Indigenous Peoples’ Perspective: A way out of the ongoing violent conflict

By Malla K. Sundar

“Nepal is rapidly descending towards a failed state syndrome. There are eerie similarities between Nepal 2004 and Cambodia in 1974. Let's hope that what happened in Cambodia in 1975 will not happen in Nepal.”

This is not merely a meaningless comparison, but the political analysis of Kul Chandra Gautam, the Assistant General Secretary of the UN. In his own words, “As in Cambodia 1974, the Government of Nepal controls the capital city and major provincial towns, while much of the rest of the country is either a lawless no-man's land or under the control or influence of the Maoist rebels...” [Cambodia 1974, Nepal 2004 – How to Avoid Nepal's Descent Towards a Failed State? – Kul C. Gautam – 5 April 2004]

While on the one hand, this analysis depicts a realistic picture of Nepal becoming a ‘failed’ and ‘stateless’ state, on the other hand, it points to the existence of two states in Nepal at the current time. In other words: the ‘old regime’ and the ‘new regime’. However, the prevailing situation does not allow formal geographical demarcation of the areas controlled by each of the two states. Furthermore, it is not yet time to formally classify the two political constituents and distinguish the citizens as belonging to this or that side of the border. What is clear in the present reality is that violent conflict is ensuing between two armed forces and Nepali people are directly victimized.

Impacts of violent conflict

The ‘people’s war’ initiated by the Communist Party of Nepal (Maoist) from Rolpa and Rukum since February 13, 1996 has now spread across and affected the length and breadth of the state. To date, the rebels claim they have control over eighty percent of the area of the kingdom. No citizen, regardless of their caste, class, ethnic group or profession, are free from the impact of ‘people’s war’. The major direct impacts include the following:
Impact and damage on economic and physical sector

- Violent conflict and resulting population movement have created an environment of terror in educational institutions. The education sector is the first victim of the frequently called *bandhs* (strikes). The UN’s ‘Millennium Development Goal’ of ‘Education For All’ by 2015 will not be reached.

- As a result of escalating violent conflict, the armed forces belonging to both the state and the rebels are using physical infrastructure of educational institutions, particularly in the rural areas, for military gains.

- As a result of illegal group abduction of teachers and students and pressure exerted on them to enroll in the people’s army, many are abandoning their villages, which in turn violates children’s right to education.

- On the one hand, teachers are compelled to pay levy and tax on a monthly basis to live a secure life in their respective locality, while on the other, given the extension of economic support, the security forces harass the teachers, accusing them of joining hands with the rebels.

- The strategic campaign to destroy physical infrastructure continued by the rebels has not only damaged national property worth billions, but has also obstructed overall development activities in the country.

- Much of industry, professional institutions and commercial firms are compelled to pay a stipulated amount of cash to the rebels at regular intervals. Inability to deliver can lead to physical violence. By the same token, the security personnel belonging to the state are also collecting monetary assistance from businessmen and industrialists (in an undeclared manner) on the pretext of security. Therefore they face the brunt both ways.

- Due to regular *bandhs* and strikes and the lack of a favorable security situation, workers are devoid of the right to employment opportunities. Innumerable dependent family members are also indirectly affected in this climate.

- Owing to regular *bandhs* citizens are devoid of the right to freedom of movement.

- As health posts are closed in most of the areas affected by violent conflict, people of these regions are denied the right to medical treatment.
• Projects and NGOs running under donor agencies have been asked to register with the rebels and pay regular taxes, if they refuse, such offices and projects are asked to close down. Consequently, a number of donor agencies have closed down their activities and withdrawn from the affected areas.

• Due to the defensive strategy of the rebels and counteroffensive of the security personnel and the excessive use of gunpowder and bombings have destroyed forests and negatively impacted the natural environment.

Impact and damage on humanitarian sector

• Owing to escalating violent conflict, large numbers of people have been displaced from their homeland. Those forced to migrate to district headquarters or the capital total more than 40,000, while more than 300,000 have crossed the southern border.

• Along with the rise in the number of displaced, there has been a marked increase in human movement and trafficking of women.

• The violent conflict has orphaned, widowed and handicapped many.

