STATEBUILDING AND PEACEBUILDING IN NEPAL, 1990-2012:
ANATOMY OF A DEMOCRATIC TRANSITION

by

Shiva Hari Dahal
A Dissertation
Submitted to the
Graduate Faculty
of
George Mason University
in Partial Fulfillment of
The Requirements for the Degree
of
Doctor of Philosophy
Conflict Analysis and Resolution

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                                               Analysis and Resolution

Date: _____   Fall Semester 2013
                                               George Mason University
                                               Fairfax, VA

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Fall Semester 2013
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ABBREVIATIONS AND ACRONYMS

A. D.	Anno Domini
ASPECT	Asian Study Center for Peace and Conflict Transformation
BCTS	Brahmin / Chhetri / Thakuri / Sanyasi [ethnic groups in Nepal]
CA	Constituent Assembly
CBS	Central Bureau of Statistics
CPA	Comprehensive Peace Accord
CPN (Maoist)	Communist Party of Nepal (Maoist)
CPN-Maoist	Communist Party of Nepal – Maoist [A breakaway faction from UCPN Maoist) in June 2012]
CPN (UML)	Communist Party of Nepal (Unified Marxist Leninist)
DANIDA	Danish Development Agency
DFID	Department for International Development, United Kingdom
ESP	Enabling State Program
EU	European Union
FPTP	First-Past-The-Post [an electoral system]
IDEA	International Institute for Democracy and Electoral Assistance
ILO	International Labor Organization
INCAS	International Conflict and Security Consulting Ltd.

INGO	International Non-Governmental Organization
MEA	Ministry of External Affairs, Government of India
MJF	Madhesi Janaadhikari Forum, Nepal [People's Rights Forum, Nepal]
NC	Nepali Congress
NCCN	National Council of Churches of Nepal
NEFIN	Nepal Federation of Indigenous Nationalities
NHRC	National Human Rights Commission of Nepal
NGO	Non-Governmental Organization
NORAD	Norwegian Aid Agency
NPC	National Peace Campaign
OECD	The Organization for Economic Co-operation and Development
PLA	People's Liberation Army
PR	Proportional Representation
PSC	Protracted Social Conflict
PSGs	Peacebuilding and Statebuilding goals
RSS	Rastriya Samachar Samiti [National News Agency]
S-CAR	School for Conflict Analysis and Resolution
SDC	Swiss Development Cooperation
SNV	The Netherlands Development Cooperation
SRC	Committee on State Restructuring and Distribution of State Power
SWC	Social Welfare Council

TMDP	Tarai Madhes Democratic Party
UCPN (Maoist)	Unified Communist Party of Nepal (Maoist) [CPN (Maoist) converts to UCPN (Maoist) after merger with other left political parties].
UDMF	United Democratic Madhesi Front
UK	The United Kingdom
UN	The United Nations
UNDP	United Nations Development Program
UNMIN	United Nations Mission to Nepal
USA	The United States of America
YCL	Young Communist League

ABSTRACT

STATEBUILDING AND PEACEBUILDING IN NEPAL, 1990-2012: ANATOMY OF A DEMOCRATIC TRANSITION

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The paradigm of liberal peacebuilding has dominated the discourse in the field since the early 1990s. The liberal peace theory is grounded in the notion of democratic liberalism that advances the arguments that liberal democracies are the preferred system of governance that advances principles of "democratic peace." Such a notion dictates how international powers function as well as international institutions, including the United Nations, which targets states in the global South for interventions. However, the liberal peace paradigm that removes the locals from the politics has come under criticism for the lack of participation, legitimacy and ownership of local actors in the political and peace processes.

The criticisms of liberal peace signify vacuums in the field of peacebuilding within which the concept of statebuilding is evolving as a complementary entity. Related to this,

efforts are being made to explore the integration of these two concepts, although they have different traditions. However, this researcher explores probable interaction of the concepts. When the concepts of statebuilding and peacebuilding are understood as interacting, the tendency is for inclusion—not exclusion—of groups, which might otherwise derail the political processes. For this reason, the integrated processes tend to work, while processes in which the two are seen as unrelated, the tendency towards exclusion of groups may lead towards the end of the processes.

The focus of this research is on the dynamics of statebuilding and peacebuilding by exploring the case study of Nepal, a country currently transitioning from violence towards the construction of an inclusive and democratic state. The discourse of the liberal peace paradigm dominates the interventions of statebuilding and peacebuilding in Nepal. So, the researcher explores the impact of liberal peacebuilding by looking at the (1) denial of participation in the decision making process, and (2) foreign interventions that have caused the failure of negotiation and the collapse of the Constituent Assembly in May 2012.

The research findings confirm that the denial of participation of the political actors, including competing ethnic identities, in the decision making of the political and peace processes coupled with foreign interventions, led to the collapse of the processes, making this a far worse problem than either would have been in isolation. While doing so, this researcher explores practical and empirical propositions on the interactive nature of

statebuilding and peacebuilding mediated by the theoretical frameworks that lean towards

inclusion, not exclusion.

CHAPTER 1: INTRODUCTION

1. Background

The focus of this research is on the dynamics of statebuilding and peacebuilding using the case study of Nepal, a country currently transitioning from violence towards the construction of an inclusive and democratic state. At the present moment, there are three different strands of thought dominating the discourse of statebuilding and of peacebuilding in the country. First, Marxist philosophy of the rule of the proletariat believes, by definition, in the probability of constructing a centralized state, the thought which the communist forces of Nepal advocate for the country. This researcher notes here that the communist forces in Nepal are part of the democratic exercises due to their participation in the elections and other agreed upon rules of the game as defined in the Interim Constitution 2007. Second is the thought stemming from the democratic forces that the Nepali Congress and other non-communist political parties claim to represent, which explores the possibility of constructing a liberal state still with centralized power so long as their strategies guide and control that power. Third, social groups that are often labeled as ethnic identities, ethnic communities, competing identities or marginalized communities, clustered broadly under the categories of *Adivasi Janajatis, Madhesi* and *Dalits,* explore the probability of constructing a state with decentralized power.

The ethnic communities, in particular Adivasi Janajati and Madhesi, remain highly vocal for a federal structure of the country as a means of decentralizing power from the center to the periphery, and are influential ethnic identity groups that run parallel to dominant political ideologies. The ideologies of liberal democracy and communism have dominated Nepal's politics for a substantial amount of time, and have even dominated the negotiation process during the making of a new constitution in-between 2008 and 2012. The signing of the Comprehensive Peace Agreement (CPA) in November 2006 officially ended the decade long CPN (Maoist)'s people's war. The peaceful ideological conflict continued, however, beyond the end of the monarchy in May 2008. This was paired with identity-based conflict in the context of social and resistance movements launched by the major ethnic communities of Nepal – Adivasi Janajati, Madhesi, Dalits, and also Brahmin and Chhetri communities. The Brahmin, Chhetri and Dalits communities are of Caucasian origin; many groups of Madhesi community are from Dravidian origin; and many groups of Adivasi Janajati are from Mongoloid origin.

This research explores the hypothesis that the processes of statebuilding and peacebuilding are contextual and can be productively interactive if properly approached. However, there may be significant differences and damage can be done to political and peace processes if analysts simplistically assume that they are the same. Having said that, for purposes of this paper, this researcher has developed conceptual definitions of statebuilding and peacebuilding as evolving concepts and interactive process involving various stakeholders and levels of analysis committed to 1) generating a vision for

positive peace, 2) establishing basic elements of political order and 3) strengthening democratic culture by constructing an inclusive state. This definition assumes that the intended processes of each are designed and owned nationally, and supported by international actors as required, with the involvement of diverse interests in the society where asymmetries and differences are managed and reduced so that compromises in the negotiation process are possible in order to meet the objective of constructing a democratic state. My definitions of Statebuilding and Peacebuilding depart from the definitions offered by A NEW DEAL for engagement in fragile states that articulates Peacebuilding and Statebuilding in terms of the following goals with the objective of integration of the concepts in mind**:**

- **Legitimate Politics -** *Foster inclusive political settlements and conflict resolution.*
- **Security -** *Establish and strengthen people's security.*
- **Justice -** *Address injustices and increase people's access to justice.*
- **Economic Foundations -** *Generate employment and improve livelihoods.*
- **Revenues & Services -** *Manage revenue and build capacity for accountable and fair service delivery.*

(OECD, 2011a, p. 1 emphasis in original)

My emphasis, by contrast, is on *democratic values*; in other words the establishment of democracy as the prime objective of the evolving concepts of statebuiding and peacebuilding. Indeed, the evolving concepts of statebuilding and peacebuilding are about building sustainable peace and democracy in the society, regardless of the approach; strategies focus on inherent tensions in the transition from war to peace.

The processes of statebuilding and peacebuilding in Nepal remain highly dynamic as evident through the struggles of the three different social forces: (1) Brahmin/Chhetri, (2) Adivasi Janajati and (3) Madhesi, which advocate for reconstructing a state according to their preference. Brahmin and Chhetri are "positioned" as the dominant higher caste Hindus in the power politics, which act as "fuel in the fire" in these struggles for reconstructing the state once they feel their existence is questioned. Brahmin and Chhetri have, historically, remained the higher castes in the Hindu religion and dominant communities in terms of power and politics. Moreover, the people of Nepal, in general, have complex practices of values and cultures, which have with the power support of the State often assimilated the practices of high-caste Hindus, a process known as *Sanskritization* – based on the religious beliefs and practices of Brahmin and Chhetri communities. According to Rishikesh Shaha, a prominent historian of Nepal:

> The process of Sanskritization had been aided by enforced imposition of Brahmanic social systems and codes of behavior by successive regimes in Nepal. It is interesting to note that the most important of these social codes were

formalized during the administration of three of the outstanding men in Nepal's history – Jayasthiti Malla of Kathmandu (1382-1395), Ram Shah of Gorkha (1606-1633), and Jang Bahadur Rana, Prime Minister of Nepal (1846-1877). All of them were orthodox Hindus and sought to codify the structure of Nepali society, both Hindu and non-Hindu, within a basically orthodox Hindu framework.

(Shaha, 1990, p. 20)

This researcher returns to the discussion of the historical implications of statebuilding in Chapter 3. It is important to revisit the historical dynamics since the unification campaign led by the late King Prithvi Narayan Shah has reinforced the process of Sanskritization, as argued by the leaders, activists and academicians of ethnic marginalized communities – in particular of the Adivasi Janajati and Madhesi communities – and the discourse has remained "a key question for historians, and also a live issue in present-day politics" with the evolving and dynamic discourse of "how far the territories brought under Gorkhali control achieved a sense of common identity and how far they remained simply conquered territory" (Whelpton, 2005, p. 55). Indeed, this researcher is of the view that the successive regimes of the Rana Dynasty until 1951 (for 104 years) and the Shah Dynasty throughout the political history of Nepal until 2006, continued the practices of Sanskritization in order to legitimize the sources of power of the Hindu religion with the

objective of maintaining control over the State and society under their family dictatorship.

Therefore, this researcher explores the democratic transitions of 1951, 1990 and 2006 in the country; armed struggles of larger political parties in the 1960s, 1970s and 1990s; and social movements campaigned by Adivasi Janajati and Madhesi for political changes as the lead up events of the statebuilding process in the country. These transitions failed to create a functioning democratic state because state power still remained under the control of monarchy. It is also because these transitions focused on itemized and separated criteria that were co-opted by ethnic struggles and Sanskritization—where full democratization would not have been as the state institutions in a functioning democracy would have remained independent from the monarchy. The process of democratization that began in the 1950s has the objective of transforming power to the people's elected parliaments under the multi-party system.

The process of democratization in Nepal reached its height in April-May 2006, during the People's Uprising, also known as *Janaandolan II*, that forced the king to step down from power. This was followed by the signing of a Comprehensive Peace Accord (CPA) in November 2006 between the Government of Nepal and CPN (Maoist) to end the decade long armed conflict in the country. In addition to beginning the process of peacebuilding, the Comprehensive Peace Accord (CPA) negotiated the election for a Constituent Assembly, which is an indicator of statebuilding with the objective of

transforming the State from a unitary structure into a federal structure as a form of governance. The agenda of the election of Constituent Assembly through popular votes has remained a burden of history. From the time of the Revolution of 1951, the late King Tribhuvan B. B. Shah promised to transfer power to the democratically elected people's representative institutions through holding election for such a Constituent Assembly. While writing this dissertation, the country held the election of the Constituent Assembly for a second time, which took place sometime November 19, 2013 as the first Constituent Assembly collapsed without promulgating a new constitution. In essence, the Comprehensive Peace Accord (CPA) not only integrates and begins the process of statebuilding and peacebuilding in Nepal, but also makes a far-reaching claim on the state's future; however, the process of designing the CPA has been of top-down approach controlled by the national elites. Such a practice is an ingredient of the paradigm of liberal peacebuilding (see Mac Ginty, 2011b, pp. 41–42).

2.   Research Hypotheses and Research Question

Critics note that the current discourse on building the state and peace in the international policy making arena is a continuation of the discourse of liberal peace (see Richmond & Franks, 2011; Jabri, 2013). The theory of liberal peace, rooted in Immanuel Kant's (1917) philosophy of *Perpetual Peace*, has become a popular mantra in the policy making circle of world politics, which remains dominated by western ideology of liberalism. The liberal peace theory is grounded on the notion of democratic liberalism that advances the hypothesis that liberal democracies are law-binding, respectful of

human rights, more peaceful in comparison with other political systems, and unlikely to go to war against each other; all of which advance the vision of the liberal form of democracy and peace (M. E. Brown, Lynn-Jones, & Miller, 1996). Liberal peace, often synonymously referred to democratic peace, liberal statebuilding, democratic liberalism or liberal peacebuilding has found its way into the functioning of international institutions, including the United Nations due to the perceived victory of the liberal vision of democratic cooperation that followed the fall of the Berlin Wall and dissolution of the Soviet Union (see Fukuyama, 1989, 1992). Encouraged by the changing landscape in international politics after the end of the Cold War, Secretary General of the United Nations Boutros Boutros-Ghali (1992) offers a renewed vision of liberal peace in his *An Agenda for Peace* as the preferred strategy for humanitarian interventions in weak, fragile and war-torn states. In essence, Boutros-Ghali's *An Agenda for Peace* sets a tone for intervention by the West in the global South for a liberal paradigm of peace (Duffield, 2007; Jabri, 2012). Additionally, the liberal form of peacebuilding has come under criticism for lack of legitimacy, ownership and adequate participation of the local actors in the political and peace processes (see Jabri, 2010; Mac Ginty, 2011b; Richmond, 2011b).

Informed by the insights of liberal peace's critiques, I hypothesize that it is the lack of participation, ownership and legitimacy, all of which I define as forms of *denial of participation* in the decision-making process (*an independent variable*) of all the major competing ethnic identities, in the design of the 2006 Comprehensive Peace Accord

(CPA), that *caused* the failure of negotiation and collapse of the Constituent Assembly (*a dependent variable*) in Nepal in May 2012. Under the same premises of liberal peace's critiques, I build my second hypothesis that in an ethnically diverse society, like that of Nepal, foreign intervention (*an independent variable*), although non-military, into the processes of statebuilding and peacebuilding became a supporting cause for the failure of negotiation and collapse of the Constituent Assembly (*the dependent variable*) because they aim at altering power relations in the Nepalese society. The Comprehensive Peace Accord (CPA) 2006 of Nepal integrates, this researcher argues, the concepts of statebuilding and peacebuilding. On the basis of CPA, the interim constitution is enacted through the interim parliament and elections of the Constituent Assembly take place.

This research is driven by the question: *how do the processes of statebuilding and peacebuilding interact during the democratic transition in a weak and conflict-affected state?* The operational definitions of statebuilding and peacebuilding are in terms of interactions that are intended to ensure actors' *participation in the decision-making* process in order to enhance *legitimacy* and *ownership* of the political processes while maintaining *balance of power* in the society. In contexts where the local stakeholders have been removed from the decision-making process and denied participation in the politics – in other words denial of participation in the processes of statebuilding and peacebuilding – they may interact negatively, which results in the collapse of the processes. In case where the power imbalance between the actors is significant, they sometimes interact negatively and collapse the process, although in other similar cases

they do not, where the actors give equal importance to statebuilding and peacebuilding. The political actors adopt the strategies of both peaceful and violent means to assert their claim over the politics that are often facilitated by particular discourses. Having said that, this researcher explores the dynamic interactions between the processes of statebuilding and peacebuilding driven by the central research question.

This research attempts to explain the interactive nature of statebuilding and peacebuilding. In the course of the study, the research will look at how the processes of statebuilding and peacebuilding are interlinked and mutually interacting and reinforcing. *When the processes of statebuilding and peacebuilding are understood as interacting, the tendency is for inclusion—not exclusion—of groups which might otherwise derail the political and peace processes, and this is why integrated processes tend to work, while processes in which the two are seen as unrelated concepts, the tendency is towards exclusion of the groups that may lead towards the end of the political and peace processes.* In order to test the validity of this proposition, this researcher explores six sub-questions for the study, which allow the explanation of the complex factors that surround the central inquiry and present diverse interpretations the participants held in regard to concepts and processes of statebuilding and peacebuilding.

These sub-questions are: (1) How do the processes of statebuilding and peacebuilding alter the power relations in society? (2) How do the political actors mobilize ethnic identities during the times of democratic transition and what are the implications resulting

from it, including power imbalance in the society? (3) What are the tensions and dilemmas of the interventions of statebuilding and peacebuilding? (4) Do different political actors and social groups have similar perceptions of the processes of statebuilding and peacebuilding in Nepal? (5) What role does foreign intervention play in the processes of statebuilding and peacebuilding in a weak and conflict-affected state? And, (6) What are the conditions that either erode or enhance the ownership, participation and legitimacy of the political actors in the decision-making processes of statebuilding and peacebuilding?

3.   Research Objectives

The first objective of the research is to study the interactive and dynamic nature of statebuilding and peacebuilding. Statebuilding and peacebuilding have each been identified as priorities on their own, and very recently scholars and practitioners have begun exploring the areas of convergence between these two concepts, but the fact that they should *interact with each other* has not really been examined. The relevance of these as interactive processes in real world problems has yet to be perceived as significant, whereas statebuilding as a singular pillar has emerged as a global policy priority and new paradigm for peacebuilding in fragile, weak and post-conflict states (Grävingholt, Gänzle, & Ziaja, 2009; Menocal, 2011). In the aftermath of 9/11, weak states – also termed as fragile states in the literature, though, in reality, they are quite different – have been seen as a source of security threat to the developed world due to the belief that they are breeding grounds for terrorism and immigration. Therefore, "fixing"

weak and failed states through statebuilding has become a priority, although a challenging task for the developed world (Ghani & Lockhart, 2008). In addition, the discourse on statebuilding has also developed as a tool for economic development and poverty alleviation in line with the call for foreign aid to focus on the "Bottom Billion" as suggested by Paul Collier (2007), a term articulated by him to describe the poorest people in the third world.

The second objective of the research is to explore the probability of enhancing endogenous models of statebuilding and peacebuilding. The top-down approach of liberal peace paradigm advocated by the exogenous school of thought seems somewhat problematic on the grounds that the prescribed remedies are criticized as being too optimistic, mechanical, normative and an imposition by the external actors (Boege, Brown, Clements, & Nolan, 2008; Dodge, 2006; Suhrke, 2011). Critics of the present discourse of statebuilding liken the fragile or weak conflict-affected states to medical patients waiting for treatment from the developed world or as problems that could be addressed through political, social and economic engineering (see Duffield, 2007). The reports of the OECD, however, depict a more complex picture of the statebuilding process, in which states' functions cannot be limited to only ensuring public services, in particular in education, health, security, through building public infrastructure (OECD, 2010a, 2010b, 2011b). These reports focus on the importance of statebuilding for peace, state-society relations and legitimacy of the state, although these dimensions of the state are intangible, reminding the international community that statebuilding is primarily a

national process owned by the domestic actors and deeply a political process that requires context-specific intervention.

Thirdly, more research is apparently needed in order to bridge the gap that divides scholarly writings with studies of the dynamics of conflict transformation, on the one hand, and studies on the processes of statebuilding, on the other. Various thinkers have stressed that a broad agenda must be inclusive and integrative of both statebuilding and peacebuilding efforts (Call & Wyeth, 2008; Heathershaw, 2008; Menocal, 2011), but while this has been spoken of extensively, speech has not made its way into practice (see Paffenholz, 2009). On the one hand, the debate within the academic circle has yet to travel far in order to arrive at a convergent view of the concept of statebuilding, which has been interchangeably used by many authors with nation-building. While, on the other hand, the international donors and decision-makers at international policymaking circle are in dire need of workable strategy for the implementation of evolving agendas of statebuilding and peacebuilding. The agenda of nation-building, a process that refers to (re)structuring or (re)constructing a national identity by using the power of the state for building from diverse ethnic identities toward transcending and consonant identification, remains lively even today and some critics cautiously warn that the process of statebuilding may not be successful in the absence of nation-building (Lemay-Hébert, 2009; Collier, 2009). Therefore, in the recommendation section, this researcher explores the need to begin the process of nation building alongside the processes of statebuilding

and peacebuilding, especially in a country like Nepal that has a highly diverse population in terms of ethnic identity.

4. Research Methodology

This researcher uses archival data as a primary source and collects primary information through three types of interview methods that include: (1) scheduled, structured, (2) unscheduled, structured, and (3) unstructured. Theoretical frameworks and primary information are mediated through the application of discourse analysis for the archival data and classification of information collected through closed-ended and open-ended questions on the basis of convergent and divergent views. Finally, this researcher validates the research findings through presentations in seminars participated in by the concerned stakeholders.

4.1 Archival Data

This researcher uses both published and unpublished materials in the study. This researcher has used the required guidelines for data collection and sources of information relevant to the study, with their method of prioritizing and categorizing political viewpoints whose views this researcher seeks to consult and use in analysis. The researcher collects primary data from: (a) policy documents; (b) reports commissioned by non-governmental organizations; (c) meeting minutes and conference records; (d) newspaper articles, including news and views, especially those reporting on relevant events; (e) reports from workshops and seminars; and (f) ruling elites' encounters with

the media as well as with the ethnic communities' leaders, and spaces of conversation (e.g. politicians in conferences or private meetings talking about marginalized groups and dominant groups, and vice versa). The reading and interpretations of texts have helped this researcher to understand how discourses of exclusion and inclusion have been used and practiced by the political actors or how they have produced counter-discourses that either include or exclude them from the decision-making process. While doing so, this researcher also takes note of the probability of shading of information based on the influence of caste, ethnic identity, and authority in the Nepalese society.

4.2 Interviews

This researcher has conducted two types of interviews. First, he has conducted formal interviews based on closed-ended and open-ended questions. Second, he conducted informal interviews as a component of the participant observation. It should be noted that this researcher's possession of adequate knowledge and understanding of local languages and cultures helps to establish trust among the interview participants, with the caveats that participants from other castes other than this researcher's position within Nepali society may perceive biased interpretation of the facts. In order to avoid this problem, this researcher has sought cooperation from the contributions from other castes and ethnicities during the field work. The interviews were conducted with seventy-six respondents selected from different strata of life in Nepalese society. This researcher began the interview with the introductory remarks (i. e. narrating this researcher's concept of statebuilding and peacebuilding) that serve as a reference for the interview questions. The

interviews were conducted both in and outside of Kathmandu so that this researcher could reach the people at the elite circle, middle and grass-roots levels, and by doing so, the findings could reflect, as far possible as, a mirror of the society.

4.3   Frameworks of Analysis

In addition to using the Likert Scale for closed-ended questions developed by Prof. Rensis Likert (1932) to measure the perceptions and attitudes of the interview respondents and analyze similar/dissimilar themes coming from content analysis of the open-ended questions (Frankfort-Nachmias & Nachmias, 2000), this researcher further interprets data through the use of discourse analysis. Nelson Philips and Cynthia Hardy (2002) define discourse as a total set of beliefs and coherent set of ideas reinforced by a particular set of speech acts. This researcher considers deconstruction and narratives as part of discourse analysis (see Gibbs, 2011). In other words, how discourse is reinforced and perpetuated can be studied through the use of written or spoken language at any particular time. According to Teuna A. van Dijk (1993), discourse analysis is an art of interpreting the world and belief systems, and is intended to unveil the hidden politics and motivations of actors through the socially dominant discourses and the application of critical thought to social contexts.

This researcher chooses a framework of deconstruction for interpreting and explaining data and information because it enables this researcher to deconstruct hidden motivations of political actors and re-construct logical arguments on the subject matters.

There are no specific guidelines to follow in discourse analysis, nor does it offer any numerical answers to the questions under study. The act of deconstruction, however, a perspective developed by Jacques Derrida (1997), is a technique for uncovering multiple interpretations of a verbal or oral statement. A complete or final interpretation of a statement, text or conversation, is not possible as all texts or statements have considerable ambiguity. While developing his perspective on deconstruction, Jacques Derrida borrows Ferdinand de Saussure's (1959) intellectual insights on linguistic theory that describe the importance and functions of language, including construction and communication of meaning and truth. Michel Foucault (2002), who also credits a lot to Saussure's insights on the function of language for constructing and communicating meaning and truth, rejects the idea of texts as the perfect condition for absolute truth because, according to Foucault, texts themselves are part of the problem as language is never neutral. Therefore, it must be analyzed.

According to Foucaultian notion of discourse analysis, those regimes of power in state and society and political actors' perceptions of subjects matter can be examined through deconstruction of meaning-making exercises embedded in these systems and structures. The significance of Michel Foucault's (1980) notion of discourse is its connection to power, which is circulated throughout the society and exercised through the medium of discourse. Power regulates what can be thought or said, what can be considered as true or false, positions the self against the other and confers what and who is legitimate or illegitimate. Governing over the society, people or practices, therefore,

becomes possible for the ruling elites. Discourse can be found in the views and claims of the political actors whoever interviewed for this research. Their statements can be examined to determine whether they are static or dynamic as they have great significance in the negotiation process with regard to the agendas of statebuilding and peacebuilding.

The collection of data and information are intended to:

(a) Determine critical structural elements – whether they are political, social, security, or international – essential for designing and implementing legitimate processes of statebuilding and peacebuilding.

(b) Understand how the participants view and perceive foreign intervention, and seek participation, ownership and legitimacy in the decision-making process.

(c) Elicit information as to how the participants view statebuilding and peacebuilding and frame their social interactions.

The observations and analysis of data are mediated through theoretical frameworks, thus the theories are critically important as they enable researchers to have informed insights into economic, social and political issues of the case being studied, including competing identities and how to interpret empirical data in terms of participation, ownership, foreign intervention and legitimacy in the processes of statebuilding and peacebuilding. The

conclusions to be drawn from the study are that the notions of liberal peace are seriously flawed on the grounds that they fail to ensure participation and ownership of the local actors in the statebuilding and peacebuilding processes to generate legitimacy for external interventions in weak and conflict-affected states undergoing democratic transition.

## 5.	Outline of the Chapters

Chapter 2 begins with a brief reflection on theories of the State relevant to this research, followed by discussion of five major theories and constructs that make up the framework for this study: (1) statebuilding, (2) peacebuilding, (3) democratization, (4) social identity, and (5) legitimacy. The following sections trace the criticism of these theories and also provide a comparison of these theories. The research methodology allows this researcher to closely investigate the relationships between the hypotheses on denial of political actors' participation in the decision-making process with the focus on ownership, legitimacy and participation and foreign intervention leading to the failure of negotiation and collapse of the Constituent Assembly and the major theories once the processes of statebuilding and peacebuilding were in action. These theories allow this researcher to explore and explain the core concepts outlined in the hypotheses and their relevance for future implications. Interpretations of the research findings will allow this researcher to state which theories were confirmed or rejected by virtue of which hypotheses were confirmed or rejected.

Chapter 3 presents an overview of the political and historical scenario in Nepal in relation to statebuilding and democratization. The research discusses the transitional phase as part of the democratization process, in which a need to enhance the processes for statebuilding and peacebuilding occurs. Chapter 3 presents a brief history of statebuilding and peacebuilding where the process of democratization is reviewed, transitioning to social movements and armed conflicts in-between. A discussion on transitional ethnic conflicts then follows in order to build a comprehensive, but contextual, image that explains how political actors, including ethnic identities, generate discourses to build public opinion for their agendas, demonstrating their quest for participation in the political process. As required, this researcher introduces theoretical references and discusses research themes such as negotiation, power and violence that underpin the research question.

Chapter 3 continues to discuss the process of societal transformation in the context of the interactions taking place between political institutions and the political actors in relation to the political context. Reviews of the data and materials on turbulent transition to democracy and peace and the interaction between political elites and ethnic communities are reflected in Chapter 3. This follows the comparison on how different political actors and identity groups advance their agendas and generate ethnic identity discourses in order to gain political advantage. This is analyzed in Chapter 4 by highlighting convergence and divergence of views, perception and wisdom in the process. In addition, the tension between the formation of a strong state and the danger of

marginalizing (or worse) ethnic, caste or religious minorities that do not compromise the strong-state controlled and governed alone by the elites has been particularly examined under the framework of state-society relations and relative deprivation in Chapter 3, and further substantiated in Chapter 4, where each interview question has been discussed, analyzed and interpreted.

This researcher examines the tension between the State and society and focuses on the processes of statebuilding and peacebuilding, specifically on the quest for federalization of the state in the context of new constitution making in Nepal through the collapsed Constituent Assembly. The tension that emerges between the state and ethnic identities while building a strong state is part of state-society relations. This has been looked at as an interactive process disguised as social movements in the quest for participation in politics for establishing ownership in the processes of statebuilding and peacebuilding, towards mutual transformation of state and society. The observational data and information obtained from interviews have been examined and the research question has been reviewed in relation to the research hypotheses and research findings in Chapters 4 and 5.

In Chapter 5, this researcher compares the research findings in order to explore thematic convergence and divergence. The research presents the discussions and draws conclusions with a set of recommendations that identify conditions for sustaining peace implicit in the unfolding concept of statebuilding to achieve democracy, opening new

avenues for further research in reference to theory building and implications for policy interventions.

The research develops based on the two guiding hypotheses, which are the simplified version of the above section: (1) First, the denial of participation of actors in the decision-making process of Comprehensive Peace Accord, and (2) Second, foreign intervention in the processes of statebuilding and peacebuilding will lead to the failure of negotiation and collapse of the Constituent Assembly. This researcher will then show that confirmation of hypothesis 1 exacerbates the conclusions drawn from hypothesis 2, making this a far worse problem than either would have been in isolation. While doing so, this researcher explores practical propositions on the interactive nature of statebuilding and peacebuilding mediated by the theoretical frameworks. The study attempts to bridge the gap that exists between theory and practice, where theories are assumed to be abstract but subject to refining through practice: "Research allows conflict, conflict resolution, and peacebuilding analysts to apply theory to practice/policy and, in turn, for practitioners and policymakers to *feed the results of practice* back to theory for reinforcement, refinement, or refutation and replacement in part or in whole" (Sandole, 2009, p. 420 italics in original).

CHAPTER 2: THEORIES

In this Chapter, this researcher discusses criticisms, challenges and areas of convergence with regard to the theories that are relevant to the processes of statebuilding and peacebuilding as well as democratization, which this researcher is applying to study the Nepalese case that explores the participation, legitimacy and ownership of the stakeholders. In emerging democracies, structural conditions such as ethnic fragmentation or poverty aggravate the problems of legitimacy and they are acute in the contexts where the ruling elites have exploited these conditions for their political or personal gains causing the lack of trust across social groups (Kapstein & Converse, 2008). This situation is particularly true in a country where democracy is perceived as a negotiated outcome of a peace process and in countries where democracy is being imposed from outside (Reilly, 2003). Where a state is weak in terms of service delivery, including weakness in maintaining security, people may rely on non-state actors for rapid response. Such a situation may lead to a crisis of legitimacy of the state and well as an undermining of the building of its capacity in the long-run (Paris & Sisk, 2009). In such a context, division in politics is institutionalized through a negotiated peace settlement, a power-sharing mechanism is developed to please the spoilers, and undemocratic rulers are allowed to strengthen their position in power (Jarstad, 2008b). Yet, power-sharing

mechanisms are often designed in a peace process with the objective of building trust and confidence among the parties in conflict as a necessity.

Academics and international policy makers have paid a substantial amount of attention to statebuilding before the 1990s. The focus on building the state has tremendously increased following the tragic events of 9/11. In this way, it is essential to define what kind of state one wishes to build. This researcher briefly touches on the fundamental characteristics of a state, whether centralized or decentralized, as a working definition so that discussions on peacebuilding and statebuilding can flow logically. What kind of states can we build that addresses challenges of peace, democracy, security and development? The classical answer focuses on the centralized role of the state, which is attributed to the foundational works of Max Weber (1946), Charles Tilly (1975a) and Karl Marx (1975) where the state has the sole authority over power. Another answer is found in the works of Michel Foucault (1995) who describes a state that focuses on power that is decentralized in the society through social networks. Similarly, Joel S. Migdal (2001) conceptualizes the transformative nature of the state that develops through mutual interaction with society, quest for power, and actors' desire for establishing dominance in the society.

The classic definition of the state articulated by Max Weber refers to "a human community that (successfully) claims the *monopoly of the legitimate use of physical force* within a given territory" (Weber, 1946, p. 78 italics in original). "A human community"

highlights the state's centralized role in controlling the means of violence in society as the sole and legitimate actor and authority. The notion of "legitimacy," however, is contested in the discourse of social sciences where any side could be viewed *as* legitimate. The concept of monopoly on the use violence solely by the state is problematic and "historically contestable" (Tilly, 1992, p. 70). In order words, to avoid the problems associated with the notion of the state's monopoly over the use of violence commonly found in the Weberian definitions of state in the social sciences, I draw upon Charles Tilly's (1975a, p. 638) definition of the modern state as "an organization, controlling the principal means of coercion within a given territory, which is differentiated from other organizations operating in the same territory, autonomous, centralized and formally coordinated." Tilly's definition of the state has, though warranting an intellectual debt to Max Weber, inbuilt characteristics of centralized authority of the state over the control of the use of violence and mobilization of force. In order for a state to be functional, as these theories imply, there needs to be a certain degree of autonomy from society under which the state's capacity for decision-making and efficiency can be judged. The applicability of definitions in the converging concepts of statebuilding and peacebuilding can be problematic on the grounds that it invites a potentially conflicting relation between social forces and state, or state and society, which is an emerging concept to guide the functioning of the state in the modern world.

The theories of the State that have roots in the philosophy of Karl Marx and Friedrich Engels (2004a) also highlight the importance of a centralized role of the state. Karl Marx

and Friedrich Engels did not offer a unified theory of statebuilding, yet they conceptualized the state as a vehicle of the proletariat that establishes communism in society and eventual rule over the state. The Marxist concept of the state is rooted in dialectical materialism, which interprets history through the prism of a materialist construct, and is, therefore, critical for understanding social structures in different contexts. However, critics note that Marxist theory regards the state as an instrument of violence where the proletariat rules and establishes domination over the society (see Arendt, 1970). In my opinion, Marxist ideology is totalitarian in form and substance as it intends to impose ideas and will on others and does not consider the state as a means for societal transformation. Moreover, Marxist theory has concentrated too much on economic relations as the dominant variable that defines human relationships in society and sees these relationships as inherently conflicting with each other. On the status of class position, people's interpretation of class might be subjective since people may feel and act differently in the social world. Therefore, a critique of Karl Marx's conception of dictatorship of the proletariat comes from Mikhail Bakunin (1972, p. 162) who challenges Marxist philosophy, stating that "if the proletariat is to be the ruling class, one may ask whom will it govern? There must be yet another proletariat that will be subjected to this new domination, this new state."

The power to use violence is one of the central elements in the definitions of the state, as well as a means to regulate its functioning and society, commonly found in the works of Max Weber (1946), Karl Marx (1975) and Charles Tilly (1975a). Many thinkers and

philosophers, from Plato to Karl Marx, Vladimir I. Lenin to Niccolò Machiavelli, Mao Zedong to Antonio Gramsci, and from Hannah Arendt to Michel Foucault have all devoted a considerable amount of time reflecting on power. But comprehensively discussing notions of power by examining the work of these great thinkers and philosophers would be almost impossible and is out of the scope of our research. However, in order to explore the discussions of power in relation to processes of statebuilding and peacebuilding, I will draw upon Michel Foucault's (1995) concept of power specifically and how power is regulated in the state and the society. He defines the state as a superstructure where the state's power is distributed through social networks and exercised through the use of discourses. Foucault (1995) opens his *Discipline and Punish* with two terrifying scenes – the first scene is of a public execution of a man in 1757 and the second scene is of a punishment given to a young convict in a prison in Paris in 1838. Both scenes demonstrate two facets of power: (1) one is highly violent and visible, and (2) the second almost invisible and quiet.

Foucault's (1995) discussions on power focus on its function in society as he argues that societal operations perpetuate and maintain violence, which is legitimized by existing laws, bureaucracy and value systems of the dominant class in power. The dominant class holds control over culture, tradition and language, thus each is institutionalized within the economic and political structures that exercise power in a society (ibid.). Foucault (1995, p. 27) makes an explicit link between knowledge and power stating, "there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge

that does not presuppose and constitute at the same time power relations." Power produces and reinforces knowledge where knowledge is considered as an instrument of power exercised and meant to be accepted so that, in turn, it is critical for the institutionalization of structures in society (ibid.). Foucault believes that power exists everywhere, comes from everywhere, and asserts that knowledge is power moving on to highlight the characteristics of power vis-à-vis its relation with the State:

> What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network which runs through the whole social body, much more than as a negative instance whose function is repression.

> (Foucault, 1980, p. 19)

Foucault discusses the state as a form of political power and moves on to highlight the oppressive nature of the state while it exercises power in the society:

> The reason this kind of struggle tends to prevail in our society is due to the fact that, since the sixteenth century, a new political form of power has been continuously developing. This new political structure, as every-body knows, is the state. But most of the time, the state is envisioned as a kind of political power

which ignores individuals, looking only at the interests of the totality or, I should

say, of a class or a group among the citizens.

(Foucault, 1982, p. 782)

In addition, Foucault highlights the importance of the state cautiously remarking that the

state cannot hold control of absolute power in the society:

I don't want to say that the state isn't important; what I want to say is that

relations of power, and hence the analysis that must be made of them, necessarily

extend beyond the limits of the state. In two senses: first of all because the state,

for all the omnipotence of its apparatuses, is far from being able to occupy the

whole field of actual power relations, and further because the state can only

operate on the basis of other, already existing power relations.

(Foucault, 1984, p. 64)

The State's capacity to govern and legitimize its governance depends on how deeply it is

reflected in society, as the relations between state and society are dynamic and interactive

as both entities hold relative power (Migdal, 2001). In contrast to the Marxist and

Weberian definitions of centralized state, Joel S. Migdal (2001) argues for understanding

the people, state and society, and analyzing their relationships by engaging both society

and state in an interactive transformation. The interaction between state and society is intended to reshape and restructure the image of both state and society, thus creating a continuing process of transformation (ibid.). State and society both transform themselves through an interactive process (ibid.). In this way, it is deeply important for people to develop a collective understanding and consciousness about the relationships between themselves and the interconnection of their dialectal relationships with state and society (ibid.). Struggles in society are forms of interactions with the state and they are inevitable and require change as any society develops, transforms and eventually adopts a new structure or image through these struggles (ibid.). The relations between state and society center on the arenas of control, domination and opposition, in which different social forces are engaged in interactions and struggles to uphold their supremacy over power (ibid.). The struggles are judged on the grounds of legitimacy of the actors and institutions, which is also of critical importance while conducting the business of statebuilding or pursuing the tasks of peacebuidling.

1.   Peacebuilding

Here, I will broadly discuss the concepts and criticisms of peacebuilding in terms of its conceptual framing, approaches and critiques of liberal peace. Peacebuilding, a concept articulated by Johan Galtung (1976), argues that sustainable peace requires the promotion or establishment of systems that are capable of addressing the fundamental causes of conflict. Galtung's concept of peacebuilding aims at establishing long-lasting peace in the society by addressing "root-causes" of violence and developing local capacities for

conflict resolution through peaceful means. He maintains that "peace has a structure different from, perhaps over and above, peacekeeping and ad hoc peacemaking ... the mechanisms that peace is based on should be built into the structure and be present as a reservoir for the system itself to draw up ... more specifically, structures must be found that remove causes of wars and offer alternatives to war in situations where wars might occur" (Galtung, 1976, pp. 297–298). The notion of peacebuilding is ever expanding since its further articulation by UN General Secretary Boutros Boutros-Ghali (1992) in his *An Agenda for Peace*. The language of building peace entered into the UN system through the adoption of *An Agenda for Peace*, which focuses on peacekeeping, preventive diplomacy and peacemaking, and defines the notion of peacebuilding as "an action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict" (Boutros-Ghali, 1992, p. 11). Since then, the concepts, notions or definitions of peacebuilding adopted by different institutions have proliferated so rapidly that a team of scholars documents them to be two dozen by early 2007 (see Barnett, Kim, O'Donnell, & Sitea, 2007, pp. 38–41).

Boutros Boutros-Ghali's *An Agenda for Peace* is primarily concerned with tasks to be undertaken and needs to be addressed once the wars or violent conflicts are over. Under this definition, peacebuilding is the task of taking care of postwar needs, which Elizabeth M. Cousens (2001, pp. 6–7) defines as a "deductive approach" to peacebuilding. My critique of Boutros Boutros-Ghali's top-down approach to peacebuilding is that he does not consider works that may take place before a peace agreement is signed or those that

lack a formal peace process altogether. I am also of the view that the peacebuilding efforts at a local level cannot be seen in isolation of broader peacebuilding efforts occurring at the top and mid-level leaderships at national and international levels (Miall, Ramsbotham, & Woodhouse, 2005). Nevertheless, peacebuilding initiatives should have clearly defined objectives and should spell out why and how they are being carried out with the understanding that sustainable peacebuilding requires the need to address the root-causes of a conflict guided by a bottom-up approach. According to Elizabeth M. Cousens's (2001), a process guided by the inductive approach may be capable of redressing the root-causes and sometime heralding a revolutionary change in a particular society. Meanwhile, a modified United Nations definition of peacebuilding, with the integrated objective for statebuilding, reads:

> Peacebuilding involves a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundation for sustainable peace and development. Peacebuilding is a complex, long-term process of creating the necessary conditions for sustainable peace. It works by addressing the deep-rooted, structural causes of violent conflict in a comprehensive manner. Peacebuilding measures address core issues that effect the functioning of society and the State, and seek to enhance the capacity of the State to effectively and legitimately carry out its core functions.

The agenda of peacebuilding has, indeed, become a complex topic during the last twenty years. In order to pursue the task of peacebuilding in the world's politics dominated by the post-9/11 landscape, a new way of thinking and strategy is even more necessary if we are to build a state capable of sustaining peace in conflict-affected, fragile or weak states. A spillover effect of the post-9/11 world is that violence was preferred in opposition to dialogue in certain local contexts. In Nepal, for example, in late 2001 when dialogue between the Government of Nepal and the then Communist Party of Nepal (Maoists) broke down, the Government of Nepal immediately declared the rebellious group a terrorist organization. Once oppositions and rebels were declared as terrorists, the options for dialogue and negotiations with them were extremely limited; in other words oppositions and rebels were not included in the peacebuilding process. The discussion on terrorism and its root-causes remained, in reference to peacebuilding at the local context, at least in Nepal, as a forbidden topic to be discussed in the political discourse and negotiating table. However, a recent scholarly work by Professor Dennis Sandole (2010), *Peacebuilding: Preventing Violent Conflict in a Complex World*, can be considered as an example of a new way of thinking. In this work, he explores peacebuilding through the lens of conflict resolution, linking it to political agendas, and bringing the discussion on terrorism into the domain of peacebuilding. Furthermore, he explores challenges of peacebuilding at multi-lateral levels intertwined with complexities in the post-modern world, which cannot be addressed by a single actor alone.

In contrast to Boutros Boutros-Ghali's top-down approach of peacebuilding, John Paul Lederach's (1997) work expands the definition of peacebuilding by focusing on the bottom-up approach, which includes process, relation building and reconciliation. Lederach suggests that a wide range of activities need to be undertaken before or after peace agreements are signed in order to transform conflicts. His integrated framework for peacebuilding is designed to address the problems at systemic levels, from issues to systems, this framework suggests a three-layered time frame with inbuilt components for (a) "crisis intervention," (b) with an immediate action to be undertaken within 2-6 months, and (c) a "generational vision" to achieve a "desired future" that may take 20+ years to be achieved (Lederach, 1997, pp. 77–80). For the operational definition of peacebuilding, this researcher adopts Lederach's take on the subject. Lederach argues that new approaches are required for peacebuilding in the context of conflicts in the contemporary world that need "long-term commitment to establishing an infrastructure across the levels of a society, an infrastructure that empowers the resources for reconciliation from within that society and maximizes the contribution from outside" (Lederach, 1997, p. xvi). He articulates that peacebuilding interventions occur at three different levels of leadership – top level, middle-range and the grassroots. According to him, top level leadership consists of those holding power at the decision making level; middle level leadership are those who are not directly dependent on power hierarchy but bridge the gap between the top and grassroots; whereas grassroots leadership has direct connection with the people. Influenced by Adam Curle's (1971) matrix on conflict's

progression, Lederach (1995, p. 13) adds that peacebuilding activities are intended to maintain a balance of power in society and interventions are expected to enhance parties' level of awareness of their conflicting needs and interests.

What would be the desired results, objectives and goals of the peacebuilding interventions have largely remained as the primary debate in the field, which is normally framed between the terminologies of "*negative peace*" or "*positive peace*" coined by Johan Galtung (1964, p. 2 italics in original) in an editorial in the first issue of the *Journal of Peace Research* over four decades ago. Galtung envisions two aspects of peace with the notion of *negative peace* meaning the absence of violence; and *positive peace* meaning the elimination of structural violence and achievement of social justice for those originally disenfranchised. In other words, negative peace is the absence of violence and/or armed conflict, and positive peace is a condition of transformed political, social and economic structures that hold the capacity of promoting justice, addressing root-causes of armed conflicts and ensuring sustainable peace (Galtung, 1996). The debate continues on the negative and positive elements of peace in the discussion of *Ending Wars and Building Peace* by Charles T. Call and Elizabeth M. Cousens (2007, pp. 4–6 italics in original). Call and Cousens introduce three "standards" of peacebuilding: (1) "*Minimalist*" - this approach, which resembles the notion of conflict management, argues that the realistic strategy is to end armed violence through a negotiated political settlement so that minimal conditions required for political order can be established and security restored, (2) *"Maximalist"*- this approach, which resembles

the notion of conflict transformation, favors addressing the root-causes of conflict so that the cycle of violence can be prevented, and (3) "*Moderate*" - the approach that favors "*decent governance*" and advocates for no renewal of violence.

The notion of peacebuilding has remained so wide open that it intends to bring different local and foreign actors together for (re)building the war-torn societies, but such efforts may not function well if they are dominated by the paradigm of liberal peace. For many scholars, the liberal peace paradigm advocates a one-size-fits-all strategy and top-down approach, which is applied by outside peacebuilders. In this case, the local stakeholder is not involved in the political exercises (see Sandole, 2010). In principle, the liberal form of peacebuilding advances the notion of participation, ownership and representation of local stakeholders in the political process, but these notions have been limited to rhetoric and theory only. Participation of local actors in the political process can be constrained by prevailing political, social and security contexts. Roger Mac Ginty (2012, pp. 173–177) defines this as a form of "non-participation" of local stakeholders in the political processes that happens "voluntarily", which could be due to the principles, non-interests, tactical decisions or rational choices of the political actors; or "involuntarily", in which barriers such as insecurity, a discriminatory legal system or a lack of access to opportunities constrain local parties' engagement in the political processes. This researcher divides the notion of top-down approach into two levels – one is external in which peacebuilding intervention is dominated by the outsiders in war-torn states and the other is internal in which the peacebuilding process is controlled by the

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ruling elites from the center while undermining the role of ethnic groups operating at the periphery.

The liberal paradigm of peacebuilding, in essence a top-down approach that denies participation of local stakeholders in the decision-making process, has been opposed at the local level often by political actors and social forces in search of self-determination and freedom. Oliver Richmond articulates that such a situation may signify a "resistance to modernity, to modernisation, to centralised state power, sovereignties outside of limited communities, liberal norms and institutions, the market, and conceptions of rights over need" and may redefine peacebuilding as a form of "resistance" that "may prioritise self-determination, community, agency, autonomy, sometimes democracy and a sense of nation, and sometimes the materiality of liberal states" (Richmond, 2010, p. 686).

I hold the view that, with due credit to Joel S. Migdal (2001), these struggles between state and society in the process of transformation can be considered a way of asserting participation by the local actors over politics in order to identify underlying issues of contention and to respond to underlying needs. Oliver Richmond (2010) criticizes liberal peacebuilding by adding a fourth generation in the discourse of peacebuilding, "post-liberal peace," which does not remove actors from the politics, but intends to bridge the gap between the locals and outsiders by emphasizing the dynamic relations between them. The perspective of "post-liberal peace", often synonymously referred to as "hybrid peace" in the contemporary literature of peacebuilding, calls upon international actors to

use a range of strategies of engagement in order to enable the local actors to explore their own needs and understanding of rights and desirable form of political system.

Being sympathetic to the liberal paradigm of peacebuilding, Roland Paris (2011, p. 167) argues that "[t]he 'crisis' of liberal peacebuilding has therefore been much exaggerated. The challenge today is not to replace or move 'beyond' liberal peacebuilding, but to reform existing approaches within a broadly liberal framework." Further, Paris (2010) poignantly summarizes criticisms of the liberal form of peacebuilding in a way that attracts the outsider's attention: (1) importance of domestic institutions; (2) tensions between peacebuilding goals; (3) political-will to complete the missions; (4) poor coordination; (5) knowledge of the local contexts; and (6) quest for ownership and participation of the local actors in the processes. Criticisms of the paradigm of liberal peace are the challenges to the field of peacebuilding as is the vacuum left in the processes of interventions. Within this vacuum, the concept of statebuilding is evolving as a complimentary entity, which is a top-down approach that focuses on creating and strengthening state institutions and ensuring security and stability. The evolving concept of statebuilding is not without criticism – the concept is being criticized for not adequately emphasizing inclusive participation of civil society or building relations at all levels, and tensions, dilemmas and contradictions with peacebuilding need to be addressed in order to attain the goals of building peace and democracy.

2.   Statebuilding

In the international policy setting dominated by the West, policy matters are rarely more quickly accepted than the call for building strong states in the South where the developed and powerful states in the West are expected to take the responsibility of "fixing" weak, fragile and conflict-affected states (Krasner, 2007; Ghani & Lockhart, 2008; Fukuyama, 2009). Such urgency is strongly felt in the West more than ever before following the tragic events of 9/11 due to the perception that weak and fragile states in the South are considered as a security threat.

The concept of statebuilding was first used in the writings of Charles Tilly (1975a) in reference to creation of states in Western Europe. Tilly's theory on statebuilding flows from his famous aphorism that ''war made the state, and the state made war'' (Tilly, 1975a, p. 42). His theory of statebuilding describes the required foundation of functioning states in Western Europe explaining how states enforced power in society in the process of building the state. The process of statebuilding in Europe has been highly costly, Tilly explains, on human lives and on the economic front. Nevertheless, the states in Western Europe have benefitted from the process of statebuilding, Tilly observes, as it resulted in the development of skilled human resources, consolidation of states through establishment of political structures capable of sustaining strong states to exercise power in the society (Tilly, 1975a, 1975b).

In addition, Tilly makes a far-reaching claim asserting that the creation of states in Europe originated from war. Thus, wars were of necessity in the process of building states in Europe and subsequently the building process of states was for preparation for war as he maintains in his later works on *War Making and State Making as Organized Crime* (Tilly, 2002b) and *Coercion, Capital, and European States* (Tilly, 1992). He reasserts the arguments from his earlier works that states in Europe constructed political institutions as a means of extracting, producing and protecting wealth from and for the population and distribution within the society. Tilly's (1992) theory on statebuilding causally flows from his articulation that states engage in the act of extraction of resources and/or means in order to be able to get (1) engaged in making wars against each other where their foreign rivals are either defeated or neutralized; (2) followed by defeat or neutralization of their rivals within the territories of their control; and (3) engaged in the act of protecting their clients, either by neutralizing or defeating their enemies.

So, did war really make the modern states? Offering a friendly criticism, Sidney Tarrow (2008), Tilly's colleague in the academic field, points out a number of gaps. For example, statebuilding in the post-colonialism context of Asia and Africa, implications of "war on terror" and occupation campaigned by Tilly's own country, and state transformation after internal conflicts in the third world are topics which Tilly has left for further expansion in explaining and understanding the process and evolving concept of statebuilding. This researcher subscribes to the gaps identified by Sidney Tarrow (2008) in Charles Tilly's concept of statebuilding. First, much of Tilly's work has focused on

the building of states through war in Europe; hence he has failed to explain the statebuilding process from Africa to Asia and other parts of the world following the liberation movement against colonialism (ibid.). Secondly, Tilly's works failed to explain the role of capitalism, in terms of war, those who finance or fight it, and religion, which has been a source of many conflicts around the world, in the statebuilding process (ibid.). Thirdly, he overlooks the "war on terror" campaigned by Tilly's own country, the United States of America, to occupy other states, in particular Afghanistan and Iraq (ibid.).

Tarrow adds that Tilly's works failed to explain how the rights of the citizens to participate in politics have been restricted while the United States pursues its "war on terror" as well as the implications of imposing colonialism in other states, e. g. invasions and occupations of Afghanistan and Iraq. In addition, a number of states in the third world, warn-torn societies affected by internal conflicts which sometimes are called weak or fragile states, are in the process of (re)building or transforming, but are out of Tilly's theorization of statebuilding. In order to fill the gap to explain the unfolding dynamism of the statebuilding process, a large amount of literature is being produced, thus correcting Tilly's understanding of the quest for building states in the third world (Taylor & Botea, 2008). Additionally, the gaps left by Tilly on the notion of statebuilding are being filled with discussions of "exogenous" and "endogenous" models for statebuilding, which are the two main theoretical approaches that dominate the current discourse – with a clear demarcation between them in theory, but not in practice (Boege et al., 2008). Scholars from the "exogenous" school of thought theorize statebuilding as an act of external actors

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that support the building or rebuilding of institutions in a post-conflict, fragile or weak state. This includes peacekeeping operations of the United Nations and also interventions by states such as in Afghanistan and Iraq (see Fukuyama, 2009).

The second strand of statebuilding's definition refers to "endogenous" processes that give preference to limiting the role of international actors (Ottaway & Lieven, 2002). The work of Verena Fritz & Alina R. Menocal (2007, p. 13) captures this second definition where statebuilding "refers to the set of actions undertaken by national and/or international actors to reform and strengthen the capacity, legitimacy and the institutions of the state where these have seriously been eroded or are missing." The second definition is further elaborated on in OECD literature that references statebuilding as "an endogenous process to enhance capacity, institutions and legitimacy of the state driven by state-society relations" (OECD, 2008, p. 1). In addition, the international policy making circle is advocating for the need of a strong state to sustain peace in the long run and has advanced the goal of 'statebuilding for peace', a term used by UNDP[1]. On statebuilding, this researcher adopts the theoretical definition developed by Verena Fritz & Alina R. Menocal (2007) and OECD (2008), both driven by the endogenous approach necessary to enhance the participation of political actors and ethnic communities in the political sphere in order to establish their ownership and legitimacy in the processes of statebuilding and peacebuilding.

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[1] A term used by the United Nation Development Program (UNDP) on its project entitled "State-building for Peace in Countries Emerging from Conflict: Lessons Learned for Capacity Development" led by its Bureau for Crisis Prevention and Recovery.

Francis Fukuyama's (2009) prescriptions for institutional design in weak states is one of the approaches of the 'exogenous' school of thought on statebuiding. In short, *states are important*. In this vein, Fukuyama explains his statebuilding approach through constructing, spreading and transferring institutions of good governance from developed states to weak states, in which legitimacy in the act of building states is derived from international political power. The building of a state has been the focus in recent literature with the understanding that weak areas in a given state need to be identified and fixed in order to enhance capacity of states in the South. Fukuyama takes an institutional approach in his works and defines statebuilding as "the creation of new government institutions and the strengthening of existing ones" (Fukuyama, 2004, p. 17). In order to achieve this goal, institutions of good governance from the developed world can be exported to weak states. However, Fukuyama worries that weak states lack demand for well-developed institutions required for good governance, which has become a fundamental problem for statebuilding. In such a circumstance, Fukuyama prescribes, "demand for institutions must be generated externally. This can come from one of two sources. The first consists of the various conditions attached to structural adjustment, program, and project lending by external aid agencies, donors, or lenders. The second is the direct exercise of political power by outside authorities that have claimed the mantle of sovereignty in failed, collapsed, or occupied states" (Fukuyama, 2009, p. 48). Therefore, Fukuyama is of the view that states can be built, at least to some extent, through power politics. He also regards international power as a source of legitimacy

required for statebuilding and justifies the act of intervention. To be precise, the concept of statebuilding articulated by Fukuyama can be considered as an extension of his arguments in his controversial book *The End of History and the Last Man* (1992).

