had not entered the public policy lexicon.
Similarly in Nepal, as far as the army was concerned their focus was on DDR—i.e. disarming the Maoists, organizing them, sending them to the camps and then reintegrating them. In civil society too, the emphasis was on reintegration. Therefore, even in terms of ‘terminology’ there continue to be differences.

Furthermore, as far as the larger debates around SSR are concerned, while the thrust in the third world is on reforming the army, in the West particularly in the USA and Europe the emphasis is on reforming the police. Even in Nepal, it has been observed that post the armed struggle, it was the police which was totally demoralized. This aspect of reforming the police has remained somewhat on the margins, but when you talk about democracy, rule of law, then attention will have to be paid to even those institutions responsible for enforcing law and order. These are some of the issues that will have to be considered in the future.

Responding to concerns raised about the lack of credible civilian oversight, Gurung noted there had always been strong mechanisms of control over the army, but the problem was that there was a lack of political will to apply them in practice.

He argued that even during the drafting of the 1990 constitution, when a reconciliation of sorts was underway between the monarchy and political parties, the army had taken a position to remain apolitical, non-partisan. This led to a confrontational situation in the days to come. This was the time when the idea of a National Security Council came in. However, there was an undermining of the whole process due to political differences.

Even the Interim Constitution, provide a total mechanism for legislative oversight, executive control, and a total chain of command system. Presently in the parliament system, there is a provision which requires the Defense Minister to submit a defense report every year in April during the annual budget, so that like other items, the defense related expenditure can be placed under the scanner.

In addition to this, there are other strong mechanisms. There is the Special Security Committee (SSC) and the Public Accounts Committee. Within the executive there is cabinet NSC (also known as the Defense Council), which has the power to ratify the authority of the SSC. There is already a chain of command with the Defense Minister, the PM and the President as the Commander in Chief.

Attempts at consensus building on the issue of SSR would have to steer clear of blaming one particular group for past lapses—whether it is the army, the politicians, the Maoists or other political parties.

**Group 4: Integration of PLA with Nepal Army – Demobilization and Reintegration**

**Guiding Questions**

- What are the obstacles to reintegrating the Nepal Army with the PLA?
- What was the percentage of the woman combatants in the PLA and what is being done to rehabilitate and reintegrate them?
• How is the issue of child soldiers being addressed?

• What has been the process by which Maoist army combatants have been registered in cantonments? Are they all eligible for integration into the Nepal Army? What is the percentage of women PLA members who are eligible for integration into the Nepal Army?

• What is being done about combatants (including women combatants) in the PLA, who because of age and other factors, are not eligible for reintegration into the Nepal Army to ensure their dignified reentry into a “post conflict” social order?

• While the process of reintegration is on what is/will be the policy on new recruitment in the Nepal Army?

• What would be the possible vision and strategy of the new integrated army of Nepal composed of two “undefeated” armies. What are the steps it can take to win the trust and faith of the people and function as a cohesive unit?

**Group Members**

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**The Deliberations**

Integration was fundamental to the peace process. Peace process would not be complete without dealing with integration.

The group began with the assertion that the issue of integration was an extremely complex one, as it was interlinked with a host of other issues like the formulation of National Security Policy, democratization of security forces, inner party democracy, attitude of leaders towards the security issue, political party reforms, border management, small arms transaction, trust building to name a few. Recognizing that while any discussion on integration required that the approach be holistic, given the complexity of the issue at hand, the group noted that they had been able to focus only on few specific issues.

There is need for a new broader National Security framework, which would include all other security
structures, like the armed police force, intelligence forces, and other potential agencies. Perhaps it would be important to include a chapter in the new constitution on national security issues.

As far as the specific attributes of civilian control of the army from a Nepalese perspective, the group suggested the following:

- Civilian supremacy must be one of the guiding principles.
- Maintain a non partisan/apolitical professional army so that the attempts of vested interests to use the army, security, police, PLA as a bargaining- tool in the political process as witnessed in the past, can be thwarted.
- Full commitment to human rights
- Composition has to be inclusive.
- Make the national army transparent and accountable
- To broaden its area of engagement, it should focus on diplomacy, defense and development.

Detailing the steps/mechanisms of the integration process, the group underscored the need to carry out the entire process in phases.

- The first phase would be the transitional phase, which would focus on increasing the size of the security structure so as to facilitate the integration of the two armies. This was already underway in Nepal, with the formation of the Security Committee under the PM. There were indications that a technical committee may also be formed. This phase should be completed ideally before the next elections are held.
• The second phase would be the Interim phase, which could take up to 5 years. In this phase, the focus would be on **optimizing the size of the entire security** structure given the needs of the country.

• The third phase will be the stabilizing phase where the Nepal security apparatus should start operating completely under democratic framework/system, and contribute towards deepening democracy and ensuring peace and prosperity.

The group also delineated some norms that must be followed during the process of integration.

1. It should maintain the standards set by the Nepal Army.

2. It will be important to do a need based assessment and then through either a specific Presidential decree, or a special decision, the context specific aspects of integration could be accommodated or addressed.

3. It will be important to rebuild people’s trust in the national security apparatus, not only the army, but also police.

Reiterating the need for a gender perspective, the group pointed out that presently the process remained completely gender blind. The high level security committee was without a single woman member. It would be important for civil society actors to sustain the pressure on the government to ensure representation of women in committees related to security, like the existing high level security committee and the proposed technical committee.

As far as addressing the concerns of women in PLA and military is concerned, it would be imperative to provide a safe and open space to these women, to fully share their concerns. If there are other problems/hurdles – legal or otherwise, those can be dealt with a Presidential decree or order or special provisions. The process would benefit immensely if political parties could come together on this issue.

With regard to the Demilitarization, Demobilization and Reintegration of PLA, at a fundamental level downsizing would apply not just to PLA, but the entire security force. Averring that since this process might take upto seven years, the group noted that there were certain issues that needed immediate attention. For instance, specific attention would have to be paid to the concerns of pregnant women, lactating mothers, and the disabled. There is a need thus for a comprehensive gender sensitive package to aid the demilitarization, demobilization, and reintegration process. Certain support structures would have to be put in place, if both men/women have to be reintegrated into society:

• Psycho social help and counseling must be made available.

• Infrastructural and financial support should be made available to those who require it.
• Legal support must also be provided through the system.
• Health and education related support must be provided.

On the issue of child soldiers, despite assurances by the PM to the special representative from the UN that the issue would be resolved within a stipulated time frame, no concrete steps have yet been taken. The group noted that the problem was not so much at the operational level, but at the broader political level. There was a lack of political and legal framework, because of which these concerns had not been addressed.

Shifting focus to the broader issues that were dominating the political landscape, the group pointed out that there were two main issues that had come up recently. One was the issue of civil subordination or the democratization of the Nepalese army, i.e. was the Nepalese army taking orders from the respective channel of command, and the second was the relationship between the Maoists, the Defense Minister, the PM, and the Nepalese army. On both these questions, raging debates had taken place, and depending on one’s position the answer to both these questions differed. The recent controversy over recruitments was a case in point.86

Therefore given the complex situation that was prevailing in Nepal at the moment, it would be critical to allow diverse voices to be heard and only then common ground could be found and forward movement ensured.