• The culture of war, violence and brutality has created a breeding ground for revenge. Conversely, the impact of fear, terror and insecurity as a result of the mental trauma people have suffered has given rise to feelings of pessimism and hopelessness.

• The violent conflict has so far killed about 10,884 Nepali people.

Impact and damage on political and human rights sector

• The fundamental right of citizens to live in freedom, free of fear, has been directly violated by both parties to the conflict. Security personnel, under the pretext of ‘encounters’, have increased unlawful killings of citizens. In the same manner, the rebels
under the pretext of ‘people’s campaign’ have been issuing death sentences with the allegation of ‘informer’ and ‘enemy of people’s war’.

- Nepal currently stands as the frontrunner in the list of states that have unlawfully detained and abducted citizens. The rebels have increased acts of intimidation, fear and terror, accompanied by a physical campaign against groups or individuals who do not conform to their ideology.
- Both the state and the rebels have increased killing, abduction and detention of media personnel.
- By enforcing legal provisions such as the Terrorist and Disruptive Activities (Control and Punishment) Ordinance 2061, the state has further challenged the fundamental rights of the citizens against the norms and values of the Constitution.
- Elected parliament has been dissolved due to the violent conflict. The King has initiated a regressive campaign by concentrating all political powers on him through the royal move of October 4, 2002.
- Owing to heightened differences and divisions amongst the constitutional forces, political parties are becoming increasingly weak and ineffective.
- Quick succession of governments has not only severely diluted the political sphere, but also created a climate of confusion.
- The escalation of violent conflict has weakened nationalism, allowing foreign powers to openly interfere in internal matters.

Impact and security sector

Amount stipulated for security expenses (in Nepali Rupees - Rs. 000.00)

<table>
<thead>
<tr>
<th>Fiscal year</th>
<th>Security Sector</th>
<th>Social Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Army</td>
<td>Education</td>
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<tr>
<td></td>
<td>Police</td>
<td>Health</td>
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<td></td>
<td></td>
<td>Drinking</td>
</tr>
<tr>
<td>Year</td>
<td>Total Budget</td>
<td>arms expenditure</td>
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<tr>
<td>--------</td>
<td>----------------</td>
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<tr>
<td>2052/53</td>
<td>2,201,984</td>
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<tr>
<td>2059/60</td>
<td>7,228,182</td>
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<td>2060/61</td>
<td>7,184,211</td>
<td>7,053,671</td>
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<tr>
<td>2061/62</td>
<td>8,000,257**</td>
<td>6,749,834**</td>
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**Rs. 1.33 billion was added on security expenses through the Ordinance on Magh 2061, which is 18.95 percent of the total national budget.

- The growth rate of security budget (tabled above) points to the process of militarization in Nepal.
- In addition to the huge amount of revenue being spent on the purchase of arms and military hardware (supplied mostly by India, US and UK), a large amount of revenue has also been spent on upgrading the Royal Nepalese Army from the current strength of 78,000 to 100,000 and Armed Police Force to 25,000 and Civil Police to 50,000.
- In the name of modernization and training of the army, direct involvement of foreign military in Nepal’s security apparatus has been acknowledged.
- Under the pretext that the violent Maoist rebellion is an ‘issue of common concern’ for Nepal and India, a policy level foundation is being prepared to allow the entry of foreign military on Nepali soil.
- Maoist rebels, in the process of running a parallel military campaign to that of the state, also formally claim to have increased the strength of ‘people’s liberation army’ to 3 divisions, 9 brigades, 29 battalions and 100,000 people’s militia across the country. The Maoist ‘people’s army’, which started the ‘people’s war’ with the help of muskets and traditional weapons, are now attired with AK 47 and M16 rifles.
Impact and damage on the indigenous/nationality community

- Individuals belonging to the indigenous nationalities comprise the majority of the military rank and file of both the rebels and state. Consequently, indigenous nationalities have borne a huge loss in the course of the ongoing violent conflict.
- As a result of the violent conflict being mainly centered in rural hills and regions that are the traditional homeland of indigenous nationalities, the majority of displaced populations also belong to these communities.
- Owing to the suspension of development activities during the violent conflict, many of those deprived of the right to development, minimum health services, education and freedom of movement belong to indigenous/nationalities community, who tend to be concentrated in rural areas.
- Owing to the violent conflict, (particularly bandhs, strikes and blockades called by the rebels and curfew imposed by the security personnel), the indigenous nationality communities have not been able to independently celebrate traditional festivals such as Lhosar, Sakela, Maghi, Faguwa, Indra Jatra, Bhintuna, Dhane Purnima, without fear of violence.
- Many citizens, on account of them belonging to an indigenous nationality community, face undue harassment from security personnel under the suspicion that they are rebel sympathizers.