Comparatively, Stephen Krasner (2007, p. 653) follows a radical and provocative line among the "exogenous" school of thought of scholars on statebuilding and argues that existing rules that regulate worlds politics, namely in reference to fragile, weak and war-torn states in the South, do not work. Therefore, he recommends "shared sovereignty." In essence, the strategies adopted by the international actors, and the support they offer for building weak states through the establishment of transitional administration with the objective of building governance in those states, are incapable of addressing the challenges. A framework needs to be articulated, therefore, in order "[t]o secure decent domestic governance in failed, failing, and occupied states, new institutional forms are needed that compromise Westphalian/Vatellian sovereignty for an indefinite period" (Krasner, 2007, p. 656). He further recommends that troubled states, specifically in the South, should cease to be recognized as sovereign in international law as they are not capable of governing their citizens and societies. Strikingly, a common thread found in the works of Francis Fukuyama and Stephen Krasner is the critique of human rights records in the troubled states in the South and their call for international intervention. To cite an example, Francis Fukuyama (2009, p. 125) asserts, "Weak or failing states commit human rights abuses, provoke humanitarian disasters, drive massive waves of immigration, and attack their neighbors." Similarly, Stephen Krasner (2007, p. 656)

characterizes the states in the South as "[f]ailed, inadequate, incompetent, or abusive national authority structures [that] have sabotaged the economic well-being, violated the basis human rights, and undermined the physical security of their countries' populations."

Some scholars follow the train of thought that troubled states should go through the natural course of conflict with the belief that it results in distinct winners and losers, which can be a basis of negotiating a long-lasting peace. Jeremy Weinstein (2005, p. 5), for example, recommends "autonomous recovery" in the troubled states where negotiated settlement assisted by international actors may become a basis of (re)building states to "freeze unstable distributions of power and to provide a respite from hostilities for group that are intent on continuing the conflict when the international community departs" (Weinstein, 2005, p. 5). In a slightly different approach, Jeffery Herbst (2004), while looking at African contexts, recommends that the international community should "let states fail" with the view that new structures in the troubled states may emerge through conflict and cooperation once the conflicting actors come together in search for a negotiated settlement to transform violence to peace. Herbst moves a step forward, while discussing the African contexts, to highlight the need of redrawing boundaries, which were made during the colonial era, but which no longer reflect the present reality, and fail to address the burning problems. Paul Collier (2009) takes a similar approach and argues for the redrawing of boundaries in Africa, even suggesting a hypothetical map to solve the problems in Africa.

In the world today, Collier (2007) classifies nearly sixty countries as part of the "bottom billion" which suffer through all sorts of problems ranging from human rights abuses, violence, terrorism, hunger, diseases and genocide (Collier, 2009). The efforts made for statebuilding by international actors have failed in the past, as Ashraf Ghani and Clare Lockhart (2008) narrate their own experiences of working in countries in the "bottom billion." Sadly, this category includes my own country, Nepal. There, the efforts of statebuilding by foreign actors have failed as they neglect to understand the needs of developing countries and undermine the need to engage the citizens of those troubled states by reconnecting them with the international networks of power built into the international economic and political systems. Ghani and Lockhart argue the strategies of statebuilding adopted by the international actors look like an imposed solution to the problems in the third world that also give a colonial flavor if looked at from a deeper level. At times, the international actors pretend to be a mere observer of the unfolding political events in the third world. As Ghani and Lockhart further narrate their experiences, they recommend that the countries in the third world need to establish legitimacy by adopting a bottom-up approach of decision-making, which involves involving the stakeholder in the political processes, reestablishing democratic practices in order to regain sovereignty, and/or establishing a strong democracy if it does not exist.

During the last twenty years, a number of international interventions, both humanitarian and military, have taken place under the paradigm of liberal peace in weak, fragile and war-torn states with the objectives of (re)building political and social

institutions, and liberating and securing the population so that the recipient societies could enhance development and move towards liberal democracy. Mark R. Duffield (2007) critiques these forms of interventions by arguing that Western rhetoric looks at the states in the South as conflict-prone, fragile, and unwilling (or incapable) of providing human security to their own citizens, in addition to posing a significant threat to international security. Intervention in the South is pursued based on this rhetoric, followed by the emphasis on transitional governments, and in some cases, on foreign administrations (re)establishing statehood in the society that is being intervened in (Duffield, 2007). Vivienne Jabri (2010, p. 42) critiques the liberal paradigm by assertively questioning the motive of the liberal peace project; in fact, she says "to intervene at all into other societies is by definition colonial, suggestive of dispossession, racialised domination, and subjugation," also adding that the objective of Western interventions in the global South is intended to remove the local from the political processes where resistance becomes a norm (Jabri, 2012). Additionally, Roberto Belloni argues that the liberal form of peacebuilding in the war-torn states has failed because:

> Rather than creating liberal and democratic political, economic and social orders, liberal peacebuilding has led, time and again, to a situation characterized by the presence of political and social institutions that are only superficially democratic, accountable, and effective and are perceived as illegitimate, constraining and unsuccessful by those experiencing them.

Interpretation of the process of statebuilding differs between those authors theorizing the concept of liberal peace in contemporary literature. If Fukuyama highlights the importance of institutions for statebuilding by focusing on the role of elites, Joel S. Migdal (2001) taking a different approach focuses on society while criticizing the role of elites. In this way, Joel S. Migdal conceptualizes the statebuilding process as the interaction between state and society in the form of struggle that has continued for a long time, whereas the state is still in the state of transformation, and the struggle is likely to remain in society *for* freedom and *against* different forms of domination. Struggles against domination are necessary for development, and as society develops and transforms, it eventually adopts a new structure through this struggle (ibid.). A fundamental element in this transformative process is the presence of legitimacy.

In fact, Joel S. Migdal asserts that people accept supremacy of the state if they perceive their personal identities to be secured with the existence of the state. In the case of lack of legitimacy, the basic premise of elites being in power becomes questioned and challenged. In order to address these challenges, the political actors adopt different 'dirty tricks' for their political survival, which in turn reinforce a crisis of legitimacy (ibid.). Sustainable reform of institutions or creation of new ones to ensure good governance in the long term can happen *if* the process to gear up for change is designed by national stakeholders with the support of multiple actors and owned by the competing identities in

the society (ibid.). With the objective of addressing these complexities in the society, new generations of scholars are exploring an alternative explanation to statebuilding vis-à-vis peacebuilding, which focuses on the in-country political processes and participation as well as the ownership of national stakeholders (i.e. focusing on the "endogenous" process).

3. Dynamics of Statebuilding and Peacebuilding

Scholars in the field of conflict resolution prefer a strategy of peacebuilding guided by the principles of bottom-up approaches that focus on multi-track diplomacy and the creation of local capacities for peace and conflict prevention (see Diamond & McDonald, 1996; Galtung, 1976; Lederach, 1995; Sandole, 2010). In addition, there is also growing consensus among practitioners and scholars from the conflict resolution field that strengthening, building or rebuilding of state institutions becomes imperative for societies that are transitioning from war to peace, which has been underemphasized in the field of peacebuilding (Call & Wyeth, 2008). State institutions and political authority are normally destroyed in war-torn societies, in which interventions for peacebuilding become a challenging task (Paris & Sisk, 2009). In addition, there is growing consensus in the international policy making context that the concepts of statebuilding and peacebuilding are interrelated and have the consistent objective of addressing similar underlying problems in the conflict-affected society (Grävingholt et al., 2009). It is also increasingly accepted that the tasks of achieving those goals are extremely complex with insufficient clarity about how to best proceed to attain the goals of statebuilding and

peacebuilding. Both concepts aim to help societies move towards sustainable development, thus attempting to develop states into capable, responsive and legitimate entities, in which relations between social groups and communities are peaceful (Wyeth & Sisk, 2009). After all, statebuilding is thought of as top-down, while peacebuilding is thought of as bottom-up, and there are the areas of overlap identified by Vanessa Wyeth and Timothy D. Sisk (2009) where it becomes clear that the 'either/or' approach cannot satisfy a stable outcome; therefore, an integrated approach must be necessary:

Peacebuilding

- Consolidating (and sometimes renegotiating) peace agreements
- Establishment of an interim or transitional government
- Early recovery, critical infrastructure, employment generation, and livelihoods restoration
- Refugee and IDP repatriation and civilian protection
- Transitional justice, amnesty, and prosecution for war crimes
- Rebel-to-political party transformation
- Disarmament, demobilization and reintegration of ex-combatants

- Political settlements & agreement on the rules of the game
- Security sector reform (including justice, rule of law, and policing)
- Constitution-making processes and strengthening of core governance institutions
- Electoral processes
- Delivery of basic social services

State-building

- Restoring basic administrative capacity and a functioning civil service
- Strengthening public financial management and economic policymaking
- Support to political governance: building leadership capacities of key state decision-makers and executives, parliamentary performance, and civil society participation
- Decentralization management at the central and intergovernmental level and support to local governance
- Supporting national and local "democratic dialogue" and multistakeholder processes
- Developing conflict and governance crisis-response capacities

Figure 1: Common [and dissimilar] tasks in peacebuilding and state-Building in the post-conflict period

(NB: this is a representative, not an exhaustive, list, depicting common [as well as dissimilar] tasks in peacebuilding and state-building as currently practiced).

Despite the criticism of the paradigm of liberal peace, the journey set by the *Paris Declaration on Aid Effectiveness* (2005) has travelled through *Accra Agenda for Action* (2008), *Dili Declaration: a new vision for Statebuilding and Peacebuilding* (2010), *Monrovia Roadmap on Statebuilding and Peacebuilding* (2011) to the endorsement – by more than forty governments from the North and South, international organizations and members of civil society in Bhusan (South Korea), December 2011 – of a *New Deal for engagement in fragile states* (2011). A remarkable undertaking of *A New Deal for engagement in fragile states* (2011) is that it has attempted to integrate the concepts of statebuilding and peacebuilding at the international level. Accordingly, the integration of concepts has been happening at the country level while designing or signing peace agreements with the objective of ending violent conflicts, including in Nepal. In the context of Nepal, the Comprehensive Peace Accord (CPA), signed in November 2006, had the objective of ending the armed conflict in the context of the people's war launched by the Communist Party of Nepal (Maoist) and also builds the ground for integration of the concepts at the national level. Based on the premises of the Comprehensive Peace Accord (CPA), which was designed by the elites in Kathmandu, elections were held for a Constituent Assembly to draft a new constitution and the United Nations was invited to Nepal to monitor elections and supervise weapons under the control of the armed forces of Nepal.

As a note of caution, the evolving concept of statebuilding is perceived to exist with dilemmas and contradictions vis-à-vis its relations with building peace (Paris & Sisk, 2007). For instance, it may become necessary to accommodate the spoilers in a peacebuilding process through power-sharing mechanisms, as in Bosnia, in the interest of maintaining stability and sustaining peace (Menocal, 2009). However, such actors may become an obstacle in the long-run for building an effective state (Menocal, 2011). Accordingly, a heavy presence of international actors, including the United Nations, may be deemed necessary to uphold peace in the short-run. However, such a benevolent effort can be perceived as an undesirable option by the local actors as foreign actors are likely to remove the locals from the political processes (Jabri, 2012; Mac Ginty, 2011b; Richmond, 2011a). Inspired by the vision enshrined in *An Agenda for Peace*, a series of UN peacebuilding operations were deployed in troubled states around the world with the task of monitoring elections, resettling refugees, and disarming combatants and with the agendas of economic and political reforms (Benedek, Kettemann, & Möstl, 2011; Horst, 2006; United Nations, 2008). However, these operations have produced mixed results of success because they have been "minimalist" and have not addressed underlying causes and conditions of conflicts (Sandole, 2010). The examples of UN operations that are commonly cited as a relative success have been relatively capable of maintaining stability, but the functioning of governments in post-conflict settings has been far removed from the expectations of outside peacebuilders (Lanz & Péclard, 2011).

Despite some complementarities between the concepts of statebuilding and peacebuilding that are becoming interlinked in particular areas, this researcher is of the view that they are distinct and there are potential tensions between these two concepts (Menocal, 2011; Call & Wyeth, 2008; Paris & Sisk, 2009). Critics further note that there are inherent tradeoffs and contradictions between these two concepts and that they are not necessarily mutually reinforcing, which needs to be recognized while designing a process for intervention (Menocal, 2009). In the context of peacebuilding and statebuilding operations dominated by foreign actors, this researcher is aware of the operational mechanisms of the United Nations, international non-governmental institutions and national governmental or non-governmental organizations are different vis-à-vis their relations with the state where they are functioning. Alina Rocha Menocal (2009) articulates three fundamental complementarities between the evolving concepts of statebuilding and peacebuilding: (a) building state institutions through the design of realistic, longer-term intervention, (b) institutions are inclusive in nature and responsive in practice so that they can be a basis for evolution of democratic societies, (c) so that legitimacy can be fostered where the statebuilding process enjoys the support from the citizens in the long-run.

In addition, Alina Rocha Menocal (2011) articulates some fundamental tensions in the evolving concepts of statebuilding and peacebuilding, that include (a) past efforts of statebuilding that have remained violent and conflict-prone, which is a lesson to be learned in order to design a process that is inclusive, representative and peaceful; (b)

peacebuilding operations intend to undermine existing state institutions, which is an act of undermining the process of statebuilding, although it may be necessary in order to gain a short-term objective; and (c) the process of statebuilding may be focused on building central institutions, while engagement with non-state actors is equally important for service delivery to the people. Indeed, there is growing recognition among scholars that the evolving concepts of statebuilding and peacebuilding have inbuilt tensions and dilemmas, which need to be addressed in order to achieve the objectives of peace and democracy. In addition to acknowledging these tension and dilemmas, Charles T. Call concludes the following:

(1) *Although states may be essential to peace, the process of building states can spark or facilitate armed conflict, especially if the emergent state is endowed with too many powers too quickly.*

(2) *International peacebuilding undermines statebuilding when it by-passes state institutions, even though doing so may at times make sense.*

(3) *One principle of Weberian statebuilding – meritocracy – often must be balanced with central principles of peacemaking – compromise and power sharing – in order for peace to survive the short run and make sustainable statebuilding possible.*

(4) *A single-minded focus on strengthening state security forces, if done without attention to inclusiveness, accountability and political processes, can foster human rights abuses, political exclusion, state delegitimation and even war.*

(5) Appeasing spoilers in the interest of peace, while neglecting the development of a sustainable state, can strengthen the hand of repressive or authoritarian state rulers and jeopardize the sustainability of both the state and peace.

(Call, 2009, pp. 374–378, italics in original)

If peacebuilding and statebuilding are looked at as a singular entity, then they have become this through separate traditions, different approaches and distinct scholarly discussions in the social sciences. Both concepts, however, have considerably expanded their scope during the last twenty years and now the discussion is towards complementarities and convergences while acknowledging tensions and dilemmas inherent in them. No doubt, the evolving concepts of statebuilding and peacebuilding have contradictions and warrant trade-offs. As Grävingholt et al (2009) insist, tensions and dilemmas result from context-specific processes at the place of their operations in particular societies, where both statebuilding and peacebuilding create losers and winners through altering power relations. Elections are one such mechanism that is capable of heightening social and political tensions and reinforcing dilemmas as well as altering power relations in the society in the processes of statebuilding and peacebuilding. Elections are often part of negotiated settlements as the agreed pathways of providing consent to rule, in addition to conferring legitimacy on the functioning of the political actors and government in a democracy. Judith Large and Timothy D. Sisk (2006) note that elections are considered as a vehicle of transformation from repressive and

centralized regimes towards more democratic and representative governance, and from dominance towards liberation.

Not surprisingly, elections have limits and these electoral competitions can sometimes heighten underlying social tensions and, in some cases, as Terrence Lyons's (2002) findings suggest, become the cause of escalation to violent conflicts and deepen social tensions in emerging democracies. Lyons argues that negotiated political settlements are significant steps to moving away from violence in the battlefield towards the peaceful democratic politics in the parliament. This being said, he also cautions that these political transitions, resulting from the negotiated political settlement, are often characterized by highly difficult and divisive electoral processes (Lyons, 2005). Therefore, Lyons (2009, p. 93) recommends "demilitarization of politics" through transforming war-time institutions towards civilian-controlled entities as a preferred strategy to sustain peace in the long-run, regulate electoral competition in a peaceful manner and drive a successful process of democratization in weak states. Finally, he considers the first election after negotiated settlement as critical for transformation of political actors and violence to democratic politics. Nevertheless, the war-torn states in the South are often confronted with the challenges of holding an election at any cost, as it has been the only mechanism of generating legitimacy of the political actors and institutions in a liberal democracy. Whether an election remains as a priority or not, in terms of unfolding political dynamics in a post-conflict context, is a different matter altogether. This researcher has, however, observed first-hand that holding an election

remains as the only priority of the foreign actors. Conceivably then, they assert pressure on political actors and institutions, as I have observed in Nepal while writing this dissertation.

The Paris Declaration stresses country-owned development – in other words, an endogenous as opposed to exogenous model of development – which is arguably the preferable model. It does not, however, say how that process should protect marginalized populations if the country with the ownership is hostile towards them. The analogue applies to statebuilding as well, in which the 'strong state' is usually held up as the benchmark for stability, peace and development, but too little thought has been given to what happens if the state is hostile to parts of its population. This is particularly the case in weak or fragile state with immense diversity of population, such as Nepal. Ethnic communities, for example the *Madheshi* population and Muslim community in the *Terai* and *Limbus* in the *Hills* of Nepal, may perceive Nepal as a great threat to the pursuit of their demands for the right of self-determination. A strong inclusive and developed state that achieves positive peace is the ultimate goal. Achieving this goal, however, remains a challenging task in weak states during the process of statebuilding as a state struggles to address competing demands and collective claims made by ethnic communities. In addition, negotiation and transformation of ethnic identities towards construction of a common or shared national identity is a critical challenge during statebuilding and peacebuilding, especially in an ethnically diverse society like Nepal where ethnic communities are endowed with too much power too quickly. More than one hundred

ethnic communities exist in Nepal, organized under the so-called caste hierarchy, and compete against each other, which I will analyze below through the theoretical lens of social identity.

4.   Social Identity

Henri Tajfel (1981, p. 255) defines social identity as a psychological construct "understood as that part of the individual's self-concept which derives from their knowledge of their membership of a group (or groups) together with the value and emotional significance attached to that membership." Tajfel and John Turner (1986) outline three central ideas in social identity theory: (a) categorization, (b) identification, and (c) comparison of (and between) the social groups. According to Tajfel and Turner, these are the mental processes of human evaluation and the exercise where people begin to categorize their fellow man in terms of "us" versus "them" or through the construction of an "in-group" and "out-group" where biases guide one's understanding of the other's social context and environment. The second stage is social identification where people begin to associate themselves with certain social groups with which they feel a sense of belonging; followed by an emotional attachment as triggered by self-esteem (ibid.). The third stage is the comparison between the social groups, where people develop a sense of in-group favoritism in order to maintain self-esteem, where prejudice develops against the others as they are bound to compete in favor of members (ibid.). The competition and hostilities between the groups is the result of competing identities; it is not only for

resources, but also for power, politics, domination, history and human relations where boundaries between the groups are created.

In order to deepen the discussion on social identity theory and its different characteristics, I will return, only briefly, to the liberal peace model in order to ground further discussion on the role of social identities in the processes of statebuilding and peacebuilding. Peacebuiding, as a principle, has the benevolent objective of ending violence and building peace in war-torn societies in the third world by way of removing the root causes of conflicts and advancing the society towards positive peace. Scholars exploring the evolving concept of statebuilding, however, critique peacebuilding for its failure to challenge power relations in a state and society at the time of peacebuilding operations. This could be particularly true in the context of peacebuilding operations driven by 'exogenous' principles of interventions. Michael Barnett and Christoph Zuercher (2008) call these principles the dilemmas of peacebuilding. Perhaps their model, shown below, will better explain dilemmas of 'exogenous' peacebuilders that sometimes cause the failure of peacebuilding operations. In addition to this, they argue that the existing strategies adopted by peacebuilders' interventions reinforce the existing state-society relations in post-conflict settings as the national and international actors employ their preferred strategies to maximize gains from peacebuilding interventions in order to fulfill their interests:

Peacebuilders (PB), who want stability and liberalization; state elites (SE) of the target country, who want to maintain their power; and subnational elites (SNE), who want autonomy from the state and to maintain their power in the countryside. The ability of each actor to achieve its goals is dependent on the strategies and behavior of the other two.

(Barnett & Zürcher, 2008, p. 24)

The model further examines the strategies of national and international actors, which limits the achievement of stated objectives as the actors attempt to achieve their strategic goals:

Peacebuilders need the cooperation of state and subnational elites if they are to maintain stability and implement their liberalizing programs. State elites are suspicious of peacebuilding reforms because they might usurp their power, yet they covet the resources offered by peacebuilders because they can be useful for maintaining their power; and they need local subnational elites and power brokers, who frequently gained considerable autonomy during the civil war, to acknowledge their rule. Subnational elites seek the resources provided by international actors to maintain their standing and autonomy, yet fear peacebuilding programs that might undermine their power at the local level and increase the state's control over the periphery.

External peacebuilders and statebuilders may have limitations in challenging power relations at the places of their interventions. However, power relations in a state and society are constantly challenged in the processes of statebuilding and peacebuilding from within in a particular context, for instance, in Nepal. One such challenge comes from social groups and forces, in other words, social identities, against the state as well as between them in search of greater autonomy, domination and right of self-determination where a state can be hostile against them as well. This I outline elsewhere in this document as a tension between the state and ethnic identities. This researcher applies the social identity theory developed by Tajfel and Turner (1986) that looks at the process of a group's formation, categorization and differentiation, which has been considered as a probable cause of conflict, and the focus of later studies on the subject. On the one hand, identification with a certain community emerges due to the perception of security needs of the group for self-protection, while, on the other hand, such identification and comparison becomes a source of insecurity for the other in the context of conflict. In order to fulfill their needs for security and existence, social groups struggle for power and hold their domination and supremacy in the social spheres. Joel S. Migdal (2001) defines this process between state and society as the quest for mutual transformation.

Tajfel's and Turner's (1986) social identity theory has been regarded as a powerful tool for understanding group dynamics and examining social contexts and environments that may trigger conflicts and violence in the society. Different researchers and scholars have tested the theory in different contexts and through different experiments; and many of them have empirically tested and accepted the validity of the theory (see Chow & Crawford, 2004; Reicher & Haslam, 2006; Wilder, 1990; M. A. Hogg, 2006). However, I also agree with the scholars who have criticized the social identity theory in terms of its oversight of historical, cultural and individual values in the society. For example, Tom Postmes et al (2005, p. 747), who examine social identity through a "deductive" and "inductive" lens, critique social identity theory for undermining the importance of individuality by incorrectly replacing it with the ambiguous concept of social identity where both forms of identity are treated as exclusive forces. Using the inductive approach, as Postmes et al discuss, individuals and interpersonal relations play a central role in the construction of group identity in order to serve their collective purposes. Using the deductive approach, where individuals are directed on how to behave and asked to follow certain group norms, as Postmes et al argue, collective or group identity has been demonstrated to be dominated and imposed.

Similarly, Jennifer Crocker and Riia Luhtanen (1990, p. 60) critique social identity theory by arguing that it intends to oversimplify the complex relations between in-group favor and self-esteem. They add that development of "collective self-esteem" in a group's behavior is a fundamental factor. Moreover, when this is coupled with personal self-

esteem, which predicts behavior of individuals, it plays a critical role in the construction of social identity as well as creation of group boundaries as it predicts collective behavior and reacts powerfully once group identity is threatened. Besides, as Leonie Huddy (2001) argues, social identity theory overlooks the importance, relevance and complication of culture and history in the real world, suggesting that construction of social identity depends on a combination of different factors, including the understanding of how and whether identities are acquired or ascribed, and their characteristics and relative strength. Adding to such criticisms, Rupert Brown et al (1992) argues that not all groups engaging in the process of inter-group comparison can trigger inter-group conflict. Instead, he adds that cultural location of the groups may affect the link between identity and inter-group comparison. In my opinion, identities are social constructs and are relational because they are defined in comparison to a variety of groups and a range of identities in which story-telling becomes a means for identity formation and justification (Eriksen, 1995). After all, individuals hold multiple identities, which are dynamic in nature, and are invoked depending on social contexts and narrative interactions in a society.

Social identities are often manipulated for political mobilization aimed at bringing change in the functioning of state and society. Once individual or group identities are linked to politics, Charles Tilly (2002a) suggests, they become "political identity". People construct political identity to assert existence of self and group wherever they belong and these asserted identities, through social and political movements, can make a collective claim over the state (ibid.). Additionally, Tilly adds that political identities and shared

stories are always relational and collective, and thus have we/they boundaries. Individuals construct identities through political and social mobilization, they assert identities, and the asserted identities hold different relations to the other; thus those identities are not built within the person (ibid.). Identities can be mobilized, changed and transformed; if one set of identities is suppressed, then new identities emerge. The struggle of suppressed and marginalized groups in the society erupts and takes momentum due to their motivation and desires to be seen, heard and established in the public discourses and social spheres (ibid.). Thus, identities are created by evolution and revolution in the social and political systems in search for power to hold control over state and society (ibid.). Historically, the distribution of power has not equally ensured social inclusion. With politics in the real world, interests of the groups are competitive and based on the relative bargaining positions they hold in the society (Kelly, 2003). Therefore, the concept of social identity and its study in relation to politics has been of critical importance because identity politics focuses on differences and encourages marginalized groups to find solidarity, political mobilization and action.

Building upon on John Burton's (1990) basic human needs theory that claims identity as a basic need, Edward Azar (1990) determines four preconditions capable of addressing sources of conflict, violence, and civil war. The sources of conflict are, according to his theory on "Protracted Social Conflict" (PSC), predominantly within states, rather than between states. The first variable in Azar's PSC theory is a communal element identified as social identity groups. For Azar, the relationship between the state and identity groups

is at the core of the problem in which an individual's membership to social groups mediates between individual interest and state. He defines the second variable as the denial of basic needs (this includes identity needs), which results in communal grievances. In other words, these grievances are expressed collectively. It should be noted that the failure of states to address communal grievances is the foundation of protracted social conflict. The third variable of the theory (1990, p. 10) is "governance and the state's role as the critical factor in the satisfaction or frustration of individual and identity group's needs. Most states which experience protracted social conflict tend to be characterized by incompetent, parochial, fragile, and authoritarian governments that fail to satisfy basic human needs." The fourth variable of the theory is the international linkage that allows the movement of goods and ideas to cross state borders. In terms of economy and political-economic relations, weak states in the modern world are dependent on (and interact with) the international forces operating within the global community.

If Azar (1990) focuses on the political conditions capable of mobilizing social identity, Vamik D. Volkan (1997) looks at these conditions from an historical perspective. According to Volkan, once group members associate themselves with the larger group identity, the survival and existence of the group becomes so important that individuals' own needs and survival become of secondary importance. In his own words, Volkan (1997, p. 22) articulates that, "large-group identities are the end result of a historical continuity, geographical reality, a myth of a common beginning, and other

shared events: they evolve naturally." On the other hand, ruling elites champion the myth of exclusion, begin to dehumanize others in order to legitimize their action of atrocities and attempt to justify discriminatory policies. The act of blaming others becomes common and the space for accommodation and compromise is virtually absent. Mobilization of social identities becomes intense once perceptions of threat and loss are invoked; this results in a hope for gain and desire for revenge against past sufferings that incite social identity groups for political action (Gurr, 2001).

Conflict erupts due to threat to existing identities, because identity has become a fundamental need of individuals and groups in the contemporary world. The victimized perception of the social groups and the grievances they hold become powerful tools for granting legitimacy to their leaders in order to mobilize group identities for social and political change (Gurr, 1993). Lack of recognition and access to political status provoke identity groups to resist; and these groups have become major actors in domestic and international politics throughout the twentieth century (ibid.). Leaders and states frequently touch upon the sentiments of social identity groups and manipulate their trust in order to maximize their hold on a specific community (Shultz, 1995). Minority groups, indigenous and ethnic communities perceive a real threat to their identity due to the political process that often reinforces their distinctive identities within states under conditions in which states fail to create a new, common or shared identity for all (Roe, 1999).

After all, the discourse on the dynamic versus static characteristics of identity is particularly relevant to the processes of transformation of identities. Indeed, we live in the era of globalization when political philosophies, ideas and principles spread around the world and across populations (Clark, 1997). Once renowned scholars or political scientists theorize on a particular topic of social science, it can become the mantra for policy makers in both Western and non-Western regimes, state and non-state actors. In Samuel P. Huntington's (2003) *The Clash of Civilizations,* for instance, he theorizes that the religious and cultural identities of people in the modern world develop due to conflict and violence. In the modern world, people are detached from their local identities due to the rapid social changes and economic development, Huntington argues, thus religion and culture fill the gaps created by these changes while uniting civilizations beyond the national boundaries. Civilizational difference is a basic element in world politics and differences are reinforced in terms of culture, tradition, history, language and religions (ibid.). Criticizing the thesis of *The Clash of Civilizations* advanced by Samuel P. Huntington (2003) that argues identity as a static entity, Amartya Sen (2006), a Nobel Peace laureate, suggests that people hold multiple identities, which are dynamic and need to be invoked in order to resolve conflicts and prevent identity-based violence in the society. Identities also tend to be multifaceted, fluid, and creative and can become flexible in order to increase the population of the locals in the national political process or remain static once they are exploited by the political actors in the context of democratization.

5.   Democratization

On democracy, I am of the view that democratic governance is (a) desirable, (b) a normative precondition to stable peace, and (c) something that should be defined by the people. There are a number of governments called democracies, including my own country Nepal, which is in name only. I am also of the view that, as Francis Fukuyama (2009) and Judith Large & Timothy D. Sisk (2006) have argued, democracy is a largely acceptable and popular form of government and democratic principles are the real source of legitimacy to a greater extent. The process of democratization seems to co-exist with the processes of peacebuilding with an intertwined complex scenario of political reform at the national level, but it may vary depending on the particular contexts. However, the question of legitimacy in the process of democratization is of critical importance in the third world as illiberal institutions tend to control the process. This echoes Fareed Zakaria's (1997) arguments in *The Rise of Illiberal Democracy.* According to Zakaria, illiberal democracy is a form of governance where citizens are denied freedoms and civil liberties as they lack access to information on the functioning of power holders and the way power is exercised in the society. He goes on to say that although periodical elections might take place, politics is still governed and dominated by bureaucrats and unelected institutions, including the judiciary (Zakaria, 2003).

The contemporary study of democratization begins with Samuel P. Huntington's (1991) arguments of the "third wave" of democracy that started in Southern Europe in the 1970s and spilled over to a number of countries in Africa, South America and Asia. He

discusses the democratic transitions "from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite direction during that period" (Huntington, 1991, p. 15). In his third wave, Huntington explores the nature of transitions by focusing on the causal factors that led to relatively successful democratization process. According to Huntington, these causal factors are (1) the willingness of ruling elites to make changes, which he demonstrates in Brazil, India, Spain, and Hungrary; (2) changes achieved through struggle of the opposition, such as in Romania, Argentina, Portugal and East Germany; (3) democratic changes that occur through joint initiatives of the oppositions and governments, such as in Poland, Nicaragua, Bolivia and Czehoslovakia; and (4) the imposition of democratic institutions by international (American) power in Panama and Grenada. Explaining the "third wave" of democratization, Huntington (1991, p. 316) suggests that "Economic development makes democracy possible; political leadership makes it real," which is basically a top-down approach of looking at the process of democratization.

In a different approach than the one articulated by Huntington (1991), Tilly (2007) defines democratization as a process occurring at the national level in different parts of the world, supported and promoted by the following causal mechanisms: (a) integrating public politics and inter-personnel trust networks; (b) protecting public politics from the domination of existing social inequalities; (c) eliminating autonomous centers operated by warlords, military elites or clans holding coercive power; and, -- Tilly and Ernesto Castañeda (2007) add an additional variable --, (d) increasing the number of people

willing to participate in the public politics. Tilly and Castañeda (2007, p. 85) suggest that "revolution," "conquest," "confrontation," "colonization and de-colonization" are the main architectures of struggle in society and often activate that which promotes the process of democratization. Democratization, according to Tilly (2004a, pp. 13–14, italics in original) "means *increases in the breadth and equality of relations between governmental agents and members of the government's subject population, in binding consultation of a government's subject population with respect to governmental personnel, resources, and policy, and in protection of that population (especially minorities within it) from arbitrary action by governmental agents."* Tilly focuses on the political process at the local level in order to explore how relationships between the state and its citizens are altered over time and how they impact the prospects of democracy.

Michael Bratton and Nicolas Van de Walle (1997), who have researched political transitions and democratization processes in African contexts, criticize the "third wave" for its failure to give adequate importance to the internal political process at the local level as well as significance to the domestic factors on the question of transitions. They insist that domestic factors have been undermined in Huntington's theory of the third wave of democratization. In a similar vein, Adam Przeworski et al (Przeworski, Alvarez, Cheibub, & Limongi, 2000), who explored the pattern of transitions from dictatorships to democratization, refute Huntington's hypothesis of democratic waves by arguing that historical records do not support Huntington's transition hypothesis. According to Przeworski et al, statistical analysis refutes the claim that international factors cause

democratization. Moreover, Przeworski (2004) argues that democracy emerges after the fall of dictatorships or dictatorship emerges after the fall of democracy, which rejects Huntington's hypothesis that economic development causes the establishment of democracy. Przeworski goes on to say that dictatorships survive with a range of risks and die under different conditions, including the impact of economic crisis, death of a founder-dictator, defeat in wars with other states or collapse due to pressure asserted by the international community. Yet, again, Roland Paris (2004) introduces another criticism of the dominant paradigm of democratization, in which economic and political liberalization, or political reforms, are often prescribed remedies after wars in order to rebuild conflict-affected societies. These remedies, according to Paris, have been proven to be destabilizing in post-war peacebuilding operations as international actors' preferred strategies of democratization and marketization have accelerated renewed competition among the political actors at the local level and, in some instances, have caused renewed violence in post-conflict contexts.

My critique of Huntington's (1991) democratization hypothesis is that political transformation or change, from a form of authoritarian regime towards democracy, may come in different forms and magnitudes caused by different factors than the ones explained by him. The Arab Spring is an example of this. The Arab world remained outside of the policy priority of the Western agenda of democratization until the unexpected revolutions gained momentum. These revolutions, now known as the Arab Spring, began in Tunisia, then Egypt, spreading to Lebanon, and eventually, other

countries. The globalization of information technologies and rapid expansion of social networks played (and continue to play) a critical role in the Arab Spring. Explaining this causal mechanism, Philip N. Howard and Muzammil M. Hussain (2012) theorize how modern technologies are driving the process of democratization and social movements and how they have been successful in bringing political change to selected countries in the Arab World. They discuss the use of digital media by a network of citizens to mobilize people and organize social protests, which resulted in the successful overthrow of some of the world's die-hard dictators and planted the seeds of democracy in some parts of the Arab world. Labeling this movement as the fourth wave and a new dimension of democratization, they look at digital media as an important causal factor, supported by complex political, cultural and economic phenomena.

The process of democratization is also defined as the period after violent conflicts when authoritarian regimes have collapsed or are collapsing, democracies are emerging, yet the required economic, political and structural institutions are not yet established, and thus are unable to guide the behavior of political leadership, states and society (Mansfield & Snyder, 2005). This definition, however, may have deficits in particular contexts where social mechanisms promote tribal, ethnic and sectarian identities (not political or structural institutions). In such a context, the democratic process and procedure will not produce stability. Further, the transition is also defined in term of a state that is undergoing a fundamental change from the past – from violent conflict towards crafting a new social contract between state and society that is capable of building peace; from a

repressive and centralized regime towards more democratic and representative governance through elections; and from dominance towards liberation in order to redefine power relations in the society (Large & Sisk, 2006). Scholars of democratization suggest a number of preconditions that are required for the successful transition from violence to democratic politics in emerging democracies. These preconditions are, for instance, redesigning political institutions, implementing democratic-constitution making, building political parties, creating functions of civil society, and increasing the inclusive processes of governance (Bastian & Luckham, 2003).

However, Robert Pinkney (2003, p. x) cautiously remarks, "Democratization is not just a matter of assembling the right ingredients such as economic development, tolerant attitudes, or foreign backing, but of subtle interactions between a variety of individuals and institutions with a variety of resources. These interactions, in turn, take place against internal and global backgrounds that may encourage or impede democracy." A number of studies have focused on the origins, character and processes of democratization as well as the conditions that lead to violence or transformation to democratic politics (Mansfield & Snyder, 2002; Snyder, 2000; Zeeuw & Kumar, 2006). Not surprisingly, democracy can fail in weak, fragile or conflict-affected states, as emphasized by Collier (2009), if the state fails to deliver security and accountability. With case studies in Africa, Collier looks at the factors that cause conflict or result in violence in fragile states against the analysis of factors that manage these problems in a functioning democracy. He finds that ethnic identity manipulated by the political elites in fragile states leads to violence. In addition

to this, Collier's findings demonstrate that some leaders promote national identity (i.e. in Tanzania during the rule of Julius Kambarage Nyerere) in order to deal with ethnic divisions in a society. But Rwanda, while under the authoritarian rule of Paul Kagame, who rushed to end ethnic divisions while undermining the basic principles of human rights and fundamental freedoms, offers a stark contrast to this point. Nevertheless, processes of democratization in fragile, weak or conflict-affected states must respond to a challenging question: how do post-conflict societies move towards peace when competitive politics is likely to create ethnic divisions and escalate political and social conflict?

Edward D. Mansfield and Jack Snyder (1995) have advanced the thesis that the process of democratization can be violent as the states undertaking such a process are prone to civil wars and intrastate conflict – a proposition which this researcher applies in this dissertation. These scholars argue that the process of democratization is likely to create an environment for the outbreak of conflicts through the enhancement of polarization and exclusionary nationalism in the society (ibid.). Also, in the absence of effective economic and political foundations, the democratization process is inherently conflict-inducing and capable of undermining a fragile peace (Paris, 2004). Recent findings highlight that democratization is a competitive process and has a complex relationship with peacebuilding in which dilemmas are builtin and exist while building peace in warn-torn societies (Jarstad, 2008a). Meanwhile, considerable attention to the "dark side of democratization" has been generated in academia (Enterline, 1996;

Goldsmith, 2010; Mann, 2005; Mansfield & Snyder, 2009), in which several scholars have supported Mansfield and Snyder's thesis (Hegre, Ellingsen, Gates, & Gleditsch, 2001), while some scholars have contested its validity on methodological grounds (Gleditsch & Ward, 2000; Narang & Nelson, 2009; Vreeland, 2008). Whether a process of democratization survives and promotes economic well-being for a nation depends on the level of legitimacy it has in the minds of the people, political systems, structures and processes aimed at promoting positive peace in the society.

6.   Legitimacy

Legitimacy is a critical element in the processes of statebuilding and peacebuilding and a fundamental need of all, of structures and actors, which ensures their right and authority. In terms of building a state in the context of fragility, OECD analysis asserts that "… legitimacy is both a means and an end for successful state building" (OECD, 2008, p. 2). While the importance of legitimacy is acknowledged, it is a complex phenomenon, which is difficult to define in depth. The notion of legitimacy is central, but not limited, to politics and the notion extends to the disciplines of political science, sociology, philosophy and law (Coicaud & Curtis, 2002). From an abstract lens, legitimacy also refers to the rights of political actors to make decisions on behalf of their people living in a given geographical area. This means that members of the groups are obliged to accept the decisions made by the leaders on their behalf. Thus, acceptance of decision(s) made by the political leadership, and the feeling of obligation by the people to accept decisions, is a crucial factor in the concept of legitimacy: "the essence of legitimacy, whether it be

of norms or authority, is the sense of duty, obligation, or 'oughtness' towards rules, principles or commands" (Spencer, 1970, p. 126).

The discussion of the concept of legitimacy is rooted in the work of Max Weber in macrosociology, where he grounds the definition of legitimacy in the following:

1. Rational grounds – resting on a belief in the legality of enacted rules and the right of those elevated to authority under such rules to issue commands (legal authority).

2. Traditional grounds – resting on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them (traditional authority); or finally,

3. Charismatic grounds – resting on devotion to the exceptional sanctity, heroism or exemplary character of an individual person, and of the normative patterns or order revealed or ordained by him (charismatic authority).

(Weber, 1978, p. 215)

Max Weber's concept of legitimate authority has earned him "classical status" in the political and social science literatures, a respect expressed by Martin E. Spencer (1970, p. 123) that precedes his criticism: "Some of the unclarified questions include the problem of democratic legitimacy, the fundamental nature of legitimacy, and most importantly,

the ultimate significance of the nature of legitimate beliefs for the structure and function of political institutions." However, critics such as Mattei Dogan (2009) reject outright the relevance of Weber's typology of legitimacy on the grounds that his findings are outdated and no longer applicable to modern societies. I am of the view that Max Weber's sources of legitimacy still remain valid. Yet, Dogan still argues that Weber's legal positivist approach, which defines rule of law as the source of legitimacy, is eroding on ethical grounds in the modern world (Dogan, 2002). In traditional and feudal societies (i. e. Nepal) people have high respect for the senior citizens who inspire and instruct those coming after them. The decisions made by these senior citizens, which also include senior political leaders in the society and in their respective institutions, are commonly accepted without question. The decisions are accepted out of respect for the traditions, culture, traditional authority and elders. This may sound odd to people coming from different cultural backgrounds.

To return to Weber, his legal principle as a source of legitimacy can be used to justify authoritarian forms of government or institutions because the definition undermines the importance of basic freedoms, democratic values, requirement of popular consent and lacks moral components (Dogan, 2002). Therefore, I turn to Jürgen Habermas's definition of legitimacy, which is driven by democratic philosophy. Habermas defines legitimacy as a condition occurring when social institutions are in compliance with the "values constitutive for the identity of the society" (Habermas, 1996b, p. 249). In his *Legitimation Crisis*, Habermas (1976) discusses "crisis of legitimacy" as the stage of a

social system being in complete jeopardy as manifested through the malfunctioning of the social system's three sub-systems: (a) social-cultural, (b) political, and (c) economic. Habermas observes that crises in social systems are manifested through a wide range of mechanisms and eventually lead to the *Legitimation Crisis*, which means a political crisis, resulting in citizens' diminishing trust and faith in the political administration for its failure to address the interests of society. Habermas believes that societies in the modern world are in crisis, which is reflected in citizens' sense and perception of social and political institutions. His notion of legitimacy is linked to social order. Hence, a *Legitimation Crisis* occurs when citizens begin to experience discontent over the injustice of social and political institutions and when these institutions do not address their best interests. This is visible when relations are governed and society colonized by money and power and when citizens have become clients and the state a service provider, instead of being a source of shared and common identity.

The act of arriving at a common understanding, which is a never-ending process, may differ from one society to the other as they are governed by legal systems in the modern world. Constitutions and legal systems are becoming commonly accepted sources of legitimacy in the contemporary world. Habermas (1996a), in *Between Facts and Norms,* discusses the notion of legitimacy from a legal perspective, insisting that the procedures for making of laws must be democratic and legitimate in the public's eye so that laws can confer legitimacy on the political order and is seen as a binding force of the political system. According to Habermas, the sources of legitimacy are found in the consent of the

citizens expressed in a democratic manner and reflected in the effective functioning of the government. His definition of legitimacy has built-in components of democratic principles that are reminiscent of natural law. Popular consent is the cornerstone of Habermas's (1996a, p. 458) definition of legitimacy where "…the only regulations and ways of acting that can claim legitimacy are those to which all who are possibly affected could assent as participants in rational discourses." Governments in the modern world can draw their legitimacy through popular consent, which implies that the process of decision-making and implementation of agreements are democratic whereas the citizens can perceive themselves as both subjects and owners in the state's formulation of laws and regulations (Outhwaite, 1996). In other words, the existence of democratic practices is essential to the existence and realization of legitimacy. The functioning of a state cannot be effective or considered legitimate if its policies are not acceptable to its citizens.

A common linkage between Habermas and Seymour Martin Lipset's notion of legitimacy is the focus on the centrality of the political and social institutions. Lipset (1960, p. 77) argues that the "effectiveness" of government is a precondition for legitimacy of any political system. Lipset (1960, p. 77), in his *Political Man : The Social Bases of Politics,* discusses how economic growth causes democracy to take hold, but adds that the survival of democracy depends not only on economic development, but also on the "effectiveness" of government and legitimacy of the political system based on which performance of the system is viewed, valued and evaluated by the citizens. Lipset

(1960, p. 77) defines legitimacy in the following way: "Legitimacy involves the capacity of the system to engender and maintain the belief that the existing political institutions are the most appropriate ones for the society." In this way, Lipset's definition of legitimacy indicates fluidity in the functioning of the government and, therefore, does not remain stable over time, which means citizens in a given country can be misled by ineffective government through populist programs and propaganda. Thus, the government can be falsely perceived as legitimate in the eyes of the citizens. The same government, however, might rule its citizens illegitimately once the people realize the ineffectiveness of their government. Lipset discusses this crisis of legitimacy that often occurs as a society moves towards structural change:

> Crises of legitimacy occur during a transition to a new social structure, if (1) the status of major conservative institutions is threatened during the period of structural change; (2) all the major groups in the society do not have access to the political system in the transitional period, or at least as soon as they develop political demands. After a new social structure is established, if the new system is unable to sustain the expectations of major groups (on the grounds of "effectiveness") for a long enough period to develop legitimacy upon the new basis, a new crisis may develop.

(Lipset, 1960, p. 78)

My understanding of legitimacy is also in line with Mattei Dogan (2002) who suggests the necessity to look at the complex relationship between the forms of a political system and its legitimacy, and Kevin Clements (2009) who suggests a "grounded legitimacy" that intends to explore positive ways of interconnecting political systems and local realities in a given society. Clements looks at endogenous modalities of change in the African contexts and suggests accommodating traditional forms of legitimacy (e.g. clan and tribal leadership, blood lineage) as part of new and less exclusive forms of legitimacy. In the modern era, the source of legitimacy is also derived from constitutionalism that frames a political order and defines state/society relations to be regulated by laws and regulations, ensuring a separation of power between the state institutions/structures. The definition of legitimacy largely depends on the public's perceptions, views and insights into the given political and cultural contexts, which this researcher intends to explore in light of the proposed case study. This is to say I will explore interactions that take place between the state and society as an essential factor in gaining legitimacy during the processes of statebuilding and peacebuilding.

I critique Francis Fukuyama's (2009) prescription that considers foreign actors as the primary source of legitimacy by arguing that the national/local political actors can also generate legitimacy through power-backing by the international community, which offers political and financial support for building the state and peace. I am of the view, as Ashraf Ghani and Clare Lockhart (2008) are, that states in the third world may generate international legitimacy through cooperation with the international system. The

international community, the concerned third party and donor agencies have spent a substantial amount of resources in terms of money, diplomacy and capacity building for the purposes of building democracy, conducting successful peace processes and transforming violence into democratic politics in the so-called third world (Leonhardt, 2001; Paris, 2004; Stedman, Rothchild, & Cousens, 2002). Yet, a large portion of development aid invested in human resources, financial support to civil society, and government in the developing countries, as Peter Uvin cautiously remarks, can create new conflicts (Uvin, 1998). Occasionally, the international community intends to define legitimacy (what actor is or is not legitimate), which has a significant impact on domestic politics in the transitional phase.

However, the strategies of outside interventionists have significant gaps from the "*know what*" to the "*know how,*" to the level in which "policymakers lack the knowledge of how to establish credibility and legitimacy where it does not exist" (Coyne, 2008, p. 151 italics in original). The crisis of legitimacy extends to two levels: (1) internally, the political leadership comes under the question and scrutiny from its subjects, and (2) the legitimacy of the international actors, who intend to judge which local actors are legitimate or illegitimate, actions and intervention come under question by the locals on the ground. Although the foreign actors have a higher level of understanding of the "*know what,*" as they are well trained, they lack the understanding of the "*know how,*" which requires significant knowledge of the culture and attitude of the locals. Under these conditions, Christopher J. Coyne (2008) argues that efforts to introduce political

institutions from outside create further complications. Thus, efforts for reconstruction of war-torn societies are likely to fail. Informed by this statement, in addition to the insights offered by various theories discussed in the above sections, this researcher now turns to the case study of Nepal in order to explore the impact of (1) denial of participation in the decision-making process, and (2) foreign interventions that have caused the failure of negotiation and collapse of the Constituent Assembly in May 2012, which are the two guiding hypotheses of the research.

CHAPTER 3: THE CASE STUDY

The country entered into the era of republicanism with the abolition of the monarchy on May 28, 2008, by the first gathering of the elected Constituent Assembly, which remained as an unfinished agenda since 1951; and legacy and burden of the country's history. The Revolution of 1951, peaceful political movements, armed conflicts, people's uprisings in 1990 and 2006 and social movements remain in the background as the critical factors that lead the country towards republican democracy. The joint venture of the democratic and communist forces in Nepal, once they joined hands for democracy, has always been a detrimental factor for bringing about change in the political system, as the historical evidence suggests. In this Chapter, I discuss the historical political developments in brief, along with the ethnic uprising in the form of social movements that advanced the agendas of democracy, statebuilding and peacebuilding. The process of statebuilding in Nepal began with the unification campaign of the late King Prithvi Narayan Shah, who used both the strategies of (1) war and violence, and (2) compromise and negotiation in the process of conquering four dozen of principalities in order to create a modern Nepal. The strategy of war in the process of Nepal's unification campaign resembles Charles Tilly's (1975a, 1975b) theorization on statebuilding; however, the process of unification takes a departure from such a theory as unification of the country

has also been achieved through negotiation and compromise with the rulers of those principalities in Nepal's context.

1.   Historical Overview of Nepal

Nepal is surrounded by India in the East, South and West, and shares borders with Tibet, an autonomous region of China, in the North. Dilli Raman Regmi (2007a, 2007b, 2007c), a well-known historian of the country, outlines the history of Nepal under three different but distinct phases – (1) Ancient, (2) Medieval and (3) Modern periods. Regmi (2007a) divides earlier phases of ancient history of Nepal into three time frames: (1) the legendary pre-Kirat period in reference to *Kiratadesa* (meaning a Kirat country) as mentioned in the great *Mahabharata Epic,* yet precise location was not mentioned; (2) the *Kirat* dynasty, a period ruled by the *Kirats* who also left no authentic record of how far their territories stretched; and (3) the *Lichhavi* dynasty, a tribe of *Ksatriya* caste, also known as *Chhetri*, who ruled the country until the 14th century, suggesting that Nepal's history before the 5th century A.D. remains obscured in the absence of credible records. The history of Medieval Nepal, according to Regmi (2007b), runs through 740-1760 A.D., a period in which the country was unstructured under *Baisi* and *Chaubisi* principalities, kingdoms or princely states. In addition, there were three kingdoms in the Nepal Valley, presently known as the Kathmandu Valley. The modern history of Nepal begins with the "unification" -- which I have placed inside inverted commas and will return to the contention surrounding the word in later sections -- of the country by King Prithvi

Narayan Shah (1723-1775), born on January 11, 1723, in the *Shah* dynasty of Gorkha kingdom, in the latter half of 18th century as documented by Dilli Raman Regmi (2007c).

Until the unification of the country, the recorded history of Nepal is confined to the history of the Kathmandu Valley and its surroundings (Shaha, 1992). King Prithvi Narayan Shah enlarged his small Gorkha Kingdom by conquering, annexing or defeating more than four dozen small principalities, kingdoms or states in wars, including the Kathmandu Valley. His unification campaign began in the 1740s and ended in 1769, with the shift of the capital of the Gorkha Kingdom to the Kathmandu Valley. Even after the death of King Prithvi Narayan Shah in 1975, the Shah dynasty continued to expand its territories that stretched up to present day north India. The Shah dynasty also invaded Tibet in 1788-1791, an autonomous region of China at present that borders Nepal to the North. Later, the Gorkhali army was defeated by the military force of the Quing Dynasty of China, forcing Nepal to accept the terms and conditions designed by China (Shaha, 1992). Nepal also engaged in the Anglo-Nepalese War (1814-1816) with the British East India Company -- an organization used by the United Kingdom to colonize India -- over the disputes arising from the control over princely states between Nepal and India (ibid.). Nepal suffered terribly during the Anglo-Nepalese war, which was followed by the signing of the Sugauli Treaty in 1816, that required Nepal to hand over large parts of its territories in the Tarai, a southern plain land, to the British East India Company as a trade-off to guarantee Nepal's autonomy (ibid.). These territories traded-off by Nepal

with the British remained with India when it gained independence from the British rule in 1947.

A peculiar instance occurred during the unification drive of King Pritivi Narayan Shah. During this time, a war occurred with the Kiratis, an indigenous population of present day Nepal, in the east part of Nepal. Historically, the land of the Kiratis was governed under several princely kingdoms and the areas and land were known as "Limbuwan." According to Bhawani Baral and Kamal Tigela Limbu (2008), Limbuwan is the historical name of different kingdoms, which remained independent until 1774. These authors add that it was the only territory never defeated in wars with Gurkhas, but instead, was annexed to the Kingdom of Nepal through the signing of a treaty between King Prithvi Narayan Shah and rulers of Limbuwan in the aftermath of the Limbuwan-Gorkha war of 1771-74. The Treaty, that formally annexes several of Limbuwan's kingdoms into Nepal, allowed indigenous communities full autonomy under the Kipat system, a form of self-governance and ownership over land introduced by Limbus' King Sirijunga where landholders were not allowed to sell their land to outsiders (ibid.). The Kipat system was gradually stripped from Limbuwan by the central state during the course of political history of Nepal. The Treaty provisioned that the kings of Limbuwan accept the authority of King of Nepal and adhere to the symbol of Nepal's national flag, with the supposed concept of non-interference and respect for autonomy. The Kipat system provided a basis for indigenous communities to enjoy autonomy at the local level,

which was a product of negotiation with the King of Gorkha. As Mahesh C. Regmi writes:

> The Gorkhali rulers did not achieve political unification solely through military conquest, and often political compromises with various communal groups, as well as with the rulers of different principalities. The *kipat* system in the eastern hill region provides the most conspicuous example of political compromise with a communal group.

<div align="right">(M. C. Regmi, 1984, p. 28 italics in original)</div>

Throughout its known history, Nepal has been ruled by heredity monarchies, a political system that derives legitimacy from divine sources to govern its subjects, which continued to exist until 2008 when a popularly elected Constituent Assembly abolished the monarchy in Nepal and declared the state a republic. The monarchy of Nepal, with the backing of the Nepalese Army, attained absolute authority of state and society in the name of the divine source of power and legitimacy; dictatorship was imposed by nature, and ruled the country by denying civil and political rights as well as fundamental freedoms to the citizens. The Kipat system, which included a right over the land granted to the indigenous people as per the said Treaty, symbolized an intersection between the system of governance at local and national levels where cotemporary claims over resources took place as well as served as a part of discourse of the glorious history of the

inhabitants' ancestors (Forbes, 1996). "If granting *kipat* was the most striking example of a deal struck between the central government and local autonomy," Ann Armbrecht Forbes (1996, p. 42 italics in original) says, "the end of *kipat* is one of the most notable examples of state intrusion on a local level." Such an act of the state resembles Michel Foucault's (1982) construction of power where state authority undermines the interests of the people or groups. Officially, the Kipat system was abolished with the enactment of the Land Reforms Act 1964, effective from the second amendment, during the reign of late King Mahendra B. Shah, who was the continuation of the Shah dynasty in Nepal. His forefather, however, late King Prithvi Narayan Sahah, issued a royal order in 1774 granting internal autonomy to Limbus:

Although we have conquered your country by dint of our valor, we have afforded you and your kinsmen protection. We hereby pardon all of your crimes, and confirm all the customs and traditions, rights and privileges of your country.

(cited in M. C. Regmi, 1978, p. 13)

The credit for building a strong state, today's modern Nepal, rests on the unification drive strategized by the late King Prithvi Narayan Shah, a king of the Gorkha kingdom, who recognized that building a standard army, and its consolidation, was a critical factor for a unification campaign. It was the comparatively higher strength of Shah's security forces, known as Gorkhali troops, that allowed him to defeat, conquer and annex more than four

dozen principalities in wars. Prem Singh Basnyat (2004), an academic on Nepal's military affairs, argues that Prithvi Narayan Shah began to develop, increase and consolidate a national security force at a time when other principalities were unaware of the need for a standing army, so, if need be, military support was requested from the British East India Company for security and defense. Basnyat credits Prithvi Narayan Shah for developing a sense of nationality in the process of the unification campaign, which was lacking in hired troops from the British East India Company for the support of rulers of the principalities or kingdoms. In addition to building a standing army in Gorkha Kingdom, King Prithvi Narayan Shah accumulated technical support and expertise from abroad that supported him to eventually rule over Kathmandu Valley. The history of present day Nepal is grounded in the security structures developed by King Prithvi Narayan Shah and principles of balanced foreign relations with the neighbors preached by him.

Despite having a strong army that could defend the state and monarchy, political instability began in Nepal during the rule of King Rana Bahadur Shah, grandson of Prithvi Narayan Shah, due to increasing differences and contradictions within the royal family over state power. With the deeper understanding of widening rifts and contradictions within and between the members of the royal family, Jung Bahadur Kunwar, the fourth most powerful member of the coalition government during the 1840s, engineered a Kot Parva (court massacre) with the support and patronage of the the-then Queen (Shaha, 1990). The court massacre took place on September 14, 1846, and cost the

lives of forty members of the Palace Court of Nepal, including a relative of the King and the murder of the-then Prime Minister. In the aftermath of the Court Massacre, Jung Bahadur Kunwar, one of the architects of Sanskritization, took control of the Nepalese Army, declared himself the Commander-in-Chief, became the Prime Minister of Nepal, converted his family name to Rana, established the Prime Ministerial system based on Rana's heredity and, thus, heralded an era of the Rana Dynasty that ruled the country until 1951 under the dictatorship (D. R. Regmi, 1958). In addition to this, he forced the-then King and Queen to take asylum in Banaras, a city in India, as a strategy of consolidating his power over the state. Finally, he charged the King with the crime of treason and kept him under house arrest.