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The Way Forward

The concluding session at the symposium was devoted to receiving feedback, exploring possibilities for future networking and follow-up dialogues.

In her concluding comments Sumona DasGupta, WISCOMP, highlighted that when WISCOMP organizes symposia such as this, the foremost thing on its agenda is to build a sense of trust and to ensure that participants feel they are in a safe space to articulate and express their views without being judged. The idea is to provide a place where debate and dialogue can take place and various voices put forth, regardless of the differences in political ideology. At the same time, WISCOMP is very sensitive about not parachuting into any situation with a package of solutions. She, therefore, elicited responses from the participants on what in their view were the areas where cross fertilization of ideas between Indians and Nepalese would be most useful.

Following were some of the thematic areas suggested for future interactions:

- Opportunities that exist for Nepal in the current conditions
- Addressing the issue of national identity without neglecting the differences that exist at multiple levels among Nepalese people.
- The Indian experience of establishing and working a federal constitution
- Enhancing people to people contact between India and Nepal
- Addressing some of the specific concerns of women including violence against women, while showing sensitivity to the differences in experience of women from different communities
- Sharing of the Indian legislations on affirmative action and on minority rights and the challenges of implementation
- Discussions on the Indian experience of land reforms especially in Kerala and West Bengal.
Postscript

Since the WISCOMP symposium was organized in January 2009, Nepal has witnessed tumultuous political developments. In May 2009 Prime Minister Prachanda (of CPN M) resigned from his post, accusing foreign forces of interference in Nepal’s internal matters and making the President a parallel power center unconstitutionally. The crisis followed months of struggle between the Prime Minister and the Army Chief over the induction of former Maoist rebels into the army.

Amidst growing concerns that the resignation by the Maoist leader may lead to the breakdown of the peace process, the Communists along with their coalition partners elected Madhav Kumar Nepal (of CPN-UML) as Prime Minister. Although the Maoists declared that they would boycott the government, some senior leaders of the party did attend the swearing-in ceremony. However, the Maoists, the largest party in parliament began protests against the coalition government of Prime Minister Madhav Kumar Nepal, demanding an apology from the President, who had reinstated the Chief of Army after the latter was sacked by the Maoist government. They have also demanded the dissolution of the 22-party government and the formation of a new one under their leadership. Besides the street protests, that virtually paralyzed the government machinery, the Maoists kept up a siege on parliament, not allowing it to convene on several occasions.

The relations between the Maoists and the ruling coalition partners further deteriorated due to two recent developments. On November 9, 2009 a regional wing of the Maoists violated the 12 Point Agreement by announcing the formation of an autonomous state in eastern Nepal and the Party proposed a unilateral plan to declare 13 “federal autonomous states”. Eleven of these “states” are to be named after the ethnic groups considered to be the original settlers. The ruling parties expressed concern that this would be a severe blow to the peace process as the new constitution, to be promulgated in May 2010, should decide how the republic of Nepal is restructured. In addition, deadly clashes took place between police and landless settlers in December 2009, when the police tried to evict squatters who had forcibly occupied a protected forest in the far-western district of Kailaali. The clash resulted in the death of five people, including a policeman. The UN’s human rights agency began an investigation into the alleged use of excessive force by the security agencies.

For the Maoists, a national unity government is a precondition for their active participation in the assembly panel tasked with drafting the constitution. Since the rules require a two-thirds majority for the constitution to be passed, it is necessary to have the Maoists on board. These developments have brought into focus the sharp political differences over the issues of federalism and land reforms and security sector reform that were foregrounded at the WISCOMP symposium; also
leading to widespread speculation from various quarters – nationally and internationally- about the infirmities marking the peacebuilding process in Nepal. Despite these severe interruptions and bitter stalemates, the process of drafting a new constitution continues unabated, within the chambers of the Constituent Assembly. The Nepal government, along with the UNMIN, and its strategic neighbors- India and China, has been negotiating with the Maoists to tide over the political impasse. It has placed the writing of the constitution and the restoration of law and order in the country as its top priority, both of which are vital for the completion of the peace process and the fulfillment of the aspirations of the Nepalese people.

It is hoped that the people of Nepal would be able to tide over these hindrances, and emerge from this tumultuous phase, as a robust and vibrant democracy
Profiles of Participants from Nepal

Ava Darshan Shrestha is Chairperson of Nagarik Aawaz, an NGO that works for conflict affected people. She is a Board Member of the Samanata-Institute for Social and Gender Equality and the Vice Chairperson and Chairperson of the Advocacy Committee of the Safe Motherhood Network Federation of Nepal. She is also a Trustee for the Street Children Nepal Trust, a charity based in the UK. Dr. Shrestha has worked as a consultant to various bilateral and multilateral agencies, such as, UNDP, UNIFEM, UNICEF, UNFPA, ILO, the World Bank and USAID. She is currently conducting research on conflict/insurgency and its impact on women. She holds a PhD from the School of Social Sciences, University of Bath, UK (1995) and a Masters degree in Public Administration (MPA) from the Kennedy School of Government, Harvard University, USA.

Babita Basnet is currently Editor, Ghatana Ra Bichar, a popular vernacular weekly and has been actively involved in journalism for the last 18 years. She is also President of the Sancharika Samuha, a forum of women journalists and communicators in Nepal. Ms. Basnet has held the position of Vice President, International Press Institute (Nepal Chapter) and Secretary, South Asian Editors Forum. Since 1997, she has been monitoring the print media on violence against women and girls. She has written and edited several books and regularly contributed articles on political, social and gender issues to various newspapers. In the context of new developments in Nepal, she has been facilitating and coordinating the integration of women of various professions, nationwide, into one network to carry forth the objective of increasing women’s involvement in all sectors. Ms. Basnet is also a WISCOMP Scholar of Peace and in the course of her fellowship, she has personally met many women survivors of the conflict in Nepal.

Bandana Rana is the Regional Coordinator for the South Asian Campaign for Gender Equality, and a Founder Member and President of Saathi. She has previously served as the Chairperson for the National Commission for Women in Nepal and was the first elected Executive President of Sancharika Samuha (Forum of Women in Media). She was also a part-time News Anchor and Editor for Nepal Television for twenty years. She has extensive experience as a Communications Consultant for UNDP and other UN organisations. Ms. Rana has also worked in the field of media and development communication with a gender perspective and enhancing participatory communication in development programmes. She is also experienced in leading advocacy and research/study programmes for policy reforms within the framework of national and international instruments.

Bishnu Raj Upreti is currently the Regional Coordinator (South Asia) for the Swiss National Centre of Competence in Research (NCCR), North-South. He is a conflict transformation expert, and was cited regularly by the media during the armed conflict in Nepal. He has also worked on other topics, such as natural resource
management, rural development, gender mainstreaming, and poverty assessment. Dr. Upreti holds a PhD from Wageningen University, Netherlands, and has been actively involved in teaching and researching at different universities in the UK, Sweden, and Nepal. His work experience ranges from different international organizations to the Nepalese government service. He has written over twelve books and published several articles.