Positive Impact

Although the negative impact of the ongoing violent political conflict on the society and the country is clear and well documented, the insurgency has also had an important positive impact, which must not be overlooked. The conflict has helped to highlight and draw attention to a number of crucial social and political issues, which were previously considered insignificant by Nepal’s ruling elites. Despite the fact that these issues are fundamental to the root causes of the insurgency, they continue to be overlooked or played down by the State in Nepal’s various stages
of political transformation. In contrast, the Maosists have made significant progress in initiating a process of social transformation by addressing the following fundamental issues:

- The issue of gender equality and women’s empowerment
- The issue of Dalit freedom and empowerment
- The issue of ethnic, linguistic and regional autonomy and freedom
- The question of restructuring of the state and formulation of new constitution
- The process of making the people sovereign in a true sense

**Causes of violent rebellion**

Following Marxist-Leninist and Maoist ideology, the armed Maoist rebellion is not a movement that has emerged out of nowhere or without reason. It is an organized and well-planned rebellion directed by a strong political ideology and fuelled by fundamental social, political, economic and historical factors. Some of the major causes can be identified as follows:

- For decades the character of the Nepali state has been discriminatory and oppressive towards women and specific caste and social groups. As a result, these groups have been excluded from mainstream political processes which are dominated by the ethnicity, religion, language and culture of the ruling class.
- The widening cleavage between the rich and the poor is the result of discriminatory access to state resources, which have been concentrated in the hands of the dominant groups, with the result that the majority of the population have been denied adequate employment and livelihood opportunities.
- The state has been completely unsuccessful in assuming a responsible role and moving towards inclusive political structures and policies which recognize the multicultural character of Nepali society and the importance of social pluralism.
- Political protection, institutionalization of corruption and lack of punishment.
- Lack of transparency in the workings of the State.
- Dependency on foreign assistance with the depletion of national economy
• Increasing interference of foreign powers in Nepal’s internal matters

These are some of the reasons why the Maoist armed rebellion is not a problem in itself but an integrated expression of dissatisfaction against various forms of discrimination and ills ingrained in Nepali society for decades. The crux of the problem lies in the discriminatory state structure and processes.

Result of discrimination

As a result of the persistence of various forms of discrimination sanctioned by the state for decades, the cleavage between the ruling class and the ruled continued to widen. Even the constitution formulated after the political transformation of 1990 did not find a legal resolve to address the widespread discrimination on the basis of religion, language, culture, gender and geographical locality, among others. Instead it maintained the same old tradition of discriminatory state policy. As a consequence, once again, the majority of the population was excluded from mainstream social, economic and political processes. The participation or these marginalised groups at policymaking level was negligible, political representation unsatisfactory, they remained excluded in terms of education and economy and had little access to state resources.

In the name of cultural assimilation and national unity, the customary religion and culture of many of the ethnic indigenous communities was further encroached upon. Linguistic corrosion continued to the extent that many of the languages pertaining to minority communities are facing extinction. Given the continuation of such discrimination, oppression and injustice under the protection of the state, it is not surprising that feelings of dissatisfaction, resentment and rebellion began to grow among the general people. The Maoist ‘people’s war’ is but the violent expression of such resentment. Communities who have been particularly affected by discriminatory state policies are:

• Women, particularly women from indigenous nationalities
• Indigenous nationality communities
• Dalit communities
• Linguistic communities
• Non-Hindu religious communities
• Madhesi communities
• Communities from far west and rural mountain regions

Problems and complexities

It is but clear — the decades of institutionalization of the tradition of economic and social inequality and oppression will automatically give way to new horizons for progress which will open up for the indigenous/nationalities including various regions and cultural groups of the country in a democratic milieu was the belief upheld by the general populace. However, in due course of democratic practice such prospects were not realized...... Along with social and economic progress, the attempt to enhance access of all groups and regions to state mechanism could not realistically move forward. Democracy by and large was limited to formality.” (Concept on forward-looking reform of state mechanism tabled by His Majesty’s Government BS 2060 Shrawan 32)