Followed by imprisonment of the King, Jung Bahadur Rana stripped the King of all power, thus limiting the role of monarchy as a ceremonial head of the state. Even in prison, the King was under the surveillance of Rana's agents, communication to the King was censored and the King's close family members were allowed to visit him only with the permission of the Prime Minister Jung Bahadur Rana. Thus, the King became the ceremonial head of state during the rule of the Rana Dynasty. Although Jung Bahadur Rana has been criticized by modern historians for establishing a dictatorial Rana oligarchy that repressed the country and its citizens for over one hundred years, he remains as an unforgettable personality in the history of modern Nepal (Rana, 1998). No doubt, Jung Bahadur Rana played dirty tricks to eliminate his competitors and factional rivalry in the power coterie of his time, but he also made significant efforts to create a

modern Nepal by bringing innovative changes in the judiciary and bureaucracy (ibid.). The enactment of Muluki Ain (Civil Code) in 1854 is one of his innovations aimed at introducing new legal and administrative procedures for interpreting the questions of revenues and tax collection, and civil and criminal matters. In other words, Jung Bahadur Rana added something substantial to the statebuilding process that began with the unification campaign.

2.   Revolution of 1951 until People's Uprising in 1990

It can be argued that political consciousness for democracy and an alternative system of governance began in Nepal with the establishment of the Nepali Congress, with the claimed vision of democracy, and with the Nepal Communist Party. The objective of establishing communism in Nepal began in the late 1940s. In truth, the history of political parties in Nepal is not very long. Nepal Praja Parisad was the first political party of Nepal established in the 1940s. It can be argued that the Nepali Congress established in the late 1940s was the more organized and powerful political party with a vision of establishing democracy in the country. Political parties, however, could not flourish in the context of dictatorship perpetuated by the system of Rana's oligarchy. Due to the unfavorable political context, the leadership of political parties was compelled to develop, expand and consolidate their organizations from the soil of India while also launching their activities from India. While in India, the political parties, in particular the Nepali Congress, were highly influential and launched an armed revolt against Rana's dictatorship with the objective of establishing democratic rule and transferring power to the people.

As mentioned above, Nepal's political history is full of bloody struggles for power, especially during the regimes of Shah and Rana. During these periods, the motivation was to serve the interests of the dynasties. Violent and peaceful struggles for establishing democracy or altering systems of governance, however, began with The Revolution of 1951, which was led by the Nepali Congress, the oldest democratic party in Nepal's political history, under the leadership of the late Bisweshor Prasad Koirala. The Nepali Congress adopted three strategies to lead the revolution, as Bisweswor P. Koirala (2011) narrates in his autobiography: (1) the first strategy was to develop and consolidate Mukti Sena (Liberation Army), an armed force, which launched an armed rebellion in different parts of the country that countered the security forces of Rana's regime and substantially weakened the strength of the dictatorship; (2) the second strategy was to forge an alliance with King Tribhuvan Bir Bikram Shah, who escaped from the surveillance and house arrest of the Rana regime, fleeing from Kathmandu to New Delhi, India; and (3) the third strategy was to seek political support from India to overthrow the Rana regime. With the combined strength and power emerging from these three strategies, The Revolution of 1951 successfully overthrew the Rana regime and began the process of democratization in Nepal.

The success of the Revolution was followed by the establishment of a coalition government led by Babar Samsher Jung Bahadur Rana, a member of the Rana family. The revolutionary force, the Nepali Congress party, also participated in this movement.

The arrangement for a coalition government was carried out as per the power-sharing mechanism engineered in New Delhi. The motivational factor for people joining the Liberation Army in the revolution is understandable – they sacrificed their lives to establish a democratic system in order to entertain fundamental freedoms. The alliance with the King and requesting political support from India were not free of costs, however.

This researcher, being a Nepali citizen, would like to make his position clear that he celebrates the Revolution of 1951 as many others do. It was, indeed, a moment that spawned the democratic era in the political history of Nepal. Despite the positive changes of the Revolution, however, it also restored the monarchy to state power. Upon the success of the Revolution in 1951, the King Tribhuvan Bir Bikram Shah returned to Kathmandu and assumed power as head of the state. Once again, the monarchy that remained in the cage of the Rana regime, and was limited to the ceremonial head of state under the surveillance of the Rana Prime Ministers, was set free, thus opening the door for the monarchy to enter into the power politics of Nepal. Perhaps, restoring the power of the monarchy was one of the conditions reached in New Delhi as part of the Delhi Compromise mediated by India. Bisweswor P. Koirala (2011, p. 142) insists, however, that the Delhi Compromise did not exist (it is a myth) and, therefore, this researcher is of the view that any contents of the so-called Delhi Compromise should be contended.

Nevertheless, the return of the monarchy to power in 1951 was not without conditions. One such condition was that the King promised to transfer power to the

people by having a new constitution drafted by an elected people's representative body, interpreted as an elected Constituent Assembly in the literature. It is often argued that King Tribuhuvan Bir Bikram Shah agreed to allow the election of a Constituent Assembly to draft a new constitution as a part of the compromise reached in New Delhi, which he was expected to fulfill his promise upon his return to Nepal (L. R. Baral, 2012). On February 19, 1951, King Tribhuvan B. B. Shah proclaimed that, "We have the desire that power is vested in the people and they exercise it according to a republican statute drafted by an elected and legitimate assembly" (cited in T. B. Singh, 1990). The proclamation of the King acknowledges the need for power transfer to the people by way of an elected and legitimate assembly, a democratic and participatory method of drafting a new constitution and the desired process for redefining state-society relations in a new political context after the success of the Revolution. The other significant message in the King's proclamation is his mention of the "republican statute" with the prospect of establishing a replication state, which by definition would indicate the abolition of the monarchy in Nepal. This researcher is not aware if there are any countries in the world where republicanism and monarchy co-exist; if there are, they are certainly rare.

This is the dynamic nature of power as John Emerich Edward Dalberg-Acton (Lord Acton) declared in the 19th century: "Power tends to corrupt, and absolute power corrupts absolutely" (Dalberg-Acton, 1907, p. 504). This applies to the monarchy of Nepal as well – the King ignored his own promises and instead, tried to consolidate his power in a Machiavellian style through the enactment of the Nepal Interim Ruling Statute 1951, a

new constitution after the abolition of the Rana oligarchy, declaring that state power and sovereignty are vested in the King. This was further substantiated by the King's declaration in 1954 that framed himself as the ultimate source of state power (M. Regmi, 2004). Setting aside the much celebrated Revolution of 1951, the democratic practices and exercises remained in the hands of the monarchy in Nepal during their rule, although general elections were held for parliament as per the provisions in the Constitution of the Kingdom of Nepal, 1969, which was enforced by King Mahendra Bir Bikram Shah. King Mahendra, son of King Tribhvan, further consolidated the power of the monarchy during his reign in the country. In doing so, King Mahendra dissolved the elected parliament in 1971, the only legitimate elected body of the people's representatives and imprisoned the senior political leaders as well as political workers, including the Prime Minister and ministers of the cabinet.

Before taking this step, King Mahendra acquired the Nepalese Army. In his biography, Bisweshor P. Koirala (2011, pp. 155–156), who was the Prime Minister during the royal-military coup staged by King Mahendra in 1971, narrates how the Nepalese Army became loyal to the King: "Due to the security reasons, my residence, the residence of the Home Minister, had to shift inside the Royal Palace. A battalion of the Nepalese Army from Singhadurbar, the government secretariat, was also shifted to the Royal Palace ... one fine morning, when I woke up, I saw that the King was receiving a salute from the Nepalese Army ... The King's hand was above and democracy's hand was below." His statement implies that there would be an eclipse in the democratic process of

Nepal as the King gained control over the Nepalese Army. Until this point, the Nepalese Army had remained under civilian control after the Revolution of 1951. Strategically, King Mahendra consolidated his control over the state, banned the political parties, introduced the Panchayat System and continued to rule until he died. Stunned by the move of the King, the Nepali Congress (NC) regained its strength to consolidate its organization after 1971's royal coup staged by King Mahendra. The NC campaigned for democracy through launching sporadic violence as well as peaceful movements in the form of Satyagraha. These strategies were based on Mahatma Gahdi's principles of non-violence with the objective of restoring democracy, but they remained ineffective in forcing the King to step down or agree to power sharing.

Resistance against the absolute rule of the monarchy came in different forms that resemble Vivienne Jabri's (2012) theorization of people claiming "rights to politics." The student uprisings of the late 1970s brought college students to the streets of Kathmandu demanding the restoration of democracy. The pretext to the students' uprising was their protests against the assassination of a renowned political leader and statesman, Zulfikar Ali Bhutto of Pakistan by the Pakistani military. At the height of the student movement, proposals were made to have an alliance between the communist and democratic forces. However, an interview respondent revealed to this researcher that Bisweshor P. Koirala, the leader of the Nepali Congress, turned down the proposal for an alliance between the democrats and communists; preferring instead to have a close proximity with the monarchy. As expected, the King's regime intended to crush the uprising by the use of

force, but in this case, it was ineffective. The popularity of the students' uprising only increased, boosted by public support, and gained momentum with the tacit backing of the banned political parties that forced the King to make concessions and compromises on the students' demands. The King consented to hold a referendum, which was accepted by the leaders of the students' uprising on the themes of establishing (a) a reformed Panchayat System, or (b) a multiparty system (T. L. Brown, 1996). People voted in the referendum; however, the Royal regime acted deceptively, yet again. The results were as expected – majority votes were counted in favor of Reformed Panchayat System.

At this point, a discussion of the Jhapa Revolt in the 1970s is necessary. In May 1971, a group of radical communists declared war on class enemies, against the regime, and targeted the landowners and feudal institutions. This action is now known as the Jhapa Revolt. The Jhapa Revolt cost the lives of a dozen people, as officially known to the public, over a period of four years. It was during the time of King Birendra Bir Bikram Shah, son of King Mahendra, who continued to rule the country as an absolute monarch until the restoration of democracy in Nepal in 1990. Before this, however, he further consolidated the Panchayat System, continuing the ban on the formation of political parties; there was still a Prime Minister and elections were held for parliament, but these processes remained under the firm control of the King (T. L. Brown, 1996). The movements aimed at restoring democracy were not effective until a joint venture, although tacit, between the democratic and communist forces. It was the joint venture of democratic and communist forces, under the leadership of the Nepali Congress and the

Communist Party of Nepal (Marxist-Leninist), that created the thrust for democracy, known as the people's uprisings, or *Jana Andolan I*. In 1990, *Jana Andolan,* forced the King to step down from absolute power and agree to power-sharing as provisioned by the Constitution of the Kingdom of Nepal 1991 (ibid.).

Following the success of people's uprising in 1990, the King agreed to draft a new constitution through the formation of a Constitutional Commission as agreed upon by the political parties which led the people's uprising in 1990. An interim coalition government was formed, led by a Prime Minister from the Nepali Congress, with the representatives from the political parties that participated in the people's uprising. The interim coalition government had both executive and legislative power vested in it. Next, the King enacted the Constitution of the Kingdom of Nepal 1991, drafted by the Constitutional Commission appointed by the King with the recommendation of the interim government led by the Nepali Congress, declaring it to be effective from the day of its enactment. The interim coalition government held general elections in 1991 based on the provisions of this new constitution. The Nepali Congress then became the largest party winning the simple majority, whereas the Communist Party of Nepal (Marxist-Leninist) became the second largest party in the new parliament. Notwithstanding the political change of 1990, Nepalese politics remained highly factionalized and unstable until the time of writing this research.

3. On Statebuilding and Peacebuilding

This researcher holds the position that democracy is a precondition of sustainable peace in a society. This being said, the historical struggles of the people of Nepal were a means for constructing a democratic state with the objective of redefining state-society relations. Under the absolute rule of the monarchy, the relations between state and society were unjust, suppressive and oppressive of the citizens as well as irrespective of castes, religions, gender, ethnic origins and classes. On the topic of participation and representation, this researcher holds the view that state institutions and structures must mirror Nepalese society so that every citizen can feel that they are part of the decision-making process, that they have ownership of the state and that the state's decisions are seen as legitimate.

Meanwhile, I share the view held by Rishikesh Shaha (1990, 1992), a prominent Nepalese scholar, who documents the political history of Nepal and argues how the state favored the Brahmin and Chhetri castes in the process of building a strong state that culminated in the formation of the Kingdom of Nepal. Indeed, the state gives a higher priority to the Brahmin and Chhetri by appointing them to order within the political structures with the consideration of being capable of running the civil governance and recruiting the people of Mangolid origins into the security structures for wars and security governance (ibid.). Shaha moves on to praise the political and security strategies of King Prithvi Narayan Shah, which were a detrimental factor for the construction of a modern Nepal as a strong state and political unit. However, this researcher does not hold

a position on the contribution of King Prithvi Narayan Shah as the theme of unification has emerged as a contentious issue in the political discourse of the country.

3.1   Constitutional Evolution

This researcher holds the view that historical political movements, struggles and 1951's Revolution are integral parts of the process of building peace and a democratic state, in which reengineering a constitution has always remained at the heart of the political discourse. The constitutional history of Nepal begins with the enactment of the Nepal Government Legitimate Law 1947 introduced by the-then Prime Minister of the Rana dynasty. This can be considered as the first constitution of Nepal that inherits state power and the royal prerogatives of the Prime Minister, who is also the Commander-in-Chief of the army, although the constitution remains silent on the question of sovereignty (B. Acharya, 2006a). The second constitution is the Nepal Interim Governance Statute enacted and enforced by King Tribhuvan in 1951. King Mahendra enforced the third constitution in 1968, which was argued to be more flexible, although this constitution vested state power in the King and defined the monarchy as the source of this power (ibid.). King Mahendra also enforced the fourth constitution that defined monarchy as the source of power and authority; however it remained silent on the question of sovereignty (ibid.).

In essence, the constitutions enforced by kings aimed to consolidate and legitimize their regimes, maintaining control over the state in order to suppress and repress voices of

dissent. Since the constitutions were either enacted or enforced by the monarchy from 1951 until 1990, there is no question of the people's participation in the decision-making process of content and declaration of those constitutions. These constitutions were merely enacted by force and imposed on the people as the process was backed by the military that remained loyal to the kings. On the contrary, the Constitution of the Kingdom of Nepal 1991, the fifth constitution of Nepal, is the product of the people's uprising in 1990. A fundamental feature of this constitution is that it negotiated the power-sharing arrangements and mechanisms between the monarchy and the parliament. It is also safe to argue that it largely transferred the power from the monarchy to the people through parliamentary elections.

Yet, even still, the fifth constitution – drafted by a Constitutional Commission and approved by the coalition government led by the Nepali Congress and enacted by the King – returned state power to the monarchy and, again, defined the King as the source of power and authority (B. Acharya, 2006a). By this definition, the source of the fifth constitution is the King, as the Constitution came into effect through a royal proclamation. The fifth constitution was also short-lived, as it could not clearly define the state-society relations and failed to meet the evolving expectations of the people and address the unfolding political dynamics in the country. The process of creating the Constitution of the Kingdom of Nepal 1991 was controlled by the elites which, by definition, limited the participation and ownership of the people at large, including the ethnic communities. Opinions from the public were collected in the creation process of

the fifth constitution, but they were hardly entertained (Lawoti, 2007). One striking feature in the constitutional development, in reference to the Constitution of the Kingdom of Nepal 1991, is that the ruling elites were unprepared for constitutional amendments that would address the unfolding political development despite voices being raised and demands made after 1991 in and out of the parliament.

Once again, the demand for an elected Constituent Assembly became prominent. This researcher looks at the demand from the prisms of social movements campaigned by the competing ethnic identities and the armed conflict launched by the CPN (Maoist), now the UCPN (Maoist) and the people's uprising of April-May 2006 comprised of communist and democratic forces. In essence, the decision-making process of drafting, enacting and enforcing constitutions before 2006 remained under the control of ruling elites (i.e. the process was manipulated by a handful of political leaders.) Thus, non-participation of the people during the process of constitution making is seen as a strategy of removal from politics. Such a process resembles Roger Mac Ginty's (2012) theory of non-participation, which paved the way for resistance against the power holders, just as Oliver Richmond (2010) defines the objective of claiming a stake in the politics, and Vivienne Jabri (2012) demonstrates the need for participation of the people in political processes. This researcher explores the combination of these ways of thinking and applies them to the social movements in Nepal that were launched by ethnic communities in their search for identity, existence and power with the ultimate goal of claiming participation in politics.

3.2   Social Movements in Nepal

Michel Foucault (1995) describes the state as a superstructure and a form of political power exercised in relation to other power holders in a society. Foucault (1984) previously articulated, however, that it is beyond the limitation of the State to hold absolute control over power. Thus, power is distributed throughout the social bodies and exercised in relation to other power holders where discourse functions as a medium of this exercise. By this definition, different social forces and networks in society, including ethnic communities or social identities, hold power parallel to the state and engage in struggles in the social space with the objective of gaining or maintaining their relative power in the society. Niklas Luhmann (2012) defines a society as an entity composed of groups of people who communicate, interact and engage with each other on the basis of existing relations, though this relation may be unpleasant. According to Luhmann:

(1) … Society consists of actual people and relations between people.

(2) … Society is constituted or at least integrated by consensus among human beings by concordant opinion and complementary purpose.

(3) … Societies are regional, territorially defined entities, so that Brazil as a society differs from Thailand, and the United States from Russia, as does Uruguay from Paraguay.

(4) … Societies, like groups of people and like territories, can be observed from outside.

By this definition, society becomes a grouping of social and political people who share the same geographical space and are governed under the same political authority, but also may operate and function independent of the state. Therefore, the state alone cannot be the sole authority of power, Foucault says, as it exists in different social relations in a society, which has its own procedures of operation, governance and functioning:

> What was discovered at that time – and this was one of the great discoveries of political thought at the end of the eighteenth century – was the idea of *society*. That is to say, that government not only has to deal with a territory, with a domain, and with its subjects, but that it also has to deal with a complex and independent reality that has its own laws and mechanisms of reaction, its regulations as well as its possibilities of disturbance. This new reality is society.

(Foucault, 1984, p. 242 italics in original)

The ethnic communities in Nepal are engaged in social movements with the objective of bringing social and political change in order to address their agendas of inclusion (see Table 1.3 a few sections below). These are the forms of struggle. This strategy of interaction between the state and society also resembles Anthony Giddens's (1986)

theory on structuration, which is highly abstract, but is very relevant to this research. His theory focuses on the concept of looking at interactions taking places in society between the agents and structures. Society does not exist in the absence of the agents or of the structure (ibid.). For Giddens, agency is a form of human action, which is essential for transformation of society, as agency has the capacity to monitor action as well as the contexts and settings of those actions while they are taking place. Agency produces structures through their actions, structures that refer to resources, social relations and rules that are produced and reproduced in social interactions and embedded in the traces of memory of the agents, thereby transforming them through the practices of rationalization and monitoring of these actions (ibid.).

The marginalized ethnic communities in Nepalese society engage in struggles with the objective of transforming traditionally governed society under the domination of Brahmin and Chhetri castes, who practice Hindu religion, towards a more just and democratic one. One of the forms of struggle between state and society is the social movement, which has remained as an integral part of the democratization process in Nepal throughout the democratic transitions in 1951, 1990 and 2006. The strategies used in these social movements are often characterized as expressions of violence. For example, the imposition of Bandas (general strikes) by force resembles Edward D. Mansfield's and Jack Snyder's (1995) theory of democratization. The ethnic communities in Nepal, in particular, the Adivasi Janajati, Madhesi and Dalits, have engaged in social movements from as early as 1950 with agendas of social and political change, which I

look at through the prism of social movements, with the objective of redefining their relations with the state.

The basic demands of marginalized ethnic communities are for inclusion (see Table 1.3 a few sections below), participation and representation in the state's institutions as well as in the politics. In other words, this researcher describes, while borrowing John Burton's (1990) definition of basic human needs, the marginalized groups' quest for inclusion as their search for participation in the decision-making process with the broader objective of redefining state-society relations. Until now, the quest for participation of the ethnic communities in the politics in Nepal remains within the territorial boundary and limits of the state. I cite an example from the writing of Chandra Kishor, a well-known political analyst and columnist, who defines the objectives of the Madhesi uprising, which was at its height in early 2007, killing more than four dozen people from the Madhesi community due to the states' attempts to suppress the uprising:

> The revolt of the Madhesi was in search for a new relation with the state. The integrity of Nepal's territory was searched for under that basis. The Madhesi population had the expectations from the state to hold ownership, dignity and freedoms in a new relation with the state. The expectations were expressed in terms of federalism, inclusion, nationalism and democracy. These expectations are interlinked and interdependent for the Madhesi population – the achievements of only one of them many not fulfill the desires for the others. All the ingredients,

the expectations of the Madhesi population, provide rights, security and space for existence to the Madhesi population in a democratic system. Attainment of these ingredients is the citizens' rights. For the first time in the state, a community has asserted a claim on those broader expectations being Nepali citizens.

(Kishor, 2013)

It is not only the Madhesi, but also other major ethnic communities that seek to redefine their relations with the state, which they express in the form of social movements and resistance. Social movements organize group action in order to pursue social and political demands. Often, these movements are carried out in the form of resistance with the objective of bringing changes in the society (Tilly, 2004b). In the Western world, many social movements gained momentum as a result of industrialization, urbanization and education during the 19th century, and were enhanced by the conditions of economic development and the rights to freedom of expression (ibid.). Sidney Tarrow and Charles Tilly (2007, p. 442 italics and bold in original) discuss social movements that consist of "***a sustained challenge to power holders in the name of a population living under the jurisdiction of those power holders by means of public displays of that population's worthiness, unity, numbers, and commitment.***" In his earlier works, Tilly (2004b) argues that social movements are a means for expressing dissent at different levels of analysis, be it local or global.

The success of a social movement often correlates with the ability of groups to accumulate and mobilize money, knowledge, human resources and political opportunities. Success also relies on support from internal and external sources of power holding elites to pursue their political goals of bringing change to social and political structures (Tilly, 2004b). The grievances of the ethnic communities of Nepal are visible, especially through the lens of relative deprivation, a masterpiece of Ted Robert Gurr's (1971) theorization that explains a potential source of conflict and violence, which this researcher refers to while looking at their demands (see Table 1.3, a few sections below). Once people begin to feel dissatisfied with their status in society in comparison with others, relative deprivation occurs. Gurr links this with frustration-aggression, where groups are equally situated, but some have more advantages than others. Relative deprivation can be described as a form of structural inequality in a society that distorts policies that affect the lives of different segments of a population (ibid.).

In the following sections, this researcher refers to existing data in terms of ethnic representation in the civil and military services (to figure out their status in the national bureaucracy and administration) and their representation in the dissolved Constituent Assembly (in terms of their political participation and ownership in the peacebuilding process). These are indices that demonstrate movement towards statebuilding and level of participation and ownership in the peacebuilding process. To cite an example, the Madhesi community often refers to their low participation in the institution of the Nepalese Army, but this researcher is not aware if this is also the case with the Adivasi

Janajati community (see Table 1.3 for comparison of demands between the ethnic communities). However, a commonality in their articulation of grievance is the enemy image of Brahmin and Chhetri in the form of Brahmanism that exists in Nepali society as a particular form of discourse of Sanskritization for reflecting victimhood historically inflicted on them as articulated by Krishna Bhattachan:

> The main socio-cultural-political fault line in the past and the present, irrespective of political systems, is the ideology, policy and practice of Bahunbad (Brahmanism). I define Bahunbad as an ideology, policy and practice of domination of one caste (Bahun-Chhetri), one religion (Hindu), one language (Khasa-Nepali), one culture (Hindu), one region (the Kathmandu Valley), and one sex (male) over others.

> (Bhattachan, 2003, p. 4)

Such a worldview is constructed by the ethnic communities in Nepal in order to campaign social movements, where they identify the Brahmin and Chhetri cultures and religions as the source of all the evil in Nepalese society. However, this researcher differs with Krishna Bhattachan on the basis that a distinction must be drawn between the absolute role of the monarchy under the dictatorship until May 2006, in one form or another, and the establishment of republicanism in May 2006 when the state reshaped its image in continuous dialogue with the society. The people's elected Constituent

Assembly is an example of this. Nevertheless, collective discontent expressed by the ethnic communities resembles Azar's (1990) articulation of the four variables (i.e. the preconditions) capable of transforming Protracted Social Conflict (PSC) into violence into high-level civil wars. Two of these variables seem to be particularly relevant: (1) the presence of a communal element identified as identity groups and (2) the denial of basic needs, of which identity is a component, which results in communal grievances that are expressed collectively.

The ethnic communities in Nepal are indeed examples of communal elements that have often engaged in social movements in order to assert their identities and demand for social and political change in the systems. The ethnic communities of Nepal, except the uprising of Brahmin and Chhetris in April-May 2012, have engaged in a series of movements as a response to historical injustices inflicted on their ancestors and argue that the process of their marginalization began with the unification of Nepal campaigned by King Prithvi Narayan Shah centuries ago. Here, I turn to a member of Adivasi Janajati community and senior leader of NEFIN, as he narrates his views during the interview with this researcher and shares his feelings about the unification campaign:

King Pritivi Narayan Shah unified the State geographically, but he failed to unify the nation sentimentally and psychologically. He cannot be a symbol of national unity. The history of unification is the history of the victors. Therefore, the history written by the winners cannot be neutral and impartial. The injustices inflicted by

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the State on the ethnic and indigenous communities, from the time of unification

until now, are the critical matters and are of high priority in the political process.

(Translated by the researcher)

The discontent expressed by the ethnic identity communities is an integral part of the

democratization process in Nepal, which has often been expressed violently. This

resembles Jack L. Snyder's (2000) discussions on favorable conditions that are capable of

generating instability in the process of democratization. Social identities are often

constructed, reconstructed and mobilized for political objectives during the process of

democratization. Under such circumstances, identity can be given or fixed by the other,

particularly in the context of transitions. In order to mobilize their constituencies, the

ruling elites and power holding institutions (i.e. political parties, social groups, military

and policy bureaucracy or their critics) can interpret identity that traces from generation,

birth-place and family name.

This mobilization of social identity is happening in Nepal, thus resembling Volkan's

(1997) theorization of "chosen traumas" where people remember injustice inflicted on

their ancestors in a particular time of history, and this pain can resurface ad infinitum.

Tracing the identity of individuals is useful to authoritarian institutions in that it allows

them to impose a fixed identity on their subjects so that control in society can be

maintained. It is also useful for ethnic communities to mobilize their constituency

towards realizing a group identity. This is the sort of discourse practiced by ethnic communities in Nepal, again, resembling Volkan's (1988) "chosen traumas" that allows one to define enemies and friends to serve his or her own objectives, which this researcher emphasizes through the words of Professor Kevin Avruch:

> For analysts of conflict, the key is that such traumas serve double-duty. They symbolize group distinctiveness in emotionally compelling ways and provide therefore a site for political mobilization *and* they provide for individual members of the group, and for elite decision makers sensitive to history and public opinion, cognitive and emotional maps of the nature of the world that surrounds them. That world, needless to say, is usually perceived as hostile, uncaring, or evil – and dangerous.

> (Avruch, 2012, pp. 14–15 italics in original)

Indeed, the state of Nepal has become an undesirable place for ethnic communities due to their low participation in the civil and security structures. For this reason, the Madhesi community engages in movements against the *Pahade* community, which refers to the Adivasi Janajati, Brahmin and Chhetri communities, and the Adivasi Janajati engage in movements against the Brahmin and Chhetri communities as these two communities are projected as the symbol of the state that controls power and dominates the society. However, the Madhesi, Adivasi Janajati and Dalits communities have something in

common – all are denied equal participation in politics, whereas the Brahmin and Chhetri communities are not. Before I move to this contentious issue, I present the size of ethnic groups in Nepal in Table 1.1.

According to a population census conducted by the Central Bureau of Statistics (CBS, 2013), the total population of Nepal as of the census day (June 22, 2011) stands at 26,494,504. The institution also lists 126 caste and ethnic groups (see the list at Annex 2), which has increased from the census of 2011. The major caste and ethnic groups, from one to ten, is presented in Table 1.1. According to the list, the Chhetri caste has the highest population, followed by the Brahmin caste, both of which are of Hill (*Pahade*) origins. Nowadays, politicians and analysts intend to cluster Magar, Tharu, Tamang, Newar and Rai under the broader category of the Adivasi Janajati community, whereas Yadav falls into the broader category of the Madhesi community.

Table 1.1 : Major Caste and Ethnic Communities of Nepal

Caste and Ethnicity	Population	%
Chhetri	4,398,053	16.6
Brahman-Hill	3,226,903	12.2
Magar	1,887,733	7.1
Tharu	1,737,470	6.6

Tamang	1,539,830	5.8
Newar	1,321,933	5
Kami	1,258,554	4.8
Musalman	1,164,255	4.4
Yadav	1,054,458	4
Rai	620,004	2.34

Source : CBS (2013).

Based on the population census of 2001 conducted by the Central Bureau of Statistics (CBS, 2012b); Mahendra Lawoti and Susan Hangen (2013, p. 9) cluster the total population of Nepal under five major categories, namely, (1) Caste Hill Hindu elite (Brahmin and Chhetri); (2) Indigenous nationalities; (3) Dalits; (4) Madhesi; and (5) Others, which this researcher shows in Table 1.2. However, analysis of ethnic identities in Nepal is fundamentally challenging because of their complexities. This is to say, they often compete and overlap (Bonino & Donini, 2009; Lawoti & Hangen, 2013; Miklian, 2009). As mentioned before, the population in Nepal is highly diverse, both geographically and culturally. Geographically, it is spread (and mixed) across the country; culturally, it is multi-cultural, multi-religious, multi-ethnic, fluid and multi-lingual.

An interesting feature of ethnic identities in Nepal is that they remain dynamic and increase over time. For example, the population census of 2001 lists the number of ethnic and caste groups at 103, whereas the census of 2011 lists them at 126 (see CBS, 2012a, 2012b). In order to simplify the analysis process for this research, I explore these groups under broader categories: (1) Brahmins-Hill; (2) Chhetris-Hill; (3) Advasi/Janajatis-Hill (indigenous nationalities); (4) Dalits (untouchables); (5) Madhesi (people residing in the plain land in southern Nepal); and (6) Others. Based on the population census of 2001 conducted by CBS, Annex 1 classifies and clusters the total population of the country under seven broad categories of caste with one hundred sub-categories of ethnic and caste groups.

Table 1.2 : Population of Major Ethnic and Caste Groups 2001

Ethnicity	Population	%
Caste Hill Hindu elite (Bahuns and Chhetris)	7,023,220	30.89
Indigenous nationalities	8,271,975	36.31
Mountain	190,107	0.82
Hill	6,038,506	26.51
Inner Tarai	251,117	1.11
Tarai	1,786,986	7.85

Unidentified indigenous nationalities	5,259	0.02
Dalits	3,233,488	
	14.99	
Hill Dalits	1,611,135	7.09
Madhesi Dalits	1,622,313	6.74
Unidentified Dalits	88,338	0.76
Madhesi[1]	3,778,136	16.59
Caste Madhesi	2,802,187	12.30
Muslims	971,056	4.27
Chauraute Muslims	4,893	0.02
Others	265,721	1.16
Total	22,736,556	100.00

Note : [1] Muslims have been included in the Madhesi category because most Muslims are from the Tarai.

Source: Adopted from Mahendra P. Lawoti and Susan Hangen (2013, p. 9).

Moreover, the ethnic and regional agendas have entered into the political discourse of Nepal since the unification of the state a couple of centuries ago (B. Baral, 2013). More importantly, these agendas have assertively come into the political discourse in the form of social movements in the aftermath of change in the political system brought on by the Revolution of 1951, the armed conflict engineered by the UCPN (Maoist) that ended in 2006, and the people's uprisings of 1990 and 2006. In his autobiography, Bisweshwor P. Koirala (2011), a great statesman, mentions that some leaders of ethnic communities in the eastern part of Nepal raised the issue of autonomy in the aftermath of the success of the Revolution of 1951. Similarly, voices were raised in favor of an autonomous region in the Tarai and of participation of the Madhesi community in the civil services. Establishment of a political party called Nepal Tarai Congress in the 1950s by the elites in Tarais was a vehicle for raising such voices for participation and inclusion in an organized way (Gaige, 2009). The ethnic communities have asserted their demands for equal inclusion, participation and representation in the state institutions as well as for respect and dignity in society.

Broadly speaking, the demands of these ethnic communities can be clustered in terms of their quest for participation, representation and ownership in the decision-making process of statebuilding and peacebuilding and their claim for space in the political process. A list presented in Table 1.3 highlights the agendas for inclusion asserted by the ethnic communities in the process of political development, which I borrow from Dr. Harka Gurung, a renowned academic of Nepal. Dr. Gurung astutely created this list in

2003, yet it is still politically relevant today, for which the social groups have organized social and resistance movements time and again over the course of Nepal's political history. Most prominently, these social movements have been effective in mobilizing the masses as well as public opinion during the period of 2006-2012, since they have been capable of influencing the political processes.

Table 1.3: Agendas for Inclusion

Social groups	Problem of Exclusion	Agenda for Inclusion
A. Dalit	*Social*	
	1. Caste discrimination	1. Secular state
	Economic	
	2. Poor literacy	2. Free education
	3. Unemployment	3. Seat reservation
	4. Landlessness	4. Alternative livelihood
	Political	
	5. Poor representation	5. Collegiate election
B. Janajati		
	Cultural	
	1. Religious	1. Secular state

2. Linguistic discrimination	2. Official status

Economic

3. Low literacy	3. Education
4. Unemployment	4. Affirmative action

Political

5. Poor representation	5. Proportional representation
6. Subjugated in governance	6. Ethnic autonomy

C.   Madhesi

Cultural

1. Linguistic discrimination	1. Official status

Economic

2. Employment bar	2. Recruitment in army

Political

3. Hill dominance	3. Regional autonomy
4. Citizenship problem	4. Ascertain long term residents vis-à-vis recent immigrants

Source: Harka Gurung, 2003 (Adopted from Shakya, 2007, pp. 8–9).

Table 1.4 : Participation of caste and ethnic groups in the leadership positions

of judiciary, executive, legislature and constitutional bodies, Nepal, 2005

Sector	BCTS	Nationalities	Madhesi	Dalits	Newar	Others	Total
Supreme Court	11	-	2	-	2	-	15
Commission for Investigation of Abuse of Authority	3	1	-	-	1	-	5
Election Commission	3	-	-	-	1	-	4
Office of the Attorney General	1	-	-	-	-	-	1
Office of the Auditor General	1	-	-	-	-	-	1
Public Service Commission	2	1	1	-	2	-	6
Council of Ministers	8	1	1	-	2	-	12
Central Administration:							
Secretary or its equivalent	28	1	1	-	3	-	33
Lower House	-	-	-	-	-	-	-
Upper House	25	4	4	2	3	-	38
Total	**82**	**8**	**9**	**2**	**14**	**-**	**115**
Percentage	**71.3**	**7.0**	**7.8**	**1.7**	**12.2**	**-**	**100.0**

Source : Govinda Neupane (2005).

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The Government of Nepal takes measures, adopts national strategies and attempts to increase the inclusion, participation and representation of social groups in the state institutions by establishing various commissions in the name of particular communities, including for women, Dalits, indigenous nationalities and the Madhesi. However, critics note that these interventions have remained largely ineffective and look like customary approaches (see H. Gurung, 2006). As Table 1.4 shows, the participation and inclusion of social groups or ethnic communities in the civil services remain low, where the critics' view on these issues appears provocative. Meanwhile, by acknowledging the deficit in the efforts to increase the inclusion of social groups in the civil services, the Government made the second amendment to the Civil Service Act 2049 (1992), which ensures the reservation of 45% of the seats for the marginalized communities. Critics again, however, point out the deficiency in the Act by arguing that "the reservation percentage, as proposed in the amendment act, has been vehemently criticized since the government has allocated the quotas without serious consultation with the stakeholders and inclusion experts" (G. M. Gurung, 2007, p. 17).

Aside from issues of inclusion and exclusion in the civil services and public administration of Nepal, the issue of inclusion *in the security forces*, specifically, in the Nepalese Army, is raised by social groups, in particular, the Maehesi community. Therefore, the inclusion of ethnic communities in the Nepalese Army remains as the primary agenda for political discourse and has often been a form of negotiation with the state. The state even has agreements with the Madhesi community that attempt to

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increase the Madhesi's representation in the Nepalese Army. Therefore, the Nepalese Army updates its ethnic compositions as of 2009 on its website and intends to defend the inclusive character of the institution by arguing that:

> The issue of inclusion (Samabesikaran) of different castes, ethnic groups, genders and regions has been a frequently heard term in Nepal. Nepal has 103 castes/ethnic groups and more than 93 languages … the Nepalese Army must maintain a national character primarily in terms of inclusion of all castes, ethnic communities, genders, regions and religions. At the time when the Government of Nepal did not have any policy on inclusion in the state organs, the Nepalese Army was the only institution in Nepal which had a system of reservation for five different ethnic communities - Magar, Gurung, Tamang, Kiranti/Limbu and Madhesi … In the rest of the formations, units and subunits all castes/ethnic communities, religions and regions are given equal opportunity based on open competition.

> (Nepalese Army, 2009)

With the above referenced arguments, the Nepalese Army demonstrates progress in terms of inclusion of different social groups in institutions (see Annex 4). At face value, the data presented by the Nepalese Army are impressive in this way, but unfortunately, they still fail to satisfy the demands of the Madhesi community. In addition, this researcher

argues that the Defense Ministry of the Government of Nepal should distribute such data, considering the sensitive nature of national security. A popularly held perception of the ruling elites in Nepal is that the Chhetri caste and Magar, Gurung, Tamang, Kiranti/Limbu communities are "the best race on the battlefield" and they have been popular for their brevity in the name of Gurkhas. Recruitment for the Nepalese Army follows the logic that those races are better on the battlefield, which the British Government and Government of India have also argued. In fact, both these governments have separate Gurkha regiments even today, for which manpower is recruited from different parts of Nepal.

In essence, the role of the military is to protect the state from external threat. But the Nepalese Army, throughout its political history, serves to protect the Rana and Shah dynasties while suppressing the voices of dissent within the country. Even after the restoration of democracy in 1990, the Nepalese Army remained loyal to the monarchy and operated as "a state within the state" corresponding to the condition as articulated by Samuel P. Huntington (1981). For example, when the-then prime minister Girija P. Koirala intended to mobilize the Royal Nepal Army in 2001 against the rebellion of CPN (Maoist), the Nepalese Army refused to go to the battlefield (N. Acharya, 2009). Whether or not mobilization of the Nepalese Army to counter the CPN (Maoist) was the right answer is another contentious issue in Nepal. Therefore, this researcher does not hold a position on this issue. This researcher is of the view, however, that whether or not the military follows the orders of the government is the basis for judging whether the military

is under civilian control or not. Yet, eventually, the Government of Nepal in 2003 declared a state of emergency and mobilized the Nepalese Army to counter the CPN (Maoist), following a breakdown in the negotiations between the state and the rebellious party.

4. Beginning of the Republican Era

The Revolution of 1951 sheds some light on republican democracy in Nepal based on the promise made by the late King, Tribhuvan B. B. Shah, for holding the election of the Constituent Assembly as a means of transferring power to the people. His promises remained as an unfinished agenda in the political history of Nepal until November 2005, when an alliance of seven political parties and CPN (Maoist) signed a 12-Point Understanding that included the election of the Constituent Assembly, which materialized in April 2008. The events that led to the declaration of Nepal as a republican state by the first sitting of the elected Constituent Assembly in May 2008 were the CPN (Maoist)'s armed conflict and the people's uprising of April-May 2006, followed by the signing of the Comprehensive Peace Accord (CPA) in November 2006 and promulgation of the Interim Constitution in January 2007.

4.1 UCPN (Maoist)'s People's War

The Maoists in Nepal adopted similar strategies to those alluded to in the quote by the Chinese communist leader, Mao Tse-tung (1965, p. 224), who said "every Communist must grasp the truth" that "political power grows out of the barrel of a gun." Similarly,

the Maoists in Nepal waged revolution through guerilla warfare against the-then political system and began to mobilize youth and peasants in rural Nepal in early 1996 under the slogan of building a new Nepal. In other words, they pursued a campaign to gain sole control of the state (see CPN [Maoist], 2010). The armed conflict waged by the Maoists in Nepal continued for more than a decade. It should be noted that Mao Tse-tung's strategy of revolution differs from that of Lenin and Marx – Mao imagines revolution based in the rural areas (see Tse-tung, 1965) whereas the Marxist-Leninist doctrine advocates for urban-based revolution by the working class against the bourgeoisie (see Lenin, 2008; see Marx & Engels, 2004b). Mao, recognizing the stark contrast of urban and agrarian societies, advocates for unorthodox strategies that gather support from peasants and farmers of rural areas, educating these populations on the ideological basis of their country. Thus, supported by the local inhabitants, this new warfare was waged from the mountains and jungles over the course of revolution in China that CPN (Maoist) replicated in Nepal. The CPN (Maoist), now UPCN (Maoist), after merging with another communist party a couple of years ago, launched the people's war with the goal of establishing the rule of the proletariat in Nepal by way of armed struggle. As the official document, from the English version, of the party states:

> Our political strategy is to establish a New Democratic republic of Nepal with a people's democratic dictatorship against feudalism and imperialism and on the basis of an alliance of peasants & workers under the leadership of the proletariat.

The aim of the armed struggle is to solve the basic contradictions between feudalism and the Nepalese people, imperialism – mainly the Indian expansionism – and the Nepalese people, comprador & bureaucratic capitalism & Nepalese people, and in the immediate term the contradiction between domestic reaction[ary] which is made up of a combination of feudal and comprador & bureaucratic capitalist classes & backed by Indian expansionism and the Nepalese people.

On the one hand, the CPN (Maoist) adopted Mao's strategy of war and built a strong People's Liberation Army (PLA) to fight against the state's security forces as well as implementing the strategy of fighting against foreign expansionist elements. On the other hand, they adopted Lenin's doctrine on "rights of nations to self-determination" for public and mass mobilization with the objective of winning support of ethnic communities of Nepal for their war. The CPN (Maoists) thus constructed two barrels for their struggle: one is the armed wing and the second is the political wing with high level of participation by the ethnic communities in both barrels. Lenin's doctrine of self-determination is based in the European context during the rising tide of Western colonialism around the world and in Europe. In such a political environment, Lenin declares that nations have the right to separate political identities as independent states:

Russia is a state with a single national centre—Great Russia. The Great Russians occupy a vast, unbroken stretch of territory, and number about 70,000,000. The specific features of this national state are: first, that "subject peoples" (which, on the whole, comprise the majority of the entire population—57 per cent) inhabit the border regions; secondly, the oppression of these subject peoples is much stronger here than in the neighbouring states …"

(Lenin, 1972, pp. 407–408)

Consequently, if we want to grasp the meaning of self-determination of nations, not by juggling with legal definitions, or "inventing" abstract definitions, but by examining the historico-economic conditions of the national movements, we must inevitably reach the conclusion that the self-determination of nations means the political separation of these nations from alien national bodies, and the formation of an independent national state.

(Lenin, 1972, p. 408)

Lenin articulates his doctrine on "rights of nations to self-determination" in the context of (1) the status of Georgia and Ukraine, which were brought into the Soviet Union after the success of the Russian Revolution, and the status of Finland, Lithuania and Estonia which

gained independence despite the Soviet Union's desire to keep them in the Union and (2) the generation of the people's support for revolution through the Bolshevik Party (Page, 1948). In 1917, in the first assembly following the success of the revolution, "self-determination was offered to the peoples of the Russian State only by the Bolshevik Party. This became a powerful weapon against the Provisional Government and enabled the Bolsheviks to gain the confidence of various minority national groups and keep them neutral, indifferent or even helpful to the Bolsheviks during one or another phase of the Civil War period" (Page, 1950, p. 353). Alluding to Lenin's doctrine of revolution and the right of nations to self-determination, the CPN (Maoist) says, in their official document from the English version:

Lenin not only enriched Marxism on total aspects of scientific socialism including the concept of a new party, strategy of socialist revolution, struggle against revisionism, uniting peasants for revolution in the backward countries and significance of full democratic revolution, proletarian view on right of nations to self-determination, proletarian revolution to lead the national liberation movement in the eastern countries, development and struggle of the workers and masses in capitalist countries developed into the imperialist stage, but also elevated it to a new height of development.

(CPN [Maoist], 2004, p. 50)

The unification of the struggles for right of nations to self-determination and the proletarian movement alone can meet this challenge. To grasp this properly, we should seriously ponder over the concept of national democratic revolution put forward by Lenin after founding the Soviet Union and in the initial period of Comintern, and the concept of New Democratic Revolution put forward by Mao.

(CPN [Maoist], 2004, p. 66)

As we see, the CPN (Maoist) first defines the objective of the people's war, which was to capture the state power and establish "democratic dictatorship" of the proletariat based on the ideologies of Marxism, Leninism and Maoism. In order to mobilize people of different ethnic origins and generate their support for the people's war, the CPN (Maoists) defines the characteristics of Nepal as a feudal state, a typical form of discourse commonly found in their literature, from the English version:

Though formally considered sovereign, Nepal is, indeed undergoing in a state of semi-colonialism for about 200 years. This state of Nepal caused by the notorious Sugauli Treaty with the British blocked the natural development from feudalism to capitalism … Nepal gradually transformed into a semi-feudal stage from [the] feudal stage. Thus, Nepal is still in [a] semi-feudal and semi-colonial state … it is necessary to understand this situation of present[-day] Nepal from the historical

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background. Before the growth of [the] centralized state, Nepal was divided into many small kingdoms, principalities and tribal republican states.

To tease this out, Nepal was never militarily colonized nor under any form of indirect political control, although the British East India Company intended to achieve this by waging war against the country. Yet, it can be argued that Nepal is an undeclared colonized state based on the different asymmetrical treaties imposed on Nepal by India (i.e. the 1950's treaty of friendship) and the British East India Company. The country, however, has remained significantly under the control of regional powers, in particular India, which pursue economic globalization and cultural imperialism, both augmented by the practice of capitalism in the region. This complex state of affairs resembles the stage of neo-colonialism, a term coined by Nkrumah Kwame (1966) in reference to Europe's continued colonial control over the African economy and culture. Pushing aside the definitions of colonialism or neo-colonialism, the CPN (Maoist) declared that its war strategy was against colonial powers, both India and the Britain, in addition to the war against the national bourgeois, which was protected by the repressive regime of the absolute monarchy. The discourse of colonialism goes a step further when the marginalized ethnic communities articulate that they have historically remained under the colonization of the regime. Therefore, the resistance movement of the CPN (Maoist) in the form of insurgency and the resistance of the major ethnic communities in the form of

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social movements discussed in the above sections reflect Vivienne Jabri's (2012) discussion of people's rights to politics.

In addition to defining the state, the above statement refers to the pre-unification structure of the country, which was divided into small states or kingdoms of principalities. The discourse of "small kingdoms" demonstrates a strategy that invokes ethnic sentiment as those small kingdoms were ruled by the leaders of ethnic communities in the pre-unification period who now claim a stake in the politics of the democratic transition and assert their demands in the form of social movements. When the CPN (Maoists) began its people's war in early 1996, the country was being governed under the multiparty system where democracy was learning to co-exist with the monarchy since the King was still pronounced the head of state, as was negotiated in the Constitution of the Kingdom of Nepal 1991. The analysis of the CPN (Maoist) shows that the democratic institution, legitimized through periodical elections contested by the political parties, protected the institution of monarchy, the institution that the CPN (Maoist) defined as the principal enemy. Therefore, the CPN (Maoists) formulated the following discourse on the Revolution of 1951 and subsequent political movements from their official document, English version:

In Nepal, whatever changes have occurred in the system of management of reactionary state-power from 1950 till now, they are, in essence, only the changes in the shares of partnership of the state-power between the feudal, bureaucratic and comprador classes.

Feudalism uses the label of "nationalism" and imperialism that of "democracy" in order to deceive the masses.

(CPN [Maoist], 2004, p. 71)

The rulers of the Rana and Shah Dynasties chose to appoint people of their liking to the civil service and public administration; not only Brahmin and Chhetri, but also Adivasi Janajatis, Dalits and Madhesis, in order to avoid any threat to their power and regime. A popular belief, however, is that the higher castes of Brahmins and Chhetris, which practice the Hindu religion, historically dominated the state institutions and regulated the functioning of society. In contrast, this belief holds that those who do not practice Hinduism, such as the Adivasi Janajati community, do not share the same power or representation. Therefore, in order to garner support from the ethnic communities for their people's war, CPN (Maoists) formulated a discourse against the process of Sanskritization that painted the Brahmins, and also the Chhetri community, as one of the principal enemies and the Hindu religion as a supporting factor that maintained feudalism in the country while also promising autonomy and right to self-determination to ethnic communities, from their official document, English version:

The centralized feudal state has imposed Hindu feudal and Brahmanist ethnic chauvinism on lingual, ethnic, religious, cultural and traditional rights of people of various communities, nationalities and religions of Nepal and thereby hindered the

natural development of genuine national unity and power. Therefore, the New

Democratic Revolution needs to lay the foundation of a consolidated national unity on

the basis of equality and freedom in accordance with the right of nations to self-

determination.

(CPN [Maoist], 2004, p. 74)

[The] United Front in Nepal obtained practical shape in the form of concrete

expression of the state power from below through the development of local

United People's Committee and the process of formation of various national and

regional fronts on the basis of the recognition of the right of oppressed nations to

self-determination and program of national autonomy.

(CPN [Maoist], 2004, p. 107)

The second statement above indicates the formation, existence and practice of parallel

governments, which were often controlled and run by ethnic communities, in the rural

areas, with the objective of reinforcing Lenin's doctrine on the right of nations to self-

determination in Nepal's context. In addition, the statements above define the objectives

of the people's war, characteristics of the state and the primary and secondary enemies.

Next, the CPN (Maoists) defined the friendly forces that supported the needs of the party

to advance the war, both on the battlefields and in spreading political propaganda through

the creation of discourse that promised liberation of the victims from oppression and exploitation, from their official document in the English version:

> This policy represents the only scientific method to make oppressed nationalities including Magar, Gurung, Tamang, Rai, Limbu, Tharu, Newar, etc. and millions of people of Karnali Pradesh (region) participate in the great journey of revolution. Acknowledging the economic and political importance of the Terai, the Party is laying emphasis on the program of regional autonomy for the Madheshee community as against the discrimination and oppression of the old state. The Party gives high priority to involving Madheshee community in revolution.

> The Party is stressing on the policy to organize and revolutionize the Dalits, i.e. depressed community, who are the masters of basic labor and number more than 20% of total population, but are most suppressed by the inhuman atrocities of old state, for a battle of equality and freedom. The particularity of our Party policy related to the Dalits is to ensure their liberation and participation in the state with special rights.

(CPN [Maoist], 2004, p. 112)

By combining forces through the armed and political wings of the People's Liberation Army and mobilizing ethnic communities, the CPN (Maoists) posed a significant

challenge to the Government of Nepal. Both the state and the rebellious party used strategies of negotiations and dialogue as a tactical move to consolidate their strength. The Government of Nepal even resorted to declaring a state of emergency, as required by a provision in the Constitution of Nepal 1991, for mobilization of the military against the CPN (Maoist). At this point, the successive governments run by the political parties were becoming ineffective and could not tackle the forces of the CPN (UML). In addition, they were losing popularity and legitimacy in the eyes of the public, as were the democratic institutions. This politically unstable environment allowed King Gyanendra Bir Bikaram Shah to become involved. Gyanendra Bir Bikram Shah, a figure representing the continuation of the Shah Dynasty, became the King of Nepal for the second time following the Royal massacre of 2001, which killed King Bir Bikaram Shah and his family members. Gyanenda was declared as the King of Nepal by the Rana dynasty sometime in the 1950s, when his grandfather King Tribhuvan Bir Bikram Shah escaped from Kathmandu and took asylum in New Delhi.

4.2   People's Uprising 2006 (*Janaandolan II*)

A fine morning on February 1, 2005, those who woke up in the Kathmandu Valley, which included my family, found their landline phone not working. Oddly enough, their cell phones, also called mobile phones in Nepal, were also not working. Next, they turned on their desktop and laptop computers to connect to the Internet for news, but this, too, was not working. As people turned to their television for news, they learned that King Gyanendra B. B. Shah staged a coup and thus imposed a nation-wide curfew on the

people. Indeed, it was a royal-military coup as the Nepalese Army once again expressed its loyalty to the monarchy. Thus, the dictatorship returned to Nepal, as the military took control of all communication systems, including media, to support the coup staged by the King. Moreover, the security forces moved the senior political leaders from the larger political parties into custody; other senior political leaders were kept under house arrest.

The state's security forces took similar action not only for the politicians, but also against the leaders of civil society and the media. The country virtually returned to the medieval era (i.e. the King rules the nation in a similar fashion) until May 2006, under the pretext of a declared or undeclared state of emergency and curfew. On the one hand, the civilian political parties were threatened and constrained by the armed forces of the CPN (Maoist) in the countryside, virtually everywhere outside the Kathmandu Valley, and, by the King in February 2005, inside the Kathmandu Valley. The illusion of the civilian political parties, namely that of the Nepali Congress that advocated for the role and importance of the constitutional monarchy, was seriously questioned. The King's move, however, became a turning point that led to collaboration of the communist and democratic parties against the monarchy.

Once again, the democratic and communist forces joined hands in Nepal in the name of democracy. The signing of the 12-point Understanding in November 2005 between the alliance of seven political parties and the CPN (Maoist) is another example of collaboration between the communist and democratic forces. The signing of the 12-point

Understanding between the political actors of Nepal was made possible because of the good offices and friendly gestures offered by India. In other words, India tacitly played the role of a third party mediator. The signing of the 12-point Understanding created a new wave of uprisings, which is also called the *Janaandolan II*. At that time, April-May 2006, millions of Nepalese participated in peaceful movements for democracy. A fundamental feature of the 12-point Understanding was an agreement to establish democracy by ending the absolute monarchy. Below is the first provision of the Understanding[2]:

(1) The democracy, peace, prosperity, social advancement and an independent, sovereign Nepal is the principal wish of all Nepali people in the country today. We are fully agreed that the autocratic monarchy is the main hurdle for this. We have a clear opinion that the peace, progress and prosperity in the country is not possible until and full democracy is established by bringing the absolute monarchy to an end. Therefore, an understanding has been reached to establish full democracy by bringing the autocratic monarchy to an end through creating a storm of nationwide democratic movement of all the forces against autocratic monarchy by focusing their assault against the autocratic monarchy from their respective positions.

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[2] English version available at: http://www.sambidhan.org/peace%20agreement_en/12%20point%20peace%20agreement.pdf

The parties of the 12-point Understanding agreed to transfer power to the people, restore parliament, which was dissolved by the Government of Nepal sometime in 2002, and draft a new constitution through popular vote of the Constituent Assembly (Provision II of the 12-point Understanding):

(2)   The agitating Seven Political Parties are fully committed to the fact that the existing conflict in the country can be resolved and the sovereignty and the state powers can completely be established in [the] people only by establishing full democracy by restoring the parliament through the force of agitation and forming an power full - party Government by its decision, negotiating with the Maoists, and on the basis of agreement, holding the election of [a] constituent assembly …

For the 3rd provision of the 12-point Understanding, the parties agreed to end the armed conflict, begin a peace process, invite the United Nations to supervise the armed forces of Nepal, both the People's Liberation Army (PLA) of the CPN (Maoist) and the Nepalese Army, in addition to monitoring and supervising the elections for the Constituent Assembly, requested support from the international community in the peace process:

(3)   The country, today, demands the establishment of a permanent peace along with a positive resolution of the armed conflict. We are, therefore, firmly committed to establish a permanent peace by bringing the existing armed

conflict in the country to an end through a forward-looking political outlet of the establishment of the full democracy by ending the autocratic monarchy and holding an election of the constituent assembly that would come on the basis of aforesaid procedure. The CPN (Maoists) expresses its commitment to move foreward in the new peaceful political stream through this process. In this very context, an understanding has been made to keep the Maoists armed force and the Royal Army under the United Nations or a reliable international supervision during the process of the election of constituent assembly after the end of the autocratic monarchy, to accomplish the election in a free and fair manner and to accept the result of the election. We also expect for the involvement of a reliable international community even in the process of negotiation.

The signing of the 12-point Understanding in November 2005 between the alliance (of seven parliamentary political parties) and the CPN (Maoist) was a landmark and courageous step forward by the political leadership in Nepal to ensure peace and democracy. In order to bring peace to the country, the alliance ignored the decision of Nepal and the United States, which declared the CPN (Maoist) as a terrorist organization. The courage of these politicians echoes Dennis Sandole's (2010) new way of thinking, which expands the peacebuilding horizon by advocating for negotiations with terrorists in order to establish peace in the contemporary complex world. Indeed, the parliamentary political parties, under the umbrella of the seven political parties' alliance, engaged in

dialogue and negotiation with the CPN (Maoist), which resulted in the signing of the 12-point Understanding. In part, this was made possible by the unchallenged leadership and statesmanship of the late Girija P. Koirala, a towering personality with the highest level of democratic legitimacy. However, the process of arriving at the 12-point Understanding in November 2005 was highly challenging as a Nepali peace negotiator narrates his experiences for an English publication:

> And then following this we had a 12 points understanding between the seven political parties and the Maoist. And there was a debate between the seven parties and the Maoist. Maoist they want to have an agreement. But Mr Koirala [Mr Girija P. Koirala] categorically said that if we will have an agreement then we cannot move ahead in Nepal because there is a terrorist tag was put in by US and other countries for the Maoist. So he convinced the Maoist that we should not have an agreement we should just have understanding and we should move ahead.