**CB Gurung** is a highly decorated professional soldier, who rose to the second highest rank of the Royal Nepal Army. He has a long record of achievement at the operational and strategic levels of the various arts of military operations including international peacekeeping, internal security and development strategy. He was Deputy and Military Advisor, DPKO, UNHQ, New York (2000-2002). As Chief of General Staff, Division Commander, as well as Brigade Commander, he was the Lead Officer for conceptualizing and implementing RNA’s Internal Security and Development Strategy in response to the Maoist insurgency (1997-2005). He has served as Military Attaché in the UK and France (1983-1986). He was also the Leader of Royal Nepal Army Mt. Everest Expedition 1990, and established the Royal Nepal Army Command and Staff College (1992-1995). A graduate of Tribhuvan University, and IMA (1967-1968) India, he attended Command and General Staff College, USA (1980) and Royal College of Defense Studies UK (1996).

**Chitralekha Yadav** is former Deputy Speaker of the House of Representatives, which served as the lower house of parliament under the 1990 Constitution of Nepal. She holds a Master’s Degree in English Literature, and has worked as an Assistant Lecturer at Tribhuvan University in Nepal before being elected to the House in 1999 on behalf of the Nepali Congress. After the party split in 2002, she joined the breakaway Nepali Congress (Democratic) Party (which later reunified with Nepali Congress) and was elected to the party’s Central Working Committee in 2005. In 2008, she was a candidate in the Siraha-2 constituency for the Constituent Assembly election. Previously, Ms. Yadav has engaged with the student’s and women’s movements, advocating equal rights for women at the grassroots level.

**Deepak Prakash Bhatt** is a research scholar at School of International Studies, Jawaharlal Nehru University, New Delhi and is completing his thesis on *The Social and Political Dimensions of Nepalese Army*. He has done his M. Phil. in International Relations from JNU in 2005. His article titled *Nepal’s Role in SAARC* is published in a book titled *Role of Japan and Nepal in Asian Politics 2005*. He has done research work on “Nepal Army and Social Inclusion” in 2007 at Martin Chautari, Kathmandu and translated books “Globalization and Democratization” and “Comprehensive Democracy in South Asia” from English to Nepali. He has published a number of articles in leading Nepalese and Indian dailies, weekly newspapers and magazines on the current political, social and security related issues. His areas of interests are civil-military relations, security sector, defense, social transformation and democracy.
Deepti Khakurel is Assistant Gender Researcher/Consultant – Women and Constitution Building Initiative, International IDEA, Nepal. She is currently conducting research for producing Gender Folders for Constituent Assembly members. She also coordinates with national and international experts, organizes conferences, seminars and meetings of relevance to women and on constitution building under the supervision of the Gender Advisor, International IDEA, Nepal. She has also worked for SAP International- Nepal, where her responsibilities included helping to institutionalize the South Asian Regional Forum-South Asian Peoples Summit Research and Documentation. She has also worked on SAP-International’s Friends of the Bagmati and Environmental Camps for conservation awareness. Ms. Khakurel was a board member of the Association of Youth Organizations, Nepal from 2006-08 engaged in advocacy on National Youth Policy. She holds a Masters degree in Natural Resource Management and has authored Women’s Political Participation in Nepal: Challenges and Constraints, A Case Study of Sunsari District.

Durga Sob is an advocate for the rights of Dalit women, and the Founding Member and President of the Feminist Dalit Organization (FEDO). Ms. Sob was the President of the Dalit NGO Federation (DNF), and from 2002 to 2004, held the post of Member Secretary of the National Dalit Commission. Currently, she serves on the Board of Directors of the International Movement Against all Forms of Discrimination and Racism-Japan (IMADR), and is Member of the National Development Council (government body). She has participated in the NGO forums at the Fourth World Conference of Women in Beijing, Beyond Beijing +5 and Beijing +10 Conferences, and the WCAR Meeting in Durban. As part of the National Election Observation Committee, she continues to seek respect for Dalit and women’s rights–and their full participation–in the context of post-conflict peace-building in Nepal. This advocacy is also carried out through her work as a Core Member in the Women’s Alliance for Peace, Power, Democracy and Constitutional Assembly, and a Member of the National Network of Women for the Peace-Building Process. She has been involved in numerous creative and innovative approaches to secure sustained funding for initiatives that focus on social inclusion, participation and human rights for women who have been systematically excluded both traditionally, as well as in the new post-conflict reality of Nepal.

Hari Roka is a Member of the Constituent Assembly and Legislative Parliament, Nepal. In the past he has served as a Member-Secretary of the Co-operative Development Board of the Government of Nepal, President of Nepal National Federation of Students, the Secretary of Khotang District Committee, Communist Party of Nepal and a Member of Central Committee, Communist Party of Nepal (M-L). Mr. Roka has served over seven years of political imprisonment under different political movements from 1977 to 1991. He holds an M. Phil degree from the Centre for Economic Studies and Planning, School of Social Science, Jawaharlal Nehru University, New Delhi and has authored several articles. His M.Phil dissertation was titled “The Trajectory and Consequences of Liberalization Policy in Nepal” (2003).
**Indra Adhikari** has completed her M.Phil from the School of International Studies, Jawaharlal Nehru University, New Delhi. She is working on her PhD Thesis on “Democratizing Nepali Polity: The Response of the Military after 1990”. Previously she was associated with Nepal Center for Contemporary Studies (NCCS), Kathmandu as Research Associate. Ms. Adhikari has contributed dozens of articles to journals and local newspapers on gender, democracy, civil-military relation, conflict and other socio-political issues. She has contributed chapters to various books like Nepal: Facets of Maoist Insurgency, edited by Lok Raj Baral and Towards Freedom in South Asia: Democratizations, Peace and Regional Cooperation.

**Kailash Nath Pyakuryal** is a reputed Nepalese Rural Sociologist. He holds a PhD in Sociology from Michigan State University, USA. After working with the Nepalese Ministry of Agriculture (1965-1976), he served as Assistant Dean, Dean of Agriculture and Head of several departments at Tribhuvan University in Kirtipur, Nepal (1976-2006). Since 2007 he has been working at the University of Kathmandu. Prof. Pyakuryal is an expert in the fields of natural resource management, poverty assessment, farming system research, institution building, and human resource development. He has worked as a Consultant to various development institutions like the UNDP, the World Bank, USAID and the Gesellschaft für Technische Zusammenarbeit (GTZ). He has more than 50 scientific publications to his credit.