The inability to judiciously address various issues, including the undemocratic nature of the Nepali state vis-à-vis the multi-ethnic, multi-cultural and multi-lingual reality, has resulted in the complex Maoist armed rebellion. However, the lack of proper understanding of the Maoist insurgency and the inability to determine suitable political thinking and process to resolve the rebellion has led to increasing disintegration of the state, to the point of Nepal being labeled a prospective ‘failed state’. While the armed conflict is becoming more complex with each passing day, numerous attempts at resolving the conflict have successively failed.

Despite the depressing picture, over the last few years, the need for dialogue and peaceful resolution of the Maoist rebellion have emerged as the most important issue in the political sphere. In August 30, 2001 the government and the Communist Party of Nepal (Maoist) held two
rounds of talks in Godavari, Lalitpur and Thakurdwar, Bardiya respectively. Similarly, for the second time the government and the Maoists held four rounds of talks in between 27 April to 19 August 2003. However, both these initiatives collapsed. Reasons for these failures have been cited as: lack of commitment, sincerity and confidence between the conflicting sides. Likewise, the lack of consensus on the peace process, conflict management and agenda for dialogue is also considered an important reason.

However in analyzing the process involved in both the peace parleys, the lack of representation of all sections of the society in the peace talks, emerges as a crucial factor. clarity concerning stakeholders who should have been made part of the dialogue and the absence of preparation of the agenda for dialogue as per the national requirement can also be deemed other important factors.

In reality, whether in the process of dialogue or formulation of national policies in accordance to social/cultural plurality and rightly addressing the and years of social, political and economic discrimination and their negative repercussions have never been seriously prioritized.

1. *Inability to include indigenous/nationalities in development activities*
2. *The lack of preservation and promotion of culture, language and knowledge facing extinction*
3. *Inability to accept indigenous skills and ability as national resources*

Nonetheless the ongoing Maoist rebellion is for group and regional identity. It is guided by political ideology. In sum, in the context of finding a political resolve to the ongoing armed conflict the crux lies in the inability and unwillingness to rightly address the pertinent issues in accordance with the social/culture plurality. No efforts have been put in from that perspective. At one hand, years of social, gender, religious, cultural, ethnic, regional and economic discrimination and ills are the causes for the emergence of violent conflict, on the other hand, the lack of participation of the victimized groups and the lack of seriousness to their cause.
The rebels in course of the last dialogue presenting a 24-point proposal had called for people’s conference with adequate representation of the indigenous peoples, ethnic and regional autonomy and secular state. In the same manner it is not that the state by means of Concept on forward-looking reform of state mechanism — BS Shrawan 2060 had not proposed decentralization and regional autonomy. Nepal Federation of Indigenous Nationalities (NEFIN) at the same time frame making public 14-point demands had tried to draw attention of the rebels. Despite the efforts their aspirations could not be reflected in the peace process. Neither the inclusion of indigenous/nationalities, including other discriminated communities, nor the issues concerning them were taken up seriously during the peace process and the peace dialogue ended inconclusively.

Given the experience of peace process so far it can be resolved that even though that the issues of indigenous/nationalities and other discriminated groups have been raised for the sake of dialogue the warring sides have not been seriously committed. Otherwise it would have reflected in the compulsory participation in talks team, which was not the case. In addition, although the indigenous/nationalities on behalf of the victimized groups have made public their demand, they could not create pressure or interfere. Indigenous/nationalities could not effectively present Track Two Process as an alternative process. Moreover the ongoing conflict was only seen or understood from a political perspective and never from that of the indigenous/nationalities.