(S. Koirala, 2012, p. 58)

Before the signing of the 12-point Understanding, the political conflict had remained triangular; the struggle was between (1) the CPN (Maoist), (2) the government of the civilian political parties, and (3) the monarchy. However, the signing of the 12-point Understanding formally ended this triangular conflict, thus establishing a bi-polar system between the traditional forces, as led by the monarchy and backed by the military, and the

forces of democracy, as led by both the democratic and communist parties. Following the royal coup in February 2005, the strategic interest and tactical move of the civilian political parties and the CPN (Maoist) was to collaborate against the absolute rule of the monarchy. Accordingly, they joined forces on the basis of the 12-point Understanding, which was signed in New Delhi in November 2005, to collectively engage in the struggle for democracy and republicanism in the country. Thus, the 12-point Understanding served two purposes: (1) it created democratic legitimacy for the CPN (Maoist), which was otherwise labeled as a terrorist group by the Government of Nepal in 2003, and later, the USA, and (2) it enhanced the popular legitimacy of the civilian political parties, specifically the Nepali Congress and CPN (UML), which were both discredited by the public as well as by the international community previous to this agreement.

The restoration of democracy in Nepal in May 2006 resembles Charles Tilly's (2007) internal processes and mechanisms and Adam Przeworski's (2004) theorization on the fall of dictatorship as an integral part of democratization. In early May 2006, the democratic movement, also called the *Janaandolan II*, began gaining momentum, visible through the demonstration of millions in Kathmandu, the capital city. During this time, the demonstrators asked King Gyanendra to step down from power. As time passed, the people's uprising garnered wider public support, from every corner of Nepalese society to the international community. The Nepalese Army came to the streets, but did not resort to violence. Thus, the country came to a standstill for many days; but people did not feel pain, rather they came to the street every day, upon closing their daily businesses, in

support of democracy. Finally, the King kneeled down in front of the people and agreed to the demands set forth by the political parties in the 12-point Understanding.

This action, again, reflects Adam Przeworski's (2004) theory of democratization that a state's dictatorship survives with a range of risks and collapses under different conditions. These different conditions were shaped by King Gyanendra Bir Bikaram Shah's (2006) decision to restore the dissolved parliament through a royal proclamation on April 24, 2006. In addition to this, he transferred his power to the people by "acknowledging with his heart that the Nepali people are the source of state power of the Kingdom of Nepal and sovereignty and state power are vested in them … we hereby restore the dissolved parliament." Following the Royal Proclamation of April 24, 2006, the people of Nepal became sovereign for the first time in their country's history, and so followed: 1) the formation of an interim government by the political parties; 2) the invitation to the United Nations to supervise and monitor arms and elections; 3) the promulgation of an interim constitution; and 4) the conversion of the restored parliament into the interim parliament, with the participation of the democratic and communist forces, on the conditions as defined by the Comprehensive Peace Accord (CPA) 2006, which was signed by the Government of Nepal and the CPN (Maoist).

4.3   The Comprehensive Peace Accord (CPA), 2006

A focus of this research is on the Comprehensive Peace Agreement (CPA), as the first hypothesis is concerned with the decision making process. My first hypothesis states that

the lack of participation, ownership and legitimacy (*which are independent variables*), which I define as a form of denial of participation in the decision-making process, of all the major competing ethnic identities under the design of 2006's Comprehensive Peace Accord (CPA), *caused* the failure of negotiations on the agendas of statebuilding and peacebuilding as the Constituent Assembly collapsed (*failure of negotiations and collapse of the Constituent Assembly as the dependent variable*) in Nepal in May 2012. This researcher articulates this hypothesis with the understanding that the CPA introduced and integrated the evolving concepts of statebuilding and peacebuilding, which will be explored and discussed in Chapter 4. The evolving concepts and processes of peacebuilding, and now statebuilding, suggest the need for participation and ownership by all stakeholders in the processes in order to establish the outcomes as legitimate.

On November 21, 2006, the CPN (Maoist) and the Government of Nepal signed the Comprehensive Peace Accord. Unlike the 12-point Understanding, which was signed by the alliance of seven political parties and the CPN (Maoist) in New Delhi with the good offices of India, the Government of Nepal and the CPN (Maoist) signed the CPA in an open environment. If the 12-point Understanding began the peace process in Nepal with the objective of establishing republicanism and democracy, the CPA not only ended the decade-long armed conflict, but also made far-reaching claims in favor of establishing a peaceful and democratic state through state restructuring. Below are excerpts of specific Articles from the unofficial translation of the CPA by UNMIN (2006), the Accord that

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officially ended the decade-long armed conflict in Nepal, as mentioned in Article 6.1 of the Comprehensive Peace Accord (CPA) from the English version:

> Article 6.1. On the basis of the historic decisions reached between the Seven Political Parties and the CPN (Maoist) on November 8, 2006, we hereby declare that the armed conflict ongoing in the country since 1996 has been brought to an end and that the current ceasefire between the Government and the Maoists has been made permanent.
>
> (CPN-M & Government of Nepal, 2006, p. 8)

Although the design process of the Comprehensive Peace Accord (CPA) remained elite-driven, it envisaged engaging the marginalized ethnic communities in particular, as well as the people at large, into the political process and committed to starting the process of reconciliation in the society by addressing the needs of the victims of the armed conflict. The CPA saw the Constituent Assembly as a mechanism for engaging the marginalized communities into the political process, which converges with the prescriptions made by the critics of liberal peace, specifically Roger Mac Ginty (2012), Oliver Richmond (2011a) and Vivienne Jabri (2012):

> Article 3.2. To constitute [the] Interim Legislature-Parliament as per the Interim Constitution, to have the elections to [the] Constituent Assembly held by the

Interim Government in a free and fair manner within June 15, 2006 and to practically guarantee sovereignty inherent in the Nepali people.

(CPN-M & Government of Nepal, 2006, p. 3)

Moreover, the provision for the establishment of the Truth Commission as a mechanism for reconciliation perfectly matches John Paul Lederach's (1997) theorization on peacebuilding as he emphasizes (re)building fractured relations in society through a process of reconciliation:

Article 5.2.5. Both sides agree to set up with mutual consent a High-level Truth and Reconciliation Commission in order to probe into those involved in serious violation of human rights and crime[s] against humanity in [the] course of the armed conflict for creating an atmosphere for reconciliation in the society.

(CPN-M & Government of Nepal, 2006, p. 7)

The CPA not only ended the decade-long armed conflict in the context of the CPN (Maoist)'s people's war, it also made a far-reaching decision on the future of the state's structure. The CPA highlighted a number of provisions aimed at ending political, social, economic and cultural discrimination that historically existed in the Nepalese society. Although the CPA did not explicitly mention the integration of "Statebuilding" and

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"Peacebuilding," it did indeed intend to integrate these concepts implicitly by mentioning basic ingredients of each through different Articles. Specifically, this researcher is of the view that Article 3.4 of the Accord, once coupled with other Articles, outlines some of the basic ingredients towards integration of the concepts:

> Article 3.4. To pursue a political system that fully complies with the universally accepted fundamental human rights, competitive multiparty democratic system, sovereignty inherent in the people and the supremacy of the people, constitutional check and balance, rule of law, social justice and equality, independent judiciary, periodic elections, monitoring by civil society, complete press freedom, people's right to information, transparency and accountability in the activities of political parties, people's participation and the concepts of impartial, competent, and fair administration.

> (CPN-M & Government of Nepal, 2006, p. 3)

Article 3.5 of the Accord defines the objectives of the interventions for statebuilding and peacebuilding as follows:

> Article 3.5. In order to end discriminations based on class, ethnicity, language, gender, culture, religion and region and to address the problems of women, Dalit, indigenous people, ethnic minorities (Janajatis), Terai communities (Madheshis)

oppressed, neglected and minority communities and the backward areas by deconstructing the current centralized and unitary structure, the state shall be restructured in an inclusive, democratic and forward looking manner.

(CPN-M & Government of Nepal, 2006, p. 3)

Article 3.3 of the Accord committed to abolishing the monarchy from the country:

Article 3.3. … The issue of whether to continue or scrap the institution of [the] monarchy shall be decided by a simple majority of the Constituent Assembly in its first meeting.

(CPN-M & Government of Nepal, 2006, p. 3)

In addition to integrating the concepts of statebuilding and peacebuilding as well as the process of democratization, as demonstrated by Article 3.4, the following provisions of the Comprehensive Peace Accord (CPA) invited the United Nations to monitor and supervise the elections of the Constituent Assembly, and also supervise and manage weapons and armed forces:

Article 9.2. Both sides agree to the monitoring of the management of arms and the armies by the United Nations Mission in Nepal as per the provisions of the five-

point letters sent earlier to the UN and those of the present agreement and agree to facilitate the process.

Article 9.3. Both sides agree to have the United Nations observe the election[s] to the Constituent Assembly.

(CPN-M & Government of Nepal, 2006, p. 12)

At face value, the contents of the Comprehensive Peace Accord of 2006, with no consideration to implementation, are quite excellent and resemble Lederach's (1997) theorization of peacebuilding, including a vision for a desired future. It successfully identified the country's problems, both past and present, designed mechanisms to establish republicanism and promised to end discrimination through the drafting of a new constitution by an elected Constituent Assembly. Yet, a well-known political analyst and columnist, C. K. Lal, of Nepal, reflects on the promises made by the Comprehensive Peace Accord (CPA) and offers an astute criticism of its grand gesture:

Short of delivering mythical Ram Rajya—the heaven on earth—the CPA includes everything including an oblique reference to federalism … intention alone is not a guarantee of success. People in the street know that even more than their leaders do. Had sincere attempts been made to formulate a constitution that lived up to the promises of [the] CPA, it was likely that the voters themselves would have

foiled every attempt of the entrenched PEON interests to sabotage the CA process.

(Lal, 2013)

As is evident through its implementation, the CPA is a product of a non-transparent process in which a selected number of politicians negotiated the document, and the participation of the people, in particular those of competing identities, was neglected. In short, the design process of the CPA was elite-driven, negotiated behind the scenes, and made public through a decorous signing ceremony, all of which followed the top-down approach of a liberal peacebuilding process that captured the spirit of Boutros Boutros-Ghali's (1992) *An Agenda for Peace*. The CPA, however, delivered a lot in particular reference to ending the decade-long armed conflict and with promises to engage the people in the political processes. The CPA enjoyed the highest level of legitimacy from the senior most political leaders who signed it; yet, over time, its legitimacy eroded. Before I defend this claim, I would like to highlight the CPA's interconnection to the 2007's Interim Constitution of Nepal (2008), from which I adopted specific provisions from the translation to English. These two documents are interdependent, interlinked and mutually reinforcing, in part due to the fact that the CPA is listed as an integral component of the Constitution in Schedule 4. Essentially, Article 1.5 of the CPA highlights its interconnectivity not only with the Interim Constitution, but also with other agreements expected to be signed in the future:

Article 1.5. The understandings and agreements that may be reached hereafter as necessary for the implementation of this agreement shall also be the integral part of this agreement.

As for the design process of the CPA, this researcher does not find any archival evidence that references public participation, including the participation of competing identities, in the decision making process. This researcher is of the view that a group of political and ruling elites controlled the design process of the CPA as well as its outcomes. Strikingly, however, the Comprehensive Peace Accord is viewed favorably. In fact, this researcher did not come across any form of criticism at the time of its declaration through a public ceremony. Moreover, I do not foresee the ethnic communities launching a resistance movement despite not having been part of the decision making process of the CPA. People accepted the peace document and they owned the contents. Therefore, this researcher, up until this point, has not found any written archival data to confirm the first hypothesis – that lack of ownership, participation and legitimacy by the competing identities in the CPA caused the failure of negotiations and collapse of the Constituent Assembly in May 2012.

Such a statement, at this particular moment, calls into question the relevance of theories that critique liberal peace; specifically that of Roger Mac Ginty's (2012) who argues for ownership and participation of local stakeholders in the political processes and

of Oliver P. Richmond (2011b) who suggests that absence paves the ways toward resistance against power holders. In essence, such a reality highlights the relevancy of Max Weber's (1978, p. 215) typology of legitimacy, particularly, the one emphasizing the importance of charismatic and traditional authority. The charisma of the two leaders of Nepal, Mr Pushpa Kamal Dahal and late Girija P. Koirala, had dominated the political processes; their decisions were taken for granted and remained unopposed until the election of Constituent Assembly in April 2008. Indeed, these two leaders enjoyed the highest level of legitimacy against the background of the successful people's uprising in May 2006, which was also powerful in promulgating the Interim Constitution against all odds.

4.4 The Interim Constitution 2007

The interim parliament of Nepal enacted the Interim Constitution of Nepal on January 15, 2007. Like the designing of the CPA, a group of politicians and constitutional lawyers nominated by the CPN (Maoist), Nepali Congress and CPN (UML) negotiated the contents of the Interim Constitution. The Interim Constitution was made available to the general public and the concerned stakeholders only after its endorsement by the Interim Parliament. This researcher does not find any evidence that demonstrates public participation or participation of the major ethnic communities in the negotiation process of the Interim Constitution. However, like the CPA, the Interim Constitution (English version) envisioned a future for Nepal that resembles "heaven on earth" in its definition of equality and rights:

Article 13(3): The State shall not discriminate among citizens on grounds of religion, race, caste, tribe, sex, origin, language or ideological conviction or any [combination] of these. Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or advancement of women, *Dalits*, indigenous peoples (*Adibasi, Janajati), Madhesi* or farmers, workers, economically, socially or culturally backward classes or children, the aged and the disabled or those who are physically or mentally incapacitated.

(The Interim Constitution of Nepal, 2010, p. 8 italics in original)

Article 21. Right to social justice: The economically, socially or educationally backward women, *Dalits,* indigenous peoples, *Madhesi* communities, oppressed classes, poor farmers and labors shall have the right to take part in the structures of the State on the basis of the principle of proportional inclusion.

(The Interim Constitution of Nepal, 2010, pp. 11–12 italics in original)

The Interim Constitution defines Nepal as a "nation" and "state":

Article 3. Nation: Having multiethnic, multilingual, multireligious and multicultural characteristics with common aspirations and being united by a bond of allegiance to national independence, integrity, national interest and prosperity of Nepal, all the Nepalese people collectively constitute the nation.

Article 4. State of Nepal: (1) Nepal is an independent, indivisible, sovereign, secular, inclusive and federal, democratic republican state.

(The Interim Constitution of Nepal, 2010, p. 3)

The above Articles declare Nepal as a nation and state, guarantee religious freedoms and fundamental rights, introduce the concepts of social justice and identify the problems faced by the ethnic communities. The Interim Constitution moves on to define the state's directive principles, policy and responsibilities as well as attempts to legally codify the integration of statebuilding and peacebuilding paired with democracy:

Article 33: Obligation of the State: (c) To adopt a political system fully upholding the universally accepted concepts of basic human rights, competitive multi-party democratic system, sovereignty inherent in the people and supremacy of the people, constitutional checks and balances, rule of law, social justice and equality, independence of [the] judiciary, periodic elections, monitoring by the civil society, complete press freedom, right to information of the people, transparency

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and accountability in the activities of political parties, public participation and

impartial, efficient and fair bureaucracy; and to maintain good governance, while

putting an end to corruption and impunity;

(The Interim Constitution of Nepal, 2010, p. 16)

The Interim Constitution defends the need to restructure the state in order to make it more

inclusive and democratic, so as to end all discrimination and address the problems the

country faces, both past and present. In order to do so, the Interim Constitution defines 1)

the major actors, of which Brahmin and Chhetri castes are not explicitly mentioned

although they are the major communities of the country, and 2) the process and

procedures of state restructuring (i.e. that which is part of statebuilding). In other words,

the Interim Constitution empowers the ethnic communities, including the Adivasi Janajati

and Madhesi and also the right-based groups such as women and Dalits:

Article 33 (d): To make an inclusive, democratic and progressive restructuring of

the State, by ending the existing centralized and unitary structure of the State so

as to address the problems including those of women, *Dalit*, indigenous people,

Madhesi, oppressed, excluded and minority communities and backward–regions,

while at the same time doing away with discrimination based on class, caste,

language, gender, culture, religion and region;

Article 33 (dl): To have participation of [the] *Madhesi, dalit,* indigenous peoples, women, labors, farmers, disabled, backward classes and regions in all organs of the State structure on the basis of proportional inclusion;

(The Interim Constitution of Nepal, 2010, pp. 16–17 italics in original)

Article 35 (10): persons, and tribes on the verge of extinction. (10) The State shall pursue a policy of uplifting the economically and socially backward indigenous peoples, *Madhesi, Dalit,* marginalized communities, and workers and farmers living below the poverty line, by making a provision of reservation in education, health, housing, food sovereignty and employment, for a certain period of time.

(The Interim Constitution of Nepal, 2010, pp. 21–22 italics in original)

138. Progressive restructuring of the State: (1) There shall be made progressive restructuring of the State with [an] inclusive, democratic federal system of governance, by doing away with the centralized and unitary structure of the State so as to end discriminations based on class, caste, language, gender, culture, religion and region.

(1a) Recognizing the desire of the indigenous peoples and of the people of backward and other area[s] including [the] *Madhesi* people towards autonomous provinces[,] Nepal shall be a federal democratic republican state. Provinces shall be autonomous and vested with full authority. The boundaries, number, names and structures, as well as full details of the lists, of autonomous provinces and the center and allocation of means, resources and powers[,] shall be determined by the Constituent Assembly, while maintaining the sovereignty, unity and integrity of Nepal.

(2) There shall be constituted a high level commission to make suggestions on the restructuring of the State as referred to in Clauses (1) and (1a). The composition, function, duty, power and condition of service of such [a] commission shall be as determined by the Government of Nepal. (3) The final settlement on the matters relating to the restructuring of the State and the form of federal system of governance shall be as determined by the Constituent Assembly.

(The Interim Constitution of Nepal, 2010, p. 99 italics in original)

Based on the above Articles, it can be argued that the Interim Constitution assured that the Brahmin and Chhetri communities are better-off politically, do not have any sort of problems and that they are still the dominant political castes in the country. The Interim Constitution moved on to define the structure of the Constituent Assembly, which would

be elected through popular vote, in order to draft a new constitution. Interestingly, the Interim Constitution remained silent on future processes and procedures that would govern the country if, in fact, the Constituent Assembly failed, which, in May 2012, it did. Perhaps, the political leadership remained so confident that they were prepared to negotiate a new constitution within the time frame allocated by the Interim Constitution. The Interim Constitution allocated two years' time to the Constituent Assembly to negotiate a new constitution. The relevant Articles declare:

Article 63(4): In selecting candidates pursuant to Sub-clause (a) of Clause (3), political parties shall take into account the principle of inclusiveness; and in enlisting candidates pursuant to Sub-clause (b), political parties shall ensure proportional representation of the women, *Dalit,* oppressed communities/ indigenous peoples, backward regions, *Madhesi* and other Classes, as provided in law.

Article 63(5): Notwithstanding anything contained in Clause (4), at least one third of such total number of candidates nominated shall be women as to be derived by adding the number of candidacies made pursuant to Sub-clause (a) of Clause (3) and' the number of candidates on the basis of proportional representation pursuant to Sub-clause (b) of Clause (3).

Article 64: Unless dissolved earlier pursuant to a resolution passed by the Constituent Assembly, the term of the Constituent Assembly shall be Three years after the date on which the first meeting of the Constituent Assembly is held. Provided that if the making of [a] constitution cannot be completed by the reason of the proclamation of as a state of emergency in the country, the Constituent Assembly may, by a resolution to that effect, extend its term for an additional period not exceeding six months.

(The Interim Constitution of Nepal, 2010, pp. 39–41 italics in original)

On the decision making process of drafting a new constitution through the Constituent Assembly, the Interim Constitution declared that it required two-thirds of the voting members present in the Constituent Assembly during the time of voting to promulgate a new constitution, which was a last resort to promulgate a new constitution in case the negotiations failed to forge consensus on the contents of a new constitution:

Article 70(6): (6) Failing the consensus referred to in Clause (2) notwithstanding the voting held pursuant to clause (5), the preamble or the article in respect whereof consensus could not be reached shall be again put to vote; and if, in such voting, the preamble or article is passed by a two-thirds majority of a meeting attended by at least two-thirds of all the then members of the Constituent Assembly, such preamble or article shall be deemed to have been passed.

(The Interim Constitution of Nepal, 2010, pp. 43–44 italics in original)

However, not all the ethnic communities were happy with the Interim Constitution. In other words, the Interim Constitution was not accepted as is. The major competing ethnic identities were not part of the decision-making process of the Interim Constitution, just as they were not part of the design of the Comprehensive Peace Accord (CPA). Because of this, the ethnic communities, in particular the Madhesi and Adivasi Janajits, began protesting the Interim Constitution the day it was promulgated. In turn, the ethnic communities burned copies of the Interim Constitution, thus, also burning the Comprehensive Peace Accord (CPA) as it is annexed to the Interim Constitution. Next, the ethnic communities mobilized against the Interim Constitution and requested a federal system followed by a full proportional representation of the electoral system to be stated in the Interim Constitution. In order to address these demands, there have been more than a dozen amendments added to the Interim Constitution, including amendments from the time of its enactment on January 15, 2007 until the holding of the election for the Constituent Assembly on April 10, 2008.

The burning of the Interim Constitution by the Madhesi and Adivasi Janajati communities is indicative of the eroding legitimacy of political leadership, especially of those who signed the Comprehensive Peace Accord (CPA) and promulgated the Interim Constitution. In essence, this very erosion questions Weber's (1978, p. 215) typology of

legitimacy, particularly on charismatic authority. The burning of the Interim Constitution is also symbolic of the ethnic communities claiming their space in politics and in the decision-making process on the agendas of statebuilding and peacebuilding. This is an example of a social movement and struggle between the state and society about establishing ownership and legitimacy over the state. Such struggles attract the attention of evolving theories of statebuilding, such as those developed by Verena Fritz & Alina R. Menocal (2007, p. 13) on the need for legitimacy, furthered by OECD (2008, p. 1) literature on state-society relations. Not surprisingly, the Interim Constitution was unanimously passed in the interim parliament upon special request of the-then Prime Minister late Girija P. Koirala. While speaking on the proposals tabled by parliamentarians to amend the Interim Constitution, the Prime Minister said that there were "points of disagreement" in the interim statute that would be removed gradually. On live telecast, the Prime Minister gave a speech, later quoted by a local newspaper, where he requested that the parliament pass the Interim Constitution without any discussion:

> This is my request. The proposals you have forwarded for amendment are now the parliament's property. Based on this property, the interim constitution will be improved. Please don't harbor any suspicions or misgivings in this regard. The prime Minister has spoken, a Prime Minister who has devoted 60 years (voice falters) of his political career defending democracy. This is my sincere request … please withdraw the amendment proposals.

The third amendment to the Interim Constitution, in reference to Article 138(1), declared the state to be federal. The third amendment to the Interim Constitution came into effect following a negotiation between the Government of Nepal and the Madhesi community, which began its resistance movement by burning the Interim Constitution. The Madhesi movement, also referred to as the Madhesi Uprising in 2007, crippled life in different parts of the country and brought the country to standstill. At first, the Government of Nepal used violence to suppress the movement, which cost the lives of more than four dozen people from the Madhesi community, although the Government later invited the leaders of the Madhesi community to participate in negotiations. During these negotiations, the Government of Nepal addressed the demands of the agitated Madhesi community and also agreed to bring the third amendment to the Interim Constitution to incorporate the agreements into the Constitution. In a similar fashion, the Government of Nepal signed more than a dozen agreements with different ethnic communities, which campaigned for specific demands. These agreements facilitated the election of the Constituent Assembly.

4.5   The Constituent Assembly, 2008

The country moved on to draft a new constitution through an elected Constituent Assembly with the objectives of constructing a new democratic, inclusive and peaceful state by ending discrimination and resolving problems faced by the Nepali people, both

past and present. The election of delegates to the Constituent Assembly took place as per the provisions of the Constituent Assembly Act (2007) with amendments for the total number of 601 seats, of which, 26 were nominated as per the provision in the Interim Constitution. The Constituent Assembly Act ensures a negotiated structure for the Constituent Assembly in terms of political participation and representation. The structure of the Constituent Assembly ensures that 60% of the members will come from proportional representation system and 40% of members from the first-past-the-post system of election, including 33% reservation for women. A provision of the Act states:

> Article 7(3) : While enlisting the candidates, the Political Parties must prepare the closed list pursuant to Schedule-2 thereby ensuring the proportional representation of Women, Dalits, Oppressed tribes/Indigenous tribes, backward region. Madeshi[,] including others groups on the basis of the population percent as referred to in Schedule-1. While so enlisting the candidacies of women, the same must be done as per the principle of inclusiveness thereby ensuring proportional representation of, Dalits, Oppressed tribes/Indigenous tribes, backward region[s].

The country had, for the first time in its political history, the most inclusive, representative and inclusive body, the Constituent Assembly, elected by the popular vote with the mandate of negotiating a new constitution as well as a new structure for the state. Negotiating a new constitution meant redefining a new state-society relationship

where a power-sharing mechanism between the two would be in the new form of governance structures, including the restructuring of the state into a federal structure and recreating the judiciary structure. Based on the election results declared by the Election Commission of Nepal and the figures listed by the Secretariat of the Legislature-Parliament, the composition of the ethnic communities in the Constituent Assembly are as follows:

Table 1.5 : Community's Representation in Constituent Assembly, 2008

SN	Community	Number of Seats			Total	%
		FPTP	PR	Nominated		
1.	Dalits (Hill)	6	30		36	5.99
2.	Dalits (Madhesi)	1	12		13	2.16
3.	Janajati (Hill)	66	89	9	164	27.29
4.	Janajati (Madhesi)	13	30	7	50	8.32
5.	Madhesi	48	76	4	128	21.30
6.	Muslim and Churaute	7	9	1	17	2.83
7.	Brahmin & Chhetri (Hill)	99	89	5	193	32.11
Total		240	335	26	601	100
Women		30	161	6	197	32.79

FPTP = First-Past-The-Post system of election.

PR = Proportional Representation.

Sources: Secretariat of Constituent Assembly (2009) available at http://www.can.gov.np/

and Election Commission of Nepal (2009) available at: http://www.election.gov.np.

Table 1.6 : Representation of different caste/ethnic groups and gender in the house of representatives, Nepal, 1991, 1994 and 1999

Caste / Ethnic groups	Percentage of population	Representation of different caste and ethnic groups					
		1991		1994		1999	
		No.	%	No.	%	No.	%
Hill caste groups	30.89	114	55.6	129	62.9	122	59.5
Dalit	7.11	1	0.5	-		-	
Kirat/Mongol ethnic groups	22.04	34	16.6	24	11.7	28	13.7
Newar	5.58	14	6.8	12	5.8	14	6.8
Ethnic groups of inner Madhes	1.11	1	0.5	-		-	
Madhesi castes	15.24	18	8.8	22	10.7	29	14.1
Madhesi Dalits	3.99	-		-		-	
Madhesi ethnic groups	8.11	18	8.8	14	6.8	10	4.9
Muslim	4.27	5	2.4	4	1.9	2	1.0

Female	50.05		7	3.4	7	3.4	12	5.8
Male	49.95		198	96.6	198	96.6	193	94.1

Source: Adopted from UNDP (2009, p. 160).

The Constituent Assembly, which also functions as the Legislature-Parliament, remained highly inclusive, representative and participatory in comparison to previous parliaments that were elected on the basis of the multi-party system as per the provisions of the Constitution of the Kingdom of Nepal 1991. The Constituent Assembly, indeed, became the mirror of Nepalese society, where community-wise representation was: Madhesi, 21.30 percent; Brahmin and Chhetri, 32.11 percent; Adivasi Janajati, 27.29 percent; Adivasi Janajati-Madhes, 8.32 percent; Dalits, 5.99 percent; and Dalit Madhes, 2.16 percent. As the composition of the parliaments based on the election results of 1991, 1994 and 1999 demonstrate in Table 1.6 below, the Constituent Assembly had the highest level of political representation (see Table 1.5 above) of diverse ethnic communities. However, the participation of the Brahmin and Chhetri (Hill caste groups) still dominated the civil services in comparison to other ethnic communities in the country (see Table 1.4).

The Constituent Assembly ensured that women received 33 percent of representation in its structures, which was a significant achievement in comparison to the parliaments of 1991, 1994 and 1999. Yet, even still, the roles of women have often been undervalued in the political process, as has their participation in the process of statebuilding and

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peacebuilding. But the resolve of women to campaign for their rights and participation in the political process remains an influential force capable of bringing about shifts in policy. The statement below by a well-known women's rights activist on the condition of anonymity, discusses the contribution of the women's movement in the political process and the policy changes they have been able to bring about in statebuilding and peacebuilding:

Women's rights activities and leaders of many political parties have joined hands in order to increase women's participations in politics. As a result, the leaders of the Nepali Congress and CPN (UML), Ms Kamala Pant and Ms Bidya Bhandari, respectively, were able to bring a decision in the parliament sometime in 2006, ensuring 33% participation of women in every state institution. As a result of women's movements and campaigns, the Constituent Assembly had 33% of women members. In a similar fashion, women have to struggle to ensure their participation in the peacebuilding process. As a result, the Government of Nepal designed a well-crafted project to implement Resolution 1325 of the United Nations, the Resolution that intends ensure equal participation of women in peacebuilding and guarantee of safety and security of women during armed conflict. Nepal also received an international award for ensuring women's participation in the peacebuilding process, with particular reference to implementation of UN Resolution 1325 about women's participation in peacebuilding. Besides, reservations have been made in different institutions,

including in the thematic committees of the Constituent Assembly. The women's movement have focused on increasing their participation in politics, share in ancestral property, equal rights in society, access to citizenship and in the decision-making process.

(Translated by this researcher)

The critics of the liberal peace paradigm, for example Roger Mac Ginty (2012), Oliver P. Richmond (2011a) and Vivienne Jabri (2012), would highly commend such state structures of the political institutions that intend to increase the participation of the people in the decision-making process so that the outcomes of negotiations encourage ownership and legitimacy. Moreover, the Chairman of the Constituent Assembly belonged to the Adivasi Janajati community; the President of the country belonged to the Madhesi community, as did the Vice President; the three Prime Ministers during this period belonged to the Brahmin community; and the Chairman of the State Restructuring Commission belonged to the Dalits (untouchable) community. This researcher wonders, in spite of such efforts made for political inclusion and representation, how such inclusive institutions failed to promulgate a new constitution.

As touched on before, one of the fundamental reasons was the erosion of legitimacy in the process. This researcher has observed this erosion in the Constituent Assembly since its creation. The negotiation that took place outside of the pre-agreed procedures

was, indeed, an indicator of the erosion of the Constituent Assembly. The way the members of the Constituent Assembly humiliated each other was another powerful indicator. In particular, the members of the Constituent Assembly elected through the system of proportional representation, a system that ensured a higher level of representation for many ethnic communities. They were victims of feudal thinking and elite-centered politics in Kathmandu. In other words, the representation of ethnic communities and their increasing influence in the Nepalese politics was, again, overlooked by elite-centered politics of Kathmandu. Below, a member of the Constituent Assembly from the Tharu community, who later became the Chairperson of a thematic committee in the Legislature-Parliament, narrates her feeling on this issue:

The first sitting of the Constituent Assembly was called for May 28, 2008. A notice was issued on the day of oath-taking for the sitting of the next day. All the members of the Constituent Assembly reached the venue at Baneswor. While entering into the hall, I felt a little bit uncomfortable. I felt like an orphan. Nobody wanted to come around me perhaps due to my dress. Nobody wanted to sit around me while taking snacks. On the same day, a female member of the Constituent Assembly, finger pointing at me, told another member that "people like these" have been elected as the members of the Constituent Assembly.

I felt humiliated after listening to her comments. I did not know which party she belongs to. Later I knew her name was Radha Timsina. In a similar fashion, Ms

Saraswoti Chaudhary, a member of the Constituent Assembly from the Nepali Congress, finger pointing at me, told a member of the Constituent Assembly representing CPN (UML), "what sort of members are from your party, they come to the house wearing this sort of stinky dress. At least, please teach her to wear a nice dress." I pretended that I did not hear anything. I was still in the traditional dress of the Tharu community. I did not have another dress to wear. I feel compelled to wear Tharu dress whatever comments are made about me.

(Chaudhary, 2013, p. 109 translated by this researcher)

To clarify, it was not the traditional dress of the Tharu community that Ms Shanta Choudhary wore at the Constituent Assembly that caused such a stir, but instead, the increasing participation of ethnicities in politics that was not acceptable to the elite-centered actors in Kathmandu. It can be also interpreted that the composition of the Constituent Assembly was not acceptable to the power holding elites in Kathmandu. This is how the ownership of the Constituent Assembly began to erode from its first session on.

5.   Causal Factors to the Failure of Negotiation and Collapse of CA

In order to explore the conditions that led to the failure of negotiations and collapse of the Constituent Assembly in May 2012, I will discuss the causal factors by focusing on the denial of participation of the people's representatives in the decision-making process.

While doing so, this researcher explores the decision-making process in select areas of political processes that remove political actors from participation in decision-making. The focus of this discussion will be on the *denial of participation in the decision-making process*, which is partly the subject of the first hypothesis. First, this researcher explores the internal factors that caused the failure of negotiations and collapse of the Constituent Assembly. Secondly, this researcher explores the external causal factors in terms of foreign interventions, which is the subject of the second hypothesis of the research.

I share the view of Charles Tilly (2004) that once ethnic or social identities advocate for political agendas, their identities shift to political identities, which implies that ethnic community leaders become political leaders as well. This interaction between and among political actors is visible through (a) the Comprehensive Peace Accord, (b) the Interim Constitution, and (c) the procedures of the Constituent Assembly, which I will touch upon in the sections below. These three documents are the negotiated documents that defined (a) the contents to be negotiated, (b) the procedures of negotiation, and (c) the procedures of arriving at a decision. However, once the negotiated basis of interaction failed to meet the actors' expectations, or became ineffective in doing so, the mode of interaction shifted to conflict, as the ethnic identities and political actors engaged in resistance movements to assert their claims in the political sphere.

I define participation of the political actors in the decision-making processes of statebuilding and peacebuilding as an act of generating and/or enhancing legitimacy in

the political processes so that the stakeholders become comfortable with the outcomes of these negotiations. Participation of political actors occurs formally and informally. Formal participation of political actors is ensured through pre-negotiated peace documents and/or through legal frameworks; for example, provisions in laws or constitutions. Informal participation of political actors takes place in terms of engagement in dialogue facilitated by a third party or direct negotiation hosted by the political actors themselves. The binary opposite of participation is non-participation, which occurs as Mac Ginty (2012, pp. 173–177) articulates, voluntarily or involuntarily. In the following sections, I will discuss the practices that deny participation of major ethnic communities and other political actors in the decision-making process against the background of the results of the elections for the first Constituent Assembly.

5.1   The Consequences of Election Results

The results of the Constituent Assembly elections substantially changed the power dynamics, in term of representation and participation, in the Nepalese politics. The substantial change in the power dynamics was made possible due to the legal and constitutional provisions proposed by the Comprehensive Peace Accord. The results of the elections ensured 32.11 percent representation of the Brahmin and Chhetri communities in the Constituent Assembly, whereas the rest of the 66+ percent was made up of the Dalits, Madhesi and Adivasi Janajati communities, along with the presence of 33 percent of women from all communities. The strength and bargaining power of the ethnic communities was, therefore, in line with the percentages from the Constituent

Assembly. In terms of political parties, the CPN (Maoist) emerged as the largest party in the Constituent Assembly, followed by the Nepali Congress in the second position, the CPN (UML) in the third position and the Madhesi Janaadhikar Forum (MJF) in the fourth position (see Annex 2).

In the parliaments after 1991, the Nepali Congress was the largest, followed by the CPN (UML). As the election laws prevented formation of political along in the ethnic lines in order to contest elections, there were no ethnic-identities-based political parties in the previous parliaments after 1991 (Bhattachan, 2013). The election results boosted the morale of the CPN (Maoist), MJF and ethnic communities, with the exception of the Brahmin and Chhetri, and deflated the morale of the Nepali Congress and CPN (UML), which led to the crisis of confidence among the major political parties. A report in English of the dialogue session among the senior politicians organized by the National Peace Campaign (NPC) stated that:

> The senior leaders hold diverse views regarding the point in which a crisis of confidence began among political actors. One view stated that the process of eroding confidence among the political parties began before the elections of the Constituent Assembly, while views of others stated that it began after the elections. However, one senior leader satirically remarked that the Nepali Congress and the CPN (UML) are still not ready to accept their loss in the elections [means being demoralized], whereas the UCPN (Maoists) still cannot

internalize [means they are being over confident] that they actually won the elections to place them as the largest party in the Constituent Assembly.

(NPC, 2010)

These election results heightened underlying political and social tensions in Nepal, corresponding to Lyons's (2002) findings that suggest that elections, at times, deepen social tensions in emerging democracies. Whether elections are free and fair or not, they will always remain as a contentious matter in weak states; so was the case of Nepal in 2008. Although the Nepali Congress and the CPN (UML) could not accept the election results, they chose to move on and abide by the people's verdict. The international community, in particular the Carter Center at Emory University, immediately labeled the results of the Constituent Assembly elections as free and fair. However, "the Nepali Congress and CPN (UML) hold the perception," as an anonymous interviewee states, that "elections were not free and fair on the ground that people had psychological terror due to the presence of CPN (Maoist)'s People's Liberation Army (PLA) as they voted under the shadow of the PLA's arms." Here, this researcher notes that the country entered into the election process without agreeing upon the modalities of the integration and rehabilitation of the CPN (Maoist)'s People's Liberation Army. Nevertheless, the negotiation process for the agendas of statebuilding and peacebuilding began inside the Constituent Assembly amidst the deepening crisis of confidence between and among the larger political parties of Nepal.

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The crisis of confidence among the larger parties was a major setback in the negotiation process inside the Constituent Assembly. Recent literature recognizes that statebuilding involves a complex process of negotiation (see Paris & Sisk, 2009). The processes of negotiation for building a state may take several years as highlighted in the New Deal designed for an engagement in conflict-affected, weak or fragile states (see OECD, 2011a). The nature of the state is not static; it is instead dynamic, and the quality of a state is shaped by the negotiations and other interactions that take place within the society. In this way, statebuilding is the process of negotiation between state and society, where statebuilders are expected to follow the principles of negotiation to achieve the expected outcomes. Negotiation is dialogue between two or more parties in conflict and a type of communication often used or employed in conflict resolution in order to forge an agreement on contending issues between parties.

A negotiation strategy becomes necessary when the parties in conflict intend to acquire an agreement from the other party in order to attain its goal. In other words, according to I. William Zartman (1994, p. 15), negotiation is "a process of combining conflicting positions into a common position under a decision of rule of unanimity, a phenomenon in which the outcome is determined by the process." The term 'process' in negotiation describes the parties who are involved in the conflict, the context of these meetings, the tactics the parties employ during the negotiation process and the conditions of the defined implementation strategy (Fisher, Ury, & Patton, 1991). Theories of

negotiation share a common thread on the process aspect, but they differ on the description of the process. According to Roger Fisher, William Ury & Bruce Patton (1991), negotiation has three basic elements: *process* (the modality of negotiation adopted by the parties, including their tactics and strategies), *behavior* (the pattern of communication and relationships between the parties) and *substance* (issues or agendas of negotiations, basically whether they are positional or interest-based).

In the position-based negotiation, parties discuss only one issue; here, each party attempts to defend the validity of its own agenda, which is an example of a zero-sum game (ibid.). Interest-based negotiation, in which parties explore different options and discuss many agendas, is likely to result in a 'win-win' outcome (ibid.). In addition, Fisher, Ury & Patton (1991, pp. 15–94) mention the concept of 'principled negotiation,' which is based upon four principles: (a) separating the people from the problems; (b) focusing on interests, not on positions; (c) inventing options for mutual benefit; and (d) articulating objective criteria for talks. In addition, the parties in conflict are expected to be willing to sit in negotiations with a mutual desire to end the conflict. In order to achieve expected outcomes from the political process, I. William Zartman (1995, p. 18) suggests that the 3rd party intervener identify the "ripe moment" for a successful negotiation between the parties. The concept of "ripe moment" is driven by the perception of parties reaching "mutually hurting stalemate", which is basically a perception that neither side can win if examined from a cost-benefit analysis should the

conflict become protracted. The concept also suggests that the probability for conflict resolution is higher as it can be harmful to all sides if conflict is prolonged over time.

5.2   The Procedures of the Constituent Assembly

The context, process and procedure of negotiation of the 12-point Understanding, which the seven political parties and CPN (Maoist) signed with the good offices of India at the time of the King's absolute rule in Nepal; the Comprehensive Peace Accord (CPA), which the Government of Nepal and CPN (Maoist) signed in an open environment; and the agendas of statebuilding and peacebuilding, which multiple actors intended to negotiate in the Constituent Assembly are three different ventures. Negotiating a peace agreement, like that of the 12-point Understanding, and negotiating the contents of a new constitution are different processes and, therefore, Nicolas Haysom (2012, p. 893) recommends that, "a distinction should be drawn between peace negotiations for the purpose of agreeing constitutional reform on the one hand, and the constitutional negotiations themselves." Peace negotiations are often exclusive and carried out by a handful of people with the objective of bridging the transition to democracy and electing members of democratic institutions (ibid). However, negotiating the contents of a new constitution through a Constituent Assembly is an open and transparent process, typically carried out by multiple actors with a built-in question of *how* to arrive at a decision (ibid). In addition, the process of drafting a new constitution through the Constituent Assembly requires that the wider public is involved in every step so that the final product is owned by all (ibid.).

The frequently referenced example of participatory constitution-making cites the South African case, where a new constitution was promulgated through an elected parliament, that also functioned as a Constituent Assembly on the basis of pre-negotiated constitutional principles, "principles which enshrined basic guarantees for all groups, and thus pre-agreed certain outcomes of the transition" (Haysom, 2012, p. 889). In the context of Nepal, the country entered into the negotiation for a new constitution by the Constituent Assembly in the absence of pre-negotiated constitutional principles. The Constituent Assembly of Nepal, however, defined its own procedures of negotiation and involvement of the wider public in order to enhance participation and ownership of the people so that it would be seen as a legitimate document. Creation of thematic committees demonstrates such procedures that are expected to submit their consensus report for discussion, deliberation and adoption. The Committee on State Restructuring and Distribution of State Power was one such example; it had 43 members and was mandated to negotiate the model of federal structure. However, the Committee failed to reach a consensus agreement under the model of federalism, where a majority of members preferred 14-proviences, whereas members from the Nepali Congress signified the dissenting viewpoint with and thus proposed the 7-province model of federalism.

As per the constitutional provision in the Interim Constitution for decision-making, every article of the new constitution, including its preamble, required a two-thirds endorsement of the members present in the plenary during the time of voting. However,

the full house of the Constituent Assembly did not have the opportunity to discuss the disputed contents, in particular on federalism, in the plenary session. In addition to the disagreement on the model of federalism, there were more than three hundred disputed issues waiting for negotiation in the Constituent Assembly until May 2012. Instead of confronting these disputes, the Chair of the Constituent Assembly exercised his prerogative to introduce a new mechanism called the Sub-Committee on Dispute Resolution, a mechanism that denied the participation of the absolute majority of the members of the Constituent Assembly in the decision-making process. Neither the Interim Constitution nor the procedures of the Constituent Assembly had any reference or provision for the establishment of the Sub-Committee on Dispute Resolution. Pushpa Kamal Dahal, Chairman of UCPN (Maoist), a member of the Constituent Assembly, led the Dispute Resolution Sub-Committee that was made up of members from the different political parties represented in the Constituent Assembly.

Here, the power of the Chairman of the Constituent Assembly, who is also the Speaker of the Legislature-Parliament, deserves particular attention. In Chapter 3: "Conduct and Adjournment of Sitting of the Constituent Assembly" under Article 6: "Conduct of the Sitting and Adjournment," the power of the Chairman of the Constituent Assembly is defined. Under this section, which was passed by the full house, the Chairman had power to call for a house meeting or adjourn any proceeding for an indefinite time. The Chairman, indeed, exercised this power during the last hours of the Constituent Assembly in May 2012, in spite of the members' desperate attempts to

conduct the plenary session of the house. Based on the power vested in him through the following provisions of the Rules and Procedures of the Constituent Assembly (2008), cited from the English version, as per Article 6: "Conduct of the Sitting and Adjournment" in Chapter 3: "Conduct and Adjournment of Sitting of the Constituent Assembly," the Chairman deemed it appropriate to shut down the Constituent Assembly without having a last plenary session:

(1) Subject to these Rules, a Sitting of the Constituent Assembly shall take place on days fixed by the Chairperson, in consideration of the workload of the Constituent Assembly.

(2) Unless ordered otherwise by the Chairperson, a Sitting of the Constituent Assembly shall commence at 11.00 am and adjourn at 5.00 pm.

(3) In case there is a change in the date, time and program of a Sitting for any reason, notice of the same shall be posted on the notice board of the Constituent Assembly, including explanation for the change. Having posted the notice in this way, it shall be deemed that all members have been duly notified of the change.

(4) The Chairperson shall announce the commencement and adjournment of each Sitting.

(5) Officials of all parties representing to in the Constituent Assembly shall cooperate in the conduct of the Constituent Assembly Sitting.

(Constituent Assembly, 2008, pp. 5–6)

The Interim Constitution defines the decision-making procedure of a new constitution, which requires, if the efforts for consensus fail, a two-thirds majority from the members present in the proceedings of the Constituent Assembly. The Rules and Procedures of the Constituent Assembly further define the decision-making process in the Chapter 7: "Methods of Decision-Making in the Assembly," but also further empower the Chairman:

> Article 40. Deciding through Questions: The Chairperson shall, while submitting a motion under consideration of the Constituent Assembly for decision, submit it in the form of a question.

> Article 41. Methods of Submitting a Question for Decision: (1) Once the discussion on a motion is over, the Chairperson shall present questions one by one, asking members who support the motion to audibly say "Yes"; those who oppose the motion to say "No", and those who prefer to remain neutral to say "abstain from voting".

> (Constituent Assembly, 2008, pp. 24–25)

This researcher has not found any provision in the rules and procedures of the Constituent Assembly that would allow the 601 members to call for a plenary session of the full house. Ultimately, the consciences of the 601 members remain in the hands of the Chairman. In addition to the above power designated to the house, Articles 167 and 168

in Chapter 19: "Miscellaneous" further empowers the Chairman of the Constituent Assembly by defining his responsibilities and mandate:

Article 167: Power to Remove Difficulties: In case any difficulty arises while working in accordance with these Rules, the Chairperson may, in consultation with the Conduct of Business Advisory Committee, remove such difficulty having made necessary and appropriate provisions for it.

Article 168: Interpretation of These Rules: The Chairperson shall have powers to interpret these Rules, and his/her decision shall be final.

(Constituent Assembly, 2008, pp. 91–92)

Article 34(g): Except speaking on the motion that any decision of the Assembly or of the Chairperson be invalidated, no one must criticize the decision of the Assembly or the Chairperson.

(Constituent Assembly, 2008, p. 21)

As the above demonstrates, the Chairman is very powerful. The Sub-Committee on Dispute Resolution, which was established by the Chairman based on his mandate granted by Article 65(8) and Article 89 of the Rules and Procedures of the Constituent

Assembly, failed to reach a consensus pertaining to the model of federalism, despite its success in settling other issues.

Article 65(8): The Constitutional Committee ~~may~~, having specified the works to be carried out for performing certain function[s] under its responsibility and the time duration required for it, [may] form taskforces or sub-committees as may be required.

(Constituent Assembly, 2008, p. 36)

Article 89: Other Committees may be formed: Notwithstanding anything contained elsewhere in this Chapter, the Chairperson may, with the consent of the Assembly, form Committee in other nature as may be necessary for assisting in the functions of the Constituent Assembly in addition to the committees referred to in this Chapter and determine the working areas of such a Committee.

(Constituent Assembly, 2008, p. 54)

Finally, the major political parties agreed to establish a Commission on State Restructuring in early 2012, as per the provision of the Interim Constitution, in order to recommend a model of federalism to the Constituent Assembly. The ethnic communities, in particular the Madhesi and Adivasi Janajati, expressed a dissenting viewpoint and

argued that the proposed Commission had no relevance on the ground that the State Restructuring Commission of the Constituent Assembly had already made a decision on the model of federalism by a majority vote. Nevertheless, consent was given to establish the Commission, which came into existence with the representation of the UCPN (Maoist), Nepali Congress, CPN (UML) and UDMF. The Commission worked for a couple of months. But eventually failed to reach consensus on a single model of federalism. It submitted a report to the Prime Minister with two different models of federalism, one by the majority members, and the other by the minority. The majority of members proposed a 10-province model with a non-territorial state for the Dalits; whereas the minority members proposed a 6-province model.

The larger political parties were cleaver enough to introduce a whip system through parliamentary procedures, but that is also applicable to the writing process of a new constitution, in order to control the functioning of the Constituent Assembly. Each political party had their guiding principles and manifesto in the parliament that regulated the functioning of their own members in the parliament and Constituent Assembly. Additionally, the whip system was introduced through the parliamentary process, but was also applicable for the business of the Constituent Assembly. In theory, the whip allows the larger political parties to monitor, regulate and control their members in the Constituent Assembly by defining what can be said, recorded and negotiated on behalf of their respective political parties. If the members of these political parties cross the party line and go beyond the official decision of the political party, then the members are

subject to disciplinary action. In principle, the members of the Constituent Assembly were expected to express and exercise their free will and conscience while discussing and negotiating the contents of a new constitution inside the Constituent Assembly.

5.3   Negotiation outside of the Constituent Assembly

At stated before, in the political history of Nepal, the decision-making process is elite-driven and the designing of the Comprehensive Peace Accord (CPA) was not an exception to this rule. This common thread continued into the drafting of the Interim Constitution 2007 and also the negotiating of the Constituent Assembly. The desire of the common people to participate in the decision-making process of a new constitution still remained a distant dream, as captured by the removal of the 601 members of the Constituent Assembly from the process, as the senior politicians, who often control the process and outcomes, negotiated the contents of a new constitution outside the premises of Constituent Assembly.

Sometimes, foreign actors support elite-driven decision making, as is visible through the outsider-sponsored pleasure trips for senior Nepalese politicians. By doing so, foreign actors attempt to control the process and impose their agendas on Nepal. Many of these trips are organized by the Swiss Ministry of Foreign Affairs; the last few, specifically in early 2011 and March 2012, became public knowledge. The Swiss-sponsored pleasure trips for the Nepalese politicians in early 2011 remain highly controversial in Nepal's political discourse, as it intended to negotiate the system of governance in Nepal by way

of foreign mediators (see Kantipur Correspondent, 2012a). In a similar vein concerning the process inside the country, Mr. Laxman Lal Karna, a member of the Constituent Assembly and the Sub-committee on Dispute Resolution, discusses his experience in the decision-making process in an interview with an international non-governmental organization:

> Constitution writing in Nepal is, by the rules, very participatory but it ended up very different in practice. Major issues such as which system of government, federal design and the electoral system were left to leaders to decide, effectively bypassing the Constituent Assembly members. The informal High Level Task Force (including Chairs of all political parties in the CA) failed to make any decision on contested issues. This meant that participation was narrowed down to three major political parties, and the United Democratic Madhesi Front (UDMF) was included only later. So, only four parties were making decisions on all major constitutional issues. On top of that, the decision on federal design was taken by just three major parties and the UDMF was excluded. How can such decisions be taken without the participation of the proponents of federalism who are the Madhesi and Indigenous People?

> (Karna, 2012)

The senior political leaders from the major political parties – the UCPN (Maoist), Nepali Congress, CPN (UML) and in a later stage, the UDMF – began to negotiate contentious

issues in the process of drafting a new constitution. These negotiations occurred outside of the premises of the Constituent Assembly, however, and were often facilitated by foreign actors. Although the Constituent Assembly had representation of more than twenty-five political parties, not all of those parties had representation in the negotiations if, in fact, they took place outside of the Constituent Assembly. The negotiations outside the premises of the Constituent Assembly focused on the highly contentious issue of federalism. The negotiators from the Nepali Congress and the CPN (UML) held different positions on the system of governance and on the judiciary system in order to trade-off with the model of federalism while they negotiated with the UCPN (Maoist). They inherently held different positions and used these contradictions to facilitate negotiations. On May 15, 2012, the senior leaders of the UCPN (Maoist), the Nepali Congress and the CPN (UML), signed an agreement on the federal model with 11-proviences, which included an agreement on the judiciary system and mix-model system of governance.

In order to assert their demands, the members of the Constituent Assembly began to organize themselves through Caucuses. These included (1) the ethnic and indigenous nationalities, (2) women, (3) the Marwari, (4) the Madhesi, (5) the Dalits, and (6) Muslims. In other words, the Assembly was divided along lines of geography, gender, ethnicity, language and caste. The Ethnic and Indigenous Caucus vocally criticized the decision of May 15, 2012, that accepted the 11-provience model of federalism. Instead, the groups demanded to adopt either the 14-provience model agreed upon by the Committee on State Restructuring and Distribution of State Power or the model proposed

by the State Restructuring Commission, passed by majority votes in both cases. Naming province remained a contentious issue. Below is an excerpt from an English report of a dialogue held on March 24-25, 2012, by the National Peace Campaign:

> Naming of provinces has become a contentious issue in the process of federalization on the ground that certain names proposed by the State Restructuring Committee of the Constituent Assembly and State Restructuring Commission may give the flavor of a particular ethnic identity. Although naming of [a] province may give a sense of empowerment to a particular ethnic community, the concerns are that it may provoke ethnic conflict in the future as the other communities may not have sense of belonging in the province named with privileging certain identity groups.

> (NPC, 2012)

A fundamental difference between internal and external peacebuilding interventions is the magnitude and impact that violent conflict can have in each of them. To be precise, a return to violence directly affects the lives of the internal peacebuilders. Oftentimes, internal peacebuilders, active in non-governmental organizations, become deeply engaged on a personal level as they organize and facilitate informal dialogues for the senior politicians and design problem-solving workshops. Informal dialogues are intended to build trust through dialogue between influential political elites and are

facilitated by a third party (Burton & Dukes, 1990; Burton, 1993; Kelman, 1990). Problem-solving workshops are intended to be unofficial, held at a neutral venue, and are considered to be of low-risk in that they are removed from the public and media so that participants can build more honest relationships (ibid.). It should be noted that problem-solving workshop are not negotiation sessions. Instead, they are intensive meetings between unofficial representatives of parties in conflict who hold political influence (Kelman, 1990). The third party designs the structure of these workshops and the outcomes may be transferred to policy processes.

To the surprise of ethnic communities, the Brahmin and Chhetri communities went to the streets in protest of the federal model based on ethnicity decided by the majority votes in the Committee on State Restructuring and Distribution of State Power of the Constituent Assembly and the State Restructuring Commission. Both models decided by these two institutions named the provinces along ethnic lines – and the names reflected a particular ethnic community. The unfolding political scenario impacted not only the marginalized communities, but also the Brahmin and Chhetri, who launched peaceful protests against the models of federalism in different parts of the country (Khadka, 2013; Paudel, 2013). The territorial debate, while discussing the delineation of would-be provinces remains intense, particularly in Chitwan (central part of the country) and in the far-west region. The Brahmin and Chhetri remained assertive in the far-west region, with the demand that the region must remain undivided while restructuring the state in a federal set-up.

In both models passed by majority vote, the far-west region of the country was divided into different provinces. Brahmin and Chhetri demands were not limited to the model of federalism, however; they demanded indigenous status for their communities in the constitution. The Government of Nepal invited the Brahmin and Chhetri communities for negotiation and agreed to frame both communities as indigenous nationalities, an agreement which the Adivasi Janijati protested (Post Report, 2012b). Meanwhile, according to a news report, the Madhesi and Adivasi Janajati forged an alliance and submitted a memorandum signed by 467 members of Constituent Assembly belonging to different ethnic communities and submitted it to the Coordinator of the Sub-Committee on Dispute Resolution (see BC, 2012). In fact, the newspaper posted a copy of this document.

The alliance of the Madhesi and Adivasi Janajati demanded nullification of the decisions of the political parties of May 15, 2012 on the federal model, on the grounds that the decision "has ignored and undermined the needs and expectations of marginalized ethnic communities belonging to the Adivasi Janajati, Madhesi, Dalits, Women and Muslims who have gone through exploitation historically perpetuated by the ethnic, linguistic, cultural, political and economic systems" (see BC, 2012). When considering the ethnic composition of the Constituent Assembly, the representation and participation of ethnic communities in the Assembly mirrors the total population as stated by the Census. If these communities acted on their own, they maintained their own

individual strength that captures the balance of power between the ethnic communities. However, if two or more communities decided to make an alliance with the objective of asserting their shared goals, then, they became capable of distorting the balance of power that existed in the Constituent Assembly. This was one of the cases when the Madhesi and Adivasi Janajatis forged the alliance with the objective of asserting names of federal provinces based on a single ethnic identity (ibid.).