**Leena Rikkila Tamang** is currently the Head of Mission at the International Institute for Democracy and Electoral Assistance (IDEA), Nepal. She is also currently a Member of the Advisory Board for Asia-Europe Foundation (ASEF). She has been coordinating IDEA’s programme on Supporting Constitution Building Process in Nepal since 2004. The objectives of this initiative are to support national initiatives aiming at forging consensus on political reform and to develop the capacity of Nepalese stakeholders on constitutional options. Ms. Tamang is a former Secretary-General of Finland’s Advisory Board for Relations with Developing Countries (Ministry for Foreign Affairs). She is a Member and Former Chair of the Network Institute for Global Democracy (NIGD). Amongst her work with NIGD, she has coordinated, projects promoting North-South Dialogues on democracy and globalization and been involved in the World Social Forum (WSF) process. She has been teaching at the University of Tampere in the Department of Political Science and International Relations from where she graduated. She has worked in India, Sri Lanka, Nepal and Vietnam. Her research interests also include Burma/Myanmar.

**Mandira Sharma** is a Human Rights Activist and the Executive Director of the Advocacy Forum. She has been the recipient of the Human Rights Watch’s Human Rights Defender’s Award in 2006. Previously she has served as a Legal Training Coordinator for the Center for Victims of Torture, a Program Coordinator for the Women and Children in Prison Project, a Consultant for the National Human Rights Commission and a Consultant for Penal Reform International. Ms. Sharma has presented papers at numerous conferences such as the 15 years of Vienna Declaration held in Vienna, the 6th Session of the UN Human Rights Council held in
Geneva, the National Human Rights Commission of Thailand, the International Crisis Management Center in Finland, the Asian Human Rights Commission in Hong Kong, and the International Human Rights Colloquium in Sao Paulo, Brazil. She has various domestic and international publications to her credit.

**Manju Tuladhar** is Adviser, Social Inclusion for Danida/Human Rights Good Governance Programme Unit (HUGOU). She has assisted the women’s development section at local government agencies, local NGOs and community organizations in formulating community strengthening sub-projects. She has also facilitated leadership development among local women political representatives. Ms. Taludhar has done extensive research on mobilizing the citizen’s voice and ensuring accountability at the local level, with a special focus on Nepal. She has worked extensively in conceptualization, strategic formulation and management of sustainable community development programs aiming at NGO institutional development, poverty eradication, local governance, equal access to quality public health services, HIV/AIDS prevention, gender equality and social inclusion for over ten years. Her publications include *Terai Madhes Reconnaissance Mission Report* (Danida/HUGOU, 2008), *Unfolding the Reality: Silenced Voices of Women in Politics* (SAP International/OXFAM NOVIB, Kathmandu, 2007) and Regional Issue Paper on *Violence against Women Politicians in South Asia* (2007)

**Mira Gurung** is the Eastern Region Network Coordinator, Shanti Malika. She has been a trainer for various women awareness programmes at INSEC for the past one and a half years. Over the past year, she has also been a trainer for the children awareness programme at the foreign office. She is also amongst the elected women for Ramilo V.D.C., a CPN (UML) District member and an A.N.M. Shangh District Committee member.

**Mohamadi Siddique** represents the Nepali Congress in the Constituent Assembly of Nepal. She is one of the prominent Muslim women leaders in Nepal, and has been mobilizing Muslim women and advocating for women’s human rights for over 15 years. She is also the founder of Fatima Foundation and serves on the board of the National Human Rights Forum as well as other South Asian and Human Rights Forums.

**Monalisa Adhikari** is currently pursuing her M.A. in International Relations from the School of International Studies, Jawaharlal Nehru University, New Delhi. She served one term as the Joint Secretary of the Foreign Students Union, JNU in the 2007 session. She was associated with a youth organization, Alliance for Peace as a Program Assistant where she assisted in designing concept papers and proposals for Youth empowerment and Youth education on Human rights, Good governance, Democracy and Youth Representation which aimed at developing a culture of peace and democracy by creating a space for youth interaction, participation and mobilization to include them in a more inclusive peace process.
Nirmala Thapa Pandit is Program Officer, Nagarik Aawaz in Lalitpur. Previously she has worked as a Participatory Development Officer for a Self Help Development Program supported by the Canadian Centre of International Studies and Cooperation. She has also been a Senior Motivator and Program Supervisor for a Self Help Development Program supported by the Karnali Local Development Program. Ms. Pandit has also served as the District Coordinator for the Nepal Women Association (Social and Development Division). She was the first Nepalese woman to be awarded Prize for Women’s Creativity in Rural Life by the International Jury of Women’s World Summit Foundation in Geneva in 1997.

Pingala Basnet is a member of the displaced community and hails from Jhapa. She is currently Program Assistant, Nagarik Aawaz, Lalitpur. She has been a Peace Ambassador and Social Mobilizer at the Sungava Development Organization. She has participated in numerous training workshops related to her areas of interest which include peace building and conflict management, participatory planning, rural appraisal training and women’s meaningful participation in the interim Constituent Assembly process.

Prashant Jha is a Kathmandu based independent journalist. He is also a contributing Editor of Himal, a South Asian magazine and a weekly columnist with the Nepali Times. He has also written for Frontline, Tehelka, The Hindu, The Indian Express and South Asia Intelligence Review. His interests revolve around contemporary Nepali politics, the Madhesi movement and India-Nepal relations. Mr. Jha has presented papers on Nepali politics and Madhesi issues to the UN Mission in Nepal, DFID/GTZ Risk Management Office, Martin Chautari, Rotary Clubs, strategic think tanks and other such fora both in Nepal and India.

Purna Bahadur Nepali is currently a PhD student at Human and Natural Resource Studies Centre at Kathmandu University and a researcher at the Swiss National Centre of Competence in Research (NCCR), North-South. His doctoral research focuses on land issues, livelihood and social conflict. Mr. Nepali has worked with several national and international organizations and has contributed articles to scientific publications and magazines such as The Organization (Nepal).

Pushpa Bhusal represents the Nepali Congress in the Constituent Assembly. In addition, she is a leading advocate at the Nepalese Supreme Court and Secretary-General of the All Nepal Women’s Association, which is associated with the Congress party. She was involved in the drafting of both the Interim Constitution and the Truth Commission. She has worked as a Lecturer of Political Science in Tribhuvan University, Kathmandu for 10 years. She has also worked as a Legal Advisor for different governmental and non governmental organizations. Ms. Bhusal has participated in the Training Workshop on “Law and Development” in Stockholm, Sweden organized by the Swedish Institute for Legal Development (1994), the UNHCR Workshop on introduction to refugee law held in Kathmandu (1995), the workshop on “Women in Management” in Washington D.C. organized by CEDPA.
(2001), the exposure visit of Women Leaders from different political parties to Afghanistan and India facilitated by UNIFEM (2006), amongst others.

**Renu Rajbhandari** is a women’s rights activist and gender specialist. She studied medicine at the Moscow Medical Institute in Russia and is a medical doctor by profession. She serves as the Chairperson of the Executive Committee of the Women’s Rehabilitation Centre (WOREC), which she founded in 1991. Dr. Rajbhandari has done pioneering work in terms of integrating gender, reproductive health, reproductive rights and empowerment into one service-oriented social movement organization. She is also one of the few who provided women’s rights training at both the policy and the grass-root level in Nepal, addressing issues like trafficking, domestic violence and human rights. In 1992, she was awarded the Ashoka Fellowship.