Generally while deliberating on the ongoing violent conflict a) supreme commander His Majesty King b) armed rebellion Communist Party of Nepal (Maoist) c) political parties represented in the parliament are only considered the key stakeholders. These parties are also time again taken into consideration as and when it is deliberated amongst whom or who all should be included in the peace process. A cursory look points to the doubt whether the limitation of the Nepali state and political sphere is not beyond these three elements. Considering the existence of the three elements as the stakeholders in the current conflict and its complexities the following are the drawn conclusion:
<table>
<thead>
<tr>
<th>Stakeholder</th>
<th>Aspiration</th>
<th>Fear</th>
<th>Reality</th>
</tr>
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<tbody>
<tr>
<td>His Majesty</td>
<td>Active monarchy</td>
<td>End of monarchy</td>
<td>Less chances of active monarchy in the 21st century (barring exception donor countries are not supportive)</td>
</tr>
<tr>
<td>Maoist</td>
<td>Establishment of republican</td>
<td>Interference of foreign powers Possibility of genocide</td>
<td>Due to global situation (9/11) difficult to sustain their regime even if they gain control</td>
</tr>
<tr>
<td>Parliamentary parties</td>
<td>Reinstatement of achievement of 1990 Banning of active monarchy</td>
<td>Being displaced from the political sphere</td>
<td>Lack and confusion in people support Absence of political ideology</td>
</tr>
</tbody>
</table>

Interestingly, although the indigenous/nationalities who are highly involved, largely affected and extremely victimized owing to the ongoing violent conflict their role and position are nowhere mentioned. Analysis of historical background substantiate that the fundamental causes to the ongoing conflict is the discriminatory and oppressive social, cultural, economic, religious, language policies taken up by the state. It is the indigenous/nationalities who are feeling the brunt. However, aspiration, fear or what could be the reality pertaining to indigenous/nationalities till date have been effectively expressed. Probably why the inclusion of indigenous/nationalities in the peace process and conflict transformation, and issues concerning them have not been justifiably addressed or prioritized.
Therefore, learning lessons from experience and steps taken up by conflict-ridden counties that share social, geographical violent conflict of similarities with Nepal as of now could be an important for the peaceful transformation of the violent conflict. Henceforth, it is imperative to take note of the inclusionary measures taken up in South Africa and Guatemala, which are culturally/socially plural societies like Nepal and have suffered protracted violent conflict. While agenda for the peace dialogue was being prepared participation and issues of all sectors of the society were seriously taken into consideration. Peace process in Guatemala was only successful after allowing active participation of indigenous/nationalities comprising numerical majority, and after their common issues were included in the political compromise with priority and the key stakeholders expressed guaranteed their implementation.

**Forward-looking attempts from indigenous/nationalities**

Much of the issues involved in the Guatemala peace process are identical to that of Nepal. Not only from social and geographical perspective, the armed rebellion was basically conducted by Left political forces, and under the pretext that the rebels were closely associated with the indigenous/nationalities the rulers ruthlessly killed millions of people. They were looted and displace from their land and settlement. It was never deemed essential to include the indigenous/nationalities comprising about 65 percent of the population, in the peace process. As a result none of the earlier process was successful. Irrespective of number of dialogues, all were unsuccessful.

However, by 1995 Guatemala government and Guatemalan National Revolutionary Unity who were the primary parties in the violent conflict they were compelled to include the issues of the indigenous/nationalities in the peace process. The peace process there basically: a) accepted international norms and values on human rights as basis of agreement b) rehabilitate those displaced in course of violent conflict c) formation of commission to investigate violation of human rights d) finalization of the time frame to implement the agreement e) agreement related to identity and rights of indigenous/nationalities was signed.
By instituting Assembly of Civic Groups (ASC) common network of 11 institutions along with the participation of indigenous/nationalities and various profession, community, religious groups, it was proposed that issues pertaining to indigenous/nationalities should be tabled as an agenda of peace dialogue in resolving their problems. However, it was outright rejected by both the sides at the initial stages. Owing to which the peace process could not be result oriented. However, both the two sides had no option but to include their issues in the agenda.