5.4   Politics of the Judiciary

The Constituent Assembly of Nepal was a sovereign and democratic institution, elected by popular vote of the people, a product of political negotiations, a part of the peace process, and a mechanism to define state-society relations in the changed political context. The Interim Constitution allocated two years for writing a new constitution, which received an extension until May 27, 2012, through the constitutional amendments agreed by the Legislature-Parliament. The extension was necessary, as the Assembly could not finish its business by the original deadline. Although the Constituent Assembly had only two-year period, starting from its first session in May 2008, the time was extended by another two years through the amendment of Article 64 of the Interim Constitution. The elected representatives of the people made this political decision. Any other decision that intended to limit the power of the parliament was, in this researcher's opinion, an act of denying the people's participation in politics and in the decision-making process. Hence, the decision of the Supreme Court not to extend the tenure of the

Constituent Assembly of Nepal was even criticized by legal practitioners, including the judges (see Khadga, 2012).

After this, the Supreme Court of Nepal entered into politics, first warning the legislature-parliament not to extend the time of the Constituent Assembly beyond May 27, 2012. By early May 2012, the realization came about that the Constituent Assembly could not possibly complete its business by May 27, 2012; so, the Government of Nepal tabled a bill in the legislature-parliament in order to extend the time of the Constituent Assembly beyond May 27, 2012. Next, the Supreme Court (see The Supreme Court, 2012a) issued a strong order (verdict) on May 24, 2012, stating that the Government of Nepal did not have the authority to table a bill for an extension and labeled the effort of the Government as an example of contempt of court. Thus, the Supreme Court of Nepal asked the Prime Minister and Home Minister to be present for the defense against these charges (see The Supreme Court, 2012b). Not surprisingly, the Supreme Court of Nepal issued three verdicts in different time frames, all of which were contradictory, in regard to the tenure of the Constituent Assembly. Ironically, the Chief Justice defended the verdicts in an interview with a daily paper, stating that they were not at all contradictory (see R. B. Rawal, 2012b). Nevertheless, still the decision of the Supreme Court remains controversial in the political discourse of the country. In fact, a senior leader of the Nepali Congress shared the following with this researcher on the condition of anonymity:

The Supreme Court of Nepal took decisions and issued verdicts based on the slogans and propaganda displayed in the streets. The Supreme Court failed to grasp the complexities of the political context and situations. The Supreme Court took decisions based on sentiment, but not on rationality.

A younger politician from the CPN (UML) holds a similar view that he shared with this researcher on the condition of anonymity:

The decision of the Supreme Court is irrational. The Chief Justice of the Supreme Court, Mr Khil Raj Regmi, first created the political and constitutional vacuum and now he is playing games within that vacuum. The person being the Chief Justice and now becoming the Chairman of the cabinet in the name of conducting the elections of the Constituent Assembly for the second time is absolutely against democratic norms, values and practices as well as against the principles of checks and balances of power.

An excerpt taken from a newspaper article written by a political analyst also coincides with the views expressed by the politicians:

It is a well-known fact that a new constitution could not be promulgated as the political parties failed to make a decision on the model of federalism. The strategy of ultra-ethnics who took the Constituent Assembly into bondage is the

contributing factor for the collapse of the Constituent Assembly. The Supreme

Court issued a verdict preventing further extension of the time of the Constituent

Assembly about six months ago, which repeated its decision ordering the

concerned stakeholders to refrain from the exercise of extending the time of the

Constituent Assembly beyond May 27, 2012. As a result, the Constituent

Assembly collapsed and the country entered into disorder. Although it may

suggest that the unfolding political events allowed the-then Prime Minister

Baburam Bhattarai to remain in power, it, after all, opened the door for the Chief

Justice of the Supreme Court, Khilraj Regmi, occupy the office of the Prime

Minister as the Chairman of the Cabinet.

(S. A. Gautam, 2013b translated by this researcher)

Following the order of the Supreme Court, the legislature-parliament of Nepal was

unable to extend the time of Constituent Assembly beyond May 27, 2012. The charge of

"contempt of court" has become a strong weapon for the Supreme Court that can affect

any Nepali, irrespective of life strata, including writers and media organizations. In

November 2011, a group of judges, under the leadership of Chief Justice Khil Raj Regmi,

made the decision not to extend the time of the Constituent Assembly beyond May 27,

2012 (see The Supreme Court, 2011). After a couple of weeks, the Chief Justice

expressed his self-criticism and regrets, as reported by a daily newspaper, on his decision

to end the time of Constituent Assembly on the ground that he did not imagine that a

political and constitutional vacuum would emerge (see R. B. Rawal, 2012b; see RSS, 2012b).

Public regret from the Chief Justice continues even today, Rajendra Phuyal (2013) reports, adding that there are many analysts who are of the view that the Constituent Assembly collapsed due to the verdicts of the Supreme Court. The Supreme Court had a long tradition, in particular after 1990, of entering into politics following a verdict of Chief Justice Biswonath Upadhyaya, who reinstated the dissolved parliament. In mid-1990, the-then Prime Minister Manmohan Adhikari, who led a minority government formed by the CPN (UML) as per the provision in the Constitution of the Kingdom of Nepal 1991, dissolved the parliament in order to seek a fresh mandate from the people. Prime Minister Manomohan Adhikari still maintains his stance that he dissolved the parliament according to a provision in the Constitution. However, the Chief Justice reinterpreted the provision of the Constitution, stating that the minority government cannot dissolve the parliament.

The verdicts of the Supreme Court limited the authority and mandate of the Legislature-Parliament, thus symbolizing the rise of illiberal institutions, which resembles Fareed Zakaria's (2003) theorization on illiberal democracy that explores the dark side of democratic practice and processes. The political journey of the Supreme Court does not stop here, however, and continues beyond the collapse of the Constituent Assembly. First, the Chief Justice of the Supreme Court, Mr Khil Prasad Regmi, denied

the time extension for the Constituent Assembly. Second, he agreed to lead an election government as the Chairman of the Cabinet without resigning from the post of Chief Justice. In other words, the judiciary took charge of the executive branch, ignoring the principles of checks and balances of power, which the Nepal Bar Association now calls a black day in the judicial history of Nepal (D. Gautam, 2013). Upon the collapse of the Constituent Assembly, the major political parties – the UCPN (Maoist), Nepali Congress, CPN (UML) and the UMDF – decided to hold elections for a new Constituent Assembly for the second time in order to complete the task of writing a new constitution under the leadership of the Chief Justice. In order to do so, it required the amendment of two-dozen Articles within the Interim Constitution through the activation of Article 158 of the Interim Constitution that mandates the President to remove difficulties:

> Article 158 : Power to remove difficulties: If any difficulty arises in connection with the implementation of this Constitution, the President may on the recommendation of the Council of Ministers, issue any orders to remove such difficulty; and such orders shall have to be ratified by the Legislature Parliament within one month.

> (The Interim Constitution of Nepal, 2010)

Indeed, the President of Nepal did so and also amended two dozen Articles of the Interim Constitution. The appointment of the Chief Justice as the Chairman of the Cabinet and

the process of amending the constitution by Presidential order still remain as two of the most controversial acts in the political process. Former Chief Justice Min Bahadur Rayamajhi and Supreme Court Justice Bala Ram KC have commented on the issue of removing obstacles in order to maintain dynamics of the Constitution in interviews with the local media:

Sometimes the enactment of the provision to remove difficulties becomes necessary. But, the exercise of removing the difficulties is not about changing the spirit of the constitution. The provision of removing difficulties is meant, and is absolutely necessary and required, in order to maintain the dynamic characteristics of the constitution. There could be other models as well for the removal of difficulties. All sorts of decisions that are made in the name of removing difficulties would destroy the principle of balance of power. Such a procedure was criticized in public. However, the four political parties come to a consensus to do so.

(Rayamajhi, 2013 translated by this researcher)

The manner in which 25 Articles of the Constitution have been amended has violated the Constitution. The sitting Chief Justice, in collaboration with the leaders of four political parties, resorted to the exercise of Article 158, creating an environment that has decreased the trust and faith of citizens towards the

Constitution and the Judiciary. The sitting Chief Justice was attracted to the post of Chairman of the Cabinet. If he was so desperate to become the head of the Government, he should have the courage to publicly state that he would resign from the post of Chief Justice before becoming the Chairman of the Cabinet. Sadly, he could not demonstrate such a morality.

(KC, 2013 translated by this researcher)

On the one hand, the above decision by the four parties indicates their inability to engage in politics, while on the other hand, it signifies a self-imposed condition for removal and denial of political actors from the decision-making process. This researcher does not have any doubt that the Chief Justice, who is currently leading the transitional government as the Chairman of the Cabinet, fully understands the Interim Constitution, in particular the ratification of the constitutional amendments by the parliament within a month. Interestingly, there is no parliament – a fact with which the Chief Justice is comfortable – as there is no need to ratify the amendments of the Interim Constitutions! This researcher wonders, however, whether the Chief Justice perceives the political actors as too incompetent to perform their tasks, and thus, chooses to take charge of the political process. This researcher is of the view that it is up to the elected representatives to decide the life and death of the Constituent Assembly. If the Constituent Assembly collapses without promulgating a new constitution, it must be for political reasons, not because of legal or any other reasons.

With respect to the decision of the Supreme Court, the parliament could not amend Article 64 and thus the Constituent Assembly collapsed on May 28th 2012, following the verdicts of the Supreme Court. The collapse of the Constituent Assembly marks not only the end of democratic practices as the legislature-parliament collapsed along with the Constituent Assembly, but also questions the legitimacy of each and every institution of the state and, once again, denies the participation of 601 Constituent Assembly members in the decision-making process. To recap, the discussions of the above sections focus on (1) the procedures of the Constituent Assembly, (2) the negotiation process taking place outside of the Constituent Assembly, and (3) the politics of the judiciary. In addition, the major ethnic communities, including the Brahmin and Chhetri, chose to engage in resistance movements against the decision-making process controlled by a couple of senior politicians representing the larger political parties.

5.5   The Foreign Interventions

In his study *Aiding Violence: The Development Enterprise in Rwanda,* Peter Uvin (1998) explores the inter-linkage between development cooperation and conflict in the developing world. Uvin highlights how financial support, foreign expertise in the form of human resources and technical cooperation provided by foreign donors and the international community to the local governmental and non-governmental institutions can play a detrimental role in shaping the social and political processes that are capable of creating conflicts in the society in which foreign actors are intervening. Studying Rwanda

in the context of genocide, Uvin asks whether there was something missing or lacking in the "definition of development, and the indicators we use to measure it, that makes us blind to the social, political, and ethnic forces" (Uvin, 1998, p. 2). This finding is significantly relevant to the context of Nepal as well, where foreign interventions in different forms have become norms that dictate the local politics as the country's geographic location holds strategic importance for world powers:

> In recent months, however, a strategic impasse resulting from a political logjam between Maoists and rival parties has created a situation where the young republic has become a playground for competing intelligence agencies vying for a foothold in the politics of the fledgling democracy. Sharpened by India's political rivalry with neighboring China and Pakistan, and of critical importance to Washington in its complex relationship with Beijing, Nepal has suddenly acquired what some describe as a permissive security environment.

> (C. L. Hogg, 2010, p. 29)

Unfortunately, any discussion on foreign interventions remains a forbidden topic for the policy makers of Nepal:

> The debates on foreign interference in Nepal's internal affairs are so deep and intense that there are hardly any sectors left untouched by it in Nepal. However,

no one, including the political leaders who keep harping on the issues of patriotism and nationality, has dared speak out in public against the kind of interference and unwarranted foreign interventions Nepal faces from foreign elements.

(K. R. Koirala, 2013b, p. 13)

It is obvious that Nepal is a weak state affected by armed conflict and depends on foreign funding for development. The annual budget of the country depends heavily on foreign funding, and that such funding becomes a contributing factor in the creation of conflict processes once it is channeled through social forces, ethnic identity groups and non-governmental institutions, is inherent in Nepal's politics. According to an annual report published by the Ministry of Finance, the following are the top ten donors in fiscal year 2010-2011 that support Nepal's economic and institutional development:

The top five multilaterals are the World Bank Group (US$ 256.1 million), the Asian Development Bank (US$ 184.4 million), the United Nations Country Team (US$ 112.5 million), the European Union (US$ 42.4 million) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (US$ 19 million). The top five bilateral donors in Nepal for the 2010-11 fiscal year are the United Kingdom (US$ 92.1 million), Japan (US$ 58.7 million), India (US$ 50.7 million), the United States (US$ 48.5 million) and Norway (US$ 32.8 million).

The focus of the research in relation to this researcher's second hypothesis is on foreign intervention as a causal factor leading to the failure of negotiation on the agendas of statebuilding and peacebuilding and the collapse of the Constituent Assembly in May 2012 in Nepal. Again, this is one of the two guiding hypotheses of the research, focusing particularly on how foreign interventions have intended to change power relations in Nepalese society. A general perception is that the Brahmin and Chhetri (Angle 1 of a triangle relation between the communities) communities, which practice the Hindu religion, control state power historically as well as dominate the society, although state power was controlled by the monarchy under the dictatorship until May 2006 in one form or another. Until May 2012, a general perception was that the Adivasi Janajati (Angle 2 of a triangle relation between the communities) supported the existing power relations dominated by the Brahmin and Chhetri. The undeclared alliance of Brahmin/Chhetri and Adivasi Janajati is known as *Pahade* (people of hill origin) and controls the state power to dominate the society, as the Madhesi (Angle 3 of a triangle relation between the communities) community projects the rule of the *Pahade* community.

However, the Adivasi Janajati and Madhesi engaged in resistance movements during the democratic transitions in 1951, 1990 and 2006 to demand social and political change. Interestingly, the Adivasi Janajati (Angle 2) and Madehsi (Angle 3) forged a declared

alliance in May 2012, with the objective of garnering a two-thirds majority vote in the Constituent Assembly to adopt an ethnic-based system of federalism. This is a shift in the power dynamics and power relations, which can be attributed to the composition of the Constituent Assembly as it reflected the structure of Nepalese society. However, the Brahmin and Chhetri are formed on their stance along the lines of two larger political parties: (a) the Nepali Congress and (b) CPN (UML), that are against federalization of the state along ethnic identity lines. The changing power relations pose a serious threat to the Brahmin and Chhetri communities, as the results of the interviews in Chapter 4 further reinforce a predilection for ethnic federalism. Therefore, the Brahimn and Chhetri communities took to the streets in April-May 2012 to protest against ethnic federalism, which became a primary factor in the failure of negotiations and the collapse of the Constituent Assembly, as political leadership was unable to address the demands of agitated ethnic communities.

Of course, the shifts in the power relations and power dynamics in Nepalese society have been due partly to the foreign funding made available to ethnic and religious actors. It is necessary to define foreign interventions (non-military) in terms of financial assistance that support conflict processes and come with the conditions and political influence that foreign actors impose on the national political leaders with the intention of removing the local actors from politics. The financial support to Nepal does not come in a plain envelope – on the one hand the donors impose a number of conditions the recipients have to meet while; on the other hand, they exert an influence on the political processes

in the society in which intervention is occurring. In order to begin intervention in a country in Nepal's context, the donors create the discourse of exclusion, "unequal citizens", generating exploitation and domination through commissioning studies, research and reports by hiring foreign experts. An example of such a discourse is the study on *Unequal Citizens: Gender, Caste and Ethnic Exclusion in Nepal*: *Summary*, commissioned by the World Bank and Britain's Department for International Development (DFID) that reframes the social and political relations in the country through projecting the images of perpetrators and victims:

> However, the dominant order has remained largely confined to male Brahmans (Bahuns) and Kshatriyas (Thakuris and Chhetris) from the traditionally influential *Parbatiya* or Hill Hindu group, and the urban-based and generally well-educated Newars. The democratic transition failed to deliver on the promise of an inclusive polity mainly because, like most institutions in Nepal, the political parties continued to operate on the basis of deeply embedded and mutually reinforcing feudal, caste and patriarchal norms and networks–and were thus unable to represent and articulate the demands of all Nepalis. Those left at the margins were women; the "tribal" indigenous ethnic groups, the *Adivasi Janajatis* or "indigenous nationalities"; and the formerly "untouchable" castes now calling themselves Dalits ("oppressed", "broken" or "crushed"). Muslims, who have high poverty levels, and the plains dwellers or *Madhesis*, who have substantial

numbers but are largely excluded from political influence, are also on the margins.

<div style="text-align: right">(The World Bank & DFID, 2006, p. 3)</div>

Foucault (2002) says that languages are not neutral and, therefore, they must be analyzed. The above statement frames the Hindu religion as practiced by the Brahmin and Chhetri as the source of all evil in Nepal, where the Brahmin and Chhetri are projected as the perpetrators, whereas the marginalized communities are projected as the victims. The foreign donors, who largely practice Christianity, go on to create the discourse of 'liberation' in which they project themselves as the 'liberators' of the victims from the injustices inflicted by the Hindu religion practiced by Brahmin and Chhetri communities in Nepalese society. This discourse of liberation is also grounded in the history of the West and the injustice that they have inflicted upon their own indigenous populations in the process of statebuilding, the regrets of which they wish to atone for through the liberation of victims in weak states. Once the foreign actors develop the discourse of liberation, they then need to implement it, which they do so through developing or adopting the discourse of revenge. This concept is articulated by Krishna Bhattachan, an academician turned activist who belongs to the Adivasi Janajati community:

One wonders how Bahun-Chhetris would respond if they were suppressed and oppressed like "low" caste and non-caste ethnic groups for centuries?

Bhattachan's articulation indicates that the only way of getting justice to the victims in the Adivasi Janajati, Madhesi and Dalit communities is to take revenge against the Brahmin and Chhetri for the same duration they have "suppressed and oppressed" the others throughout history. He sets a propagandist tone readily available for the community he belongs to if needed for the armed struggles against the Brahmin and Chhetri, which is, by definition, struggles also against the Hindu religion. The Interim Constitution of 2007 declared Nepal to be a secular state; however, foreign actors still attempt to religiously undermine local people through the use of financial resources or other means. As some critics also note, religious conversion is in the interest of the European and American donors so as to alter power relations in Nepalese society.

If the discourse of the foreign actors is that Hinduism is the bridging factor between the power and the State (both of which are controlled by the Brahmin and Chhetri), then the first strategy of the foreign actors is to destroy or defame the Hindu religion through different means. These alternative means include religious conversion and offering financial resources to social movements as well as ethnic political movements in Nepal. Therefore, Annirudh Gautam (2012c), a well-known political analyst and columnist, argues that the foreign funding also has the objective of converting Hindus to Christians. Religious conversion is undoubtedly at a higher rate, as the 2001 census counts Christians

as 0.44% (101,976) of the total population and the 2011 census confirms Christians to be 1.4% (375,699), highlighting a substantial increase of Christians in Nepal (see CBS, 2001, 2013). Religious conversion of 1% within a time frame of 10 years looks like a great achievement for those who are engaged in such a practice. Moreover, certain European and American non-governmental organizations are active in religious conversion to Christianity. According to Vijaya Devkota, the international non-governmental organizations are backed by the foreign donors and are highly active in religious conversion in Nepal:

> No non-governmental organization (NGO) can indulge in promotion of religions in Nepal despite being a secular state. But many INGOs are spending tens of millions of rupees in promotion of Christianity against the agreement with the government … International Nepal Fellowship (INF), Leprosy Mission Nepal, Mennonite Central Committee Nepal, The Lutheran World Federation, United Mission to Nepal and World Vision International are openly active in promotion of Christianity in Nepal and are spending tens of millions of rupees every year on conversion. Altogether 270 INGOs have been registered with the Social Welfare Council (SWC) and the monitoring mechanism is ineffective despite a majority of the INGOs acting irresponsibly and without maintaining financial transparency. SWC officials concede the INGOs could not be punished due to the pressure of donors … The SWC had recently blacklisted 48 INGOs and initiated action against them due to lack of transparency in their activities. The INGOs have been

found to have misappropriated billions of rupees and most of them have been unilaterally preparing expenditure details without national and social audit, according to SWC.

(Devkota, 2013)

In a secular state where the Interim Constitution has guaranteed religious freedom, people are free to adopt a religion of their choice. However, conversion becomes problematic if it is encouraged by luring people financially, the main targets of which are people from marginalized and Dalits communities. The discrimination based on caste hierarchy and political affiliation of which the Dalits and the Adivasi and Janajati are the prime victims, respectively, in addition to the existence of rampant poverty throughout the country, has become a breeding ground for the Western institutions to engage in the act of religious conversion. However, Mr. K. B. Rokaya, the General Secretary of the National Council of Churches of Nepal (NCCN) and a Member of the National Human Rights Commission of Nepal (NHRC), critiques the arguments that local Nepalese are being converted by economic allurement or other means. When asked by a journalist whether Christians are converting other people in Nepal by giving money, Rokaya attempts to defend Christian operations in Nepal:

This is not true. No one can be converted to Christianity by giving money or providing any other material or non-material benefits. But there are certainly

exceptions to this. Some people might have embraced Christianity for certain personal gains or some Christians might have offered certain incentives to convert others to Christianity. Definitely, as in all religions, there are always certain people who do business in the name of religion and who misuse religion for political or material gains.

(Rokaya, 2012)

However, in a different tone, a statement by a Nepalese political analyst questions the need for declaring the state as secular:

In a similar way, the issue of religion has critically surfaced in the political discourse of the country. Indeed, the restored parliament declared the country as a secular state without any discussion and consultation with the stakeholders. What is religious secularism, where did it come from, and whose agenda does it represent? No one had systematically voiced for declaring the state as religiously secular, except for the promoters of Christian missionaries and a handful of people supported by those missionaries. Why such a declaration when it was not demanded, and with whose support and in order to please whom? These questions are increasingly being asked throughout the country. Therefore, the issue of religion needs to be settled through referendum, not through a political negotiation.

The analysis presented by this political analyst can be interpreted as Hindus reasserting their religious identity after it had been threatened internally and externally. This certainly seems likely, as Nepal is a country where more than 80 percent of the population belongs to the Hindu religion. Religions are part of civilizations and may clash in the practice of *Realpolitik*, as Samuel P. Huntington (2003) articulates. Huntington also conceptualizes religion as a static element of social identity, asserting that religion is becoming a source of conflict as well as a source of bondage between civilizations beyond borders (see Huntington, 2003). Since identities do not have boundaries and are not hindered by borders, the support to ethnic political movements is often generated through the well-wishers from abroad reflecting Edward Azar's (1990) articulation of four variables as preconditions of Protracted Social Conflict (PSC). Most relevant to Nepal's case is the variable of international linkages of social identities, which allow the movement of goods and ideas across state borders. As discussed in different sections, the ethnic communities in Nepal enjoy support from India, Europe and America for their resistance movements. Therefore, the foreign support to certain ethnic communities in Nepal, in particular the Adivasi Janajati, Madhesi and Dalits (untouchables) goes well with Huntington's theory on the clash of civilizations that goes beyond the border of any particular state:

In the post–Cold War world, multiple communal conflicts have superseded the single superpower conflict. When these communal conflicts involve groups from different civilizations, they tend to expand and to escalate. As the conflict becomes more intense, each side attempts to rally support from countries and groups belonging to its civilization. Support in one form or another, official or unofficial, overt or covert, material, human, diplomatic, financial, symbolic, or military, is always forthcoming from one or more kin countries or groups. The longer a fault line conflict continues the more kin countries are likely to become involved in supporting, constraining, and mediating roles. As a result of this "kin-country syndrome," fault line conflicts have a much higher potential for escalation than do intracivilizational conflicts and usually require intercivilizational cooperation to contain and end them. In contrast to the Cold War, conflict does not flow down from above, it bubbles up from below.

(Huntington, 2003, p. 272)

The support from European and American institutions does indeed promote inter-civilizational conflicts, which are also happening in the form of religious conversion in Nepal towards Christianity. Westerners are not supporting the ethnic communities in Nepal because they love them, but because Westerners see the victimized community as a prime target and entry point for their intervention, which begins in the name of religious freedom and may end with meeting their political interests. What would be the definitive

objective of a Western state to promote Christianity and support ethnic politics is a matter of further research. However, Europeans and Americans are of the view that they are targeting political destabilization in Tibet, an autonomous region of China, through the penetration in Adivasi Janajati in Nepal, a group that shares a common racial background with Tibetans.

The second strategy of the donors is to create a dishonest discourse with local institutions stating that they are incapable of doing in-country business, which serves as the pretext of bringing their own institutions into Nepalese society. This resembles Francis Fukuyama's (2009) prescription for exporting institutions of good governance and Stephen D. Krasner's (2007) recommendation for constructing institutions by foreign actors in the weak, conflict-affected or fragile states. Such a practice has often remained as a matter of concern for the critics of the liberal peace paradigm in reference to the perception of the states in the global South being weak, fragile, and conflict-prone. This perception is one that calls for interventions from the West (see Duffield, 2007). Foreign actors begin to be judgmental on the politics and local actors and encourage their own non-governmental organizations to do politics at the local level with the hidden motivation of removing the local aspect from politics. While engaging in political activities, these international non-governmental organizations frequently ignore and undermine the national institutions to the extent, in some instances, that they conduct their operations in Nepal illegally by ignoring and violating national laws (see Adhikari, 2013). The international non-governmental institutions remain highly visible up to the

level of influencing the process of drafting a new constitution in the Constituent Assembly. It is ironic that in one instance, an INGO drafts a "Constitution for Nepal" and distributes it to the members of the Constituent Assembly for their consideration. As a foreign actor, drafting a constitution and distributing it to the members of the Constituent Assembly is a way of psychologically influencing the political process and removing the locals from politics.

In other instances, these foreign non-governmental institutions advocate the agendas of certain ethnic communities to the extent that they take up the ethnic models of federalism, which remain highly controversial even within the national institutions. For example, the models passed by the Committee on State Structuring and Distribution of State Power of the Constituent Assembly and the State Restructuring Commission through majority votes have remained controversial, especially when viewed from the grass-roots level (see R. B. Rawal, 2012a). Of the foreign actors, the British institutions remain in the forefront for funding the ethnic politics in Nepal, in particular the funding provided to ethnic movements through Nepal Federation of Indigenous Nationalities (NEFIN), an umbrella organization of ethnic communities that frequently engages in social movements with political demands with the objective of empowering the Adivasi Janajati community. In other words, NEFIN is a political organization established with the objective of promoting ethnic politics as their activities suggest. British aid to the ethnic communities in Nepal comes through different sources, directly through DFID or indirectly through the Enabling State Program (ESP), an institution created by DFID.

Enabling State Program (ESP), as the name itself suggests, exists to enable the State (of Nepal) to conduct its business for the welfare of its citizens, and it proudly announces its success in the country:

> The Janajati Empowerment Project, implemented by the Nepal Federation of Indigenous Nationalities (NEFIN — http://www.nefin.org.np/), has been the first donor-funded project exclusively for the Janajati community. This £1.5 million project took a rights-based approach to strengthening Janajati civil society and supported it to influence policy and run a development programme for the most deprived Janajati communities ... The project's main achievements were as follows:

> **A strengthened NEFIN** — The project strengthened NEFIN as the major representative body of Nepal's Janajatis. During the project NEFIN's membership increased to 350,000 and the number of representative indigenous people's organisations (IPOs) affiliated with NEFIN increased from 48 to 54. More than 12 of these organisations now have good linkages with donors and INGOs to access resources.

> (ESP, 2009, p. 12, bold in original)

Perhaps ESP is right to claim that the institutions of the Adivasi and Janajatis have become so powerful that they are capable of challenging the power of the Brahmin and Chhetris as the political events in April and May 2012 suggest. The funding from the donors enables the ethnic communities to the extent that they are capable of halting the proceedings of the elected institutions, the legislature-parliament and the Constituent Assembly (see R. B. Rawal, 2011; S. A. Gautam, 2011). Following the public criticism on the way the donors are funding the ethnic communities that are supporting the processes of conflict, DFID in Nepal announced that it had stopped funding NEFIN. This was announced through a press release posted on their website, which was removed when this researcher visited on May 9, 2013, for the second time, but below are the contents of the letter from the national media which claims that they have an original copy of DFID's announcement:

> "... due to Nefin's recent continued involvement in supporting the 27 April banda [general strikes] and based on information verified with you that Nefin is part of a wider front to call a banda on May 13 (Friday) to protest for constitutional rights of [the] Janajati and wider people from the marginalised communities, I am sorry to inform you that DFID will not be able to provide any further funding as a result ... this position was taken on the grounds that this particular form of protest, which can be enforced through the threat of violence, curbs citizens' rights and freedom of movement (children to go to school, people to go to work) and harms the economy."

(Parajuli, 2011)

Once such political intentions of the West come under criticism in the public sphere, Westerners resort to defending the position of the donors against the public accusation that their funding to ethnic communities in Nepal has supported the conflict's process. Alan Duncan, Minister of State for International Development, UK, sought to justify their deeds by saying that:

> "There have been accusations that we have been stirring ethnic conflict through our support. I have seen for myself the work that the UK has funded through DFID and I am proud of our work, which is helping to implement the Government of Nepal's own commitment to inclusion," he said. "I think it is untenable and unacceptable that any society can have a second class of citizen[s] and I have no doubt that lasting peace will only be achieved when Nepal has a truly inclusive society."

(Ekantipur Report, 2012b)

Once a dignitary from the UK, a veto power holder in the United Nations Security Council, Duncan uses language like "unacceptable" and "second class citizen" in his statement, revealing the discourse of power that the UK holds in world politics. Duncan's

remarks are a reminder that concern is not generated by citizens of Western countries but instead by the discourses used by an individual holding power (Foucault, 1984). In other words, the UK minister attempts to justify UK's support to ethnic politics in Nepal through the use of threatening language. In normal circumstances, foreign dignitaries do not respond to such controversial queries asked by journalists because it is an acceptable form of diplomacy not to answer all questions. However, an intention to defend against any accusation can also be interpreted as the acceptance of the accusation.

The donors are under public criticism not only in Nepal, but also at home by their own constituencies and media. One of the popular mantras of the donors is that they invest in the weak states in order to build local capacity, institutional development and development of local experts; however, they return a large portion of the aid to their own country as they heavily invest in their own experts and institutions (Thapa, 2012). Moreover, a journalist of *The Telegraph* comments on the ways in which DFID functions in the weak, fragile and conflict-affected states of the Third World in the name of poverty alleviation:

> 'Poverty barons' who make a fortune from taxpayer-funded aid budget … Britain's swelling overseas aid budget has created a new group of "poverty barons" paying themselves up to £2 million a year for their work helping the disadvantaged.

> (Gilligan, 2012a)

DFID, Britain's Department for International Development, paid out almost half a

billion pounds last year to battalions of mostly British consultants, many of them

on six- or even seven-figure personal incomes paid in large measure by the aid

budget.

(Gilligan, 2012b)

Not surprisingly, the donors' funding remains largely non-transparent, according to a

study conducted by a local non-governmental organization for the Development

Initiatives Poverty Research (Ltd) of the United Kingdom, a program that monitors the

impact of aid abroad (see Lamsal, 2012). It is the double standard of the Western donors

– on the one hand, they intend to preach for transparency and good governance in the

Third World, while, on the other hand, they do not feel it is necessary to maintain

transparency within their own organizations. Not limited to the British, Ram Bahadur

Rawal (2011) reports that there are also many Western donors – for example,

Switzerland, Germany, Norway, Denmark, Canada, European Union in general and the

USA, plus the non-Western donor India – that are funding or supporting the ethnic

politics in Nepal on the pretext of uplifting the ethnic communities, in particular the

Adivasi Janajati and Madhesi. As Rawal further reports, the donors also come up with

their own experts on the Third World who follow the policy of the donors on ethnic

politics as directed:

While looking at the details from different sources, SDC has provided financial

support to the organizations and institutions established on the basis of ethnicities.

It has funded 10 million rupees to the Madhesi NGO Federation at one time.

Under the project with that financial support, the Federation collected suggestions

and information, which was submitted to the Caucus of the Madhesi members in

the Constituent Assembly. The official website of the Federation states that it

ensured the signatures of 19 members of that Caucus on the Federation's agendas.

Similarly, the SDC has supported the ethnic agendas [of Adivasi Janajati] in the

eastern hills. Not only that, the SDC brings its own experts in order to train the

ethnic-based organizations and institutions in the Tarai and eastern hills on the

agendas of federalism.

(R. B. Rawal, 2011 translated by this researcher)

The influx of foreign expertise may have different interpretations. This can be attributed,

however, to the attitude of perceiving those in the Third World as ignorant and inferior or

that such people do not follow their policy in comparison to the experts from the West

who are expected to be highly educated, superior and capable of teaching the local

people. So far India and China are concerned, they also largely provide financial funding

to Nepal as development assistance, although they remain below the top ten donors

according to the Ministry of Finance, Nepal. The political influence of India and China is

greater in comparison to their economic assistance, however. In order to assert their political influence in Nepal's politics, India and China construct the discourse of "threat to their national security" from the soil of Nepal. Therefore, discussing the factors that led to the collapse of the Constituent Assembly, Annirudh Gautam (2012b) intends to draw the attention to the importance of addressing the concerns of the neighbors while restructuring the state under a federal system.

Although Western and other diplomatic and humanitarian donors' interventions tend to remain highly confidential, the donors' funding to ethnic politics in Nepal has contributed to the production of discourses of insecurity in certain ethnic communities that are publicly visible in Nepal's media. This has been confirmed through interviews as discussed in Chapter 4 in the context of Nepal's effort to write a constitution with the focus on restructuring the state. Of the European funders, the European Union also remains in the forefront of supporting ethnic politics in the name of promoting the rights of ethnic and indigenous communities. The EU, however, attempts to shy away once it comes under criticism for funding ethnic politics in Nepal. Offering a clarification to the Nepalese people with the intention of clarifying their position, a statement by the EU reads:

> The EU does not support any group that uses violence or the threat of violence to enforce 'bandhs.' The Delegation of the European Union to Nepal had indirectly funded NEFIN in the past through our international partners, in particular under

the 'Janjatis Social and Economic Empowerment Project (JANSEEP)' and the 'Sustainable Development of Disadvantaged Ethnic Communities in Nepal' (SAMARTHYA) project. Both projects were aimed at promoting indigenous people's rights.

(European Union, 2012)

Mark R. Duffield (2007) articulates that the West perceives the Global South as a group of weak and fragile states incapable of governing their own people and their own societies. Western donors are doing something unacceptable in Nepal as their funding sometime has caused unintended consequences. Their actions are against their own commitment in the Paris Declaration on Aid Effectiveness (2005), where they prioritize the channeling of financial support to the Third World through the local state's own institutions. In addition, there are alternative discourses to look at concerning the victimization of ethnic communities in Nepal. For example, Arun K. L. Das and Magnus Hatlebakk, in their main findings in the report on *Statistical Evidence on Social and Economic Exclusion in Nepal,* present an alternative discourse on the question of exclusion in the country:

The discourse on social exclusion in Nepal is very ideological, with some authors considering basically all Nepalis as socially excluded except for male Bahuns [Brahmins] of hill origin. This is obviously not very useful for targeted economic

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and social interventions, and the present report attempts to provide statistical evidence on what population groups are de facto excluded along a number of economic and social dimensions. In contrast to previous studies, we provide confidence intervals for all reported means, which allows us to identify statistically significant differences between castes and ethnic groups when it comes to economic and social development. Many findings support popular beliefs, while some findings are more surprising.

(Das & Hatlebakk, 2009, p. vii)

Indeed, the discourse of exclusion in Nepal is ideological as it is used by the national and local political actors to expand their support base among the population. It is also advocated by foreign actors in order to create an entry point for intervention within Nepal's politics. The research findings offered by Das and Hatlebakk question the very foundation upon which Western donors are supporting the ethnic communities in Nepal with the discourse of liberating the victims. In terms of social and economic advancements, the findings of Das and Hatlebakk go on to suggest that all the major ethnic communities in Nepal seem to be faring well:

When it comes to economic variables, we focus on land as this is still the backbone of the rural economies. The traditional Tharu and Yadav landlords of the Tarai [Madhes] have the largest landholdings, while they are matched by the

hill Bahun/Chhetri group in terms of land value. Most Tarai Dalits have no land, and in particular the Musahars are all landless.

In sum, the hill Bahuns, but also the Gurungs [Adivasi Janajati], have experienced tremendous income growth. This in turn explains the low poverty rates for these groups. The Yadavs [Madhesi], the large traditional landlord middle caste of Tarai, also have a low poverty rate. Poverty is at its highest among the Tamang ethnic group of the hills, as well as among hill and Tarai Dalit groups.

When we summarize the findings as in the Human Development Index, we find support for the traditional socio-economic ranking[s]. The hill Bahun/Chettris are doing well, followed by the Janajatis, where the hill Janajatis dominate, thereafter come the Tarai middle castes, and at the bottom are the Dalits and the Muslims.

(Das & Hatlebakk, 2009, p. vii)

Concerning India and China on Nepal's politics, India is comparatively more vocal in expressing its views on federalism in Nepal, whereas both neighbors construct the discourse of insecurity from the soil of Nepal. The Indians undertake political intervention in Nepal if India's security is under threat, which is an expression made by a former Indian Ambassador to Nepal (see Sharan, 2013). The Indian concerns are sometimes conveyed to the Nepali public via Indian officials in Nepal through the media

or through personal counseling to the Nepalese politicians on different occasions. The first and second statements below are about an Indian consular encouraging and provoking politicians in Tarai-Madhes to launch movements in favor of a certain model of federalism for Tarai-Madhes. The larger political parties in Nepal have expressed serious concerns to the Embassy of the Republic of India (see Kantipur Correspondent, 2012b) after Nepal's Ministry of Foreign Affairs summoned the Indian Ambassador for clarification (see Post Report, 2012a). The third statement below, extracted from an article written by an Indian Ambassador to Nepal and published in a newspaper, highlights how India views the importance of federalism in Nepal, followed by a view expressed by a journalist belonging to the Madhesi community:

> [At] a cocktail party at [the] Hotel Vishuwa in Birgunj on Wednesday evening, S. D. Mehta, the consular at the Consulate General of India, tried persuading leaders of the NC, UML and the Madhesi Janadhikar Forum Nepal representing Parsa and Bara districts to take to the streets for the sake of Madhes, the leaders said. A leader who attended the party said Mehta suggested bringing about 'a storm in the Madhes before May 27'. The remarks from the diplomat come a day after the parties reached an agreement to go for an 11-state federal model. Although the NC and the UML have differing views, it is important that the two parties work together for the Madhes, Mehta told local political leaders. "Come forward for Madhes and we will extend our support," a UML leader quoted Mehta as saying.

(B. Yadav, 2012a)

Mr Mehata said that "disintegrating Madhes is like cutting his heart into pieces" adding "Madhes belongs to all" [means it also belongs to India] says a UML leader quoting Mr Mehta who further adds, "please come forward, we will support you." Mr S. D. Mehta also shared his conclusion that the UDMF is a failure in the present context.

(B. Yadav, 2012b translated by this researcher)

On behalf of the Government of India, Mr S. D. Mehta, an Indian consular to Nepal stationed in Birgunj, offers any sort of assistance needed to the Madhesi community in order to launch strong movements in favor of their preferred model of federalism, as the above two statements suggest. In the statement below, an Indian Ambassador to Nepal presents the beauty of federalism, arguing that it unites the people and nation and serves as a basic foundation for democracy in India, which Nepal can learn. The article is written by a diplomat and the message is clear that democracy cannot survive in Nepal in the absence of federalism, and a public statement by him on another occasion supports his view on the need for federalism in Nepal (RSS, 2012a). Expression of a view publicly is a means of exerting political pressure on Nepal, intending to remove the local aspect from politics, since the diplomats conduct local politics through public propaganda:

It cannot cover the whole country while addressing the problems of one or more provinces in the federal structure. The federal structure has supported the national unity and territorial integrity of India. This [federalism] is a strategy to keep a nation united, a nation with a diverse ethnic population. Relative stability and progress would be necessary at any cost in the absence of institutions capable of consolidating democracy and federalism. Federalism is an integral part of India's democracy, which has contributed to pluralism and inclusive governance. In conclusion, this is a broader experience from India.

(Prasad, 2012 translated by this researcher)

Not surprisingly, a journalist from the Madhesi community narrates his experiences with how the issues of federalism have become a seed for communal intolerance among the Tarai-Madhes of Nepal, a view that only the people who have experienced the outcome of the discourse of ethnic federalism can expresses without any hesitation:

Although the Madhes Uprising of 2007 has established the agenda of federalism in the national and international political discourse, the agenda of federalism has spread the seeds of communal intolerance at the local level. The Madhesi Uprising also brought upheavals in the social composition of the whole Tarai. When the uncontrolled masses physically attacked the population of the Pahade community, the movement became communal in many places. The unsocial

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activities of threatening Madhesi community in the hill areas and Pahade community in the Tarai spread rapidly in the course of the movement.

(S. Yadav, 2013 translated by this researcher)

Although India officially maintains its position on federalism in Nepal as an internal issue of the country (K. R. Koirala, 2013a), Pushpa Kamal Dahal, Chairman of UCPN (Maoist), who returned to Kathmandu at the end of April 2013 after a visit to New Delhi, came with a message from India that Nepal should federalize the country under a certain basis (M. Acharya, 2013). Before visiting New Delhi, the Chairman of UCPN (Maoist) Pushpa Kamal Dahal visited the neighboring country in the north upon the invitation from the Government of China and also held talks with Xi Jinping, the President of China. Upon returning from India, Dahal shared his feelings with the Nepalese media that both neighbors have concerns about political stability in Nepal (M. Acharya, 2013).

China is quite known for being capable of maintaining its diplomacy with as much confidentiality as possible. However, China is openly expressing its concerns on the issue of Tibet on the ground that Nepal's soil is being used against China, supporting the campaigners of the free Tibet movement. This is particularly in reference to the US's policy on Tibet, where, on the one hand, the US supports one Chinese policy where Tibet is an integral part of the mainland, while, on the other hand, the US had provided military and financial aid to the Tibetan rebellions in the 1950s and 1960s for the separation of

Tibet from China, followed by a general lack of US attention on China in the 1970s and 1980s (Goldstein, 2006). Chinese concerns are well expressed and conveyed to Nepal's population mainly through frequent visits to Beijing of Nepal's Maoist leaders, upon invitations from the Government of China. Dahal narrates his feelings in an interview to a Nepali daily newspaper on the security concerns of both India and China, followed by an expression by Mohan Baidya, Chairman of CPN-Maoist, who visited China last year:

China is worried about whether federalism would result in instability or push Nepal into anarchism. It is mainly worried about whether forces that want to create problems in Tibet would get an opportunity to increase their maneuverings. But they are not against federalism. They want to know the type of federalism and whether it can keep Nepal unified. They have questions on whether that federalism would benefit forces that try to destabilize Nepal and Tibet and want such questions to be addressed.

(Dahal, 2013a)

The current political process in Nepal began with the signing of the 12-point Understanding in New Delhi. We also discussed India's security concerns. I mentioned that once there is political stability in Nepal, it will promote economic development and progress that can effectively address India's security concerns. He said India will support Nepal's quest for development.

CPN-Maoist Chairman Mohan Baidya on Thursday said that China does not want to see foreign interference in Nepal in the name of federalism. Baidya made such remarks upon his arrival in the capital on Thursday after completing a 10-day trip to China. He had gone to China on the invitation of the International Department of the Central Committee of the Communist Party of China.

(Ekantipur Report, 2012c)

The message delivered by the Chinese dignitaries and diplomats in diplomatic language to the Nepalese people through the Nepalese politicians is clear enough. The message from India is similar. The first question is why China has given priority to inviting communist leaders from Nepal, in particular from the factions of the Maoists, to China. It can be interpreted that Mr Baidya and Mr Dahal — the Chairmen of two factions of the Maoists who are also the most vocal in advocating for ethnic federalism in Nepal — were invited to Beijing because China wanted to tell both leaders that China is not in favor of ethnic federalism in Nepal. It is possible that such a meeting had quite an impact on both leaders, as they have remained mild, almost silent, in their advocacy for ethnic federalism upon their return from China. This may also be the case for Prachanda upon his return from India. A communist leader expresses his view on the visit of Dahal and Baidya to

the neighboring countries, followed by a statement by a journalist that points to China's shifting policy in Nepal with regards to direct intervention:

It becomes clear on the basis of some news that claims that China is totally against federalism and India is against ethnic federalism in Nepal. From the beginning, we have maintained that India, although it be may be in favor of federalism, is against ethnic federalism in Nepal. We have maintained that the discourse of ethnic federalism in Nepal is the result of interventions made by the Western states. We can draw the conclusion, based on the visit of Prachanda to China and India, that the discourse of federalism in Nepal is the result of Western imperialism and impact of their funding to NGO and INGOs.

(M. B. Singh, 2013 translated by this researcher)

Several high-level political sources, all of whom spoke to *The Hindu* on the condition of anonymity, revealed the image of a more interventionist Beijing … At the end of June, a month after Nepal's Constituent Assembly failed due to differences on the issue of federalism, Ai Ping, a senior Chinese party official, visited Nepal. Political leaders who met [with] him say that China clearly communicated [that] it had "security concerns" if Nepal adopted federalism. A very senior Maoist leader told *The Hindu*, "Their message was [that] China prefers a unitary Nepal, but if federalism has to happen, it should not be based on

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ethnicity. This is the first time that China has intervened so directly in our domestic affairs."

(Jha, 2012 italics in original)

Foreign actors are deeply involved in the local politics of Nepal, so deep in fact that it appears as if they play the role of the opposition in local politics. Kathmandu-based foreign diplomats intend to influence the political process through personal or group visits to local and national political actors and institutions as a preferred strategy of asserting pressure. Such a move by the diplomats in Kathmandu is against diplomatic norms. During the visits, the diplomats offer their recommendations to the extent of how the national and local actors should engage politically. Some foreign dignitaries follow the same strategy. Below is an example from the official website of The Carter Center that posts the report by former President Jimmy Carter of the USA who recently visited Nepal, a report which carries the discourse of threat which I have highlighted in italics:

We then met with leaders of the Communist Party of Nepal (United Marxist-Leninist), Nepali Congress, United Communist Party of Nepal (Maoist), Madhesi parties, indigenous groups, and the Election Commission. I also arranged a meeting with Maoist leader Baidya, who is attempting to disrupt the electoral process with protests, intimidation of voter registrars, and confiscation of computers and other material. He claimed that his opposition was peaceful in

nature and promised to consult with other political leaders and to refrain from violence, but the next day they kidnapped three registrars, who were held for six hours. *I told him he would either have to compromise or be restrained by police and face legal action.*

(Carter, 2013 italics added)

Such visits are so frequent and regular that it is common to see the images of foreign dignitaries and diplomats with senior Nepalese politicians and leaders of identity groups on national television and in the newspapers. They are not visiting the Nepalese politicians simply out of good will, but because they intend to exert pressure on the locals as to how politics should be engaged in. More than most, it is the dignitaries from India and China who compete for the chance to do so – if some dignitaries come from China to Nepal on a political mission, India follows immediately. The influence of India on Nepal's politics is so widespread that Nepali citizens hold a general perception that the country is virtually under the grip of India. Recently, both India and China were publicly criticized in Nepal for their role in the failure of negotiations and the collapse of the Constituent Assembly in May 2012. Perhaps, both India and China intend to improve how Nepal's population perceives them by insisting for the successful election of a new Constituent Assembly for the second time scheduled for November 19, 2013, so that Nepal can emerge from the current protracted transition:

Shortly after the two-day visit of Chinese State Councilor Yang Jiechi, Indian Minister for External Affairs Salman Khurshid arrived in Kathmandu on a nine-hour visit to Nepal on Tuesday. The message [that] these two senior political leaders from Nepal´s immediate neighborhood carried, however, was the same … Both the leaders took stock of the latest political situation and tried their best to convince Nepal's political leadership not to defer the fresh Constituent Assembly (CA) election scheduled for November 19 … As such, the top diplomats from China and India not only expressed their solidarity to the upcoming polls, but also pledged necessary support to make the CA polls a success. While China during the visit of Yang committed to provide a grant assistance of 10 million RMB to the Election Commission, Indian Foreign Minister Khurshid pledged to provide 764 vehicles of various types to EC and security agencies by October, while also assuring that India would stand ready to respond to any further requests for polls.

(K. R. Koirala, 2013c)

Both India and China intend to increase their influence on Nepal's politics and pledging support enables the two countries to improve their image and demonstrate to the Nepalese people how they care for them. While looking at the visits of dignitaries from neighboring states during the last couple of months, the Indian attitude seemed so dominating that it appears they do not care for diplomatic protocol during the visits, although it remains a debatable issue if either side has ignored diplomatic protocol.

Instead of focusing on whether such diplomatic meetings in Kathmandu have violated diplomatic protocols, it is important to examine how asymmetrical power relations have been maintained and reinforced between Nepal and India. A recent example is the visit by Salman Khurshid, India's Minister of External Affairs, to Nepal during the second week of July 2013. After arriving at his hotel, Minister Khurshid invited the former prime ministers of Nepal to meet with him. Not surprisingly, the former prime ministers visited him at the hotel where he comfortably reinforced the image that Indian representatives as dominant. Such a practice is shameful for a nation as it maintains the asymmetrical power relations with an attitude of dominating the weak states. Once the former prime ministers of Nepal were criticized publicly for undermining diplomatic protocol, then they expressed regret that they had made a mistake (see S. Khanal, 2013).

However, a commonly found and often repeated there in Indian and Chinese discourses is that their governments do not intend to interfere in Nepal's internal affairs, particularly on the issue of federalism. In actuality, the interventions from India and China are rooted in their security concerns. This assertion falls within the parameter of the second hypothesis – as both India and China intend to maintain the power relations of their choice. In other words, the actions of these foreign nations are altering the power relations within Nepalese society. When both India and China perceived that the dominant discourse of ethnic federalism in Nepal would not serve their interests — or would even threaten their national interests — then they used their political influence to end the negotiation processes, leading to the collapse of the Constituent Assembly. The

desire of India and China for a federal structure of their choice in Nepal is, no doubt, a desire of altering power relations in Nepal now and in the future. Perhaps, both India and China are now confident that the federal structure of Nepal will be more suited to their preferences and, therefore, they have been exerting pressure on Nepal's political actors to convene the second Constituent Assembly on time. Therefore, China sent a message to the Nepalese people through Mohan Baidya, Chairman of CPN-Maoist, who visited Beijing for the second time during the second week of July 2013:

> China has suggested to the CPN-Maoist to participate in the upcoming Constituent Assembly (CA) elections and contribute to political stability and economic prosperity in Nepal. Chinese Vice-president Li Yuanchao offered the suggestion to CPN-Maoist Chairman Mohan Baidya during a meeting between the two sides in Beijing on Wednesday ... According to sources in Beijing, Vice-president Li made a special request to Baidya and CPN-Maoist Vice-chairman CP Gajurel to reach a political agreement and make the [up]coming CA polls a success.

> (P. Basnet, 2013)

It may not be the case that the proposed models of federalism on the ground will remain highly contentious and controversial. It is up to the political actors of Nepal to make a decision on this issue with a preferred model acceptable to all political actors, social

groups and communities of Nepal. Yet, the issue of federalism has divided the nation along ethnic-identity lines in addition to inviting foreign intervention in Nepal, in particular India and China and the Western world in general. Being aware of the political influence of India and China in Nepal, some of Western diplomats have expressed displeasure about the political dynamics in Nepal, as suggested by the title of an interview with the US Ambassador to Nepal that appeared in a newspaper and read, "The World is Bigger than India and China" (see DeLisi, 2011). The message of the US Ambassador was clear enough: 'boys we are the only superpower in the world!'

5.6   The Politics of Inclusion and Exclusion

The discourse of inclusion or exclusion is popular and dominant not only in the state's institutions, but also in the survival of large political parties in Nepal. It can further be viewed as an entry point for foreign actors into Nepalese politics. In other words, the ethnic and religious fault lines have become the center for mobilization for the national elites and entry point for foreign actors for interventions for inclusion and against exclusion of ethnic identities in the political processes. This researcher has examined the discourse of inclusion and exclusion through Edward Azar's (1990) theory of Protracted Social Conflict (PSC) coupled with Charles Tilly's (2002a) theory on political identities that are capable of mobilizing social forces in a given context. Charles Tilly (2002a) suggests that identity becomes "political identity" once people begin to link their identity with politics in order to assert existence of self and group. Such identities within social and political movements can have a significant impact in the political processes. The

larger political parties in Nepal are competing to hold the support and the strength of different ethnic communities in their fold in order to reinforce their claims in the negotiation process. The larger parties – in particular UCPN (Maoist), Nepali Congress and CPN (UML) – have different cells and sister organizations created as a strategy and means of holding ethnic communities under their organizational umbrella. Sometimes these larger political parties intend to publicly demonstrate how radical and revolutionary they are to garner support and sympathy of the ethnic communities. To highlight this practice, two statements from the Chairman of UCPN (Maoist) Pushpa Kamal Dahal, who advocates ethnic federalism, are cited below:

[The] Chairman of UCPN (Maoist) Pushpa Kamal Dahal has said that his party has not backtracked from their stance of ethnic federalism in the new constitution. Speaking to the representatives of [the] Nepal Federation of Indigenous Nationalities (NEFIN) at his residence in Lazimpat on Sunday, Dahal said that the rumor of Maoist backtracking from the ethnic federalism was baseless.

(Ekantipur Report, 2012a)

Dahal claimed he was alone in the negotiation to push for [an] identity-based federal state. "It is very difficult for me to fight alone in the meetings for [an] identity-based federal state. All suppressed peoples, peasants, workers and indigenous people across the country should unite," he further said. Addressing

the meeting, Dahal also claimed that the anti-federal groups, advocating [the] status quo, had captured the streets in an "anarchic manner".

<div align="right">(Republica, 2012)</div>

In addition to the establishment of a military wing named the People's Liberation Army (PLA), the CPN (Maoist) has adopted different strategies to mobilize the people in order to garner support for their people's war. On the political wing, the CPN (Maoist) has created parallel governance and organized the marginalized ethnic communities with the creation of many sister organizations under the party's umbrella in the name of particular ethnic identities. Such a practice of mobilizing ethnic identities continued even during the time of negotiations until the collapse of the Constituent Assembly in May 2012. In an interview with this researcher, a senior leader of the UCPN (Maoist) narrates, on the condition of anonymity, how her party mobilized the different ethnic communities represented in the Constituent Assembly, which were already organized under different Caucuses:

> Our party, the UCPN (Maoist), initiated the signature campaign with the objective of achieving the two thirds majorities required to endorse a new constitution from the Constituent Assembly. We mobilized the members of the Constituent Assembly belonging to different ethnic communities. Many members of the Constituent Assembly from NC and CPN (UML), but belonging to distinct ethnic

communities, too part in the signature campaign. Our senior leader who belongs to the Adivasi Janajati community led the signature campaign. The NPC and CPN (UML), the second third largest party in the Constituent Assembly, were alerted by our signature campaign. It is true that the Brahmin and Chhetri communities, which were already experiencing psychological fear due to the slogan of ethnic-identity-based federalism, were further terrorized due to the signature campaign that brought the marginalized communities under one umbrella, the umbrella of our party.

The political leadership in Nepal has used their best available means to attract ethnic communities into their fold, which is, in other words, ethnic politics. In addition, a boundary of "us" versus "them" is often created for those who do not support the call of a particular political party. To be precise, the boundary is in particular drawn between the Brahmin and Chhetri versus the other ethnic communities. Brahmin and Chhetri are often projected as the dominant ethnic communities that hold control over the state power where the remaining ethnic communities are projected as the victims of the political, cultural and social systems. Meanwhile, a vocal critic of the Brahmin and Chhetri communities during April-May 2012, a senior leader of NEFIN at the time of interview, shared his feelings on the condition of anonymity on the identity-based politics, which gives the impression that transformation is taking place within him:

The Constituent Assembly could not function as per the provisions of the Interim Constitution and decisions begin to take place outside the premises of the Constituent Assembly, which is an undemocratic process. I am also of the view that both sets of forces – Brahmin and Chhetri in one side and the rest on the other – behaved in an extreme manner and there was a feeling of suspicion and threats. Instead of addressing the sources of insecurity of all, the political leaderships inflamed ethnic sentiments. The nation is polarized psychologically and ethnically.

As already indicated, in his theory of Protracted Social Conflict (PSC), Edward Azar (1990) articulates four variables as sources of conflict escalating to violence and possibly high-level civil wars. These are (1) the presence of a communal element identified as identity groups; (2) the denial of basic needs, of which identity is a component, resulting in communal grievances that are expressed collectively; (3) the competency or incompetency of the governance system that either satisfies or provokes frustration in identity groups; and (4) international linkages of social identities that allow the movement of goods and ideas across state borders. Of them, I have discussed the first and second variables in particular reference to the social movements and the fourth element under the section of foreign interventions. Sometimes the larger political parties, in particular the Nepali Congress and CPN (UML), feel that they are not competent enough to hold the ethnic communities under their organizational umbrellas. They then need the discourse of nationalism or anti-nationalism in reference to federalism. In the political

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processes, historically until now, Nepal's ethnic communities have often expressed their dissatisfaction in a way that reflects Edward Azar's fourth variable of PSC that can trigger frustration in identity groups:

The report of the State Restructuring Commission that intends to end the identity of the Madhes cannot be acceptable at any cost. The Madhesi are prepared to launch a movement, but only after evaluating the contents of the draft of a new constitution. The situation for the Madhes, which looks pretty much clear after three months, might be entirely different that the one imagined by the larger political parties. The mentality of the Madhes is in favor of a violent movement. The Madhesi people have the mentality of revolt. If the current situation continues, the relation between Madhes and Kathmandu will break down. The Madhesi will go for a decisive movement in order to fulfill their demands.