**Rohit Nepali** is Executive Director of the South Asia Partnership International (SAPI). At SAP he has been working to strengthen solidarity between community-based organizations and issue based networks within South Asia. Prior to his current assignment he was the Executive Director of the South Asia Partnership (SAP) Nepal, from 1991 - 2004, where he was involved in strengthening initiatives by grass roots community based organizations engaged in poverty alleviation actions for promoting social justice in Nepal. He has over 30 year’s experience in development project management, specializing in design, development, implementation, financial and human resources management, monitoring, evaluation and reporting on internationally and locally funded programs, projects and initiatives. His expertise includes community and rural development, social mobilization, capacity development, civil society building, democratic governance, organizational development, advocacy and conflict transformation. He is a skilled cross-cultural negotiator with direct work experience in Canada, Bangladesh, India, Pakistan, Sri Lanka and Nepal.

**Sama Shrestha** is Team Leader of Women and Youth- Pillar of Sustainable Peace Program (WYPSP), CARE, Nepal. She works to promote peace at the local community level by working directly with conflict-affected individuals, families, and communities. Ms. Shrestha has valuable experience in integrating rights, equity, and governance in programs; working to support communities to enhance their sustainable livelihood, supporting community capacity on policy advocacy and peace initiatives, building capacity for peace. She has worked directly with more than 15 local NGOs (particularly in far western, western and central regions), more than 500 women and youth community groups and three national level networks (FECOFUN, Shanti Malika, Partnership for Protecting Children in Armed Conflict).

**Sangini Rana** is Executive Director, National Indigenous Women’s Federation (NIWF). She is in charge of indigenous women’s rights and policy advocacy, project management, organizing project activities at the national and district levels and networking with national and international human rights organisations. Previously,
she has worked as a consultant in DFID, National Indigenous Women Forum, Micro-
Enterprise Development Program (MEDEP), HMG & UNDP and the Swiss Agency Development and Cooperation (SDC). She was the Project Coordinator, National Indigenous Women Forum and the Social Development Officer, for the Canadian Centre for International Studies and Cooperation (CECI-NEPAL). She was Editor and reporter of ‘Voice of Indigenous Women in Nepal’ magazine (tri-monthly) and has also published several articles on indigenous peoples and women’s issues and problems in national level news papers and magazines in Nepali.

Sapana Pradhan Malla is a CPN-UML Member of the Constituent Assembly of Nepal and a practicing lawyer at the Supreme Court of Nepal. She is one of the leading advocates of women’s concerns on national law and policy, and has worked tirelessly towards the abolition of around 64 discriminatory laws related to women in Nepal. She has several landmark cases to her credit, and has been prominently engaged in securing legal reforms protecting fundamental reproductive and property rights of Nepalese women. She has published extensively on the legal status of Nepalese women. She also serves as President of the Forum for Women, Law & Development and as Vice President of the Legal Aid Consultancy Center. In 2008, she was awarded the Gruber Prize for Women’s Rights.

Sarita Giri represents the Nepal Sadbhawana Party (Anandidevi) in the Nepalese Constituent Assembly and is also the General Secretary of the Party. She has served as the Spokesperson and Central Member and Chief of the Foreign Affairs Department. As part of a five-member National Task Force, she was entrusted with work of defining politics to ensure the inclusion of women and other marginalised groups in the new political system. In addition to her engagement with the party, she serves as Chairperson of the Centre for Women and Politics (CWAP). In her long political career, Ms. Giri has also served as a political prisoner several times. She was initially associated with the Nepali Congress, but later joined the Sadbhawana Party in the mid 90s. She has various articles and a book on state transformation to her credit.

Sharada Rana is a Central Member of the All Nepal Women’s Association (Revolutionary). Ms. Rana has been active in politics since 1982 and has earlier served as the organization’s General Secretary in 1993 and President in 1996. She also contested the Parliamentary Elections in 1995.

Sharmila Karki is the Chairperson of Jagaran, Nepal and Founder Member/Coordinator of Shanti Malika. She is also the Secretary of the NGO Federation of Nepal, an umbrella organization with 4500 members. She has a background in gender, women rights and conflict resolution and has worked in almost 45 districts of Nepal, conducting trainings, seminars, workshop related to gender and women’s rights issues. Presently she is engaged in a fact finding mission on Human Rights violation of women. She has contributed an article titled “Women in Armed Conflict” for the Shadow Report of CEDAW, presented at the United Nations. Ms. Karki holds
dual Masters in Anthropology and Women Studies from Nepal. She has also done short-term courses on conflict resolution and peace building from the UK and women in management from Sweden.

**Shobha Gautam** is a freelance journalist and gender and peace activist of Nepal. She is currently working as the President of Institute of Human Rights Communication Nepal (IHRICON), Vice President of Beyond Beijing Committee and Coordinator of *Shantimalika*. She has been advocating for women’s rights through the media for the last 22 years. She works on issues related to the prevention and reduction of violent conflict, and participative design for the involvement of broad-based representation in peace building by mobilizing the media community. She has conducted trainings for e- journalists all over Nepal on conflict, gender and human rights reporting; as well as provided training to the security forces and Maoist cadres on the ‘Role of Security Forces in Protecting/Respecting the rights of children during times of conflict.’ Ms. Gautam has authored a book titled *Women and Children in the Periphery of People’s War* which reflects the situation of women and children in areas with armed conflict in mid and far western Nepal. She has also co-authored *Women, War and Peace in South Asia* and co-edited *Women in Nepalese Media, Gender and Armed Conflict* (McGill University, Canada) and *Gender and Small Arms* (United Nation University, Japan).

**Shrijana Singh Yonjan** is Director, Creative Statements. Shrijana is also the Coordinator of the Women’s Forum of the Asia Pacific Leadership Forum (APLF) of UNAIDS in Nepal. She is also a highly respected and appreciated creative consultant, program coordinator and organizer. She is involved with events that raise awareness on various social issues especially related to women and children. She is known for her unique choice of theme and approach. A much sought after compere for special events, she organizes and hosts the annual *Celebrating Womanhood Navadevi Awards*, the only regular awards function for women which has also received the endorsement of the Ministry of Women, Children and Social Welfare in Nepal. Ms. Yonjan has been actively involved in the communications sector for the past 12 years. Through Channel Nepal, Shrijana introduced various programs related to women, children, culture and senior artists. Member of *Sancharika Samuha* (Women Communicator’s Forum Nepal), Ms. Yonjan also contributes to various publications in English and Nepali and is a columnist for *ECS Living Magazine* where she writes about current and social issues.