Along with compulsory involvement of indigenous/nationalities in the peace process following were included in the proposal tabled in view of the rights of the indigenous/nationalities:

- Acceptance of identity of indigenous/nationalities
- Ban of all discriminatory legal provision against of indigenous/nationalities
- Realization of rights of indigenous women
- Ratification of international convention to eliminate all kinds of racial discrimination and improvement of national legal provision in that regard
- Adherence to International Labor Organization Convention 169 and improvement of national legal provisions accordingly
- Adherence to provision of Draft Declaration on indigenous right
- Guarantee of cultural rights
- Guarantee of equal linguistic rights
- Right to preserve and identify religious, cultural, traditional places of indigenous peoples along with their original names
- Right to use unique costumes and knowledge
- Right to education
- Right to media
- Right to regional/local autonomy
- Right to participate in all place and region
- Right to traditional legal system and lifestyle
Finally, on March 31, 1995 in Mexico City agreement was reached on the issues pertaining to the indigenous peoples as per the norms and values of international law and global human rights. Accordingly, the nearly three decades long violent rebellion in Guatemala came to an end by means of dialogue. However, importantly, the positive role played by the indigenous community and United Nations and pressure exerted by them in reaching an agreement were of no less importance.

It may be noted that the then general secretary Boutros Boutros Ghali had time and again directed the Guatemala state and rebels to judiciously address the issues of the indigenous peoples and completely adhere to the provisions of International Labor Organization Convention 169 and to express commitment in improving the national legal provisions accordingly.

In the context of Nepal, first the indigenous community by getting organized should draw the attention of the sides involved in direct confrontation in the ongoing violent conflict and pressure them to make public their viewpoint as regards to the relevance, participation and issues pertaining to indigenous peoples. Likewise, commitment of other political factors should also be sought on a parallel basis. Something, till date, has not been raised effectively.

Second important aspect, how the indigenous peoples in Guatemala successfully pushed their issues through Track Two Process as an alternative by forming Assembly of Civic Groups (ASC) a network of 11 marginalized and excluded groups could be exemplary. In the context of Nepal those who are excluded from way back in history, victimized by marginalization and discrimination such as indigenous/nationalities, Dalits, women, madhesi, linguistic and religious groups and other minority groups and other facing regional exclusion should constitute a network, through which they should propose alternative means in addressing their issues. Particularly the indigenous/nationalities should seek commitment in the implementation International Labor Organization Convention No. 169 and formulation of national law in
accordance. Likewise efforts should be put in to gain public support and in including other concerned groups in the network.

Third, another important issue is the involvement of United Nations. The reason why the issues pertaining to indigenous peoples got so much focus in the peace process in Guatemala is that the global humanitarian laws and human rights declarations were accepted as the guiding principle while the United Nations strictly monitored the process. Drawing reference from this experience we should realize that the United Nations’ participation or presence in the current peace process and to put pressure and advocate on issues pertaining to Nepal’s indigenous nationalities on the basis of the provisions of International Labor Organization Convention No. 169 would be very fruitful.

The prevalent discriminatory state mechanism and state structure being the main cause behind the current conflict, its transformation is the concern of the day. However, whether the transformation of the state mechanism and state structure can rightfully put an end to the prevalent discriminatory characteristic is the major question. Otherwise changes in the state and political sphere in the context of Nepal are not new phenomena. Nonetheless none of the changes were able to change the age-old discriminatory characteristic of Nepal’s state structure.

If the prevalent discrimination in the society is the main cause behind the existent dissatisfaction and rebellion, basis instigating armed conflict then first and foremost it is essential to put an end to existent discrimination, injustice, domination and oppression for the peaceful transformation of the armed conflict. What is clear is that unless and until the discriminated community, group and individual do not completely get a sense of equality, their rights to make policy decisions in matters concerning them are ensured, then the problems of social, political and economic discrimination will not rightfully reach a point of resolution. That is why it is necessary to reorganize the state structure as per Nepal’s pluralistic social reality. For this decentralization of state powers, autonomy and right to self-determination are the fundamental factors.
Otherwise, if serious efforts to accommodate and address issues pertaining to the majority indigenous/nationalities community is not heeded the peace process to be initiated in future will also remain limited within the political give and take between the state powers and rebels as in Guatemala. Even if peace dialogue reaches certain conclusion it will not rightly address Nepal’s social disparity existent since time immemorial, owing to which even if the conflict between government and Maoist is resolved disparity pertaining to culture, language, religion, region, gender, society will not only continue to exist but will also give way to new and complex violent struggle, which in all probability will push the country towards secessionist and communal rebellion. In that situation, Nepal pressed between long-lasting wars might as well turn into a failed state!

Malla K Sundar
January 20, 2005
Kathmandu, Nepal