The discussion that reflects the condition of the Madhesi, who have remained an integral part of the State, within the context and the intention of those governing the State in an irrational way is captured by the question: what kind of treason is hidden in the discussion that incorporates these dimensions? A serious allegation is being made against the Madhesi community labeling them as traitors, anti-nationalists and separatists. Who should alert whom in what type of customary meeting regarding such discourse directed against the Madhesi, who are often observed in the power centers like Constituent Assembly, Singhduarbar

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[government secretariat], Baluwatar [residence of the Prime Minister] and headquarters of security institutions?

(Gupta, 2012 translated by this researcher)

The above statement is by a senior political leader from the Madhesi community, expressing the community's grievances, whereas the statement below reflects the sentiment of the Brahmin and Chhetri communities:

Why should one ethnic group or community be intolerant toward the other through constructing provinces in the name of ethnicity under the scenario explained above? No one who loves this country should talk about dividing the nation along ethnic lines that may ultimately end the existence of Nepal as a state. The unfolding events and facts have proven that the discourse of narrowed thinking guided by ethnicity may destroy the social fabric of Nepalese society, including threats to territorial integrity, national unity, social harmony, economy and peace.

(B. Rawal, 2012 translated by this researcher)

The two statements above are not only examples of frustration in the ethnic communities, but they also capture the discourse of nationalism vs. anti-nationalism. A common

strategy of nationalist political parties, and of selected civil society members, is to call upon the President to act as the last resort and save the nation. The political actors, being unhappy in the competition over holding ethnic communities under their fold, do not care for the Interim Constitution and insist that the President take action, even if he does so unconstitutionally. According to the Interim Constitution of Nepal, however, the President has a ceremonial role and does not have executive powers. Despite this, during the course of transition the President of Nepal has indeed acted beyond his ceremonial role and his steps have remained controversial in the political discourse, including his denial, as per the Article 88 of the Interim Constitution, to approve ordinances submitted by the government. In other words, the office of the President also remains as an institution capable of denying people's participation in the decision-making process:

President Dr. Rambaran Yadav declares that he would not endorse a new constitution if he sensed elements of national disintegration while conducting the task of state restructuring … The President is of the view that national integration must remain intact while restructuring the state into a federal set up. He is adamant that the process of state restructuring must not give any sense of separation.

(M. Basnet, 2012 translated by this researcher)

The Constituent Assembly is itself the parliament. This is only a supreme people's representative body. Parliament is supreme in a democracy. Only God is above the parliament, nobody or nothing else. I have never doubted that such a Constituent Assembly would deliver such a constitution that would disintegrate the country and the wise leaders would be just sleeping while designing such a constitution. Please do not think otherwise, I am alerted due to President's warning.

Besides, the option of referendum is always open. It is just an exaggeration to imagine that the collective wisdom of the Constituent Assembly is completely paralyzed and resorts to promulgate a constitution that is likely to disintegrate the state while different democratic processes and procedures exist to endorse a new constitution – such a scenario is a crime on its own. Political leaderships may fail; however, the collective wisdom is never irresponsible, if the collective wisdom is irresponsible, democracy would not function anywhere.

(S. A. Gautam, 2012a translated by this researcher)

Article 150(1) and (2) of the Interim Constitution has the provision for holding referendums on issues of national importance:

Article 150: Procedures for Taking Decisions of Referendum: (1) In case a resolution has been approved that [a] decision on any subject has to be made through the process of a referendum pursuant to sub-Article (1) of Article 157 of the Constitution, the Chairperson shall certify it. The Secretary General or Secretary shall furnish the information thereof to the Council of Ministers, Government of Nepal. (2) The decision derived through the referendum shall be mandatory for the Constituent Assembly.

(Constituent Assembly, 2008, p. 86)

The political process of Nepal, beginning with the Revolution of 1951 that passed through democratic transitions and social movements to the events of April 2012 that lead to the collapse of the Constituent Assembly, reflects Charles Tilly's (2007) theory of democratization as a process happening at the national level in different parts of the world that is supported and promoted by various causal mechanisms. Nepal's political process also demonstrates Edward D. Mansfield and Jack Snyder's (1995) theory that that the process of democratization can be violent, as the states undertaking such a process are prone to civil wars and intrastate conflict, which has also been the case in Nepal. The agenda of federalism, a component of statebuilding as part of the development of a governance system, has remained in the focus of political discourse that is likely to escalate conflict. Federalism, which has been often referred to as a synonym of state restructuring in the political discourse in the country, does not remain only as a

matter of concern of the Nepali people, but also of the regional powers in Asia and the West. Federalism, as a system of governance to be constructed as part of state restructuring, has, in the Interim Constitution, a well-defined objective to end all sorts of discrimination and problems in the country. Federalism answers the "why" question and remains as an integral part of statebuilding and peacebuilding processes in Nepal. However, the discourse on federalism fails to answer the "how" question.

The politics of inclusion and exclusion, practiced by Nepalese political actors, perfectly sets the scene of social identity as theorized by Henri Tajfel and John Turner (1986) that may at any time be expressed as violent conflict. Indeed, Nepal's political processes have been both peaceful and violent. According to Foucault (1984), violence is often referred to as the exercise of power by the state in society. One of the common distinctions made in the concept of power is 'hard power' vs. 'soft power,' which is discussed in Joseph Nye's (2004) famous text, *Soft Power: The Means to Success in World Politics*. If hard power is meant for a regime to rule, soft power is meant for those governed to accept the hegemony of the rulers (ibid.). A similar categorization is found in Hannah Arendt's (1970) *On Violence*, where she makes distinctions between *power*, *authority* and *strength*. Remarkably, she also makes distinctions between power and violence, maintaining that theorists on both the right and the left treat violence as the highest manifestation of power. She maintains that power and violence are two different concepts, where the collective popular will manifests as power and it does not require violence to attain its goal and to be effective in the society. With the note on violence,

this researcher now turns to Chapter 4, which explores the perceptions of the interview respondents on ownership, participation and legitimacy in the political processes, which are the ingredients of participation in the decision-making process, and the impact of foreign interventions – the two guiding hypotheses of this research.

CHAPTER 4: INTERVIEWS

In Chapter 3, I outlined the historical process of state formation in Nepal, beginning with the unification of country as a nation-state. The Rana and Shah Dynasties ruled the country during most of its known history. A fundamental difference between statebuilding in Nepal and in Europe is that, although both of them have gone through similar processes of war, the states in Europe built democratic institutions and structures capable of sustaining a strong state, whereas such is completely absent in the context of Nepal. This is because the Rana and Shah Dynasties concentrated too much on consolidating their power in order to hold the state under their control. I have also outlined in Chapter 3 the Revolution of 1951, the people's uprisings in 1990 and 2006, as the democratic movements aimed to establish democracy in the country, followed by the UCPN (Maoist)'s people's war launched with the objective of establishing the rule of the proletariat, social movements campaigned by competing identities with the objective of redefining state-society relations and signing of the Comprehensive Peace Accord (CPA) whose the objective was to end the decade-long armed conflict. The aspirations of the movements and the war have cumulated in the signing of a negotiated document, followed by the enactment of the Interim Constitution and elections to the Constituent Assembly to draft a new constitution.

I have discussed the failure of the negotiations to advance the agendas of statebuilding and peacebuilding as the Constituent Assembly collapsed in May 2012. Both endogenous and exogenous factors have been identified as causal factors in the failure of negotiation and the collapse of the Constituent Assembly. On the internal dynamics, the causal factors are (1) the implications of election results that deepen the lack of trust and confidence between the major political parties; (2) the denial of participation in the decision-making process in the functioning of the Constituent Assembly; (3) the major contentious issues being negotiated outside the premises of the Constituent Assembly; (4) politics of the judiciary; and (5) ethnic politics, all of which remain as the prominent causal factors in the failure of the negotiations and collapse of the Constituent Assembly. On the external dynamics, the security concerns of India and China resulting from the discourse of ethnic identity-based federalism in Nepal and the interventions made by Westerners have remained as the primary factors for the failure of negotiations leading to the collapse of the Constituent Assembly. Based on the scenario discussed in the previous Chapters, in this Chapter this researcher analyzes people's perceptions of the two guiding hypotheses. The first is the lack of ownership, participation and legitimacy, focusing on the decision-making process of the Comprehensive Peace Accord (CPA) that led to the failure of negotiations and the collapse of the Constituent Assembly. The second hypothesis is foreign intervention in the process of statebuilding and peacebuilding that led to the failure of negotiation and the collapse of the Constituent Assembly.

1.   Selection Criteria of Interview Respondents

This researcher conducted interviews both in and outside of Kathmandu with the objective of reaching the people at the top, middle and grass-root levels so that the findings could reflect, as far possible, Nepalese society. This allows the research to extend beyond elite-centric approaches in Kathmandu. In order to balance ethnic representation of Nepalese society in the selection of prospective interviewees so that the validity of the findings could be enhanced, interviews were conducted with 76 respondents, including a number of informal interviews, selected in terms of their ethnic identities and political participation, as follows:

(1) Senior political and ethnic community leaders in Kathmandu, who were engaged in the negotiation and dialogue processes. These senior leaders have been selected from the following political parties and identity groups:

    a. Unified Communist Party of Nepal (Maoist)

    b. Communist Party of Nepal – Maoist

    c. Communist Party of Nepal (Unified Marxist-Leninist)

    d. Nepali Congress (NC)

    e. United Democratic Madhesi Front (UDMF) and other Madhes-based political parties.

    f. Nepal Federation of Indigenous Nationalities (NEFIN) and the political parties based on ethnicity.

(2) Grassroots leaders from ethnic communities (representatives from *Adivasi Janajati*) in the Jhapa, Morang and Dahnkuka districts in the eastern part of Nepal, who are engaged in ethnic movements.

(3) Grassroots leaders from the *Madhesi* communities in the Siraha, Dhanusha and Saptari districts in the central part of Nepal, who were engaged in the ethnic uprisings in 2007-2008, demanding a federal structure of the state.

(4) Grassroots leaders from the *Tharu* (part of the Adivasi Janajati community) *Brahmin and Chhetri* communities in the Kailali district, far-western region of Nepal, who campaigned respectively for and against ethnic federalism in April-May 2012.

(5) Mid-level political, ethnic and civil society leaders in and outside of Kathmandu, who were engaged in statebuilding and peacebuilding processes.

Based on the above selection, the interviewees come from top, middle and grassroots levels, corresponding to John Paul Lederach's (1997) pyramid on peacebuilding. The selection criteria allowed for the participation of different competing ethnic identities in Nepal in a representative albeit nonrandom way. This researcher posed to the interviewees select open-ended and closed-ended questions discussed below, that are mutually interlinked, allowing this researcher to elicit information on the dynamics of statebuilding and peacebuilding.

2.   Analysis of Closed-ended Questions

Interviewees responded to the closed-ended questions in terms of a Likert Scale. In this regards, this researcher used a general approach to reporting findings by summing up the values of each response to the selected questions on a five-point scale and creating a score for each respondent (Salkind, 2010). Each response is numerically coded, the number and percentage of respondents displayed in a bar chart (see Figures 2 and 3 a few sections below) through the use of statistical software, SPSS, and data are summarized based on the frequencies of responses followed by analysis of standard deviation from the expected values in terms of means.

In order to draw conclusions on the concepts of ownership, legitimacy and nonparticipation of local stakeholders in the processes and their perceptions on foreign interventions, this researcher posed the closed-ended questions in which interviewees were asked to respond in terms of an ordinal level on the Likert Scale. It is a technique designed by Professor Rensis Likert (1932) to measure and assess attitudes, perceptions and opinions of the respondents on the themes of the research. The closed-ended questions allowed this researcher to elicit the interviewees' levels of agreement or disagreement in terms of the following five-point ordinal-level Likert Scale:

(1)   The Comprehensive Peace Accord (CPA) 2006 of Nepal has integrated Statebuilding and Peacebuilding:

　　1. Strongly Disagree

2. Disagree

3. Mixed Feelings

4. Agree

5. Strongly Agree

(2)   It was the lack of ownership of all major competing identities in the design (which
is the decision-making process) of the Comprehensive Peace Accord (CPA) 2006
of Nepal that caused the failure of negotiation and the collapse of the Constituent
Assembly:

1. Strongly Disagree

2. Disagree

3. Mixed Feelings

4. Agree

5. Strongly Agree

(3)   It was the lack of legitimacy of all major competing identities in the design
(which is the lack of legitimacy in decision-making process) of the
Comprehensive Peace Accord (CPA) 2006 of Nepal that caused the failure of
negotiations and the collapse of the Constituent Assembly:

1. Strongly Disagree

2. Disagree

3. Mixed Feelings

4. Agree

5. Strongly Agree

(4)   It was the lack of participation of all major competing identities in the design

(which is the decision-making process) of the Comprehensive Peace Accord

(CPA) 2006 of Nepal that caused the failure of negotiations and the collapse of

the Constituent Assembly:

1. Strongly Disagree

2. Disagree

3. Mixed Feelings

4. Agree

5. Strongly Agree

(5)   It was the foreign intervention (non-military) in the processes of statebuilding and

peacebuilding in Nepal that caused the failure of negotiations and the collapse of

the Constituent Assembly:

1. Strongly Disagree

2. Disagree

3. Mixed Feelings

4. Agree

5. Strongly Agree
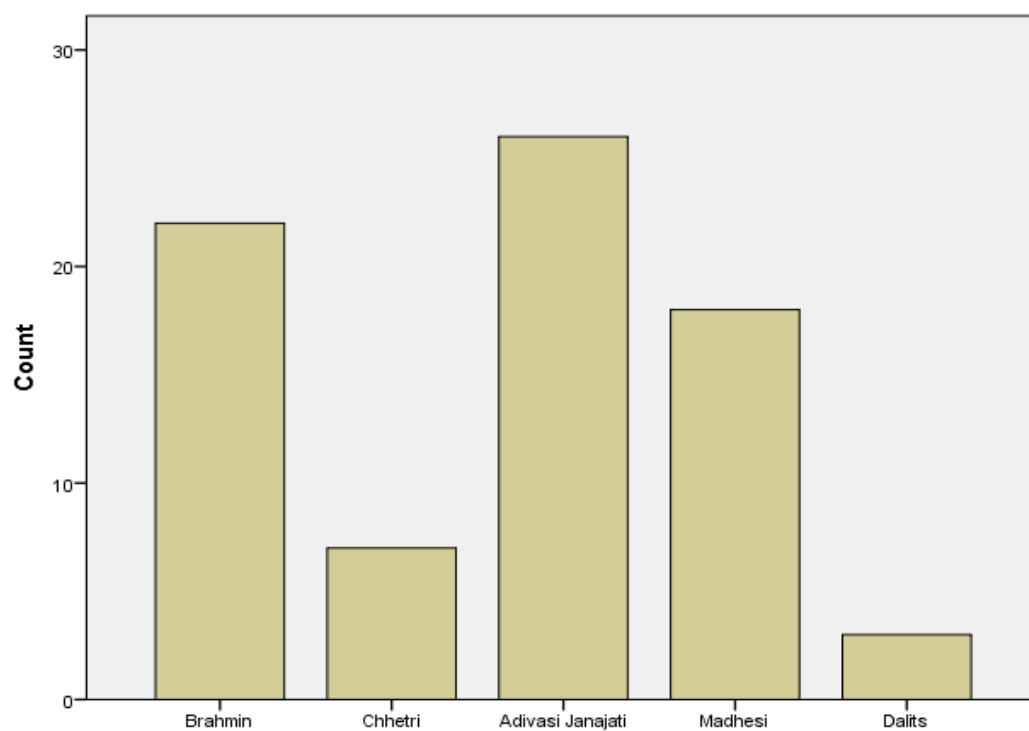
Figure 2 : Ethnic Communities Interviewed
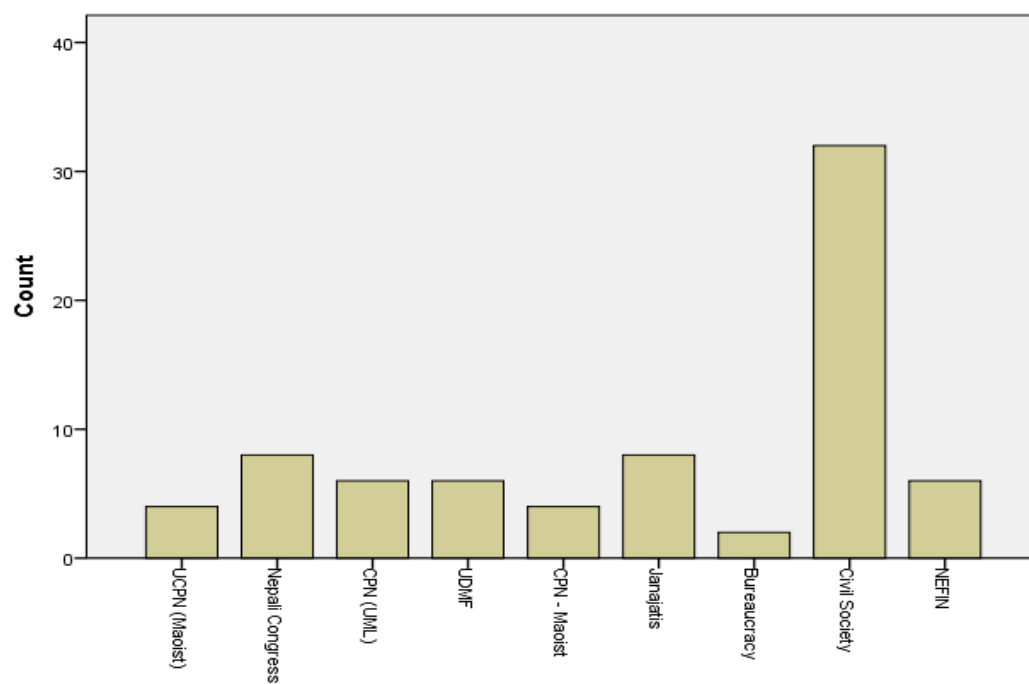
Figure 3 : Institutitons Represented in Interviews

Table 4.1 : Statistical values of closed-ended questions

	Mean	Standard Deviation	Variance
Question 1	4.00	0.83	0.69
Question 2	3.58	1.12	1.26
Question 3	3.33	1.12	1.26
Question 4	3.59	1.09	1.20
Question 5	3.75	1.21	1.47

This researcher analyzed, through the use of SPSS statistical software, the standard deviation on each variable that allows this researcher to explore how much variation exists on the responses to each question from the expected value, which is the mean value expressed by the different ethnic communities grouped or clustered under the broader five response categories. Lower levels of standard deviation from the mean value on any particular question asked to the respondents indicates a higher level of consensus among the respondents, whereas if a standard deviation is of a higher value from the mean value, it indicates that the consensus among the respondents is lower. A lower level of standard deviation indicates that the responses are closer to the mean value and the perceptions are convergent; whereas a higher level of standard deviation indicates responses are dispersed from the mean value in a widespread way and the perceptions are divergent.

Table 4.1.1 : Breakdown of Ethnic Communities Interviewed

Ethnic Communities	Total	Percent	Cumulative Percent
1. Brahmin	22	28.9	28.9
2. Chhetri	7	9.2	38.2
3. Adivasi Janajati	26	34.2	72.4
4. Madhesi	18	23.7	96.1
5. Dalits	3	3.9	100
Total	76	100	

Question 1 explores the perceptions of the respondents on the level of agreement or disagreement regarding the integration of the concepts of statebuilding and peacebuilding in the Comprehensive Peace Accord (CPA) signed by the Government of Nepal and the CPN (Maoist) in November 2006. The mean value of the responses to this question is 4.0 and the corresponding standard deviation is 0.83. The respondents expressed relatively convergent views on this question indicating that the degree of consensus across the ethnic communities on this issue is relatively high. Therefore, this researcher confidently argues that according to the sample, the Comprehensive Peace Accord (CPA) has integrated the concepts of statebuilding and peacebuilding. The CPA has integrated the concepts and identified the problems the country is facing historically until now while it

also entrusts and mandates the Constituent Assembly to negotiate on the agendas of statebuilding and peacebuilding as per the guidelines and basis defined in the Interim Constitution. This researcher has discussed in Chapter 3 that these three documents are, therefore, integrative and interdependent with each other.

Question 2 explores the perceptions of the respondents on ownership, Question 3 on legitimacy and Question 4 on the participation of ethnic identities in the decision-making process of the Comprehensive Peace Accord (CPA). These questions capture the causal factors of the failure of negotiation and the collapse of the Constituent Assembly in May 2012. In comparison to Question 1, Questions 2, 3 and 4 have lower mean values of 3.58, 3.33 and 3.59, respectively, as well as higher values of standard deviation of 1.12, 1.12 and 1.09, respectively. The respondents expressed divergent opinions on these questions, indicating that the level of agreement and degree of consensus across the ethnic communities is relatively lower on these issues.

The lower level mean scores and higher level of standard deviation of Questions 2 and 4 in comparison to Question 1 indicate that the signatories to the Comprehensive Peace Accord (CPA) hold a lower level of ownership, legitimacy and participation. The respondents hold the convergent views that the Comprehensive Peace Accord (CPA) integrates the concepts of statebuilding and peacebuilding. However, they also hold the convergent view that the questions of ownership, participation and legitimacy in the processes of statebuilding and peacebuilding are not relatively as important as the higher

level of standard deviation suggests in responses to Questions of 2 and 4. The Comprehensive Peace Accord was signed by two senior leaders, late President of the Nepali Congress Girija P. Koirala, a highly respected democratic leader, who was the Prime Minister at that time, and Pushpa Kamal Dahal, Chairman of the UCPN (Maoist), who led the armed struggles for over a decade against the regime.

Based on the mean value at 3.33 with standard deviation at 1.12 for question 3 in the ordinal level scale of 1-5, this researcher draws the conclusion that legitimacy of the political leadership of the larger political parties in Nepal has been eroding since the signing of the Comprehensive Peace Accord (CPA) in 2006 and the promulgating of the Interim Constitution in 2007. The findings reflect Jürgen Habermas's (1976) *legitimation crisis*. In turn, it implies that the major ethnic communities and many political actors do not own and legitimize the processes of statebuilding and peacebuilding. Nevertheless, the charismatic leadership qualities of these two figures made it possible to end the violent conflict through the signing of the Comprehensive Peace Accord (CPA). Yes, indeed, these two charismatic leaders have driven the peace process in the initial phase; however, their legitimacy seems to be eroding as the lower level of mean values and higher level of standard deviation of Question 3 suggest. This researcher cites a dilemma expressed by a respondent of a member of the Adivasi Janajati ethnic community, expressed during the interview with this researcher on the condition of anonymity, as an example to substantiate the argument:

I find it highly difficult and intriguing to express my view on the question of legitimacy. Since I am not a part of the process of designing the Comprehensive Peace Accord (CPA), my feeling is that I should agree with the statement. However, how could I agree with the statement since the respected political leaders of the country have signed the CPA, leaders for whom I have a high level of respect? Well, therefore, I disagree with the statement because I consider the decision of those two senior political leaders as the legitimate one as the CPA was signed in at a unique time.

Similarly, there is a the comment by a Professor of political science, a respondent to the interview who also belongs to the Adivasi Janajati community, on the condition of anonymity:

I would not say that the Comprehensive Peace Accord (CPA) does not have legitimacy. It does, indeed, have the required legitimacy as the leaders who historically led the democratic movements and armed struggles signed the document. They jointly campaigned the People's Uprisings in 2006, also known as Janaandolan II, along with other political forces. However, I would like to emphasize that it would have been better if the CPA was presented to a Conference for sharing and a discussion broadly participated in by major ethnic communities and leaders of social movements, so that all concerned stakeholders

would have owned the outcomes as well as would have further enhanced the legitimacy of the process.

The chemistry of Koirala and Dahal was so powerful that they were highly effective and pragmatic at addressing and managing the concerns of the foreign actors without allowing any sort of impact on national political processes. However, foreign interferences in domestic politics have dramatically increased in the country after the demise of Girija P. Koirala on March 20, 2010. The foreign interventions in Nepal, as this researcher observes, are at the levels of (1) financial support from the West for the social movements and religious politics with the objective of altering the power dynamics in Nepalese society; (2) political influence from India and China on the ground with the discourse of ethnic identity-based federalism in Nepal has posed threats to their national security; and (3) diplomatic pressure from Asian, European and American powers on Nepal that limits the participation of national and local actors in the decision-making process in the political sphere. Question 5 exists as a standalone variable that explores the perceptions of the respondents about foreign interventions within the agendas of statebuilding and peacebuilding in Nepal that lead to the failure of negotiations and the collapse of the Constituent Assembly. Coupled with internal factors, foreign intervention has undoubtedly altered the political structure of Nepal.

Question 5 has a mean value of 3.75 and a standard deviation of 1.21. The mean value of Question 5 is higher than Questions 2, 3 and 4. Interestingly, the standard

deviation of Question 5 is also higher than that of Questions 2, 3 and 4. This researcher is, therefore, of the view that there are also internal factors, coupled with the external factors, which have caused the failure of negotiations and the collapse of the Constituent Assembly. I will explore such factors while looking at open-ended questions in the following sections (see Table 4.6). Since the country remains weak, the intervention of foreign actors is highly visible in every sector of Nepalese society, particularly in the political process. The findings reflect the views of the critics of liberal peace, specifically Roger Mac Ginty (2012), Oliver Richmond (2011a) and Vivienne Jabri (2012), with regard to the removal of the locals from the political processes. Before I begin to look at the open-ended questions, I would like to refer to a statement by Dr. Baburam Bhattarai, Vice-Chairman of UCPN (Maoist), as it appeared in an article in a local newspaper. Bhattarai wrote this article while he was the sitting Prime Minister of the country, and he intended to defend his position and explain the causal factors for the failure of negotiations leading to the collapse of the Constituent Assembly in May 2012:

> Everyone is aware that the Constituent Assembly had the second important task of restructuring the State into a federal structure after the first task of declaring the state a republic in the first sitting was carried out. The federal structure of the state would have ensured a massive change and transformation in the feudal and unitary State power that has roots that go back centuries … it would have altered the power relations in the society in terms of class, ethnicity, gender and underdeveloped regions. Therefore, the question of restructuring the state as a

federal structure remained as a borderline between the two opposing forces, those who wanted change and the other who did not want change. Since it was the question of life and death for both forces, consensus could not be forged, and, therefore, the negotiations failed and the Constituent Assembly collapsed.

(Bhattarai, 2012 translated by this researcher)

This researcher agrees with the explanation furnished by the sitting Prime Minister on the causal factors that led to the current political stagnation. Indeed, the federal structure would have dispersed the power from the center out to the provincial and village levels. However, this researcher is not sure how federalism would have empowered women and Dalits (the so-called untouchables) as argued by the sitting Prime Minister. Bhattarai also argues that those who favor federalism are in favor of change and those who oppose it are against change, a perfect discourse that blames others for the failure in moving the country forward in any way. However, this researcher also takes note that the dominant discourse was on federalism based on ethnic identity versus non-ethnic identity. The statement of the sitting Prime Minister confirmed that he is in favor of ethnic identity-based federalism and one may argue that his party (UCPN) backs his position. Nevertheless, the question of ethnic identity and the politics based on it is one of the critical factors for the failure of negotiation that has significantly affected the processes of statebuilding and peacebuilding in the country is it has created an environment of insecurity and suspicions among the ethnic communities. I now move on to analyze the

open-ended questions that inform the other contributing and causal factors, both internal and external, to the failure of negotiation and the collapse of the Constituent Assembly in May 2012.

3.   Analysis of Open-ended Questions

In addition to the use of archival records and interviews based on closed-ended questions, this researcher collected data and information through interviews guided by open-ended questions that were intended to elicit more substantively rich participants' perceptions of the decision-making process inherent in the political sphere. This researcher has synthesized and analyzed the data and information from interviews under different groupings to facilitate the identification of common and dissimilar themes (see Frankfort-Nachmias & Nachmias, 2000). This researcher conducted interviews with selected representatives of the political institutions, civil society and the ethnic communities in and outside of the Kathmandu Valley. The areas were selected on the basis of political, social, ethnic and cultural diversities. It is essential to look at how the political actors with diverse backgrounds perceive decision-making processes vis-à-vis the processes of statebuilding and peacebuilding so that this researcher can be in a better position to compare how their views are divergent or similar. According to Sandole, the identification of common and dissimilar views is intended:

> [T]o explore *trends* and the extent to which responses to questions reflected *convergent* or *divergent views* ... that would imply a tendency toward *common*

perceptions on the issue. The corresponding policy implication is that common

perceptions are likely to lead to *common approaches* to problem solving with a

greater likelihood of success.

(Sandole, 2007, p. 79 italics in original)

The open-ended questions opened up new dimensions for eliciting discourses that are

capable of projecting relationships and perceptions of the respondents on the focus of the

research. Based on the provisions of the CPA and the Interim Constitution, both

documents are coupled with the procedures of the Constituent Assembly and remain as

an integral part of the peace agreements that serve as the basis of interaction on the

concepts of statebuilding and peacebuilding, while negotiating the contents of a new

constitution in the dissolved Constituent Assembly. The analysis on the contents of

informal interviews as a component of the participant observation precedes the analysis

of the data obtained through the interviews. This researcher asked the following open-

ended questions to the 76 respondents:

(1) Beside the community that you belong to, which are the other five major
      communities or groups in Nepal?
(2) How would you value statebuilding and peacebuilding and what do they mean for
      you?

(3) How do you describe the functioning of the political actors (institutions, parties and national/international actors) in the country in the last twenty-five years?

(4) What do you believe are the critical factors that led to the collapse of Constituent Assembly in May 2012 without promulgating a new constitution?

(5) How would you have designed the Comprehensive Peace Accord if you were allowed an opportunity to do so? In other words, what particular agendas would you have focused on?

Analysis of the data obtained from the question 1: Beside the community that you belong to, which are the other five major communities or groups in Nepal?

Table 4.2 : Comparison across five groupings on common and dissimilar categories on major ethnic communities in Nepal

Communities	Adivasi Janajati	Brahmin	Chhetri	Madhesi	Dalits	Tharus	Newar	Women	Muslim
Brahmin (Hill)	19	21	21	20	13	4	11	12	2
Chhetri (Hill)	7	7	7	5	5	1	1	2	1
Dalits (Hill)	3	3	3	2	3		1	2	
Madhesi	16	16	16	18	9	8	7	2	8
Adivasi Janajati	26	23	23	22	8	16	9	10	3
Total	71	70	70	67	38	29	29	28	14
% of 76	93.42	92.11	92.11	88.16	50.00	38.16	38.16	36.84	18.42
Ranking	1	2	2	3	4	5	5	6	7

On the question of what are the major ethnic communities that have substantial influence in the Nepal's politics, the overwhelming consensus is on the top rankings where Adivasi Janajati ranks the first, Brahmin and Chhetri the second, Madhesi the third, Dalits the fourth and Tharus and Newar the fifth. Women remain in the sixth and Muslim in the seventh ranking (see Table 4.2). The static interpretation of the questions is that the process of perceiving the ethnic community against the other in terms of the ranking perfectly sets the scene of social identity theorized by Henri Tajfel and John Turner (1986) who outline the three central ideas in the theory that are the act of: (a) categorization, (b) identification and (c) comparison of and between the social groups. The major ethnic communities in Nepal are comfortable to categorize the other communities, which is the first stage of the social identity theory. In the second stage, the ethnic communities begin to identify where they belong. I have discussed such a practice of belonging in terms of their agendas of inclusion in Chapter 3.

In addition, such a practice is reflective of the composition of the Constituent Assembly where the ethnic communities associated themselves, individually and collectively, with the particular ethnic groups in the society in order to enhance their strength. The third stage of social identity theory is the comparison between the social groups, which I have also discussed in Chapter 3, in terms of their expressions of grievance in relation to the others, reflecting Ted Robert Gurr's (1971) theory of relative deprivation. The dynamic interpretation of the findings is that the list in Table 4.2 is slightly different than the commonly used clustered categorization of ethnic communities,

which are also comfortable when looking at others with the sense and perception of the principles of coexistence. They begin to realize that they are living together with other communities in the society and each of them has influence in politics.

Analysis of the data obtained from the question 2: How would you value statebuilding and peacebuilding and what do they mean for you?

Table 4.3 : Comparison across five groupings on common and dissimilar themes of values, meaning and relevancy of statebuilding and peacebuilding to major ethnic communities in Nepal

Communities	A	B	C	D	E	F	G	H	I	J	K	L	M
Brahmin (Hill)	10	12	10	12	13	7	13	6	9	5	10	5	7
Chhetri (Hill)	3	2	2	4	2	1	4	2	4	2		4	2
Dalits (Hill)	2	3	3	3	3	3	2	3	1	1	3	2	1
Madhesi	13	11	8	5	6	9	7	8	8	6	3	5	6
Adivasi Janajati	21	20	16	14	8	11	4	10	6	14	9	6	6
Total	49	48	39	38	32	31	30	29	28	28	25	22	22
% of 76	64.47	63.16	51.32	50.00	42.11	40.79	39.47	38.16	36.84	36.84	32.89	28.95	28.95
Ranking	1	2	3	4	5	6	7	8	9	10	11	12	13

A= Rights and Freedoms

B = Participation in Politics

C = Representation (inclusive State)

D = Justice & Equality

E = Development (basic needs)

F = Human Dignity

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G = Security and Rule of Law

H = Ownership on State

I = Democracy

J = Power Sharing

K = End of Discriminations

L = Nationalism

M = Social Harmony

The great majority of respondents from all ethnic communities (64.47%) expressed basic rights and fundamental freedoms as the primary meaning and value of statebuilding and peacebuilding for them, which is classified as the dominant convergent view. The need for social harmony falls towards the end of the ranking in thirteenth place, the dominant divergent view (see Table 4.3). This researcher classified other issues falling into the convergent category up to the ranking of fifth position, where the quest for participation in politics is in the second, representations in the state institutions in the third, quest for justice and equality in the fourth and fulfillment of basic human needs in the fifth rankings. Human dignity ranks in sixth place, restoring security and establishing the rule of law in seventh place, ownership of the state at eighth place, democracy at ninth place, power sharing between the actors and the institution at tenth place, ending all sorts of discrimination at eleventh place and nationalism at twelfth place in the rankings.

The question referring to the subject matters reflects the contents of the Comprehensive Peace Accord (CPA) as the static elements have remained prominent in the political discourse until the time at which this research was compiled. These include,

for example, basic rights and fundamental freedoms, representations in the state's institutions, justice and equality, ownership of the state, democracy and the ending of all sorts of discrimination. The expectations of the respondents, however, take a departure from the Comprehensive Peace Accord (CPA) in a search for additional rights and privileges that include, for example, their quest for participation in politics, fulfillment of basic human needs, guarantee of security and establishment of order in society, feelings of nationalism and the quest for social harmony. This departure from the CPA is essentially the dynamic nature of change in the perceptions of the ethnic communities in their search for improvements in their lives, whether it be social, culturally, economical or political.

Analysis of the data obtained from question 3: How do you describe the functioning of the political actors (institutions, parties and national/international actors) in the country in the last twenty-five years? The findings of open-ended questions 3 and 4 fit perfectly with the theorization by critics of the top-down approach of the liberal peace paradigm, in particular, Roger MacGinty (2012) on non-participation, Oliver Richmond (2011a) on resistance,and Vivienne Jabri (2012) on denial of the locals from politics.

Question 3 intends to seek the perceptions and responses from the interview participants on the functioning of internal and external political actors over the last twenty-five years. The response from the participants regarding internal actors demonstrates that the behavior of internal actors is non-democratic. Expressed by 65.79%

of the 76 respondents, this is clearly the dominant convergent view expressed by the interviewees (see Table 4.4). Lack of vision or rigidity to change is ranked as the second; exclusive leadership is ranked as the third; syndicalism is ranked as the fourth and lack of trust and confidence in the internal political process is ranked as fifth among the identified characteristics of the internal actors. A new discourse has emerged in the political sphere of Nepal, which is evident in the use of the syndicate system, ranking in the fourth place, as a way of expressing and explaining the practice of removing political actors from the decision-making process.

Table 4.4 : Comparison across five groupings on common and dissimilar themes on the functioning of national actors and institutions

Communities	Non-Democratic	Visionless [also Rigid]	Exclusive Leaderships	Syndicate (Exclusion)	Lack of Trust & Confidence	Compulsion of Political Parties
Brahmin (Hill)	11	14	10	10	7	5
Chhetri (Hill)	5	4	2	3	1	
Dalits (Hill)	3	2	2	3	1	
Madhesi	15	10	11	4	6	1
Adivasi Janajati	16	14	16	16	9	1
Total	50	44	41	36	24	7
% of 76	65.79	57.89	53.95	47.37	31.58	9.21
Ranking	1	2	3	4	5	6

Syndicalism is a particular form of discourse given to the core group of senior leaders from the four larger political parties – UCPN (Maoist), Nepali Congress, CPN (UML)

and UDMF – who make almost all of the political decisions without inviting the participation of ethnic communities and other political actors and institutions. Previously, the senior two leaders, the late Girija P. Koirala of Nepali Congress and Pushpa Kamal Dahal of UCPN (Maoist), controlled the decision-making process in the political arena. This control has now been transferred to the four senior leaders of the four largest political parties. An example of syndicalism is the High Level Political Committee, led by the Chairman or President of these political parties in rotation, which came to existence after the collapse of the Constituent Assembly in May 2012. This High Level Political Committee makes every major political decision where many stakeholders have been removed from the decision-making process.

However, 9.21% of respondents seemed sympathetic to the thesis that internal political actors functioned under compulsion. Similarly, respondent perceptions on the functioning and behavior of foreign actors in Nepal over the last twenty-five years indicate, by a great majority (78.95%), that there is foreign intervention in Nepal's politics, which is a highly convergent view (see Table 4.5). Foreign interferences are in the form of moral and financial support to ethnic politics, and diplomatic pressure on the local political actors and the campaigns of religious conversion. In addition, foreign interventions occur in the name of supporting peacebuilding and statebuilding in Nepal which often denote the building of institutions or exporting institutions of good governance from the developed countries, which is in accord with concepts offered by Stephen D. Krasner (2007) and Francis Fukuyama (2009).

Table 4.5 : Comparison across five groupings on common and dissimilar themes on the functioning of foreign actors

Communities	Interferences	Domination	Ethnicization	Goodwill	Non-transparent
Brahmin (Hill)	19	11	9		8
Chhetri (Hill)	4	1	1	1	
Dalits (Hill)	2	1			
Madhesi	12	6	1	2	1
Adivasi Janajati	23	1	1	9	
Total	60	20	12	12	9
% of 76	78.95	26.32	15.79	15.79	11.84
Ranking	1	2	3	3	4

Foreign domination ranks at the second ranking followed by support for ethnic politics at the third ranking. Goodwill of foreign actors also ranks at the third position as the respondents consider foreign support on good faith. This is followed by non-transparency in foreign actors' functioning at the fourth ranking. The views of the respondents have remained largely static on the functioning of internal and external political actors as the question asked them to frame their perceptions covering the timeframe of the last 25 years. A striking feature that the research indicates is that there is also a sort of acceptance or acknowledgement within the political leadership that something was missing in the democratic process. A senior leader of the Nepali Congress acknowledged this element during the interview with this researcher on the condition of anonymity:

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The Nepali Congress, indeed, struggled for democracy in the country for more than six decades, starting with the Revolution of 1951, passing through the democratic movement of 1990 and reaching the People's Uprising of 2006. But we failed to develop and practice democratic culture. This is the failure of the Nepali Congress. Since the Nepalese people do not have any alternative, the Nepali Congress looks like the alternative of democracy; I mean it looks like the only Democratic Party in the country.

Participants made noticeably harsher remarks to the question concerning internal political actors, describing such actors as non-democratic, visionless, and rigid toward change and exclusive leadership. The Central Committee of each large political party is considered to be the highest level of decision-making authority after their general assemblies. The Brahmin and Chhetri dominate the Central Committees of the UCPN (M), Nepali Congress and CPN (UML) (see Table 4.5.1). Where the MJF — a political party advocating the agenda of the Madhesi community and is the fourth largest party in the Constituent Assembly — is concerned, it has only one non-Madhesi member in the Central Committee while looked at their structure before the election of first Constitution Assembly in April 2008. The MJF is one of the vocal ethnic groups demanding participation, representation and ownerships in the political processes, including in the state's institutions. However, its structure remains as one of the most non-inclusive and non-participatory entities. It is important to look at the Central Committee of the MJF

before the election of Constituent Assembly in April 2008 as it has currently split into many factions and groups.

Table 4.5.1 : Inclusion in Larger Political Parties' Central Committee

Caste and Ethnic Communities	UCPN (Maoist) (%)	CPN-M (%)	NC (%)	CPN (UML) (%)
1. Brahmin	43.69	48.84	38.46	53.57
2. Chhetri	17.48	9.30	20.51	13.10
3. Newar	6.80	6.98	3.85	9.52
4. Janajati	21.36	27.91	14.10	10.71
5. Dalit	1.94	6.98	5.13	3.57
6. Dasnami	0.00	0.00	2.56	0.00
7. Muslim	0.97	0.00	2.56	1.19
8. Tharu	0.97	0.00	5.13	1.19
9. Madhesi	6.80	0.00	7.69	7.14
Male	92.23	86.05	78.21	86.9
Female	7.77	13.95	21.79	13.1

Source: Dhruba Simkhada (2013, p. 6).

The dynamic interpretation of the findings of the question is that the relationships between the internal and external actors remain dialectical. If the internal political actors and institutions remain firm and united on a particular agenda or issue, the influence of the foreign actors is less or non-existent. On the contrary, if the internal political actors and institutions remain highly dispersed and fragmented on a particular agenda or issues,

the influence of the foreign actors is greater. If the national political actors remain dispersed, fragmented and weak, then the foreign actors question the ability and capacity not only of the local actors but also of the state. Professor Krishna Khanal recalls his experiences from the People's Uprisings in 2006:

On April 21, 2006 at the height of the People's Uprising, the diplomatic community intended to save the monarchy with the suspicion and doubt over the ability and capacity of the political leaderships to hold control over the state and society. However, the Nepalese people turned down the proposal of the diplomatic community and led the uprising to the height galvanizing the movements with the sentiment of republicanism. However, it had been proven in the eyes of the neighbors [India and China] by this time that the political leaderships of Nepal lacked the ability and capacity to hold the change brought about by the people's uprising in 2006. It has also been made public that Nepal, a country with the importance of geo-political strategic location, but highly dependent on foreign assistance and mercy, cannot sustain larger political changes.

(K. Khanal, 2013 translated by this researcher)

Such a view by Professor Krishna Khanal is indicative of the erosion of legitimacy of the internal political actors in comparison to circumstances as they were at the time of the

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people's uprising in 2006, and the functioning of the political actors and institutions at the time of writing this dissertation. Erosion of legitimacy in the local political actors generates a veritable invitation for foreign intervention in domestic politics. A similar characteristic of internal and external actors is that their interventions are top-down in approach, reflecting Sandole's (2010) critique of the liberal peace paradigm. Concluding the question of foreign interventions and interferences in the domestic politics of Nepal is a resident of Tarai Madhes, a member of the Madhesi community and a well-known human rights activist, as he shares his feelings about the foreign interventions in Nepal on the condition of anonymity:

It is natural that foreign interventions and interferences in Nepal's politics take place when we are weak and fragmented. The foreign actors have converted our country into a laboratory for their experiments. The foreign powers have given continuity to slavery in Nepal – the foreign actors are treating us like the slaves. I also question the intention of our political leaderships – be they from the *Pahade* or *Madhesi* community. Policy does not work once the intention of the political leaderships is questionable.

Analysis of the data obtained from question 4: What do you believe are the critical factors that led to the collapse of the Constituent Assembly in May 2012 without promulgating a new constitution?

The findings coming out of Question 4, coupled with the findings of the closed-ended questions and informal interviews, reinforces both the hypotheses. In essence, the decision-making process on the agendas of statebuilding and peacebuilding remains under the control of the ruling elites manipulated by a handful of political leaders. Such a process reflects the aforementioned theories of Mac Ginty (2012), Richmond (2010) and Jabri (2012). This researcher is of the view that the discourse on the failure of negotiations and the collapse of the Constituent Assembly in May 2012 needs to be looked at based on a provision under section "9.2 Political Prerogative", passed by the thematic Committee on State Restructuring and Distribution of State Power of the Constituent Assembly. The provision of political prerogative for dominant ethnic communities as agreed by the thematic Committee reads below taken from the English version of the document, followed by a critique written by an analyst about the feeling of insecurity created in the other ethnic communities by such a provision:

One of the reasons for adopting the federal set up is gender and language discriminations and the lack of access of oppressed caste/community and regions to the state powers. So, without arrangement of special provision, the rights and access of backward and oppressed caste and communities to the state organs will not be ensured. This special provision means the arrangement of political rights.

This political prerogative should be provided to the autonomous region to be created under the special structure. *As per this provision, the political parties need*

to give priority to those castes/communities that are dominant in the provinces built on the ethnic line, in the key leadership level during the elections and the formation of government. The provision of this political privilege will be only for two terms. Then after, this provision will expire automatically.

(SRC, 2010, p. 126 italics added)

There has not been adequate discussion on federalism at the national level, neither before the election of the Constituent Assembly during its lifetime nor after its collapse. It is meaningless to conduct the election of the Constituent Assembly for the second time unless a conclusion is drawn and a decision is made between the two strands of discourse – one of which is held by those who believe that the State might be disintegrated if the country is restructured into a federal structure and the other which holds that conflict might escalate if the State refuses to restructure itself into a federal structure. Further, those of the first strand believe that the federal structure needs to be constructed based on ethnicity while the second strand of discourse posits that ethnic federalism would be counterproductive. The second strand also believes that their own identity will end if the State is restructured based on ethnicity. The slogan of federalism that declares that Nepal will be inclusive of political prerogative, has also led to an increase in psychological fear among the other strand.

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No doubt, the State must do its best to ensure the participation of disadvantaged or marginalized communities in the decision-making process and in politics. However, the above provision in the SRC report highlighted and emphasized in the italics remains problematic since it has attempted for ten years to remove many ethnic communities in the would-be provinces from political relevancy. For one who believes in democracy and democratic practices, such a provision cannot be accepted.

Table 4.6 : Comparison across five groupings on the common and dissimilar causes on the failure of the negotiations and collapse of the Constituent Assembly

Communities	Foreign Interference	Negotiation out of CA	Procedures of CA	Ethnic Politics	Positional Bargaining (Federalism)	Win/Lose Game	Values Conflict	Judiciary	Power Dynamics	Blaming Others
Brahmin (Hill)	16	12	10	14	12	7	8	5	6	4
Chhetri (Hill)	5	2	2	3	3	1	4		1	
Dalits (Hill)	2	3	2	2				2	1	1
Madhesi	8	7	9	5	8	11	3	2	5	3
Adivasi Janajati	13	18	16	14	15	8	3	7	2	2
Total	44	42	39	38	38	27	18	16	15	10
% of 76	57.89	55.26	51.32	50.00	50.00	35.53	23.68	21.05	19.74	13.16
Ranking	1	2	3	4	4	5	6	7	8	9

The respondents overwhelmingly expressed the convergent view that foreign intervention, ranked in first place, was one of the main causal factors in the failure of negotiations and the collapse of the Constituent Assembly in May 2012 (see Table 4.6).

Negotiation on the contents of a new constitution taking place outside the premises of the Constituent Assembly ranks in second place, followed by the procedures of the Constituent Assembly third place – these two variables are the examples of the denial of participation of the ethnic communities and political actors in the decision-making process. The impact of ethnic politics and positional bargaining on federalism as the causal factors on the failure of the negotiations are tied for fourth place, with the win/lose game at the fifth ranking. These variables can be combined together.

The finding also reflects Charles T. Call's (2009) theorization that too much power quickly for the new emerging state — and analogously too much power quickly for the ethnic communities in the Nepalese context — can be counterproductive to the processes of peacebuilding and of statebuilding. The respondents have identified ethnic politics as a causal factor in the failure of the processes, largely because ethnic politics has divided the nation and the resistance movements of the ethnic communities have remained violent. Both the political actors and the ethnic communities have mobilized social identities that reflect the conditions articulated by Gurr (1993) and Azar (1990) for the mobilization of communal elements in the pretext for participation in political processes that result in violence.

Values conflicts, in terms of political ideologies and identity as a basic need, as a causal factor ranks in sixth place, followed by the verdicts of the Supreme Court in seventh place that have prevented the parliament from amending the Article 64 of the

Interim Constitution. Power relations in the Constituent Assembly, in terms of composition of ethnic communities and representation of political parties, after the elections in April 2008, rank in eighth place, followed by the tendency to blame others for the failure of negotiations in ninth place. Indeed, ethnic politics remain as one of the causal factors on the failure of negotiation leading towards the collapse of the Constituent Assembly as the practices either favor or exclude certain ethnic communities from the decision-making process and its outcomes. However, the sentiment for ethnic identity-based federalism remains high today as expressed by the newly elected President of the NEFIN in May 2013, an umbrella organization of the Adivasi Janajati community, while responding to a question regarding NEFIN's stance on federalism:

> We want identity-based federalism. The identity could be caste, language, culture, geography or historical settlement. But it should be taken into account while carving out provinces. This will also include issues of autonomy and governance, which is decentralisation in its true sense. We will not accept federalism without identity. If our issues are not addressed, there will be protests.

(Kumal, 2013)

The static interpretation of the findings in question is that the generally accepted principles of negotiation are the bargaining tactics based on position, interest and needs, where position-based negotiation tends to be problematic and is highly likely to lead to

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the failure of negotiations (see Fisher et al., 1991). However, as the findings on the question suggest (see Table 4.6), the causal factors that led to the failure of negotiations and the collapse of the Constituent Assembly are diverse and dynamic in nature, as those causal factors are likely to change and transform overt time. For example, the decision taken by the General Convention of the UCPN (Maoist) in February 2013 to engage in democracy while giving up the option of armed struggle, allowed the UCPN (Maoist) to focus on the consolidation of peace and the drafting of a new constitution (Nayak, 2013). Once the negotiators from UCPN (Maoist) come to the table, they should not come with a political ideology of communism and violence as the means to capture total state power. Regarding the clash of political ideologies in the negotiation process between 2006 and 2012, a negotiator from the Nepali Congress narrates his experiences to this researcher, on the condition of anonymity, as follows:

> The agenda of federalism was assertively raised by the UCPN (Maoist) in the political discourse of the country. However, the UCPN (Maoist), following Lenin's doctrine of the rights of nations to self-determination, gave a cover or flavor of ethnicity to the discourse of federalism in the Nepalese context. The whole nation has been divided on the issue of federalism, for or against federalism based on ethnicity, with the seeds of ethnic conflicts in the future. However, I also see a positive change in the UCPN (Maoist) as their General Convention in February 2013 has decided to adopt a democratic line based on competitive politics. I am hopeful that negotiations in the future are likely be non-value-based

and not guided by political ideology. In the past, the Nepal Congress was of the position that the reconstruction of the State must be guided by democratic principles whereas the UCPN (Maoist) insisted that State's restructuring should be based on communist philosophy. My experiences suggest that there was not any possibility or probability to have negotiations or compromise between these two opposing political ideologies and principles, which resulted in the failure of the negotiations and collapse of the Constituent Assembly.

Analysis of the data obtained from question 5: How would you have designed the Comprehensive Peace Accord if you were allowed an opportunity to do so? In other words, what particular agendas would you have focused on?

This researcher finds it surprising that the Comprehensive Peace Accord (CPA) remains as a lively issue in the psyches of the people even after seven years of its signing. In other words, the document has itself remained as a dynamic document that people still expect to be capable of guiding the incomplete peacebuilding process toward a logical conclusion, despite the collapse of the Constituent Assembly in May 2012. People still expect that the CPA should have defined constitutional mandates as the guiding principles for negotiations in the Constituent Assembly. This remains the overwhelmingly convergent view as expressed by the interview participants (see Table 4.7).

Table 4.7 : Comparison across five groupings on common and dissimilar

perceptions on the design of the Comprehensive Peace Accord (CPA)

Communities	Constitutional Principles	The Context of Signing	PLA	Federalism	Definition of the State	Referendum (provision)
Brahmin (Hill)	13	11	8	1	2	
Chhetri (Hill)		1			1	1
Dalits (Hill)	2	3				
Madhesi	7	2	3	6	1	
Adivasi Janajati	10	4	9	6	1	
Total	32	21	20	13	5	1
% of 76	42.11	27.63	26.32	17.11	6.58	1.32
Ranking	1	2	3	4	5	6

However, the respondents also expressed the need to look at the context of the CPA's signing, which ranks in second place, with the perception that the document was complete at the time it was signed. It is up to the political leadership, therefore, to make the document more dynamic by ensuring its proper implementation. The existence of the UCPN (Maoist)'s People's Liberation Army (PLA), an example of war structure, ranks in third place, suggesting that the elections of the Constituent Assembly must have been conducted after the integration into military and rehabilitation in society of the PLA. Later on, the issue of the PLA consumed considerable time during 2011 and 2012. Although the issue was supposed to be settled within six months from the signing of the

CPA, it took nearly five years for the settlement. The respondents were of the view that the CPA should have clearly spelled out the time frame and modality for integration into military and rehabilitation in society of the PLA. The issue of federalism ranks in fourth place, suggesting that it must have been clarified in the CPA. On the divergent view, the expectation that the CPA should have defined the characteristic of the State, whether democratic, communist or otherwise, ranks in fifth place, followed by the provision for referendum in sixth place. Regarding the integration into military and rehabilitation in society of the PLA, democratic control of the Nepalese Army and providing justice to the victims, the CPA has the following provisions:

Article 4.4. The Interim Cabinet shall constitute a Special Committee to carry out monitoring, adjustment and rehabilitation of the Maoist combatants.

Article 4.7. The Interim Council of Ministers shall prepare and implement the detailed action plan for the democratization of the Nepali Army on the basis of political consensus and the suggestions of the committee concerned of the Interim Legislature.

(CPN-M & Government of Nepal, 2006, p. 5)

The CPA hopes to integrate the PLA into the Nepalese Army as well as rehabilitate the remaining PLA into society within a short period of time, in addition to articulating the

need to bring the Nepalese Army under democratic control. However, the negotiations on the integration and rehabilitation of the PLA took more than four years, which substantially consumed the time of the negotiators as the larger political parties used the PLA as a bargaining chip and a condition for negotiating the contents of a new constitution. So far the democratic control of the Nepalese Army is concerned; it is still far removed from reality, although the Government of Nepal and a thematic committee of the legislature-parliament have been able to bring draft policy papers to bring military under civilian control.

These war structures continued to exist through the creation of a new interim constitution and they remained a stumbling block in the negotiation process. In addition, the CPN (Maoist) maintains its ethnic structures, which were constructed during wartime as products of a parallel government laden with violent conflict. Such a parallel government existed in the sense that ethnic communities were organized in the form of a state council of the CPN (Maoist) and were subsequently mobilized by the discourse of injustices historically inflicted on them by the Brahmin and Chhetri who practice Hinduism. Since these ethnic structures constructed during wartime continue to exist, both the UCPN (Maoist) and CPN-Maoist, are likely to advocate the agenda of ethnic federalism in Nepal.

This researcher is of the view that the CPA is an indicator of peacebuilding, but it also introduces the concept of statebuilding and therefore it integrates the concepts of

Statebuilding and Peacebuiilding as I have discussed in Chapter 3. Meanwhile, this researcher intends to return to the question of defining constitutional principles before beginning the journey of drafting or negotiating a new constitution through the Constituent Assembly in reference to an intervention made at the political level by the National Peace Campaign (NPC), a Kathmandu-based non-governmental organization. On June 19, 2006, NPC sponsored a seminar program on the process of the Constituent Assembly participated in by the senior politicians across the larger political parties: An excerpt from the presentation in English of Dr. Bhimarjun Acharya, a constitutional lawyer, during a seminar highlights the necessity and importance of the constitutional principles:

- Setting the goal/destination for a new Constitution (for example, republic or monarch; federal or unitary; parliamentary or presidential etc).
- Defining the Substantive Principles for a New constitution (for example, basic structure and contents of the new constitution; the modality of state; system of government; principles of tolerance, pluralism, human rights, the rule of law, and so forth).
- Debate over Conditional vs. Unconditional.

(B. Acharya, 2006b, p. 19)

The above example indicates a pragmatic approach to statebuilding and peacebuilding taken by local actors in comparison to the interventions made by foreign actors with the intention of altering power relations in the Nepalese society. Such an intervention is a bold step in the context where anyone who was speaking for constitutional principles, which are essentially conditions, pre-negotiated before the Constituent Assembly session began, appeared to be speaking against change, transformation or democracy. However, the institution itself and expert stated above advocated and lobbied for pre-negotiated constitutional principles so that every ethnic community and political institution in the country could feel secure in regard to the likely outcomes resulting from the democratic transitions. However, the political leadership of the country decided to go to the elections and begin the session of the Constituent Assembly without any preconditions. In other words, political leadership began its duty without pre-negotiating any constitutional principles that would have protected the security of the ethnic communities and the political institutions.