**Srijana Adhikari** is the Constitution President and District Member of the Nepal’s Student Union. In the past she has served as the Joint General Secretary of the Nepal Students Union Center Committee, Consultant for CEDPA – Nepal, Executive Member of the National Committee of UNESCO – Nepal and National Executive Member of the Federation of Democratic NGOs. Ms. Adhikari has trained student youth leaders in peace building processes at the grass-root levels. She has conducted research and social work on street children and child labor in Morang district and the socio-economic status of women teachers in Chabhil area.
Sushma Sharma Ghimire represents the CPN (Maoist) in the Constituent Assembly of Nepal. A CPN-UML candidate for local elections in 1997 and a CPN-ML contestant for the election to the House of Representatives in 1999, she was also a central leader of the CPP (UML)-affiliated Women’s Association. She is the first Nepali woman to have a Master’s degree in Sanskrit literature. Her key agenda is to ensure the emancipation of women through the constitution. She was district Secretary of All Nepal Women Organisation, General Secretary of ANWO, Central Committee member of School of CPN, Member of Central Election Committee and Member of Tharuwan State Committee.

Tulasa Lata Amatya is the President of the Community Action Centre – Nepal President of National NGOs Network Group against AIDS – Nepal, President of NANGAN, Central Executive Committee Member of Federation of Democratic NGOs – Nepal, Executive Board Member of Prerana and a Founder Member of Shanti Malika. Ms. Amatya has extensive experience in conducting research work and planning and execution of development programmes for women and children at the grassroots, national and international level. She has been actively involved in a variety of social activities and organizations since 1977, and was nominated as a SAARC Prominent Women (SAARC/SAWAS) from Nepal She is a recipient of many other prestigious awards including Celebrating Womanhood- Nanda Devi Award-Karuna awarded by the Ministry of Women, Children and Social Welfare.

Uddhab P. Pyakurel has completed his M.Phil. from the Department of Sociology, Delhi School of Economics, University of Delhi. He is currently working on his Ph.D. degree from Jawaharlal Nehru University (New Delhi) as a SAARC Fellow. Previously, he was associated with Nepal Center for Contemporary Studies (NCCS) and worked for a number of research projects. He regularly contributes articles to journals and local newspapers in India and Nepal on issues of poverty, political participation, social inclusion/exclusion, state restructuring, micro-credit, gender, conflict, identity, democracy, election and other socio-political issues. He has also authored a book titled Maoist Movement in Nepal: A Sociological Perspective.
Profiles of Participants from New Delhi, India

Alpana Kishore is WISCOMP’s Scholar of Peace 2006. She has reported extensively on Jammu & Kashmir as a journalist at the peak of the conflict in the 90s and has also worked on partition identity issues in India and Pakistan. Her fellowship monograph Nationality and Identity Shifts in Jammu and Kashmir’s Armed Conflict (WISCOMP, 2009) explores key identity issues that have remained on the periphery of reportage like the minorities, rural Kashmir, the changing face of Islamic belief, the exile of the state and its comeback etc. She is involved with several citizens’ groups and urban bodies on critical urban law, planning and transport issues in Delhi. Currently she is working on a book based on her fellowship research.

Anuradha Chenoy is a Professor at the School of International Studies, Jawaharlal Nehru University, New Delhi. She was a specialist at the Expert Group Meeting of the United Nations Division for the Advancement of Women on Conflict Resolution: The Role of Gender in the Dominican Republic in October 1996. She is the author of numerous publications on South Asia among them are, India Under Siege: Challenges Within and Without (1994), and Militarism and Women in South Asia (2002).

Ashok Mehta belongs to the Fifth Gorkha Regiment of the Indian Army and has known Nepal since 1959 when he first trekked there. He knows the ground and people well having walked nearly 30,000 km in the countryside. He has written more than 500 articles on Nepal. For his extensive travels in Nepal he was made a Fellow of Royal Geographic Society and for promoting the interests and welfare of Gorkha servicemen, awarded the AVSM. Maj. Gen. Mehta has fought in every war and counterinsurgency operation that India has engaged in between 1957 and 1991, except the 1962 war when he was on a peacekeeping mission in Congo. He was Force Commander IPKF (South) in Sri Lanka and Founder-Member of the Defence Planning Staff. Currently, divides his time between reading, writing and speaking on security issues. Maj. Gen Mehta has authored The Royal Nepal Army: Meeting the Maoist Challenge.

BG Verghese is a columnist, author and Visiting Professor at the Centre for Policy Research, New Delhi. He was educated at Delhi and Cambridge Universities. Mr. Verghese is the Chairman of the Commonwealth Human Rights Initiative and holds the Non-Traditional Security Chair of the Delhi Policy Group. Previously, he has served as Information Advisor to the Prime Minister, Information Consultant to the Defence Minister, and Member of the National Security Advisory Board and of the Kargil Review Committee. He has served as Editor of the Hindustan Times and the Indian Express and is a Member of the Track-II Indo-Pakistan Neemrana Initiative and other inter-country dialogues. He received the Magsaysay Award for Journalism in 1975. He has authored several books on issues relating to water
resources, the Northeast (*India’s Northeast Resurgent,*) Asian geo-politics and the media. His most recent book is *Rage, Reconciliation, Security: Managing India’s Diversities* (2008).

**Dipankar Banerjee** is the Director and Head of the Institute of Peace and Conflict Studies, New Delhi since 2003. This is an independent and autonomous institute in India, dealing with disarmament, arms control, alternate security, energy issues, nuclear and non-proliferation questions. Earlier he was the Executive Director of the Regional Centre for Strategic Studies of South Asia based at Colombo, the only regional think tank in South Asia. In 2002-2003 Maj. Gen. Banerjee was a Jennings Randolph Fellow at the US Institute of Peace, Washington, DC. He has been a consultant to the UN on the Conventional Arms Register in 2000 and an international adviser to the ICRC for 2000-2003. He has written and interacted around the world on security, disarmament, non-proliferation and nuclear energy issues.

**Eric Gonsalves** is President of the Institute of Peace and Conflict Studies in New Delhi, and is Life Trustee of the International Centre in Goa. After his retirement from the Indian Foreign Service, where he had served in various capacities including Counsellor in London, Deputy Chief of Mission in Washington, Ambassador to Japan and the European Union, and Secretary, Ministry of External Affairs, Amb. Gonsalves served as Director of the India International Centre, Director of the Asian Relations Commemorative Conference, and Member of the International Observer Group to the Sri Lankan elections in the early 1990s.

**Fali S. Nariman** is a Senior Advocate in the Supreme Court of India. Enrolled as an Advocate of the Bombay High Court in November 1950, he has practiced law for forty nine years, initially in the High Court of Bombay and then, since 1972, in the Supreme Court of India. Currently he also serves as the President, Bar Association of India; Honorary President, International Council for Commercial Arbitration; Member, London Court of International Arbitration; Honorary Member, International Commission of Jurists; Visiting Professor of the National Law School of India University, Bangalore; and Member of the Board of Trustees of the Dubai International Arbitration Centre. Previously, Mr. Nariman has served as the Founder and Chairman, Permanent Committee for Human Rights of LAWASIA; Member, Press Commission of India; Vice-President, Bar Association of India; Vice-Chairman of the International Court of Arbitration of the International Chamber of Commerce, Paris; and the Co-Chair of the Human Rights Institute of the IBA. Some of the awards that Mr. Nariman has received include the *Padma Vibhusha* in 2007, the *Justice Prize 2002* by the Peter Gruber Foundation and the *Padma Bhushan* by the President of India in 1991.