4.   Informal Interview with Key Political Actors

As part of a "mixed-methods" research design, this researcher selected informal interviews, a component of the participant observation method of field research (see Brewer & Hunter, 2006). According to DeWalt and DeWalt (2011), this practice will provide this researcher with the opportunity to better understand the contexts, events, phenomena, relations and behavior of the participants through detailed collection of information from the population or individuals concerned as well as enhances the validity

of the research findings. Subsequently, the researcher documents participants' feeling and thoughts and it is up to the researcher's discretion about what they wish to record, write and reflect (Ambert, Adler, & Detzner, 1995). DeWalt & DeWalt (2011) highlight that field notes, in this case the content of informal interviews, are both the form of "data" and "analysis" as they document and record the exact picture of observation. The conduct of this researcher was manifested as a moderate participant in order to maintain the balance between the "insider" and the "outsider", allowing this researcher to be as objective as objective as possible. As for the ethical question, this researcher has tried his best to avoid biases and not to be overly subjective while collecting and interpreting data (Richardson & St. Pierre, 2005). In this case, informal interviews were conducted with select political actors representing larger political parties and major ethnic communities through "informal interviewing" to get a sense of the political actors' perceptions of what led to the collapse of negotiations and of the Constituent Assembly in May 2012. Below, this researcher documents the data from informal interview obtained in the Nepali language and translated into English by this researcher himself.

Mr. A, a senior leader of the Adivasi Janajati Caucus, is a member of the dissolved Constituent Assembly. Mr. A belongs to the Adivasi Janajati (indigenous nationalities) community in terms of ethnic identity. He represents CPN (UML) in the dissolved Constituent Assembly and also is a senior leader of his party. Mr. A narrates his experiences in the political process as follows:

The political parties of Nepal, including my own party CPN (UML), do have a series of internal contradictions and conflicts which need to be addressed in time before they develop into unresolvable grievances. Regarding the policy of my party on the issues and agendas of the Adivasi Janajati, it has remained highly unstable. The top level leadership of my party is composed by higher caste Brahmin and Chhetri. The leadership of my party have made many contradictory and confusing policies regarding the issues. Sometimes I feel humiliation within the party due to the attitude and behavior of the top level leadership towards the issues that my community is facing in day-to-day life. However, I prefer to continue fighting within the party structure in order to establish the causes of my community within my party.

Well, the Constituent Assembly collapsed in May 2012, without promulgating a new constitution. In a general sense, it looks like the negotiation process has failed on every agenda of statebuilding and of peacebuilding. However, the crux of the matter lies in the agenda of federalism, which has remained as a challenging task. The ruling elites and power holders of the state and larger political parties, who come primarily from the higher caste Brahmin and Chhetri, looked at federalism as a problem, not as a solution. The Madhesi community also remained in a dilemma on the model of federalism; they chose to pursue undesirable bargaining on the models of federalism. It is a question of denial of participation in the decision-making process of the Constituent Assembly itself,

but not on the design of the Comprehensive Peace Accord (CPA). However, it would have been desirable that the contents of the CPA had been discussed in the Central Committees of the larger political parties before the CPA was signed.

It may not be necessary to repeat the reality and fact regarding the decision-making process of constitution-making in our country. The negotiation processes on the political agendas are controlled by the ruling elites and power holders from high caste Brahmin and Chhetri. I, Mr A., am not present at the negotiating table. Apart from me, there are no representatives from the Madhesi, Dalits and women communities at the negotiating table. Those who hold control over the negotiation table have intended to look at federalism as a problem. They hold the view that restructuring the state in a federal structure is like giving power to the others as if power is their personnel property. They looked at power sharing as power-losing. The dominant communities, Brahmin and Chhetri, were of the view that they are being forced to share the power they were enjoying in terms of access to opportunities, privileges and control over the state.

The international community is also equally responsible for the failure of negotiations and the collapse of the Constituent Assembly. Both India and China want to see the federal structure of their choice in Nepal. The European and the US have interests at Tibet, the autonomous region of China. The Europeans and the US wish to impose a failed model of democracy in Nepal – the model of

liberal democracy. The liberal model of democracy has failed because strictly individual liberty is not enough. For a country like Nepal, with a higher level of population diversity, we need a model of democracy that ensures both individual liberty and collective rights. If a member of the Advivasi Janajati, Dalits or Madhesi community has complete individual liberty, we cannot call it a democracy. In Nepal's context, the liberal form of democracy has failed since the restoration of democracy in 1990.

On the issue of substantive democracy, Nepal needs group rights ensured. Many are advocating for social justice for those who have been marginalized by the political structures. In other words, we are searching for human dignity. That is why we are demanding identity-based federalism, which is not the same thing as ethnic federalism. We are demanding respect for identity in order to preserve history, culture and tradition. In order to understand our demands, one must understand the concept of the nation-state, a concept that the ruling elites and powerholders in Nepal are far from understanding. In contrast to those who resist our demands, I would like to say that Nepal as a nation-state is an ethnic state ruled by the Brahmin and Chhetri, a group of Caucasian origin. People of all other origins were compelled and forced to accept the culture, religion, language and dress of the Brahmin and Chhetri as the national codes throughout the political history of Nepal.

Although the Constituent Assembly of Nepal was said to be participatory, the participation of marginalized communities was nonexistent. This is because only 4-5 senior political leaders controlled and dominated the decision-making process on the political agendas and in the general process of the Constituent Assembly. One does not need to be reminded that negotiations on the contents of the new constitution were taking place in hotels and resorts, notably at the Hattiban Resort and the Gokarna Resort, where the ruling elites and power holders from the Brahmin and Chhetri communities conducted politics in exclusivity. Perhaps it is our culture–the political culture not only of Nepal but of also of South Asians, where political leaders are self-centered and status conscious, preferring face-saving tactics to problem solving, and creating conflicts but failing to manage them. Political leaders possessing such characteristics fail to develop a participatory decision-making process.

I am aware that there are allegations from marginalized communities and prominent political actors that the Chairman of the Constituent Assembly, who belongs to the Adivasi Janajati community, did not use his special powers and responsibilities to conduct the business of the Constituent Assembly, particularly in the last hour on the day of May 27, 2012. However, the Chair of the Constituent Assembly makes decisions based on his personal wisdom and he always holds the view that the process of constitution making must be based on consensus, not on the majority leaders' whims.

The Brahmin and Chhetri may have perceived threats from the slogan of federalism based on a single identity. It was the task of the political leadership to notify the people about the different dimensions of federalism, which they failed to do. Consent from the Brahmin and Chhetri is critically important in order to draft a new constitution, and the only way to gain such consent is to remove the fear felt by the Brahmin and Chhetri communities. Therefore, I proposed, in my capacity as the senior leader of the Caucus, to have mixed names of the federal provinces. We become so flexible in order to bring about a new constitution, but in vain. The leaderships of the larger political parties were not prepared to restructure the state into a federal structure. Had they agreed to have mixed names of federal provinces, there would have been a new constitution promulgated by the Constituent Assembly on May 27, 2012.

The above statements suggest not only that the liberal peace paradigm has failed in Nepal, but also liberal democracy in general. The processes have remained top-down, controlled by a handful of political leaders from the Brahmin and Chhetri communities, where the rest of the actors have been removed from participation in the decision-making process that reinforces the first hypothesis. The expressions of Mr. B, a member of the dissolved Constituent Assembly, will provide further insight on this topic. Mr. B belongs to the Chhetri community in terms of ethnicity (if looked at from the perspective of popular belief). He represents CPN (UML) in the dissolved Constituent Assembly and is

also a Central Committee Member of the party. Mr. B has been deeply involved in the negotiation process in and outside of the Constituent Assembly on the agendas of statebuilding and peacebuilding for a long time. Mr. B narrates his experiences of the political process, as follows:

Let's not classify and categorize the people of Nepal in terms of ethnicity like Brahmin, Chhetri, Adivasi, Janajati or Madhesi. Dalits (untouchable) is an imposed identity. Rather, I would prefer to look at their origins primarily belonging to Caucasian, Dravidian and Mongoloid races. I am myself an Adivasi Janajati, indigenous nationality, of this country. While discussing the issues of indigenous nationalities, people intend to refer to the ILO Convention 169, of which my country is a signatory. However, as I understand, the ILO 169 Convention is only applicable to the nation-states that are coming out of the clutches of colonialism; it is not applicable to Nepal. Now the discourses of statebuilding and peacebuilding – they are different concepts – but they have become interconnected in nation-states in the post-conflict context. The discourse of statebuilding and peacebuilding is suggested to those nation-states in order to overcome the period of transition from violence to democratic politics.

The fundamental cause that led to the failure of negotiation on the agendas of statebuilding and peacebuilding followed by the collapse of the Constituent Assembly, lies in how we intend to define the State while restructuring it along

the federal structure – in other words, the question is whether we are going to reconstruct the state in terms of ethnicities or not particularly on the discourse of federalism. Equally challenging were political ideologies in the negotiation process. It is, indeed, a conflict based on the value systems. This is the fundamental problem and crux of the matter that led to the failure of negotiation and the collapse of the Constituent Assembly in May 2012. The people who are advocating federalism in the country are in favor of a federal structure in terms of history and ethnicity – that is problematic. To be precise, we have failed to articulate the objective of federalism. Why federalism? Why a particular system of governance? We also failed to define the basic characteristics of the state – what would be the economic policy of the state, for example? How would the state be governed – dictatorship, socialist democracy or liberal democracy? We all moved ahead to draft a new constitution without first defining the fundamental principles and characteristics of the state. The problem begins from this point.

I would not deny the role and influence of the foreign elements in Nepal's politics. Let's not use the words like foreign interventions or foreign interferences while discussing their impact on the negotiation process or collapse of the Constituent Assembly in May 2012. I would rather prefer to call it foreign elements meddling in Nepal's politics. I am of the view that the interests of powerful states have clashed in the soil of Nepal. We, the policy makers of Nepal, should have defined the role of foreign elements with a clear demarcation of their

limitations while creating a border line and defining the basis of interaction with them. In other words, we should have developed a sort of Nepalese foreign policy. We have failed to do so. Not only the foreign elements, but also we, the policy makers of Nepal, have sometimes exceeded our limitations while interacting with the foreign actors. There has been trespassing from both sides!

Instead of keeping national interest in the center of political discourse, the political culture in Nepal has developed in such a way that self-interest of the policy makers has remained as a dominant factor in Nepal's politics. Political parties are fragmented within, are full of internal contradictions and suffering through a crisis of political identity. The result is that politics is not guided by ideology but dominated by biology, which refers to ethno-politics. In spite of these challenges, I am not in favor of federalism based on a single ethnic identity. I advocate, and lobbied for and asserted while sitting in the negotiation table, for multi-ethnic, identities-based federalism. Those who are demanding a single ethnic identity-based federalism or those who are advocating for *One Madhes One Pradhes* (Madhes as a single province) are like that of demands to keep certain territory as integrated. It is, in my view, against the principle of federalism. The demands for single-ethnic identity-based federalism or a certain territory to keep integrated in essence is part of the larger discourse of integrated Chitwan, a territory in the central part of Nepal, and integrated far-western Nepal. If other people continue the slogan and propaganda that refers to a single ethnic

identity or a certain territory like Madhes as a single province, then I am in favor of an ntegrated far-western Nepal. Yes, I do have support and sympathy for the movements launched by the Brahmin and Chhetri in far-west Nepal in April and May 2012.

Let me refer to an interesting encounter in the course of negotiation on the contents of a new constitution that is suggestive of the discourse of "integration" or "integrated territory." I had a hot discussion with a senior leader from the Adivasi Janajati community while we were sitting at the negotiating table on the agendas of federalism. The leader from that community, referring to the movements of the Tarai people sometime in 2007, insisted that there must be *Madhes as one Province* as an honor to those who have sacrificed their lives in the course of the movements. Since the Tarai people have sacrificed a lot, including in the time of uprising in 2007, there cannot be compromise on the stance. Not only that, this senior leader provoked me in a threatening tone – if anyone wishes, they can launch similar movements like that of the Tarai Uprising in 2007 in other parts of the country. I accepted his challenge. Well, I do not need to narrate every moment – everyone in Nepal witnessed an Uprising of the Brahmin and Chhetri communities in the far west of Nepal after a month of me accepting his challenge to launch movements like that which he is referring to, the uprising of the Tarai in 2007. The demand and agenda of the people in far west Nepal are about that the far west must remain an integrated territory while

federalizing the State. The day-to-day lives of peopple in the far west have remained at a complete standstill for a month that had a powerful effect in Kathmandu. Finally, the Government of Nepal was forced to address the voices of the people in the far-west of Nepal.

The above statements reflect how tense the negotiation process had remained with regard to writing a new constitution in Nepal during 2008-2012. The ethnic sentiment and political ideologies dominated the negotiation process, which are in principle non-negotiable. The negotiators focused on the positions of the parties and not on the interests. Those positions were heavily influenced by ethnic politics and by a calculation of insecurity reflected in the discourses of "integrated" or "divided" territories that reflect social identity theory. However, Mr. C — a former Minister and a member of the dissolved Constituent Assembly — is guided by a different paradigm regarding the failure of the processes. Mr. C belongs to the ethnic Madhesi community and represents UMDF in the dissolved Constituent Assembly. Mr. C was deeply involved in the negotiation process in and outside of the Constituent Assembly on the contents of the possible new constitution. He was at the negotiation table throughout the tenure of the Constituent Assembly. Mr. C narrates his experiences of the political process as follows:

Precisely, the negotiation failed on the agenda of federalism. I realize now that federalism is such a topic, theme or political agenda that demands a lot of discussions in and outside of the Constituent Assembly. However, most of the

time, the Constituent Assembly dealt with other subject matters. The realization is also that people at large must be prepared and ready while adopting a new structure of the State. However, the contents, agendas and process of federalism and federalizations were not adequately discussed at the people's level. It is natural that people have a psychological fear with regard to the new structures if we intend to introduce such new structures while people are not fully prepared to own the new systems. In order to ensure security for all, to communities and political groups, I realize that there must have been certain pre-negotiated or pre-agreed constitutional principles in advance. That was lacking in our process of writing a new constitution. To be specific, the agendas like federalism, system of governance and structure of the judiciary require pre-negotiation so that the process of drafting a new constitution would have been easier. I am not sure, and there is no guarantee, that the second Constituent Assembly will be able to draft a new constitution in the absence of pre-agreed or pre-negotiated constitutional principles.

I am aware of the signature campaign waged during mid-May 2012 with the objective of demonstrating a two-thirds majority in the Constituent Assembly. Out of 601 delegates, the signature campaign reached 467. The signature campaign was intended to exert pressure on the leadership of larger political parties. The members of the Constituent Assembly belonging to marginalized communities, but representing the Nepali Congress and CPN (UML), also signed

the document. I would not deny that such a signature campaign may have irritated the leadership of the Nepali Congress and CPN (UML), the two larger political parties. In addition, this may also have created a sense of insecurity in the Brahmin and Chhetri communities.

A fundamental problem that I observed in the process of writing a new constitution is the negotiation on the contents of a new constitution taking place outside of the premises of the Constituent Assembly. There were hardly any serious negotiations on the contents of a new constitution inside the Constituent Assembly. In the beginning phase, only the senior leaders from the larger political parties – UCPN (Maoist), Nepali Congress and CPN (UML) – took part where UDMF was not part of the decision-making process in the negotiation that occurred outside of the Constituent Assembly. Let's forget about participation of others, no matter if they are marginalized communities or political parties, in the decision-making process under the existing conditions, even the UDMF, the fourth largest political force, was not part of the decision-making process designed and controlled by the three larger political parties.

By this time, every larger political party was suffering through internal conflicts, divisions, factions and contradictions. Some of these larger political parties have split vertically. The political parties in the name of Tarai-Madhes are even more sharply divided. None of the political parties are secured in terms of their relative

strength should there be an election in the immediate future. Even if there is an election for a new Constituent Assembly for the second time, I am afraid the task of writing a new constitution is going to be even more challenging. Therefore, I am of the view that there must be pre-agreed or pre-negotiated constitutional principles before entering into the fray of elections. In the absence of pre-negotiated constitutional principles, every political party will be tempted to be highly radical and revolutionary in order to garner support and votes from the people. For example, my own party did not agree to divide the Madhes into five provinces on the ground that other political parties from Tarai-Madhes, which are not part of the decision-making process on issues of federalism, are insisting for *One Madhes, One Province* – a radical and revolutionary slogan to attract the Madhesi people into their fold. If I may recall, such revolutionary and radical slogans are always part of the social movements. During the Madhesi Uprising in 2007, people from the *Pahade* (Hill) origin, who are basically Brahmin and Chhetri, living in the plain land, Tarai/Madhes, experienced psychological fear and threats.

During the time of transition, even the President, Mr Ram Baran Yadav, could not act and perform his duties independently and impartially. His role and performance remained controversial. He refused to endorse the ordinances submitted by the Government of Nepal. Referring to a clause in the Interim Constitution that states "if the President is satisfied," the office of President

refused to endorse the ordinances submitted by the government under the leadership of Dr. Baburam Bhattarai of UCPN (Maoist), including the ordinance to hold elections for the Constituent Assembly for the second time. I am of the view that the President is exercising the legislative power of the legislature-parliament in the absence of the Legislature-Parliament that collapsed in May 2012, along with the collapse of the Constituent Assembly.

I was fully engaged in parleys, negotiations and dialogue the whole day on May 27, 2012 – the last day before the Constituent Assembly collapsed. I was a first-hand witness to all the events that took place from the morning until the evening. Since we, the negotiators from the larger political parties, failed to forge a consensus on the contentious political issues in the process of writing a new constitution, we also discussed the option of declaring a State of Emergency. We would not have been able to prolong the tenure of the Constituent Assembly by following the normal procedures as the verdicts of the Supreme Court did not allow us to do so. Some of the negotiators from the Nepali Congress and CPN (UML) disagreed on the option of State of Emergency, but the same negotiators at the last moment agreed to declare a State of Emergency.

The negotiators from UCPN (Maoist) and UDMF were in favor of declareing a State of Emergency in the beginning, but became suspicious of others' intentions and motives later on. We had suspicions about whether there would be a new

constitution even if we agreed to prolong the tenure of the Constituent Assembly through the declaration of a State of Emergency. In addition to that, we had suspicions that there would have been a motion of no-confidence against the government the next day if the Constituent Assembly's tenure had been extended. Well, there was no guarantee that a new constitution would be drafted, rather every member of the Constituent Assembly could engage in the game of changing the government, once again. Rather than face such a situation, a dominant psychology emerged that allowed the Constituent Assembly to collapse. Once the Constituent Assembly collapsed, the Parliament collapsed automatically, and there could not be any more games of changing the government.

Finally, it was the lack of political leadership capable of driving the process of writing a new constitution through the Constituent Assembly. It is a political process that requires acceptable political leadership – some sort of statesmanship – to drive the nation during the transition towards competitive democratic politics. The lack of political leadership was even more visible in the Constitutional Committee, the main thematic committee of the Constituent Assembly which was tasked with preparing the draft of a new constitution. A sort of norm was established that the Constitutional Committee would collect the draft reports from all the other thematic committees, study those reports and prepare a draft of a new constitution. This is because the senior political leaders from all the political parties had representations in the Constitutional Committee. The Constitutional

Committee had the leadership of a senior politician; however, when he moved out from the Committee to become the Prime Minister, then the Constitutional Committee remained almost absent of leadership.

The above statements suggest a lack of participation not only of the stakeholders but also of the people at large in the decision-making process in order to enhance their ownership and legitimacy in the outcomes which, in turn, reinforce the first hypothesis and reflect the critiques of liberal peace. This researcher moves on to document the narrative of Mr. D, who is currently a member of the dissolved Constituent Assembly. Mr. D belongs to the ethnic Chhetri community and represents UCPN (Maoist) in the dissolved Constituent Assembly. Mr. D is deeply involved in the negotiation process in and outside of the Constituent Assembly on the contents of the expected new constitutions. Mr. D narrates his experiences on the political process as follows:

I have been continuously engaged in negotiations and dialogues with other political actors up until now. We came to Kathmandu time and time again during the people's war, including the time of absolute rule of the King, with the objective of holding political dialogue. We went to meet people by knocking on their door and we had meetings with many people. We also tried to meet King Gyanendra, but it was not possible. I have been at the negotiating table since the time of the people's war – in different phases, stages and times. My experience was that the negotiators could not make any decision independently, on their own

and using their own wisdom. The negotiators were under pressure from different sources, including from foreign actors. These forces tried their best to influence the negotiators. Well, this has remained as a bitter, unfortunate and ironic experience of my life while working as a negotiator.

Both India and China have concerns about the issues of federalism in Nepal. I feel it is normal that the neighboring countries, China and India, who have a bitter history between them, have concerns regarding Nepal, a common neighbor of both. Both countries have concerns about whether Nepal would be able to have a sytem of federalism and maintain the State affairs with stability. Their concerns focussed on the stability of Nepal as a nation-state amidst the dominant discourse of federalism. Both India and China have security concerns with the land of Nepal. China is concerned about whether anti-Chienese elements will effectively use Nepal as their playground to destabilize Tibet. India has similar security concerns about threats emanating from the soil of Nepal. The security concerns of both neighbors are natural and normal, and the impact of their security concerns on the negotiation process of Nepal is also normal and natural.

The journey of the peace process began with the signing of the 12-point Understanding between CPN (Maoist) and alliance of seven parliamentarian political parties in November 2005 in New Delhi. The signing of Comprehensive Peace Accord (CPA) in November 2006 between the CPN (Maoist) and the

Government of Nepal, gave a new status and momentum to the peace process. I strongly believe that CPA has integrated these two concepts and that is why the peace process in Nepal looks highly challenging. If the CPA had only addressed the agendas of peacebuilding, all the issues would have been already settled by this time. In order to build peace, we, the CPN (Maoist), gave higher priority to the agenda of statebuilding, for which we prioritized the election of the Constituent Assembly as a preferred means to complete the tasks of peacebuilding, and of statebuilding.

I would not deny the importance of the Brahmin and Chhetri communities for building state, peace and democracy in the country. It would not be possible to draft a new constitution without their consent. Well, the Brahmin and Chhetri communities may have developed a sense of insecurity following the signature campaign in May 2012, although it was intended to garner the support of two-thirds of the Constituent Assembly with the objective of bringing about a new constitution. I believe that the fear and threat perception of the Brahmin and the Chhetri was a cause that led to the failure of negotiations and collapse of the Constituent Assembly. However, it is equally important to engage all, communities and political actors, in the decision-making process. I believe participation in the decision-making process is very critical and important. The Constituent Assembly remained highly representative; however, not all could equally engage in the decision-making process of writing a new constitution. The

failure to discuss the structure of the judiciary and system of governance was, in my mind, a fundamental error in the process of decision making.

The above statements suggest and reinforce foreign interventions as a causal factor in the failure of negotiation and the collapse of the Constituent Assembly, coupled with internal factors, in particular the denial of participation to the stakeholders in the decision-making process which, in turn, reinforces both hypotheses and reflects the critiquer of liberal peace. Regarding the decision-making process, something is fundamentally wrong in the functioning of Nepalese society as Mr. E, a known civil society activist in Kathmandu, shares. He belongs to the Dalits community group (a so-called untouchable caste) and runs a civil society organization based in Kathmandu. His narratives of Dalits' problems sound different from the commonly heard jargon practiced by many internal and external actors. He looks at a long-term vision for the end of caste-based discriminations in society. He also represents a civil society perspective on the failure of negotiation and the collapse of the Constituent Assembly in May 2012:

> The state has fulfilled almost all of our demands – the demands of the Dalits (untouchable) community. However, the problem of the untouchables still exists in the Nepalese society. Reality for the untouchable is more degrading and dehumanizing than that associated with racism. The concept of untouchables is socially constructed. The enactment of laws and formulation of policy by the state to end the caste-based discrimination is not enough, nor is it enough that the

constitution declares an end to all sorts of discrimination. The different forms of social injustice, in particular against Dalits and women, continue to exist in the society. We have been dehumanized in the name of culture, religion and tradition. These forms of discrimination exist and live on in social laws – the norms and practices – that dominate the conduct of the society.

Since the concept of the Dalits (untouchables) is a social construct, it needs to be deconstructed socially. It would not be possible through our generation – forget about our previous generation. Our generation is a cocktail generation and it is full of contradictions. In a city like Kathmandu, our generation is half modern and half traditional; when it goes to the villages it is fully traditional, and when it goes to western countries it is completely westernized. Therefore, I do not see any hope for change from our generation that is aged 30-50, as it is full of contradiction irrespective of ethnic identities. Therefore, we need to target the new generation, this is what we are doing, with the objective of educating and making them aware about the Dalits' condition as a form of dehumanization. Preparing a new generation means, on the questions of untouchables, to have tolerance and patience for the coming fifty years. Well, that is too long and I am not sure how long our generation will survive.

We need to look at the failure of negotiations and the collapse of the Constituent Assembly in a broader spectrum, including the social structures and functioning

of the political parties. Although the peace process began with the signing of the Comprehensive Peace Accord (CPA) in November 2006, unfortunately the document was designed only by 4-5 senior political leaders and the people in general do not own it. It is the question of participation in the decision-making process that continues in the functioning of the Constituent Assembly as well. It is crystal clear that the 4-5 senior political leaders from three to four larger political parties dominated the decision-making process in the process of writing a new constitution through the Constituent Assembly. Every one of us is aware that most of the contents of a new constitution were being negotiated outside the premises of the Constituent Assembly. The representation and participation of marginalized communities in the Constituent Assembly remain only for the sake of participation and representation. Unfortunately, ethnic sentiments and agendas were dominant inside the Constituent Assembly – every ethnic community was trying their best to establish their agendas while undermining the cultures and religions of the others.

A popular belief and discourse is that the negotiations failed on the agenda of federalism that followed the collapse of the Constituent Assembly. I wonder – what does federalism mean for us – for the Dalits? Federalism does not have any value for the Dalits. We accepted federalism because the state accepted to restructure itself in a federal set up. Nevertheless, we want to see that federal system of governance give us respect, respect our dignity, allow us equal

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participation in the politics and decision-making process, enhance our development and ensure social justices for us. These basic needs must be secured and guaranteed in the federal system of governance. However, I am afraid of likely ethnic identity-based conflicts in the days to come. Would the prospective provinces of the federal system allow equal respect for all religions, cultures and identities within their boundaries? I doubt it. People have fears and perceptions of threat from these issues while the state restructures into the federal system. These may become new sources of conflicts in the near future. Discussions on only these issues is not enough; there must be a mechanism to address them. How would Nepalese society look after twenty years? We are going to construct tomorrow's society – therefore the state that we are going to construct must be acceptable for tomorrow's generation.

Let's not talk about the foreign actors, in particular the western donors based in Kathmandu. I feel humiliated even to talk about them. These western donors look at us as if we all are beggars of a poor country. It is pathetic and degrading. They come to a weak state with the objective of building or supporting the building of a reasonable place. Being a weak state, the problems of corruption, lack of education, the incapacity of leadership, for example, are common. That is why the donors claim that they are here to improve the system. Well, the donors' representatives begin to blame us with those words the day after they land in Kathmandu airport. They come here because we have those problems and they

want to help us to overcome them. Ironically, they begin to blame us with the rhetoric of good governance, human rights and liberal democracy. They begin to compare us with Europe or America. I wonder – why have they come here and what are their objectives? Even a common citizen of Nepal, like me, feels shame at the behavior of the western donors. How do the policy makers in Nepal feel about their behavior and attitude? I do not doubt the level of pressure they exert on the policy makers of a weak State, including Nepal. Naturally, I believe that the donors' undesirable attitude had a significant impact on the failure of negotiations and the collapse of the Constituent Assembly.

The statements of Mr. E suggest the lack of participation of the stakeholders in the decision-making process, coupled with foreign interference in domestic politics, as the causal factors in the failure of negotiations and the collapse of the Constituent Assembly which, in turn, reinforce both hypotheses and reflect critiquer of liberal peace. The increasing foreign interventions in domestic politics have remained a matter of concern as Mr. F, a former Minister, and a member of the dissolved Constituent Assembly, expresses his feelings. Mr. F adds that foreign actors want to change power relations in Nepalese society. Mr. F belongs to the Brahmin community and he represents the Nepali Congress in the dissolved Constituent Assembly. Mr. F has been involved in the negotiation process within the Constituent Assembly intermittently. Mr. F narrates his experiences in the political process, as follows:

I am just returning from my home town, which is also my constituency for contesting elections. During my stay in the villages, I usually faced a common question – would there be an election of a new Constituent Assembly for the second time? Such a question from the people indicates an increasing lack of trust and confidence of the people in the state and the political leadership. It also indicates an erosion of legitimacy of the political leadership and the state in the eyes of the common people. What I find in people is a sort of desperation for development – for meeting the basic needs like drinking water. Well, we here in Kathmandu are too much focused on a constitution, which is no doubt a most necessary task; it is also equally important to meet the needs and expectations of the people.

Let me begin with touching upon the lack of leadership to navigate the state out of the transition towards democratic politics through the promulgation of a new constitution by the Constituent Assembly. The Constituent Assembly, and its thematic committees, indeed lacks leadership. The Constituent Assembly was too big; the number 601 has become too big to handle logistically. It took a substantial amount of time for many members of the Constituent Assembly to learn the parliamentary practices and procedures of the Constituent Assembly, as they are the new emerging leaders. Out of 601, about 75 members spent four years without uttering a single word inside the Constituent Assembly or the Legislature-Parliament. In addition, the Legislature-Parliament spent almost all

four years in the exercise of making or breaking the government, which ultimately has impacted the constitution-writing process as time was consumed elsewhere.

The management, integration and rehabilitation of the People's Liberation Army (PLA) of the CPN (Maoist) remained critically linked to the process of writing the new constitution. The Nepali Congress and the CPN (UML) hold the stance that they will not cooperate in the process of writing a new constitution unless the integration and rehabilitation of the PLA are complete. On the other hand, the CPN (Maoist), being the largest party, maintained the stance that they will not allow a new constitution to be written or the management of the PLA to be settled unless they are in the government. It may be recalled that there was no government formed with the consensus of all large political parties for four years– either the Nepali Congress or CPN (Maoist) was excluded from the government. This also remained problematic in the process of writing a new constitution. The Young Communist League (YCL), a sister organization of the CPN (Maoist), a militant group, melted away due to different reasons. However, the dissolution of the PLA remained a notable event. Had the Nepalese Army not mobilized to control the PLA, which was confined into different cantonments throughout the country, there could have been bloodshed inside the cantonments.

The fundamental cause that lead to the failure of negotiations and the collapse of the Constituent Assembly is the foreign intervention in Nepal's politics. The

foreign actors consider Nepal as a laboratory to test their political hypotheses. Let me give you an example. One day, we had a program to pass the annual budget as part of the daily business of the parliament. We looked at the parliamentary hall and noticed that not enough members were present to form a quorum in order to pass the annual budget. We, the three senior leaders of the three large political parties – UCPN (Maoist), Nepali Congress and CPN (UML) – begin to search for our parliamentarians. We were stunned to find out that more than 250 parliamentarians were busy attending seminars in 5-star hotels. Meanwhile, a representative of an international non-governmental organization telephoned me to say that about 65 parliamentarians were engaged in his seminar, adding that their program will be over in 3 hours and asks me to postpone the parliamentary session by another 3 hours. What a shame!

Let me give you another example of how the foreign actors intend to impose their will on us. A western embassy [name withheld by this researcher] based in Kathmandu, invited me to a luncheon meeting. In addition to me, there was a member of the Constituent Assembly from another political party and a member of the Human Rights Commission. The representative wanted to convey a message that Nepal's pending constitution should include complete freedom on religious matters. The foreign diplomat insisted on the removal of a provision under discussion that was about "religion cannot be converted by force." Then I asked the western diplomat, "Are you planning religious conflict in Nepal?" I

understand that people have right to convert to another religion on a voluntary basis, but not under the influence of money or other coercive means. I asked another question, "Could you ask for complete religious freedom in middle-east countries? Well, middle-east could be a bit harder; could you ask for complete religious freedom in Pakistan, a relatively more open society than those in the middle-east?" The western diplomat remained silent. I refused to take their lunch and left their premises. Well, now you can imagine how foreign actors are intending to intervene in Nepal's politics under different guises.

The discourse of ethnic-based federalism has remained a fundamental problem in the negotiation process. The Brahmin and Chhetri have demonstrated a higher level of tolerance throughout the transition period. Unfortunately, these two communities have been provoked and compelled to come out on to the streets. The discourse of ethnic-based federalism has not only divided the nation along ethnic identity lines, but also drawn the attention of India and China to the political process in Nepal on the ground of security threats to their countries. Both neighbors have expressed serious concerns about ethnic-based federalism on the ground that Nepal would not be able to stabilize itself should it adopt ethnic-based federalism, which could ultimately pose a security threat to both India and China. The concerns of both neighbors have naturally impacted the negotiation process in Nepal, leading to the collapse of the Constituent Assembly.

The above statements further reinforce foreign intervention as a causal factor in the failure of negotiations and the collapse of the Constituent Assembly, coupled with a number of internal factors, including the presence of war structures that negatively impacted the negotiation process, suggesting confirmation of the second hypothesis. Mr G, a member of the dissolved Constituent Assembly, further reinforces the foreign interactions as a causal factor, adding that the lack of justice to the victims of conflicts erodes the legitimacy of the political leadership. Mr. G belongs to the Brahmin community and is a Central Committee member of CPN-Maoist. Mr. G narrates his experiences in the political process, as follows:

> A class of people was systematically marginalized after 1951's democratic transition on the basis of political, economic, social and cultural affiliations who suffered under different sorts of discrimination in terms of ethnicity, gender, class and region. The CPN (Maoist)'s people's war made them aware of the exploitation imposed on them and the people's uprising in 2006 enriched this awareness. We look at ethnicities differently–Madhesi, Adivasi Janajati, Women, exploited classes, and Dalits – through the lens of those struggles where Nepal's politics until now has remained under the control and domination of Brahmin and Chhetri. Nepal's politics still remain dominated and controlled by the leadership of a feudal mentality. A general perception was that only the people who were well-educated and better off economically can and should be the political leaders.

That perception is still dominant in the psyche of ruling elites and power holders of the state and the larger political parties.

The leaderships of larger political parties are still in the primitive stage and have yet to develop democratically. The results of proportional representation (PR) in the elections of the Constituent Assembly in April 2008, have remained a shocking and stunning phenomenon to the ruling elites and power holders (of the state and the larger political parties) as the PR system substantially altered power relations inside the Constituent Assembly. In other words, the composition of the Constituent Assembly mirrors Nepalese society, empowering the marginalized ethnic communities politically, which the ruling elites and power holders could not accept wholeheartedly. Every attempt was made to defame the Constituent Assembly and humiliate the members of the Constituent Assembly elected on the basis of the PR system. The relations between the elected representatives, political parties and Constituent Assembly have not been as smooth as needed in order to navigate the country through the political transition towards competitive politics.

In addition, it is unfortunate that only a handful of senior leaders, let's say 4-5 politicians from the larger political parties, dominated the decision-making process in the business of the Constituent Assembly. I firmly believe that it was not a democratic process or practice. The 601 members of the Constituent Assembly were almost without any role. In other words, the Constituent

Assembly remained as the rubber stamp to legitimize the decisions of those 4-5 senior politicians from the four larger political parties. The Constituent Assembly failed to sort out the problem of devising a plan to ensure the participation of all 601 members in the decision-making process. The so-called participation, representation and inclusion remained only in the slogan – particularly in the decision-making process inside the Constituent Assembly.

The elected people's representatives have been denied participation in the decision-making process not only inside the elected institutions, but also by the non-elected Supreme Court, an example of what we refer to as the rise of illiberal institutions dominating politics and democratic institutions. The Supreme Court of Nepal is a highly conservative institution. The discussion inside the Constituent Assembly that the judiciary must remain independent and accountable alerted the judiciary as well. In the thematic committees of the Constituent Assembly, the discussions were also about the need for re-appointing the judges after the promulgation of a new constitution. In case a new constitution was promulgated with such a provision, there were no guarantees that the same judges would continue in the judiciary. The judges of the Supreme Court were not comfortable with the discourses inside the Constituent Assembly. They, without being sensitive to their mandate and limitations, converted Article 64 of the Interim Constitution to non-amendable.

The political leadership of the country could never be independent and dignified. They also looked at the others–the foreign actors–for making decisions on the matters of internal affairs. Therefore, foreign interference increased in Nepal's politics. The diplomats based in Kathmandu have began to visit the senior political leaders door to door. The foreign actors also perceived that the federal model being discussed in Nepal may not be of their choice. The foreign actors began to realize that the Constituent Assembly of Nepal may not make a decision to their liking. Therefore, the foreign actors also preferred the collapse of the Constituent Assembly – they used every means to end the negotiation process and the Constituent Assembly. Once there was no Constituent Assembly, there was also no discussion on federalism and the restructuring of the state.

The larger political parties never focused seriously on the contents of a new constitution. Rather, they spent considerable amounts of time on making and breaking the government. The Legislature-Parliament remained highly active in comparison to the Constituent Assembly. The agenda of forming a government under the leadership of each larger party remained a high priority agenda. The perception was that being in the driving seat of the government meant accumulating money through different means so that they can influence the results of the forthcoming elections, if there are any. In addition to that, the regressive forces who did not accept the agendas of republicanism, federalism and

secularism were trying their best to end the Constituent Assembly without producing a new constitution; they were successful.

Definitely, constitution making is an integral part of the peace process and of the statebuilding process. However, in addition to that, the State be able to address the consequences resulting from the excessive use of force from both the state and the rebels during the time of the people's war. These consequences include, but are not limited to: (1) the issues of disappeared citizens and the quests of their family members to find out the whereabouts of the disappeared; (2) the details of the consequences resulting from the excessive use of force must be collected and an environment of reconciliation should be created; (3) the rehabilitation of the forced displacements; (4) the release of those detainees under false and fabricated legal charges; and (5) the integration and rehabilitation of the combatants in a just manner. I am saddened and my heart is broken that these issues have remained under the shadow of *realpolitik*.

The above statements reinforce both hypotheses on the internal and external causal factors in the failure of negotiations and the collapse of the Constituent Assembly, suggesting the need for relationship building and reconciliation that reflects Lederach's (1997) theory of peacebuilding. In a similar tone, Mr. H, a member of the dissolved Constituent Assembly as well as a member of the thematic Committee on State Restructuring and Distribution of State Power, highlights how stakeholders have resisted

the foreign interference in Nepal's politics. Mr. H belongs to the Brahmin community and represents the Nepali Congress in the dissolved Constituent Assembly. Mr. H was involved intermittently in the negotiation process in the Constituent Assembly and is regarded as an ideologue for his party. Mr. H narrates his experiences in the political process, as follows:

> The Interim Constitution 2007 of Nepal declares that the voices of Madhesi, Women, Adivasi Janajati and Dalits must be heard in the decision-making processes of statebuilding and peacebuilding, with particular reference to the writing of a new constitution. However, the Interim Constitution failed to declare that the voices of the Brahmin and Chheti also need to be heard. The problem starts from there. There are no doubts that every citizen should have ownership in the state and feel that the state enjoys legitimacy. The State's institutions must reflect the composition of society; this means they must be inclusive, participatory and representative. However, it does not mean that the Brahmin and Chhetri should be sidelined while there is an increasing participation, inclusion and representation of other communities, including those that have been marginalized. The collapse of the Constituent Assembly was the result and product of the way the Brahmin and Chhetri communities were ignored, undermined and humiliated in the process of writing a new constitution.

Nevertheless, the Committee on State Restructuring and Distribution of State Power has defined the Brahmin and Chhetri communities in such a way that they are considered to be Adivasi (indigenous) communities of this country. This is a decision taken through a consensus vote in the Committee. The miniature general convention of the Nepali Congress, a couple of months ago, followed the same definition of the Brahmin and Chhetri as an indigenous community of the country. It may not be surprising that the discontent of the Brahmin and Chhetri begin during the third year of the tenure of the Constituent Assembly. Once the Adivasi Janajati (indigenous nationalities) and Madhesi communities become extreme in their behavior, the Brahmin and Chhetri communities also took to the street with the demand for recognition of their identity.

The Brahmin and Chhetri communities have had serious concerns and reservations on the way the donors and international non-governmental organizations are functioning in Nepal. Their funding to the ethnic communities has provoked the Adivasia Janajati, Madhesi and Dalits to oppose the Brahmin and Chhetri communities. I would not deny that the Brahmin and Chhetri feel threatened because of their identity due to the intervention of foreign actors through funding or other means. Let me give you a striking example of the Centre on Constitutional Dialogue (CCD), a brain child of the United Nations Development Program (UNDP) Nepal, which, along with other international non-governmental organizations, acted as the spokesperson of the Adivasi Janajati and

Madhesi. The acts of these foreign actors were not tolerable to the Brahmin and Chhetri communities. The Brahmin and Chhetri communities have serious reservations and concerns about the member states of the European Union. The Brahmin and Chhetri communities registered a written voice of dissent at the United Nations' office in Kathmandu after which the CCD's office has remained closed.

Let's not be in confusion about the late King Prithvi Narayan Shah, who unified Nepal through different means, also performed the tasks of statebuilding and peacebuilding. The ethnic communities since then have remained in social harmony and tolerance of each other's cultures. What language do the Adivasi Janajati use while conducting their meetings, workshops and seminars? They do so, of course, in the Nepali language. However, the quest for identity has developed and now the number of Adivasi Janajati has reached 85. Due to the interventions of different elements, social harmony in the Nepalese society has been disturbed. During the last days of the Constituent Assembly, every ethnic community and identity, including the Brahmin and Chhetri, came out on to the streets and the country remained at a standstill. Every identity was demanding the federal model of their choice. It was next to impossible to promulgate a new constitution.

The issues of integration and rehabilitation of the UCPN (Maoist)'s People's Liberation Army (PLA) also consumed a substantial amount of time. The management of the PLA remained a higher priority of the Nepali Congress and the CPN (UML), the two larger parties in the Constituent Assembly. It was agreed in one of the negotiated documents that the integration and rehabilitation of the PLA shall be completed within 6 months; however, it took four years to settle the issue of the PLA. The Constituent Assembly failed to have serious discussions on contentious issues in the plenary sessions, in particular on federalism with the added complexity that every larger party had their own model of federalism. In other words, the larger political parties were positional on the model of federalism. It was position-based bargaining.

A striking feature of the process of writing a new constitution was a lack of leadership–let's say, statesmanship. Indeed, the Constituent Assembly failed to have an acceptable national leader. I feel that had Girija Prasad Koirala, who was an architect of the peace process, survived until the extended time of the Constituent Assembly, the country would have been able to sort out the differences as well as have a new constitution. Leadership matters. If you look at the constitution-making process in other countries, the successful examples are South Africa, the process led by Nelson Mandela, and India, where Pandit Jahawarlal Nehru led the process of writing the constitution. In our context, none of the leaders were capable of doing so. There was a leadership vacuum after the

death of Girija Prasad Koirala and the peace process began to derail from March 2010 in his absence.

The Nepali Congress has serious reservations about the commitments of the UCPN (Maoists) to democratic norms. On the one hand, the UCPN (Maoist) was undergoing internal contradictions and conflicts while, on the other hand, the ideological conflict between the Nepali Congress and UCPN (Maoist) seriously blocked the process of writing a new constitution. It is, indeed, a value conflict. That is why the Sub-Committee on Dispute Resolution coordinated by Mr Pushpa Kamal Dahal, Chairman of the UCPN (Maoist), remained ineffective. The Sub-Committee had the mandate of 17 days in the initial phase to sort out the differences; however, the Sub-Committee continued for another 18 months without being able to sort out a single issue in writing.

A remarkable task undertaken by the Constituent Assembly was the abolition of the monarchy and establishment of republicanism in the country. It was a peaceful revolution! It was a marvelous task undertaken by the Constituent Assembly. Has there been any instance in any part of the world where the King has agreed to give up power peacefully, except in Nepal? The decision to abolish the monarchy was taken through the plenary session of the Constituent Assembly in which all the members present in the Hall participated. Besides this particular event, there have been rare sessions of the Constituent Assembly in plenary, which I take as a

strategy for removing the 601 members from the decision-making process. Well, I observed a serious shortcoming in the political process of Nepal – that is, the denial of participation of stakeholders in the decision-making process. The stakeholders have been denied participation not only in the design of the Comprehensive Peace Accord (CPA), but also in other decision-making processes. The stakeholders have been consulted only if they were needed to remove difficulties in the political process. Many agreements have been signed with the objective of removing the difficulties, but not with the intention of implementation.

The above statements also reinforce both hypotheses on the internal and external causal factors in the failure of negotiations and the collapse of the Constituent Assembly. Indeed, leadership and statesmanship matter a lot in the processes of statebuilding and peacebuilding. This researcher had an opportunity to have an informal interview with Mr. I, an influential senior leader of UCPN (Maoist) who belongs to the Chhetri community in terms of ethnicity. Mr. I further elaborates on the importance of statesmanship. The informal interview was short, but he shares valuable information on the political process, focusing on the causal factors that led to the failure of negotiations and the collapse of the Constituent Assembly in May 2012:

The Constituent Assembly is a sovereign institution and supreme body and its members are directly elected by the people. However, the institution was not

allowed to function properly; in other words, it was not allowed to function as per the defined rules, regulations and procedures. In the due course of time, the political leadership began to negotiate the contents of a new constitution outside of the premises of the Constituent Assembly. In other words, the Constituent Assembly was moved to the hotels and resorts. It is true that many senior leaders of the larger political parties were defeated in the elections to the Constituent Assembly. However, these defeated leaders always remained dominant in the decision-making process and the decision-making body of the larger political parties. Therefore, the contents of a new constitution automatically derived from the decision-making body of the larger political parties, as the process of writing a constitution cannot be delinked from the functioning of the political parties.

Whether it is a peace process or negotiation, individuals do have a critical and important role to play. In other words, national leaders do have significant roles and contributions to make in driving the political process. However, in the context of Nepal, there was a complete vacuum of such a national leader after the death of Mr. Girija P. Koirala in March 2010. Nobody could fill that gap and vacuum. The political and peace processes began to derail after his death. In addition, Mr Koirala was such a personality and political figure, who could face and resist all sorts of foreign intervention. In his absence, nobody could maintain the balance between the interests of the foreign actors and their subsequent interference in Nepal's politics. Since there were problems everywhere, it was natural that the

neighbors had interests in the domestic politics and, therefore, foreign interference increased significantly. Let's take the example of the dominant discourse of federalism in Nepal – it would not be acceptable to China to have multiple provinces in the northern part of Nepal bordering on Tibet, whereas there would only be one or two province in the southern part of Nepal bordering on India. Many provinces means that Nepal lacks the ability to hold control of those provinces, where China sees penetration coming from many fronts against Tibet, threatening the national interests of China. It is natural that China would not accept such a federal structure in Nepal.

The UCPN (Maoist), indeed, is not in favor of ethnicity-based federalism. Although my party has used different strategies to mobilize communities during the People's War, it was a strategic move to organize the people. I am of the view that ethnic politics has become a causal factor in the failure of negotiations and the collapse of the Constituent Assembly in May 2012. Yes, indeed, ethnic politics has accelerated in the country. Let's see, for example, the movements of the Brahmin and Chhetri – they began to organize themselves under the umbrella of institutions and organizations. They came out on to the streets with demands, e.g., the movement for an ntegrated far-west region. The Brahmin and Chhetri communities, which are often positioned as the ruling elites and dominant castes, are now in the movements in the streets. There is no need to talk about the Madhesi, Adivasi Janajati and Dalits, who have been for a long time in the streets

in the context of social movements with demands for political change. Is this not ethnic politics?

The above statements reinforce the second hypothesis on the external causal factors in the failure of negotiations and the collapse of the Constituent Assembly. It is clear that the larger political parties and social groups in Nepal have mobilized ethnic politics. Certainly, the leadership is crucial in running the nation. Because of the lack of statesmanship, ethno-politics has dominated the political process, provoked group identity and posed security threats to the ethnic communities against the others. We turn now to an informal interview with a senior government officer of the Secretariat of the Legislature-Parliament and the Constituent Assembly, Mr. J, who was closely and seriously engaged in the process of writing a new constitution. This government officer, whose experiences remain highly relevant, useful and insightful, wishes to remain anonymous:

> The political leadership of the country lacks a democratic culture as imagined by the Constitution of the Kingdom of Nepal 1991. They fail to work for the betterment of the people, in addition to their failure to engage the people in the decision-making process. In a democracy, institutions run by the elected representatives of the people are expected to be supreme. However, the structures of the larger political parties have remained the supreme authority in Nepal's politics since 1990. We obtained democracy, but we did not get democrats. The

successive parliaments could not act decisively since the 1990s. Parliaments remained as the rubber stamp to endorse or legitimize the decisions taken by the larger political parties. Political decisions were made outside but imposed on the parliaments. The politicians have never retired from politics – they always look for or recreate their role in politics.

None of the larger political parties have had commitments to federalism. Instead of promulgating a new constitution with a federal structure of governance, a dominant psychology remained that caused the collapse of the Constituent Assembly without bringing about a new constitution. In addition, the policymakers failed to pay adequate attention to the geo-political reality. Both India and Chain have security concerns resulting from the discourse of ethnic-based federalism in Nepal. Both neighbors were discomforted by the modality of ethnic-based federalism that was dominating the discourse. Let's not forget that both India and China have had goodwill and good faith with regard to the political changes that have taken place in Nepal since 1951.

None of the larger political parties have made commitments to the procedures of the Constituent Assembly. The senior four leaders of the larger four political parties thought of themselves as the supreme authority. They began the process of discussing and negotiating the contents of a new constitution outside the premises of the Constituent Assembly. The supremacy of the Constituent Assembly was

undermined and ignored and neglected. Nobody trusted and respected the collective wisdom of the elected people's representatives' institution, the Constituent Assembly. The negotiation process on the contents of a new constitution remained chaotic in the absence of pre-agreed or pre-negotiated constitutional principles. The Constituent Assembly began the journey in the absence of a pre-defined destination. The fundamental principles of a new constitution could have been defined either in the Comprehensive Peace Accord (CPA), Interim Constitution or declared by the first or second plenary sitting of the Constituent Assembly.

The Constituent Assembly had a dual task as it was also functioning as the Legislature-Parliament. The task of writing a new constitution and running the day-to-day business of the parliament were mixed up. The members of the Constituent Assembly were comparatively attracted towards parliamentary business, and had less concentration on writing a new constitution. Unfortunately, the legislature-parliament became a venue for making or breaking governments. The negotiated documents are evidence of the extension of the Constituent Assembly's tenure each time it was traded-off with the resignation of the sitting Prime Minister. The larger political parties, either the Nepali Congress or the UCPN (Maoist), which remained in opposition while forming the government, tabled the condition of resignation of the sitting Prime Minister in order to lend their support to the extension of the Constituent Assembly's tenure.

A number of caucuses, either in the name of the Adivasi Janajati or Madhesi, became dominant throughout the course of constitution making inside the Constituent Assembly. Their representation as a political actor belonging to certain political parties became meaningless. The group identity became prominent and dominant in the political discourse, affecting the business of the parliament and the Constituent Assembly. The nature and performance of the caucuses were entirely different from democratic practices. The caucuses had no respect for the others, nor did they have any collaboration with the others. Rather, the caucuses began to overturn the decisions of the parliament and the Constituent Assembly. It was like anarchy – the torture inflicted by the caucuses! Inside the Constituent Assembly, even a single member could obstruct the proceedings of the Constituent Assembly by picketing the rostrum. In addition, the task of the Constituent Assembly was complicated due to the complex decision-making process. Yet, the procedures of the Constituent Assembly allowed the members to express dissent. Although the option of consensus while making decisions was agreed upon in principle, many thematic committees had voted on various issues in a way that resulted in the consolidation of positions of an individual political party.

Well, the formation of a High Level Task Force, led by Mr. Pushpa Kamal Dahal, Chairman of the UCPN (Maoist) and represented by Chairmen or Presidents of

other large political parties (which included members such as Mr Jhalanath Khanal, Mr Chandra Jha, Mr Upendra Yadav, Mr Narayanman Bijukchhe, Mr Prem B. Singh and Ms Rukmini Tharu), can be considered as a procedure for denying the participation of all other remaining members of the Constituent Assembly from the decision-making process. Provisions for the formation of such a High Level Task Force did not exist in any document – neither in the Interim Constitution nor in the procedures of the Constituent Assembly. Nevertheless, the High Level Task Force was entrusted with resolving and negotiating the contentious issues in the process of writing a new constitution.

The findings from these informal interviews "triangulate" with the findings generated by the analysis of the archival data and closed-ended and open-ended, structured interviews, reinforcing the overall finding that the causal factors that led to the failure of negotiations and the collapse of the Constituent Assembly were both internal and external; in other words, they further reinforce both hypotheses of the research. The politics of the internal and external actors clash in Nepal's context, as both of them are pursuing their goals and interests unilaterally and concurrently. After all, the processes are political, as Cousens et al define peacebuilding as a political activity (see Cousens, Kumar, & Wermester, 2001), as is the process of statebuilding. Still a question remains–what bridges the gap between theories and practices? Indeed, the processes of statebuilding and peacebuilding are part of politics – it is this part that bridges the gap between the theories and practices that may go beyond the generally accepted definition of 'peacebuilding as politics.' However, a

fundamental question is who engages in politics so as to constructively bridge the gap between theories and practices? Once the political process is stagnant and not able to generate any decisive action, then the last option of engaging the people at large remains a possibility, so that they are directly engaged in politics:

> The option of referendum is the best one and collective views of the people are the last resort to make a decision on the model of federalism. What sort of federalism do people want? For example, should the would-be provinces have a common identity for all the people like a country has a common identity for all the people or should the provinces be constructed by dividing the people according to ethnicity? The provinces should be constructed based on the view of majority of the people on one of these two options. Nevertheless, it would be better to sort out the difference at a political level while taking the stakeholders into consideration.

> (S. A. Gautam, 2013a translated by this researcher)

Everyone engaged in the processes of statebuilding and peacebuilding engages in the politics of their choices – some result in disasters, particularly when foreign actors deny local actors a chance to participate in the decision-making processes. This is the 'exogenous' mode of intervention, which can also take place within a society where the ruling elites remove the people based on competing communal identities, as in the

context of Nepal. However, there are local practitioners and peacebuilders, who also engage in politics–the politics of peace — and who are genuinely concerned with statebuilding, peace and democracy while envisioning the people as being at the center of the political discourse. This is because the local people will suffer in case the processes of peacebuilding and statebuilding collapse, not the foreign actors. If a process of statebuilding, peacebuiding or democratization fails in a weak state, people of that country suffer tremendously, not the foreign actors. Therefore, the local peacebuilder must engage politically from inside the heart, allowing the gap between theories and practices to be addressed. With this understanding in mind, this researcher now turns to discussion of the implications of the findings of this research for theory, reserch, and policy among other issues (e.g. the fit between the findings and select theories).

CHAPTER 5: DISCUSSION

This dissertation began by outlining the political dynamics wherein three political and social forces – democratic, communist and ethnic identities – competed to construct a state of the protagonists' choice. In Chapter 2, major theoretical frameworks were discussed, followed by a comparison and critique of the theories. Theories used in this research relate primarily to statebuilding, peacebuilding, social identity, democratization and legitimacy. Using these theories as a point of departure, this researcher explored a probable interaction, which were elaborated on in subsequent sections, of the processes of statebuilding and peacebuilding. In Chapter 3, this researcher introduced the case study with highlights in the political process, beginning with the unification campaign as a starting point, heralding the era of statebuilding. This was followed by armed conflicts, democratic transitions and social movements until references from archival data and information highlighted the endogenous and exogenous causal factors that led to the failure of negotiations and the collapse of the Constituent Assembly in May 2012.

In Chapter 4, this researcher analyzed findings from the interviews that explored endogenous and exogenous causal factors that led to the failure of negotiations and the collapse of the Constituent Assembly of Nepal in May 2012. On the endogenous front, the fundamental factors that caused the failure of negotiations included: (1) the denial of

participation of major ethnic communities and many political actors in the decision-making processes; (2) the impact of ethnic identity politics; (3) the existence of war structures; (4) the value conflicts in terms of political ideologies and identities; and (5) changes in the power dynamics between the ethnic communities clustered into the broader three categories which were traditionally kept in balance in Nepalese society. One of the most critical findings in this dissertation is the precondition required for success of the processes is inclusion of all groups, armed and combatant or otherwise, in a peace process—as opposed to shutting out some ethnic groups, armed groups and attempting to undertake peace talks without them. Sudan, Israel/Palestine, Iraq, Afghanistan — all of these conflict-affected areas are examples of peace talks in the process of failure because some critical groups have been excluded. Sadly, a common narrative found in the intervention dominated by the liberal paradigm of peacebuilding is that "we cannot have them here" mindset, which is dominant in the Nepal's context as well.

On the exogenous front, the fundamental factors that caused the failure of negotiations and the collapse of the Constituent Assembly in May 2012 are: (1) Western funding to social movements and religious politics with the objective of altering the power relations in Nepalese society; and (2) the security concerns of China and India resulting from the discourse of ethnic identity-based federalism in Nepal. Here again, one of the most important implications of this research is that this researcher is providing a context within which to support a shift in the thinking of the West (and everyone else,

really — we just happen to have a lot more weight to throw around than most) about intervention in conflict-affected and fragile states. That shift desperately needs to happen, because what we currently do at best tends to go to waste, and at worst can actually contribute to a worsening of the problem it was intended to solve. One may wonder how Western efforts led to failure when China and India — two of the largest rising powers on earth, and with a far greater presence in Nepal than the West has — were both interfering in Nepal as well. A simple logic is that the West is supporting the ethnic communities of Nepal, which by default means they are supporting construction of ethnic federalism in Nepal. However, both India and China are not in favor of ethnic federalism in Nepal, as highlighted in Chapter 3, on the ground that both giant neighbors share a border with Nepal with ethnic and religious fault lines. Any intolerance or crisis in Nepal along ethnic lines may pose significant risks to both India and China of instability in the border areas.