**IP Khosla** completed his education from St. Stephens College, University of Delhi and Emmanuel College, Cambridge, UK. He joined the Indian Foreign Service, and served initially in Vienna and Algiers, where he helped to establish the Embassy. He has also served as Counsellor (POL) in London. Thereafter, he served as India’s
Ambassador to Bhutan, Bangladesh (as High Commissioner), and as Ambassador to Afghanistan and The Netherlands. He also served as Secretary to the Indian Government in the Ministry of External Affairs. He has written extensively on security issues including non-traditional security, as well as on other matters relating to India’s external interests, particularly India’s relations with South Asian neighbours and SAARC countries.

**Jyoti Malhotra** is the Diplomatic Editor of NewsX. She has been a full-time journalist for the last twenty-four years working in India and abroad. She chose to specialize for over half that period in foreign affairs and national security issues. She has wide experience with political and social issues, having reported and analysed the convulsions of our times, as well as having interviewed a number of politicians both at home and abroad. Currently, she is in charge of all the foreign news that is broadcast on NewsX. She anchors a daily segment in which she not only reports the events of the day, but also helps put foreign news in perspective for an Indian audience.

**Kamla Bhasin** is a well known feminist activist, author and poet. She is Advisor, South Asian Network of Gender Activists and Trainers (SANGAT). She is also one of the founder members and conveners of South Asian Women’s Forum, a JAGORI - Women’s Resource and Training Centre, New Delhi and ANKUR – Society for Alternatives in Education, New Delhi. She has also served as a Member of the Asian Cultural Forum on Development (ACFOD) a regional NGO, since 1975 and been a Member of its Advisory body; and as a Member of the Governing Body of the Spastic Society of Northern India, New Delhi. Ms. Bhasin has worked with the Freedom from Hunger Campaign of the FAO for over twenty years. She has written extensively on issues related to development, participatory training, media and communication and gender.

**Keki Daruwala** is a leading figure in the arena of Indian writing in English, and has so far, published 12 books, consisting of poems and fictional works. Alongside his writing, he also had an illustrious career in the Indian Police Service, rising to become a Special Assistant to the Prime Minister on International Affairs. He subsequently was in the Cabinet Secretariat until his retirement. He is the recipient of the Sahitya Akademi Award and the Commonwealth Award for Poetry.

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Neerja Sehgal is an Educational Consultant and Founder and CEO of Knowledge Tray. She is also a Goodwill Ambassador with the Royal Commonwealth Society (RCS), Canada, as a key member of their governing & advisory body. She is facilitating the planning & execution of inaugural Commonwealth Youth Forum India to be held at New Delhi. She has been the Director of Admissions at Pathways World School where she helped the school to become a strong, multi-faceted, trend setting institution providing International Baccalaureate (IB) education. She has attended several seminars on International Education and is well versed in the latest global education trends & has extensive hands-on experience in the functioning of international curricula at various levels of schooling.

P. R. Chari is a Research Professor at the Institute of Peace and Conflict Studies, New Delhi, where he focuses on Indian defence and security issues. P.R. Chari is a former member of the Indian Administrative Service and served in several senior positions in the Central and State Governments. During the course of his career he served two spells in the Ministry of Defence. Prof. Chari was Director of the Institute for Defence Studies and Analyses (IDSA), New Delhi (1975-80). He has been an international fellow at various universities in the United States and published extensively in newspapers and on websites.

Ravina Aggarwal is Program Officer at Ford Foundation, New Delhi and Associate Professor at Department of Anthropology, Smith College. She has been a Post-doctoral Fellow at Annenberg School of Communication, University of Pennsylvania and Visiting Assistant Professor, Department of Anthropology, Marquette University. Prof. Aggarwal has received a Doctorate in Anthropology from Indiana University. She completed her Masters from the University of Bombay. She has published extensively on a range of subjects.

Rinchen Khando Choegyal has worked tirelessly during her varied and successful career to promote the importance of education and the preservation of Tibetan culture and language. She is the second woman in the history of Tibet to be elected as a Cabinet Minister in the Tibetan Government-In-Exile, a position she held from 1993 to 2001. She is one of the founding members of the Tibetan Women’s Association (TWA) and served as its President from 1984 to 1993. She is currently Director of the Tibetan Nuns Project (TNP), a position she has held since its inception in 1987. She was honored for her efforts on behalf of Tibetan women and children.
by the New York based Women’s Commission on Refugee Women and Children, which in 1998 presented her with their “Women of Courage” award. In April, 2002, Ms. Choegyal was honored by the College of St Catherine in St. Paul, Minnesota.

**Sanna Selin** is First Secretary at the Embassy of Finland, New Delhi. Her responsibilities at the Embassy include the follow-up of Indian political affairs, development questions, press and cultural affairs as well as follow-up of Nepal, Bhutan and Bangladesh. Ms. Selin has a M.Sc. degree (Geography) from the Helsinki University, Finland. She has been serving at the Finnish Embassy in Delhi since September 2008. Before coming to India she was posted to Cyprus for three years.

**Satish Chand Mehta** is Joint Secretary (North) at the Ministry of External Affairs, Government of India.

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**Seema Mustafa** is Political Editor and Delhi Bureau Chief with the *Asian Age*. She has previously been associated with the *Patriot, Indian Express, Telegraph* and *Economic Times*. She has covered the violence through the 1980’s including violence in Punjab, from the first morcha to Operation Bluestar. She conducted several meetings and interviews with Jarnail Singh Bhindranwala. Seema also covered the Beirut War in 1982. She was the only Indian journalist to reach Israeli-surrounded Beirut. She writes extensively on Kashmir, Pakistan, West Asia and US imperialism.

**Shweta Singh** is currently the Coordinator of the Conflict Transformation and Peacebuilding Program at Lady Shri Ram College, New Delhi. At LSR, she co-teaches papers on Introduction to Conflict Analysis and Conflict Transformation, Skill Building: Dialogue, Negotiation and Facilitation. She has done her specialized training in Conflict Transformation and Peacebuilding from Center for Justice and
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Shyam Saran is the Special Envoy of the Prime Minister on Nuclear Issues as well as the Special Envoy of the Prime Minister for Climate Change Issues. He belongs to the 1970 batch of the Indian Foreign Service and has served as the Foreign Secretary, Government of India, from August 2004 – October 2006. He has been India’s Ambassador to Indonesia and Myanmar, High Commissioner to Mauritius, the Deputy Chief of Mission in Tokyo and Counsellor in the Indian Embassy in Beijing. During July-November 1979, Amb. Saran participated as Fellow, United Nations’ Disarmament Program in Geneva, Vienna and New York, and thereafter he served as First Secretary in the Permanent Mission of India, Geneva. He has also served as Joint Secretary in the Prime Minister’s office responsible for External Affairs, Defence and Atomic Energy from 1989-1992.

Swaran Singh is Associate Professor at Jawaharlal Nehru University. He is currently President of Association of Asia Scholars (New Delhi), General Secretary of Indian Congress of Asian & Pacific Studies (Varanasi) and Member of Asian Scholarship Foundation’s South Asia Regional Review Committee. He has been Visiting Scholar at Beijing University, Hong Kong University, University of Philippines, Xiamen University, Shanghai Institute of International Studies, Stockholm International Peace Research Institute, University of Peace, and formerly of New Delhi’s Center de Sciences Humaines (CSH) and Institute of Defence Studies and Analyses (IDSA). Prof Singh specializes in Asian security, defence and disarmament, peace and conflict resolution and some of his recent publications include China-South Asia: Issues, Equations, Policies (2003), China-India Economic cooperation: Building Mutual Confidence (2005), China-Pakistan Strategic Cooperation: Indian Perspectives (2007), Mekong-Ganga Cooperation Initiative (2007) and co-authored Regionalism in South Asian Diplomacy (2007).
Profiles of Chairs and Facilitators

Bina Agarwal is Professor of Economics at the Institute of Economic Growth, Delhi University. Educated at the Universities of Cambridge and Delhi, she has held distinguished positions at many universities in the USA and UK. She has taught at Delhi, Harvard, Michigan, and the University of Minnesota where she held the Winton Chair. She has also been Vice-President of the International Economic Association, was elected the first Southern President of the International Association for Feminist Economics, served on the Board of the Global Development Network from its inception till 2006, and is a founder member of the Indian Society for Ecological Economics. Currently she serves on the UN Committee for Development Policy and the Prime Minister’s National Council for Land Reforms. She is also a member of the editorial boards of several international academic journals. Prof. Agarwal’s publications include eight books and numerous professional papers on a range of subjects: land, livelihoods and property rights; environment and development; the political economy of gender; poverty and inequality; law; and agriculture and technological change. Her book: A Field of One’s Own: Gender and Land Rights in South Asia (Cambridge University Press, 1994) was awarded the A. K. Coomaraswamy Book Prize 1996; the Edgar Graham Book Prize 1996; and the K. H. Batheja Award 1995-96. She has received the Padma Shri and several other awards and honors.

Durgesh Man Singh is Ambassador of Nepal in New Delhi. He has previously served as Nepalese Ambassador to Belgium and was the first Resident Ambassador and Head of the Nepalese Mission to the European Union in Brussels. Dr. Singh served as Asian Development Bank (ADB) Consultant to the Vietnam Government in 2006-07 on the Development of Industries, Hanoi. He has also served as Chairman of the Policy Priority Team with the Prime Minister’s Office as well as Ministry of Finance and National Planning Commission and as Advisor to the National Planning Commission (1984-86). Subsequently, he became Member of National Planning Commission, in charge of economic analysis (1986-91). He also served as member of the Official Summit Delegation to SAARC Summit in Islamabad in 1988, and subsequently also as Member of Summit Delegation, held in Male in 1991. Dr. Singh served as the Senior Economist and Training Chief on Development Planning as well as Project Planning and Management for Senior Officials of Government of Nepal in the Centre for Economic Development and Administration (CEDA). Dr. Mansingh has a Ph.D from the University of Florida, in the USA and a Masters degree in Economics from the Delhi School of Economics.

K. V. Rajan joined the Indian Foreign Service in 1965, served in various capacities including as Head of Mission in a number of countries (Nepal, UK, Algeria, Zambia, USA, France). He was Ambassador of India to Nepal from 1995 to 2000 before becoming Secretary, Ministry of External Affairs, GOI. After retirement he was Advisor, MEA and subsequently involved in a number of NGOs and think tanks.
focusing on a range of issues of domestic and foreign policy concern. Amb. Rajan has a continuing research interest in South Asian affairs, especially developments in Nepal.

**Rita Manchanda** is currently Programme Advisor at South Asia Forum for Human Rights (SAFHR). She has served as Programme Executive with the SAFHR, Kathmandu and as Coordinator of Women and Peace and Media and Conflict Programmes. Ms. Manchanda has also been a Gender Technical Expert at the Commonwealth Technical Fund, based in Colombo. She is also a journalist and writer on South Asian security, human rights and gender issues and has been covering Nepal for *Frontline* magazine.

**Satish Nambiar** is currently on the International Advisory Council of the Folke Bernadotte Academy, Sandoverken, Sweden. He is also an inaugural member of the International Advisory Board of the ‘Security Council Report’, the Advisory Council of the International Network to Promote Rule of Law (INPROL) and the Advisory Board of the Geneva based ICT for Peace Foundation. Lt. Gen Nambiar was Director of the United Service Institution of India from 1996 to 2008. He was commissioned into the Maratha Light Infantry in December 1957 and after long years of service retired as the Deputy Chief of the Army Staff in 1994. He is a recipient of the Vir Chakra for bravery in battle, and the Ati Vishist Seva Medal and Param Vishist Seva Medal for distinguished service. A graduate of the Australian Staff College (1968), he was with a training team in Iraq (1977-79), was on the faculty of the Defence Services Staff College (1980-81), and served as Military Adviser at the High Commission of India in London (1984-87). He was Adviser to the Government of Sri Lanka on certain aspects of the peace process in 2002/03. He served as a member of a High Level Panel appointed by the Secretary General of the United Nations to review the status of international collective security mechanisms and make recommendations for reform. As Director General of Military Operations (1991), he led two defence delegations for discussions with Pakistan. Lt. Gen. Nambiar was a member of an Expert Legal Inquiry set up by the International Commission of Jurists (ICJ) to ascertain whether there had been violations of International Humanitarian Law during the actions in Lebanon in July/August 2006.
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About WISCOMP

Women in Security, Conflict Management and Peace (WISCOMP), an initiative of the Foundation for Universal Responsibility, a South Asian research and training initiative, provides a unique space between academia and the NGO sector, and positions its work at the confluence of Security Studies, Conflict Transformation and Peacebuilding. The intersection of these with gender concerns provides the focus of its programs.

The WISCOMP symposia are envisaged as integral to the academic enrichment and research component of WISCOMP’s program. It forms part of an attempt to alter the dominant state centered discourse on conflict and peacemaking by grounding it within a more holistic and inclusive framework of human security.

The symposium on Democracies in Transition: Opportunities and Challenges for Nepal is part of a WISCOMP series on South Asian Experiments with Democracy and Peacebuilding which, over a period of two years, attempts to provide a context for young and mid career professionals to enhance their leadership skills and expand their knowledge base so as to be able to engage more centrally with the issues of democracy and peacebuilding within their own nations and also within the broader context of an interdependent Southern Asia. Nepal’s continuing experiments with various forms of democracy and a deeper understanding of the People’s Movement offer an important experience from South Asia that provides a context for learning and reflection.

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