1. The Processes

Theories predict phenomena and have explanatory power, and data collected and analyzed in the research suggest an occurrence of phenomena suggesting that the theories are valid. If the theories discussed in this research were false, then this researcher would not have been able to observe the consequences stated in both hypotheses. Therefore, I conclude that the theories discussed in this research are likely to be true. To my mind, there are two purposes for research utilizing theory: research is useful to prove or disprove theory in and of itself, in order to strengthen the descriptive power of that theory; or research tests the theory against one situation in order to defend its use in

making recommendations for another situation. Therefore, confirmation or falsification of hypotheses means a verification of a theory or theories, which in turn has indications for how to design and implement future processes, what mistakes to avoid and what measures to ensure are duplicated. Regarding the interaction between the two hypotheses, the researcher is of the view that the foreign interventions would not have had the same effect if critical groups had not been shut out of the process, and vice-versa.

On research findings confirming the first hypothesis: *Average responses to closed-ended questions 2-4 of schedule-structured interviews are in the range of 3.33-3.59 on a 1-5 ordinal scale (Table 4.1). Given that "1" means strong disagreement and "5" strong agreement, these values would justify an assessment of Hypothesis 1 as being partly confirmed. Individual rankings for open-ended question 4 (failure of negotiations) run the range from 1 to 5 but are second on the total rankings (see Table 4.6). This would, coupled with informal interview responses, justify an assessment of Hypothesis 1 as being confirmed.*

The Comprehensive Peace Accord (CPA), the focus of the first hypothesis, largely remains an acceptable peace document from the time of its promulgation, as no evidence is available to argue that ethnic communities and political actors have engaged in the resistance movements against the CPA. However, the findings of closed-ended question 2, 3 and 4 (see Table 4.1 and informal interviews) suggest a denial of participation in the decision-making process, coupled with the findings of open-ended question 2 (see Table

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4.6 and informal interviews) that account for the lack of ownership and legitimacy in politics. Therefore, the findings of closed-ended question 3 (see Table 4.1 and informal interviews) with the mean value of 3.33 and standard deviation of 1.12 confirm that ethnic communities are in search of greater participation in politics in order to enhance legitimacy and ownership in the decision-making process.

The research findings suggest that only 4-5 senior leaders from the larger political parties control the processes of statebuilding and peacebuilding. Although the Comprehensive Peace Accord (CPA) and the Interim Constitution envision a desired future of the country that reflects John Paul Lederach's (1997) theory of peacebuilding, the practices of peacebuilding implementation are limited at the top layer undermining the mid and lower levels of his leadership pyramid and, thus, confirming the critiques of liberal peace on the removal of locals from politics. This is a top-down approach of liberal peacebuilding, and such a process denies participation not only to the major ethnic communities but also to many of the individual political actors striving to have a voice in the decision-making process. Such a practice of decision-making began with the design of the CPA and continued until the end of the Constituent Assembly in May 2012, and beyond. Decision-making processes are designed in such a way that there is no space for the 601 people's representatives in the Constituent Assembly to breath comfortably.

Under such circumstances, resistance movements by the ethnic communities — and later by political actors — became the norm. This was particularly apparent after the

promulgation of the interim constitution in 2007. The movements reached their height during April-May 2012, the last two months of the Constituent Assembly's tenure, when the major ethnic communities gathered in the streets demanding a state structure of their choice. These resistance movements suggest that the major ethnic communities as well as many political actors did not own the processes of statebuilding and peacebuilding. In addition, these resistance movements indicate the form of struggles to (re)assert space in the political process by those who have been removed from it in the past. Addressing the demands of agitated ethnic communities, dominated by the discourse of for-and-against ethnic federalism, becomes almost impossible for the state as well as for the larger political parties who controlled the process of writing a new constitution.

In the Nepalese context, the Comprehensive Peace Accord (CPA) integrated the concepts of statebuilding and peacebuilding, although it lacks the participation of concerned stakeholders in the decision-making process. Additionally, the political actors also did not have access to the decision-making process in a number of areas discussed in chapters 3 and 4 and summarized in the first paragraph of this chapter. In other words, ethnic communities and many political actors have been removed from politics and resistance became the popular tactic to establish their political existence. These findings, therefore, confirm the critiquing theories of liberal peace, notably those of MacGinty (2012), Richmond (2010) and Jabri (2012). Indeed, the theory of liberal peace stresses a predilection for the top-down approach of building state and peace has failed in Nepal's case, along with the failure of negotiation on the agendas of statebuilding and

peacebuilding as signified by the collapse of the Constituent Assembly. The processes of building state and peace in Nepal is, indeed, controlled by a handful of senior leaders of the larger four political parties, which has often been referred to as the syndicate system in the political discourse of Nepal. Such a practice resembles Mac Ginty's theorization of the "non-participation" of the local stakeholders in the political process happening "involuntarily."

Individual leadership also matters in the processes of statebuilding and peacebuilding. In the beginning, the peacebuilding process of Nepal was controlled and driven by the two senior leaders, the Chairman of UCPN (Maoist), Pushpa Kamal Dahal, and the former Prime Minister, late Girija P. Koirala. The peace process was highly criticized, internally and externally, for its top-down approach as it removed many social and political actors from the decision-making process. The dynamic chemistry between these two leaders continued until the election of the Constituent Assembly in April 2008. Once the peace process collapsed on the eve of the election of the Constituent Assembly, the process was replaced with competitive politics. This new practice continued after the election of the Constituent Assembly and gained momentum after the death of Koirala sometime in 2010. Under the vacuum of statesmanship in the absence of the Prime Minister, the political actors continued negotiating on the agendas of peacebuilding, and of statebuilding in and outside of the Constituent Assembly.

Nepal is a traditionally governed society with respect to the elders whose decisions are taken for granted in the family and politics. A general perception is that ethnic communities coexist, maintaining social harmony, despite unjust social relations that either favor or marginalize certain ethnic communities. However, the decade-long armed conflict challenged such a perception and the dominant discourse of nationalism. In the course of their people's war, the CPN (Maoist) massively mobilized the ethnic communities, the ones which have been historically marginalized socially and politically, exposing societal and governmental contradictions and hypocrisy. Whereas the Brahmin and Chhetri communities are viewed as the sole source of oppression in Nepalese society, a similar discourse is found in the claims of Westerners who project themselves as the liberators and the marginalized communities as the victims.

The state and society are in struggle for power in order to construct a legitimate state that resembles Foucault's (1995) articulation of decentralized power existing in a society and being disseminated through social networks. Such struggles between the state and society suggest a departure from Tilly's theory of statebuilding and attracts the relevancy of the evolving theory of statebuilding offered by Verena Fritz & Alina R. Menocal (2007, p. 13) on legitimacy of state and its institutions and OECD (2008, p. 1) literature referring to statebuilding as driven by state-society relations. The research confirms that the ethnic communities and many political actors desire participation in the political decision making in order to construct a legitimate state as the current oligarchy is becoming increasingly unacceptable. The research explored a perception of legitimacy as

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the most essential factor in the processes of statebuilding and peacebuilding that develops based on the interactions taking place in the state and society. Nepal is at the stage of Habermas's legitimation crisis that occurs when citizens begin to experience discontent over unjust social and political institutions not addressing their best interests.

The process of statebuilding in Nepal has its origins in the unification campaign of the late King Prithvi Narayan Shah. The initial phase of Shah's statebuilding in Nepal applied strategies of Charles Tilly's (1975a, 1975b) theory of statebuilding: (1) war and violence, but also (2) negotiation and compromise, both of which together resulted in the construction of a modern Nepal with the shift of the capital from Gorkha to Kathmandu. Later on, the process of statebuilding continued with the embedded characteristics of interaction between the state and society that is manifested in the forms of armed conflicts, peaceful people's uprisings and social movements in search for democracy and legitimacy in the state. Both the state and society in Nepal are transforming into a semblance of the state-in-society theory of Migdal (2001) who conceptualizes the transformative nature of the state that develops through mutual interaction with society and social forces in the quest for power and dominance in society.

The statebuilding process of Nepal has the characteristics of both (a) war and violence, reflecting Tilly's theory of statebuilding, and (b) negotiation and compromise that depart from the same theorization. King Prithvi Narayan Shah conquered many principalities through war during his campaign of unification with the effort of creating a

modern Nepal. However, he also annexed princely states into modern Nepal through negotiation and compromises as he recognized that he could not defeat those principalities in war. A fundamental difference between the statebuilding processes in Europe—as theorized by Tilly—and in Nepal is that the European states established democratic institutions to rule society whereas in Nepal the monarchy of the Shah Dynasty continued to rule authoritatively. In essence, the monarchic dictatorship backed by the Nepalese army continued until mid-2006 in one form or another. The monarchy controlled the state power and legitimized its rule in the name of Hinduism by citing divine power as the source of authority, a process known as Sanskritization, where citizens were denied participation in politics, including the denial of basic rights and fundamental freedoms.

However, these political processes in Nepal, coupled with armed and peaceful strategies of political and social forces, depart from Samuel P. Huntington's (1991) but confirm Tilly's (2007) theory of democratization, defined as a process occurring at the national level in different parts of the world and supported and promoted by different causal mechanisms as well as by Adam Przeworski's (2004) theory that democracy evolves after the fall of a dictatorship. The process of democratization that began in 1951, interrupted by violence along the way as discussed in Chapters 3 and 4, still has a way to go, confirming the theory of Mansfield and Snyder (1995). The two theorists argue that the process of democratization can be violent as the states undertaking such a process are prone to civil wars and intrastate conflict. Such a situation exists in Nepal as suggested by

the finding from the review of archival data, and the schedule-structured and informal interviews. Examples of such peaceful and armed struggles between the state and society are found in the Revolution of 1951; the people's peaceful uprisings in 1979, 1990 and 2006; and armed conflicts of the 1960s, 1970s and 1990s, all with the objective of establishing democracy and transferring power to the people's elected institutions, the parliament and the Constituent Assembly.

In emerging democracies, the ruling elites exploit structural fragmentation such as ethnic divisions for their political gains (Kapstein & Converse, 2008) and such a situation is particularly true in a country where democracy is perceived as a negotiated outcome of a peace process (Reilly, 2003). This is particularly true in Nepal's context, where democracy is perceived as a negotiated product between the CPN (Maoist) and alliance of seven political parties (2005) — in particular reference to the signing of the 12-Point Understanding in November 2005, which is a further departure from Samuel P. Huntington's (1991) theory of democratization. Based on the provisions enshrined in the Understanding, the CPN (Maoist) agreed to accept multi-party democracy and the agenda of the alliance of the seven political parties, whereas the alliance agreed to accept republicanism and the agenda of the CPN (Maoist). It was a point of compromise, a negotiated outcome in plain language that restored the process of democratization, which created a basis for launching the people's uprisings of April/May 2006, resulting in the removal of the king from power. The journey of democratization articulated by the Understanding culminated in the signing of the peace accord in November 2006, and the

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holding of elections to the Constituent Assembly in April 2008, which effectively became an ingredient for subsequent competitive politics.

Concerned stakeholders still do not have avenues for participating in the decision-making process. The senior political leadership controlled the political processes since the collapse of the Constituent Assembly. Nepalese politics has been governed so far under the system of clientelism, a theory developed by Richard Graham (1990). The relations between the top-level politicians (i.e.: the *patrons*) and the ethnic identity communities as well as other political actors (i.e.: the *clients*) remain asymmetric, but stable. However, the balance is eroding as marked by the causal factors that led to the failure of negotiations and the collapse of the Constituent Assembly. Graham defines clientelism as the practice that allows both the patrons and the clients to gain from each other's political support. Such a practice can also be defined as a form of political mobilization in the context of democratization as, in the words of Luis Roniger (2004, p. 366), "Democratic polities leave room and new opportunities for political articulation, negotiation, and public positioning. The politics of identity and the decline of ideological mobilization can provide a favorable ground for clientelistic articulation."

The findings of closed-ended questions 2, 3 and 4, with mean values of 3.58, 3.33 and 3.59, respectively, highlighting the quest for ownership, legitimacy and participation; and findings of open-ended question 4 (see Table 4.6) that place ethnic politics at the fourth rank as a causal factor for the collapse of the Constituent Assembly, coupled with the

findings from informal interviews, all indicate rising ethnic tensions. Self-centered characteristics of the ethnic communities in Nepal, as highlighted by the findings of open-ended question 1 (see Table 4.2) are indicative of ethnic polarization reflecting the social identity theory articulated by Tajfel and Turner (1986), as a perfect condition required to incite ethnic conflict with the "us" vs. "them" framing. Both endogenous and exogenous actors have exploited the rising ethnic tensions, while led to significant security risks for the Brahmin and Chhetri communities, thereby undermining the processes of statebuilding and peacebuilding.

On research findings confirming the second hypothesis: *The 3.75 average response (on a 1-5 scale) to closed-ended question 5 on the result of foreign intervention (see Table 4.1), plus the individual rankings of responses to open-ended question 4 on foreign interventions (range: 1-4) and status as first place in total rankings (see Table 4.6), coupled with informal interviews, clearly justify the assessment that Hypothesis 2 has been confirmed.*

Roland Paris (2010) precisely pointed out that the liberal paradigm of peacebuilding is in crisis. Such a crisis has manifested in Nepal, where intervention under the paradigm of liberal peace has relied too heavily on statebuilding at the expense of peacebuilding. Again, this is discussed by Oliver Richmond (2011b). In addition, the liberal paradigm of peace has ignored the historical processes of statebuilding and overlooked theories of the state, especially in Nepal's context. The historical evidence suggests that the state of

Nepal itself is transforming from the dictatorship of the Rana and Shah dynasties, has passed through democratic transitions towards a more inclusive and democratic state driven by state-society relations as captured through social movements and resistance. However, the internal and external peacebuilders and statebuilders have often intervened at the ethnic and religious fault lines, provoking ethnic sentiment during the process of writing a new constitution. Yet the critics of liberal peace are not suggesting its replacement (see Richmond, 2011b); rather they are exploring mechanisms in the form of hybridity in order to bring the locals back to politics and reconnect them to the international system (see Mac Ginty, 2011a). Unfortunately in Nepal, the foreign actors are part of the problem, not the solution.

The critics of liberal peace, associated with the fourth generation of peacebuilding scholars (see Ramsbotham, Woodhouse & Miall, 2011), have focused largely on the cases with direct foreign military and/or political interventions; for example, Afghanistan, Iraq, East Timor and Cambodia. Nepal's case, however, is significantly different as there have been no military interventions by foreign powers. As far as the United Nations Mission in Nepal is concerned, the Nepali government invited them to monitor arms as well as the elections to the first Constituent Assembly, making Nepal a unique case. Additionally, critics of liberal peace argue that the control of the political and peace processes by the national elite is an example of the dominant paradigm of liberal peace; again, what we now see in Nepal. This being said, the essential ingredients suggested by

the critics of liberal peace for a successful process (i.e. participation, ownership and legitimacy) are deeply relevant to Nepal.

The top senior political leaders control the processes of statebuilding and peacebuilding in Nepal, with support from foreign actors. As a result, these political practices have been protested against by the ethnic communities in the streets and resistance movements have become commonplace. The research findings (see analysis in Table 4.6 on open-ended question 4 and informal interviews and analysis of archival data) suggest that foreign actors intend to alter the power relations in Nepalese society, where Hinduism is practiced by 80% of the population, and most notably, by the Brahmin and Chhetri who currently hold the vast majority of political power. The research corroborates Jabri (2010, p. 42), who articulates that "to intervene at all into other societies is by definition colonial, suggestive of dispossession, racialised domination, and subjugation." From a Western standpoint, Hinduism and the Brahmin and Chhetri communities have been defined as the sources of all sorts of problems in Nepal, whereas the Adivasi Janajati, Madhesi and Dalits are framed as the victims.

The Western foreign actors morally and financially support the Adivasi Janajati and Madhesi to enhance their capacity for social change, which, in turn, is used to drive their resistance movements. In other words, the intervention of foreign actors is changing the power relations in Nepalese society, although it may be unintended, by undermining Hinduism in general and the Brahmin/Chhetri communities in particular. The first

strategy to change the power relations is the religious conversion to Christianity and the second strategy is to fund capacity-building efforts of the Adivasi Janajati, Madhesi and Dalits (see analysis of archival data in Chapter 3 and informal interviews in Chapter 4 and Table 4.6). These communities resort to practicing their collective power through forging an alliance against the Brahmin and Chhetri, which never appeared likely until 2012. As a result, the Brahmin/Chhetri communities feel a security threat from the Constituent Assembly collectively dominated by the Adivasi Janajati, Madhesi and Dalits. Such a scenario reflect the social identity theory of Tajfel and Turner (1986) with regard to categorization, identification and comparison, plus Gurr's (2001) and Azar's (1990) theorization on identity mobilization.

Social movements have often gained momentum immediately in the successful aftermath of democratic movements. The evidence of social movements conducted by the Adivasi Janajati and Madhesi communities is well documented as early as 1951 through 1991, with the movements achieving their greatest momentum in 2007 and April/May 2012. Nepali social movements invoke Gurr's (2001) and Azar's (1990) theory on the mobilization of ethnic and communal identities. The movements of ethnic communities, including those of the Brahmin and Chhetri, reached a climax in April-May 2012 when the masses came out on to the streets demanding their choice of a new structure for the state. Although these ethnic movements existed on their own, they also attained support from endogenous and exogenous political actors for their mobilization. The political leadership in the country views these ethnic communities in terms of their loyalty

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towards the nation or against it, creating the competing discourses of nationalism and anti-nationalism. This example of exclusionary politics is part of Mansfield and Snyder's theory of democratization, where the political leadership can ensure the inclusion, of particular ethnic communities and political actors in exclusion from the decision-making process.

The discourses of victimhood and of liberators produced by the CPN (Maoist) during their people's war and by the foreign actors during the time of writing a new constitution, both indicated that the Brahmin and Chhetri communities and their Hindu religion were the sources of all sorts of oppression against the Adivasi Janajati, Madhesi and Dalits communities. Rather than adopting ethnic-based federalism, the larger political parties, mostly controlled by the Brahmin and Chhetri, preferred the collapse of negotiations and of the Constituent Assembly. The concerns of India and China, the immediate neighbors and emerging powers in Nepali politics, boosted the morale of the larger political parties and urged them to end the negotiation process for a while — even at the cost of the disintegration of the Constituent Assembly. It is natural that Nepal's political leadership would not be able to contradict, ignore and undermine the expectations of India and China, as both have substantial political influence in Nepal.

Such unfolding political dynamics also require a revisiting of the discussion surrounding the interactive processes of statebuilding and peacebuilding as the strategy of the local stakeholders to claim space in. The integrated concepts of statebuilding and

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peacebuilding are evolving in practice, too, through the signing of a New Deal for Engagement in Fragile States (2011) by a couple of states, international organizations and civil society representatives. Basically, the process that culminated in the signing of a New Deal for Engagement in Fragile States (2011) is donor-driven with the objective of enhancing aid effectiveness in the Third World. A number of states in Africa and Asia are in the process of implementing the New Deal. In a similar fashion, the conflict-affected states are, intentionally or unintentionally, integrating concepts while designing peace agreements with the objective of ending violent conflict. Nepal is such an example as the conflict resolution process itself introduces both concepts in the Comprehensive Peace Accord (CPA).

Vivienne Jabri (2012) theorizes a "right to politics" based on the historical evidence of colonial rule, adding that subjugation and racialized domination continue presently with the objectives of Western interventions in the global South being the removal of the local from the political processes. As a consequence, the locals engage in resistance movements, both peaceful and violent, with the objective of claiming space and the right to political representation. Nepal has remained under the direct political influence of India for a long time, which is a form of neo-colonialism. The British East India Company waged war on Nepal with the intention of colonizing; but ended with the signing of the asymmetrical Sugauli Treaty, which simply meant they could not colonize Nepal militarily. The British Empire in the 19th century may have wanted to colonize

Nepal. I do not believe, however, that this fact influences current British aid to marginalized groups in Nepal.

Additionally, foreign support to ethnic communities often in the name of democracy and human rights has been regarded as a form of intervention according to the findings of closed-ended question 5 (see Table 4.1 and 4.6 and informal interviews) and open-ended question 3 (see Table 4.5 and informal interviews) coupled with open-ended question 4 (see Table 4.6 and informal interviews). These findings disconfirm Samuel P. Huntington's (1991) top-down approach of democratization determined by the international factors, but confirm Tilly's (2007) theory on democratization that defines it as a process happening at the national level. The findings of closed-ended question 5 with a mean value of 3.7 and open-ended question 3 in Table 4.5, with rankings between 1-4, followed by open-ended question 4 in Table 4.6 ranked in first place confirms that foreign intervention is intended to alter power relations in Nepalese society. The intervention of foreign actors in Nepalese society, coupled with the ethnic mobilization by the larger political parties, has not only heightened social and political tension, but has also threatened the security and existence of certain ethnic communities, in particular the Brahmin and Chhetri.

Foucault (1984) maintains that absolute control over power by the state is beyond its abilities as power is dispersed throughout social networks and is exercised through a medium of discourse. If actors and institutions hold power beyond the limitations of the

state, then the balance of power becomes imperative in the processes of statebuilding and peacebuilding. Power is meant to be exercised – be that by political actors, ethnic communities or foreign actors. The research findings suggest that identity politics supported by external actors created an imbalance of power between the ethnic communities that led to the failure of negotiations and the collapse of the Constituent Assembly. A balance of power is a fundamental condition in the theory of peacebuilding articulated by John Paul Lederach who looks at the process according to the bottom-up approach. Lederach moves on to articulate the long-term view of conflict on the basis of the two fundamental variables of (a) an awareness of needs and interests of the parties, and (2) a balance of power among the actors in conflict:

> Their work pushes for a balancing of power, that is, a recognition of mutual dependence increasing the voice of the less powerful and a legitimation of their concerns. This happens through some form of confrontation involving choices between violent or nonviolent mechanisms or combinations of both. If successful, the confrontation will increase awareness of interdependence and balance of power.

(Lederach, 1995, p. 13)

The tensions in the processes of statebuilding and peacebuilding can be the result of a strategy of striking a balance of power between the political actors in Nepal. The

dynamics of the processes of statebuilding and peacebuilding in Nepal suggest that the existing modes of interactions are not enough since the political actors are in search for a balance of power and mutual interdependence along the line of Lederach's articulation. Also, the agendas of statebuilding and peacebuilding are so critical, at least in the context of Nepal, that they require an interaction between the agencies with the direct engagement of the people in the decision-making process, as the new structure of the state is likely to touch the affairs of every citizen. The findings suggest that the legitimacy of political actors, both endogenous and exogenous, and institutions is eroding because the decisions taken by them are not acceptable to the people at large.

Since these findings confirm foreign intervention as a causal factor in the failure of the processes, in turn, they disconfirm the "exogenous" school of thought of liberal peace, including Francis Fukuyama's (2009) prescription of foreign power as a primary source of legitimacy. The findings also confirm the theory of legitimacy articulated by Lipset and Lakin (2004) and Habermas (1996b) that legitimacy must be a value constitutive of the society. The citizenry need to be prepared to accept and embrace a new system of governance, believing that the new structure will protect their security, identity and existence in the society. The resistance movements of ethnic communities, including the Brahmin and Chhetri, in April-May 2012, suggest that even decisions taken by the Constituent Assembly would not have been acceptable to them, which implies that people at large need to be engaged directly in the decision-making process. Procedures of engaging people could be many, such as holding a referendum on a particular issue.

The quest for participation in decision-making within statebuilding and peacebuilding extends throughout the constitution-making exercise as a new constitution is expected to redefine relations between the state and society. The findings of open-ended question 3 (see Table 4.4) evaluates the functioning of national/local political actors, who have been framed as non-democratic, visionless and running the syndicate in political decision making. These findings suggest that the political leadership is deviating from their said political ideology and are, therefore, capable of engaging in ethnic politics. Since the ethnic communities and many political actors were removed from the decision-making process, they do not own the process of constitution making which was expected to negotiate the agendas of statebuilding and peacebuilding. In order to assert their quest for participation and ownership, the ethnic identity groups, discretely supported by the larger political parties, enter into the resistance movements, which reached their height during April-May 2012.

The liberal paradigm of peace comes with the baggage of, for example, democracy, liberal market economy, human rights and freedoms, the rule of law, capacity building of civil society and local actors and the interventions to achieve these objectives are often controlled from the top where the outside state/peacebuilders often collaborate with the national elites (see Mac Ginty, 2011b). On the one hand, the outsider state/peacebuilders, both Asian and Western, support the constitution-making process in the case of Nepal. On the other hand, they also intervene at the fault lines of religion and ethnic politics to

build the capacity of ethnic communities for social movements and resistance. The capacity of ethnic communities built up with foreign support becomes a detrimental factor for them to incite violence in the democratization process, confirming the theory of Mansfield and Snyder (1995). Once the ethnic communities resort to violence, the national political elites begin to campaign the discourse of exclusionary nationalism as highlighted in the review of archival data in Chapter 3 and informal interviews in Chapter 4.

The space of the state had shrunk, internally due to the resistance movements of the ethnic communities and externally due to the political pressures exerted by China and India and the diplomatic pressure of the West, including their financial support to ethnic and religious politics. The findings of closed-ended question 5 with a mean value of 3.7, open-ended question 3 in Table 4.5 with all ranking at 1-4, followed by open-ended question 4 in Table 4.6 at the first rank, confirm that, according to the sample, foreign interventions in Nepal have occurred at an alarmingly high rate, questioning the legitimacy of foreign interventions of a statebuilding and peacebuilding nature in Nepal. Such a scenario indicates the changing perception on the legitimacy of the actions of endogenous and exogenous actors, converging with the theory of Verena Fritz & Alina R. Menocal (2007, p. 13) on state legitimacy driven by the OECD's (2008, p. 1) state-society relations for statebuilding and peacebuilding. The state is virtually paralyzed and unable to make decisions on its own. As a result, the nation undergoes multiple crises,

such as those listed below, as suggested by a Professor of political science who revealed them to this researcher on the condition of anonymity:

(1) Crisis of identity, where every major ethnic community is in search of and asserting their identities.

(2) Legitimacy crisis of the state as the competing ethnic identities do not own the state on the ground that they are not part of the decision-making process.

(3) Participation crisis as many competing identities and political actors are removed from the decision-making process.

(4) Distribution crisis as the state has failed to ensure service delivery to the people of the basic needs over many years.

(5) Penetration crisis as the larger political parties have failed to integrate themselves with the people.

(6) Integration crisis as the policy makers and political parties have failed to integrate people's views and expectations while making decisions.

The representation and inclusion of the ethnic communities in the state institutions is increasing, although they are not yet at satisfactory levels. The CPA, Interim Constitution and some laws attempt to address the agendas of inclusion (see Table 1.3) discussed in Chapter 3. However, the implementation of those commitments made by the state still remains poor. Above all, a serious trend is the systemic denial of participation of the ethnic communities and many political actors in the political decision-making processes.

This researcher discussed in Chapters 3 and 4 how state institutions have systematically denied such participation in the decision-making process. Of them, the most critical are (1) the verdicts of the Supreme Court that limit the authority of the parliament and mandate of the Constituent Assembly; (2) the procedures of the Constituent Assembly that empower its Chairman; and (3) the structure of the larger political parties. The findings of open-ended question 3 (see Table 4.4) confirm that national institutions and political actors are non-democratic, exclusive and that the interview respondents do not have faith in them. Jürgen Habermas (1996a) would call this the crisis of legitimacy of the state.

2. The Interaction

The research findings (see Tables 4.1 and Table 4.7 and informal interviews) confirm that the concepts of statebuilding and peacebuilding have been integrated in the Comprehensive Peace Accord (CPA) and reinforced by the Interim Constitution, although they have not been as productively interactive as they could have been. The reason is that the political actors have failed to address the inherent tensions between the concepts in the processes of implementation, particularly as the processes are likely to create winners and losers in society. However, the findings of open-ended question 2 (see Table 4.3) suggest that the integration of concepts needs to accommodate a number of other areas (i.e. the desire for coexistence or nationalism) in the process of integrating the concepts. The in-country ethnic mobilization coupled with foreign support to ethnic and

religious actors has altered the power relations irrevocably. The ethnic communities are asserting their group identity in search for greater power within the state and society.

Part of the reason for this is the access to resources made possible by foreign intervention, in addition to a prima face push for identity recognition. As a result, ethnic communities have expressed in-group favoritism at the expense of others as the findings of open-ended question 1 confirm (see Table 4.1), where ethnic community members displayed an in-group mentality and viewed others as competitors. Discussions of the results of the informal interviews in Chapter 4 further confirm that social distancing between the ethnic communities is increasing, which has often further consolidated the boundary between "we" and "them". Such a practice is against the spirit of the definition of statebuilding and peacebuilding. As defined in the introduction, such a practice with the tendency towards exclusion, not inclusion of groups, that has become detrimental, leading to in the collapse of the political processes as signified by the collapse of the Constituent Assembly in May 2012.

Scholars and practitioners are now exploring the integration and convergence between the concepts and practices of statebuilding and peacebuilding, although both processes have developed and evolved through different traditions. Nevertheless, theorists and practitioners of both processes are emphasizing the ownership and participation of the stakeholders in the decision-making process. The stakeholders are either the institutions or agencies, in particular the political actors. Within these

parameters, people at large are left out of the decision-making process. In the attempt to explore the dynamic nature of the processes of statebuilding and peacebuilding, this research attempts to look at how the evolving processes of statebuilding and peacebuilding interact. The interaction does not take place between these two processes on their own – the interactions are basically taking place between (1) the state and society, and (2) institutions and agencies. A failure of historical processes tends to be that statebuilding and peacebuilding are considered to be separate and used as such, rather than being seen as inherently interconnected and used as such.

This researcher defines the interactive processes of statebuilding and peacebuilding as the tendency towards *inclusion* of all groups – all stakeholders – in the political and peace processes. This would enhance local stakeholders' claim of space within the political processes in the search for ownership and participation so that political decisions are seen to be legitimate in the eyes of the public. In the contexts where the local stakeholders have been removed from the decision-making process and denied participation in politics, the political actors have adopted the strategies of both peaceful and violent means to assert their claims. Based on these premises, this guiding question of the research attempted to analyze and explain a simple question – *how do the processes of statebuilding and peacebuilding interact (if at all) during the democratic transition in a weak and conflict-affected state?* This research affirms that the processes of statebuilding and peacebuilding are contextual and that can be productively interactive if properly approached. In the context of Nepal, the processes of statebuilding and peacebuilding

interact on the basis of the following negotiated documents, which have denied the participation of stakeholders in the political decision-making processes:

(a) The Comprehensive Peace Accord (CPA) signed by the Government of Nepal and CPN (Maoist) in November 2006, that integrates the concepts of statebuilding and peacebuilding. The CPA is an indicator of peacebuilding. It ended the armed conflict in Nepal in the context of the CPN (Maoist)'s war and agreed that the mechanism for statebuilding is the Constituent Assembly. The Accord also provisioned that the fate of the monarchy will be decided by a simple majority of votes in the first sitting of the elected Constituent Assembly. The subsequent voting removed the monarchy from the country and the state was declared a republican entity in May 2008.

(b) The Interim Constitution 2007, is an indicator of statebuilding. The interim parliament of Nepal promulgated the Interim Constitution of Nepal 2007. The Interim Constitution defined the mixed modality on the election of the Constituent Assembly and introduced the decision-making processes on the agendas of statebuilding and peacebuilding while negotiating the contents of a new constitution. On the decision-making processes, the Interim Constitution encouraged forging consensus while negotiating the contents of a new constitution. The option of a two-thirds majority vote remained a last resort.

(c) The Constituent Assembly and its procedures are also indicators of statebuilding. The Constituent Assembly introduced procedures to conduct its daily business with a clear mandate and the authority of the Chairman over the business of the members. The procedures divide the Constituent Assembly of 601 members into different thematic committees, including the Committee on State Restructuring and Distribution of State Power. The procedures of the Constituent Assembly also include the whip system of the political parties, which means the members of the Constituent Assembly are not allowed to vote against the decision of their own political parties.

This researcher has discussed the integration of the concepts of statebuilding and peacebuilding in Chapter 3, particularly the references to the provisions in the Comprehensive Peace Accord (CPA) and the Interim Constitution. Results of closed-ended question 1 in Table 4.2 demonstrated the perceptions of interviewees on statebuilding and peacebuilding, which represent a departure from the ideas stated in the CPA and Interim Constitution. This suggests that the evolving concepts of statebuilding and peacebuilding need to be better integrated in the future. Since the data and information have not demonstrated a positive interaction between the concepts and corresponding processes, this researcher has examined interaction through the binary opposition of non-interaction as discussed above and below:

(1) Too much focus on statebuilding: The process of statebuilding creates winners and losers in society. The agendas of statebuilding include the holding of elections,

designing a federal structure of the state, reforms in the existing political institutions or the creation of a new one. The process of reconciliation, an indicator of peacebuilding, could have managed the spillover effects of the statebuilding process, but that was lacking in Nepal's context.

(2) As the country prepared for holding the elections for the Constituent Assembly in April 2008, the peacebuilding process collapsed down and was replaced by a system of competitive politics. This process was of a top-down approach, managed and facilitated by the two most senior leaders. Once the chemistry between those two leaders derailed, the peacebuilding process failed. This was because there was no other infrastructure at any level to sustain the peace process. The election results further reinforced the crumbling of the peacebuilding process.

(3) Reconciliation, an indicator of peacebuilding, could have supported the process of statebuilding by addressing:

a. Historical Injustices: The nation is divided across ethnic lines often reinforced by the agendas of inclusion for political changes in the state. The remedies to the agendas of inclusion as discussed in Chapter 3 (see Table 1.3), an indicator of statebuilding, could have partly addressed this problem.

b. The state's apology (an indicator of statebuilding and/or peacebuilding) could have also partly addressed the problem of historical injustices often expressed in terms of "chosen traumas."

c. The Comprehensive Peace Accord (CPA) and the Interim Constitution have the provisions to form a Higher Level Commission on Truth and Reconciliation, but such a commission has not materialized as of the writing of this dissertation. The state could have adopted such a strategy to address the historical injustices.

Social dynamics are changing in Nepalese society. The protests by the major ethnic communities, which did not accept the decision on the model of federalism, is an example that highlights the erosion in legitimacy of the senior political leaders. These are also the manifestations of interactions between the state and society in Nepal that are transforming the country through an interaction reflecting the theory of Migdal (2001), who articulates that the interactions between the state and society are intended to reshape and restructure the images of both entities in a continuing process of transformation. Such a change in the political and social dynamics calls for the exercise of democratic legitimacy by the political leadership in Nepalese society, which reflects the theory of legitimacy articulated by Habermas (1996b) that is driven by democratic philosophy.

A desirable basis for interaction between the concepts and processes of statebuilding and peacebuilding would have been the rationally crafted constitutional principles, a pre-negotiated outcome of the transition that would have ensured the security of all the social

groups and political actors. In the absence of such a provision, the ethnic communities exercised their power in an anarchical manner. The findings of open-ended question 5 (see Table 4.7) confirm that the presence of such constitutional principles in the Comprehensive Peace Accord would have contributed positively to the negotiation process as well securing the interests of the actors. The findings of the question also confirm that ethnic communities still have faith in the peace accord and have expressed their expectations that certain elements that could trigger ethnic tension should have been pre-negotiated in the peace document before entering into competitive politics. In the lack of pre-negotiated constitutional principles, the country has held elections to the Constituent Assembly and the political and social actors have engaged in the interactive process of statebuilding and peacebuilding on the basis of (a) the Comprehensive Peace Accord, (2) the Interim Constitution, and (3) the Procedures of the Constituent Assembly.

A good practice of interaction in the processes of statebuilding and peacebuilding could have taken place across actors, both endogenous and exogenous, as well as structures and institutions in order to address the dominant political agendas in the negotiation processes, which placed the local actors in the driving seat. The researcher outlined in the introduction the probability of exploring endogenous practices as one of the three objectives. Although the researcher is of the view that the processes of statebuilding and peacebuilding, within the control of national actors, include a couple of examples of interventions made by local non-organizations, such endogenous practices came under a serious threat in the context of foreign interventions. The amount of

resources that the foreign actors were able to invest and the political influence that they were able to exert became almost impossible for national and local actors to resist. Given such a reality, this researcher now turns to explore the implications of the findings for research, theory, practice and policy.

3.   Implications of the Findings

In the following sections, I briefly discuss the implications of the findings for theory building, further research, practice and policy. These terminologies hold significance on their own as separate entities for analytical purposes; however, I refer to Sandole's articulation to demonstrate how closely they are connected:

- Theory can (and should) inform research and practice;
- Research can (and should) be a basis for applying theory to practice;
- Research can be used to feed back the results of practice to theory (and then the process can begin all over again).

(Sandole, 2007, p. 177)

3.1   Theory

The research explored the processes of statebuilding and peacebuilding as contextual elements that can be productively interactive if properly approached. The provisions in the negotiated documents based on which the processes were intended to interact are not

designed in a balanced manner, meaning that interventions have not been properly conceptualized and implemented. One implication of the findings demands that Nepal must further fine tune statebuilding and peacebuilding in terms of (1) comprehensive analysis, (2) exploring the conditions in different contexts, and (3) analysis of potential fault lines of ethnic division that are likely to become violent. Appropriate interventions should include the possibility of prevention, managing and resolving conflicts in different contexts (see Sandole, 2010).

The guiding question of the research was intended to analyze and explain a simple question – *how do the processes of statebuilding and peacebuilding interact during the democratic transition in a weak and conflict-affected state?* In a broader sense, research based on case studies with the objective of theory-building is intended to explore relatively less explored areas with the research questions that address "why" and "how" phenomena (Edmondson & McManus, 2007). This research attempts to address the "how" and "why" questions, focusing on the interaction between the concepts of statebuilding and peacebuilding across actors and institutions. According to Eisenhardt and Graebner's (2007) theory building grounded in case studies, is a research strategy aimed at designing theoretical constructs through an inductive approach, who add that "case studies emphasize the rich, real-world context in which the phenomena occur. The theory-building process occurs via recursive cycling among the case data, emerging theory, and later, extant literature" (2007, p. 25).

Informed by these two articulations of theory-building, this researcher defines the interactive process of statebuilding and peacebuilding as the strategy of the local stakeholders to claim space over politics in the search for ownership and participation in the decision-making processes so that political decisions are seen to be legitimate in their eyes and those of the wider public. In other words, local stakeholders are searching for the *inclusion* of their respective groups in the political and peace processes. In contexts where the local stakeholders have been removed from, and denied participation in the political decision-making process, the political actors have adopted the strategies of both peaceful and violent means in order to exercise their power and assert their political role. Indeed, the concepts of statebuilding and peacebuilding comprise an emerging theory, in which, according to some scholars, the two concepts are becoming convergent and integrated. However, Charles T. Call cautiously warns, "*Although states may be essential to peace, the process of building states can spark or facilitate armed conflict, especially if the emergent state is endowed with too many powers too quickly*" (Call, 2009, p. 374 italics in original).

3.2   Research

The findings of open-ended question 4 (see Table 4.6) suggest that there are a couple of endogenous causal factors, therefore, suggesting a departure from the findings of questions 2, 3 and 4 of the closed-ended questions that focus on the denial of participation in the decision-making process by the CPA only. Therefore, the findings of open-ended question number 4 could be further tested through closed-ended questioning,

engaging a larger sample across the ethnic communities and a wider range of political actors. Further research can be done in Nepal and elsewhere in Asia and Africa where the integrated concepts of statebuilding and peacebuilding are being implemented.

Nepal as a nation-state may not have any particular significance in world politics, however, its strategic location being between India and China—two of the world's emerging political, economic and nuclear powers—does afford it some global relevance. The survival of Nepal as a nation-state–via economic development, prosperity, foreign relations, democracy or human rights–depends on the strategic persuasion of its neighbors, India and China (J. Sharma, 1986). Both powers view Nepal as an unstable state through their security lens. China has been known for a long time to pursue quiet diplomacy in world politics, including in South Asia and in Nepal. However, China has vocally expressed that it is not in favor of ethnic-based federalism in Nepal, but more specifically, it is concerned with how it can insulate Tibet from the influence and intervention of European and American actors that may enter via Nepal's territories.

If Nepal is federalized along ethnic lines, China fears that the interventionists may have increased access to Tibet for its destabilization as the federal provinces in Nepal's north would be more attractive for penetration. Since the proposed federal model for Nepal has many ethnic-based provinces in the north with the majority of the Adivasi Janajati bordering Tibet, China is concerned that such mushrooming provinces could be the target of Western for penetration into Tibet, which was the objective of the USA in

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the 1970s. The Khamba guerillas, a band of Tibetan fighters, have been revolting against security forces from mainland China, and were trained by the USA and stationed in Mustang, a territory of Nepal in the north, to launch guerrilla raids (Conboy & Morrison, 2002). Therefore, there needs to be a more in-depth analysis conducted through the lens of China's changing security strategy in South Asia, including in Nepal. So far as India is concerned, its relations with Nepal need to be looked at from the prism of the 1950s Treaty between the two states. Article 5 of the Treaty brings Nepal under the security umbrella of India as the particular provision reads:

> The Government of Nepal shall be free to import, from or through the territory of India, arms, ammunition or warlike material and equipment necessary for the security of Nepal. The procedure for giving effect to this arrangement shall be worked out by the two Governments acting in consultation.

> (Nepal-India Treaty, 1950)

Such a provision of the Treaty has remained an issue of contention in the political discourse of Nepal, particularly advanced by the communist parties as they highlighted the issues during the elections to the CA, arguing that the Treaty requires revisions (Nayak, 2010). The communist forces maintain that the Treaty of 1950 undermines the sovereignty of Nepal as it prohibits Nepal from pursuing its foreign policy freely and

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independently. However, the government of India defines a special relationship between India and Nepal based on the India-Nepal Peace and Friendship Treaty of 1950:

> As close neighbours, India and Nepal share a unique relationship of friendship and cooperation characterized by open borders and deep-rooted people-to-people contacts of kinship and culture. There has been a long tradition of free movement of people across the borders … [The] India-Nepal Treaty of Peace and Friendship of 1950 is the bedrock of the special relations that exist between India and Nepal.
>
> (MEA, 2013, p. 1)

The politics and regional relations of other South Asian countries, in particular of Nepal, remain on the backburner of India's security strategy and its quest to be effective in international politics. Given such a background, the India-Nepal Treaty of Peace and Friendship of 1950 may give a sense of "bedrock" to India to reinforce its domination of Nepal so that it can pursue international politics while keeping its regional competitor, China, at bay. However, this researcher is of the view that it is not only the Treaty that guides relations between these two states, but also the culture and cross-border contact of the people that shape relations. These are also the social contacts that have endured because of the shared, open border between Nepal and India. The political and social consciousness of the people in both states has changed tremendously since the signing of the Treaty in 1950. Does the existing basis of relations between these two states address

the changing consciences of the people? This is unlikely, and relations between these two states need to be redefined so that the people can go beyond the contents of the 1950's Treaty, thereby addressing both states' current security concerns and development needs.

The regional strategies of India and China on Nepal have been guided by their security concerns, historically until now. Therefore, this researcher suggests that further studies need to be conducted that focus on how a policy shift between India and China, from a security paradigm to one centered on development and cooperation, can benefit Nepal. What are the conditions that may facilitate or impede such a policy shift? However, both countries may be aware that a weak state like Nepal, economically and politically, may not be capable of addressing their security. Therefore, the development of Nepal as a prosperous state that can hold control over its territories may be in the interests of both India and China. In order to facilitate such development, it is imperative to encourage a policy shift in India's and China's strategies on Nepal so that Nepal could benefit economically from the emerging world powers. In addition, China's and India's security concerns, emerging from the discourse of ethnic identity-based federalism in Nepal, can be addressed through nation-building and reconstructing a national identity.

3.3   Policy

In essence, the processes of statebuilding and peacebuilding in Nepal have remained turbulent, leading towards national disintegration, coupled with violence generated by the process of democratization. The discourse of ethnic federalism has heightened the

security concerns of India and China, fueled by Western support to ethnic and religious groups. In addition, social and political tensions have heightened following the results of the elections to the Constituent Assembly in April 2008, and the negotiation on the contents of a new constitution has been pushed back in the absence of pre-agreed constitutional principles like those in South Africa. Once Nepal was divided along ethnic lines, foreign interference increased, regardless of whether the donors have hidden objectives or not because, according to Mylonas:

> External powers often cultivate relations with non-core groups in other states to destabilize them, to increase their bargaining power, or because of ethnic ties … I posit that this external involvement, whether clandestine, covert, or overt, drives not only the mobilization and politicization of the non-core group's identity, but also the host state's perception of the non-core group and the state's nation-building policies toward the group.

(Mylonas, 2012, p. 5)

As a consequence, the nation has been divided along ethnic lines as Nepalese society has more than 100 ethnic communities, which are often the soft targets for manipulation by foreign actors in order to pursue their interests. These observations are also part of the research findings. In order to validate the findings and make recommendations for future political discourse, the research findings have been presented in three seminars

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highlighting the causal factors of the failure of the processes, recommending the process of nation building alongside the processes of statebuilding and peacebuilding. The process of nation building refers to (re)structuring or (re)constructing a national identity through the use of the state's power (Mylonas, 2012). In order to ensure political stability of the state, the process of nation building aims at the unification of the people psychologically, not only geographically, so that the citizens can feel that they belong to a shared nationhood. At a deeper level, nation building is a process of integrating society and the construction of a common identity, which can prevent further fragmentation along communal lines (Hippler, 2005). The fragmentation of Nepalese society along ethnic lines may lead to violent conflicts, posing further security threats to India and China at the regional level as well as to other powers in international politics. Therefore, Hippler recommends that actors must make nation building a priority:

> [E]ither as a preventive political option to avoid the breakup of the state and social fragmentation, as an alternative to military conflict management, as part of military interventions or as an element of post-conflict policies. Accordingly, a policy of nation-building constitutes a hinge between foreign, development and military policy for the purpose of preventing or managing violent conflicts, achieving local and regional stability, and facilitating development.

(Hippler, 2005, p. 4)

I posit that strong political institutions are the preconditions to unify a nation, as Held (2006), Lipset & Lakin (2004) and Mansfield & Snyder (2002) have argued, as it is likely that political actors face hard times in their struggle for legitimacy in the absence of strong state structures. However, people's fears and hesitations need to be addressed as the concern about for being dominated may prevent the construction of a national identity. This is particularly true in Nepal's context where the assertion of ethnic identity in the processes of statebuilding and peacebuilding, coupled with the process of democratization, seems to be one of the most critical elements, reinforced by the dominant psychology associated with such a vitally consequential phenomenon. Since the dominant leaderships from the larger political parties and ethnic communities have engaged in inclusionary and exclusionary discourses of nationalism, and foreign interventions add fuel to the fire, the processes of democratization, statebuilding and peacebuilding have deepened the mistrust between the ethnic communities and political leadership.

The recommendation for nation building is coupled with the need for a set of pre-negotiated constitutional principles that guarantees security for all of the social and political actors in the transition process. Since the country has already held elections for the Constituent Assembly for the second time on November 19, 2013, pre-negotiation on the constitutional principles would have been proved to be a crucial first step in redirecting Nepal's path toward democratization. The report produced out of the seminars highlights that the processes of statebuilding and peacebuilding — coupled with the

ethnic identity-based politics campaigned for by the social groups and the larger political parties — have resulted in the psychological division and disintegration of the nation. Therefore, the conclusion of the seminars supports this researcher's recommendation that Nepal must also begin the process of nation-building so that any undesirable consequences resulting from the processes of statebuilding and peacebuilding can be resolved before a dichotomy of winners and losers emerges as a NPC's report in English indicates:

At the moment, national institutions are suffering with the crisis of legitimacy, although structural elements are key elements to the success of democratization process and establishing national identity. The collapse of the Constituent Assembly on May 27, 2012 has not only widen the crisis of confidence between the major political parties, but has also widen the crisis of trust between the major political parties and identity groups in the context that each are blaming the other for the failure of negotiation to forge consensus on the contentious issues.

(NPC, 2013, pp. 18–19)

The discussions in the seminars are, as reflected above, built on this dissertation's recommendations based on preliminary research findings. Nepal is a multi-cultural and multi-linguistic nation where the population is highly diverse and none of the ethnic communities represents a majority. Each of the 126 ethnic communities listed by the

Central Bureau of Statistics (CBS) in the 2011 population census (CBS, 2012a) is a minority ethnic community (see Annex 2 and Annex 3). The processes of statebuilding and peacebuilding in Nepal have implanted such an expectation in every community that each will have their own separate abilities to pursue economic, social and political goals. Nepalese society is disintegrating due to the polarization of ethic and communal identities, and an increase in the development of a discourse of nationalism vs. anti-nationalism. Therefore, building a national identity with the objective of redefining unification has become necessary through the process of nation building in Nepal.

4.   Validation

This researcher invited the interview respondents to offer their criticisms of the interpretations of their narratives as well as the fundamental findings reported by this researcher. Inviting responses from the research subjects is another way of increasing validity of the research findings (J. Mason, 2002). The senior politicians from the larger political parties, the leaders of ethnic identity groups and thematic experts took part in the first seminar, followed by the younger generation of politicians and experts who took part in the second seminar. Finally, members and representatives of civil society took part in the third seminar. A report in English prepared by a national organization based in Kathmandu that sponsored all three of the seminars states that:

The discussions in the seminars remain highly interactive and lively and the participants openly express their views and opinions. To be precise, the

discussions confirm the research findings on the ground that the participants did not add any new causal factors on the failure of negotiation leading towards the collapse of the Constituent Assembly in May 2012, neither have they criticized the preliminary findings focusing on any particular causal factors presented by the researcher. Rather, the participants of the seminars expressed their views on the political dynamics and dominant discourses encouraging the researcher and the organizer to do additional research in order to support the processes of statebuilding and peacebuilding in Nepal ... The participants are of the view that the researcher has presented the findings in details and has looked at the micro level. The research findings revels the facts that we have missed or failed to think about or reach at.

(NPC, 2013, p. 12 and 15)

In the course of the analysis in this "multi-method" study, this researcher looked at how different sources of data – from archives, structured interviews (closed- and open-ended questions) and unstructured interviews – came to an agreement through "triangulation" or differed on particular issues (see Brewer & Hunter, 2006). This researcher is aware of the limitations of the research methods and the reliability of the findings. The arguments constructed by researchers are always subject to counter-interpretations and deconstructive readings by the readers. Some of the research methods applied in this research are discourse analysis and the framework of closed-ended and open-ended

questions, which are repetitive in nature concerning specific events. Discourses are dynamic and change over time, and are influenced by the audience as well as by social and political contexts. But the most significant caveat is that this researcher was both an "insider" (member of Brahmin community in Nepal) and "outsider" (S-CAR PhD student) and it was sometimes challenging to prevent a blurring of the boundaries separating the multiple identities especially with regard to how they may have impacted the study participants.

5. Conclusion

The Comprehensive Peace Accord (CPA), signed in November 2006, began the process of peacebuilding, and it also integrated the concepts of statebuilding and peacebuilding. By definition, the processes of statebuilding and peacebuiilding, separately on their own or in an integrated form, create winners and losers in society as both processes are also intended to redesign the state's institutions. In Nepal's context, the Brahmin and Chhetri who dominate power politics would have been the losers, whereas the remaining communities would have been the winners, since the federal structure would have decentralized power from the center to the periphery. However, the failure of negotiations and the collapse of the Constituent Assembly did not occur because the Brahmin and Chhetri were afraid of losing political power; rather, it occurred because of a perceived threat to their very existence, both internally and externally. The combination of the two viewpoints could be (and was) taken by some participants as the imposition of existential

things ("who we are") into the political realm ("who governs us") and thus became a threat to certain communities.

Externally, the Western interventions have led to the changing of the power dynamics in Nepalese society. This is how Nepalese, particularly by members of those castes, took it. The West may not have intended it this way. Regardless of whether they were just strengthening the government, this is how what they did was perceived, and that is why it had a very different effect than the one they intended. Internally, the ethnic politics campaigned by the social groups and supported by certain political parties – of which the signature campaign of 464 members of the Constituent Assembly is an example – posed a significant threat to the Brahmin and Chhetri communities in the process of political decision-making inside the Constituent Assembly. Under such conditions, Nepalese society is gradually transforming with the traditionally existing balance of power between the communities – broadly clustered and categorized into Brahmin/Chhetri, Adivasi Janajati, and Madhesi – and the society redefining its relations with the state through a struggle for establishing domination in social space. Any imbalance of power between the communities is likely to result in undesirable consequences, for example, the collapse of the Constituent Assembly, which can be in the form of any one of these angles being highly empowered through internal political process or support coming from external actors. This finding is important because we need to ensure we do not duplicate the mistakes of the past.

In the course of this field research and data analysis, this researcher came across a lack of regular conflict analysis skills on the part of the political actors. The relational conflicts between the ethnic communities are often looked at synonymously with ideological conflicts. I adopted, instead, an analysis conducted by the NPC (2013, p. 20), based on the nested paradigm of Maire Dugan (1996, p. 14) for conflict analysis (see Annex 5), through which this researcher demonstrates the complexity of the conflicts nested at different levels, in which political actors are unclear about how to design statebuilding and peacebuilding interventions. The processes of statebuilding and peacebuilding are capable of creating winners and losers in the society as they would have negotiated and designed new structures for the State. In the Nepalese context, the Brahmin and Chhetri communities would have lost a great deal in terms of political and social relevance and power. Therefore, a fundamental question remains on how to address the psychological fear of the ethnic communities if we hold the view that their identity and existence are under threat in the processes of negotiation on the agendas of statebuilding and peacebuilding.

Nepal has been experiencing constitutional and political deadlock for a long time. The interventions that have aimed for peacebuilding have largely focused on issue-by-issue resolution. Such issue-specific interventions, although they may have value within their own parameters, have failed to address the fundamental problems of Nepali politics under the shadow of the dominant culture of Nepali political life. The interventions failed to challenge the dominant political culture; rather they frequently bolstered it as they

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sought solutions bounded by cultural limitations. In such a political context, it is interesting but not surprising that all ethnic groups locate themselves as either in first place or tied for first place (see Table 4.2). In addition, by measuring the distance between own-group-rankings and other-group-rankings, this researcher discovered that the social distance between each respondent's own group and other groups increases over time. The implication is that in-group favoritism with regard to "the other" is on the increase, where each group prefers to be seen as privileged by the state at the expense of the other. The nation is deeply divided across multiple, overlapping, yet competing identities, therefore presenting challenges to the Nepalese in developing a common national identity, which, at this point in times, remains an idealistic enterprise!

ANNEX 1 : SOCIAL GROUPS CLASSIFIED IN TERMS OF CASTES AND ETHNICITY

Chart 1: Classification of the 2001 Census Identity Groups

Classifying the 100 Identity Groups in the 2001 Census		
7 Main Groups		**14 Ethnic/Caste Groups** (6 disadvantaged groups highlighted in grey)

Caste Groups	**1. Brahman/Chhetri**	**1.1**	**Hill Brahman/Chhetri (Non-Disadvantaged)** 1.1.1 Brahman 1.1.2 Chhetri, Sanyasi, Thakuri
		1.2	**Tarai/Madhesi Brahman/Chhetri (Non-Disadvantaged)** Kayastha, Madhesi Brahman, Nurang, Rajput
	2. Tarai/Madhesi Other Caste Groups	**2.1**	**Tarai/Madhesi Other Caste (Non-Disadvantaged)** Badhai, Baniya, Barai/Barae, Haluwai, Jain, Kalwar, Kanu, Koiri, Kumhar, Kurmi, Sudhi, Teli, Thakur/Hazam, Yadav
		2.2	**Tarai/Madhesi Other Caste (Disadvantaged)** Bhediyar/Gaderi, Bing/Binda, Dhuniya, Kahar, Kamar, Kewat, Lodha, Lohar, Mallah, Mali, Nuniya, Rajbhar, Sonar
	3. Dalit	**3.1**	**Hill Dalits (Disadvantaged)** Badi, Damai/Dholi, Gaine, Kami, Sarki, Unidentified Dalits
		3.2	**Tarai /Madhesi Dalits (Disadvantaged)** Baantar, Chamar/Harijan, Chidimar, Dhobi, Dom, Dushad/Paswan, Halkhor, Khatwe, Musahar, Tatma
Janajatis	**4. Newar**	**4.**	**Newars[7] (Non-Disadvantaged)**
	5.1 Hill/Mountain Janajati	**5.1.1**	**Hill/Mountain Janajatis (Non-Disadvantaged)** Bhote, Bhujel/Gharti, Byansi, Chhantyal, Dura, Gurung, Hyolmo, Jirel, Lepcha, Limbu, Magar, Rai, Sherpa, Thakali, Walung, Yakha
		5.1.2	**Hill/Mountain Janajatis (Disadvantaged)** Baramu/Bramhu, Bote, Chepang/Praja, Danuwar, Darai, Hayu, Kumal, Kusunda, Majhi, Pahari, Raji, Raute, Sunuwar, Tamang, Thami/Thangmi
	5.2 Tarai Janajati	**5.2.1**	**Tarai Janajati (Non-Disadvantaged)** Dhanuk, Dhimal, Gangai, Kisan, Koche, Kusunda, Meche, Munda, Pattarkatta/Kuswadiya, Rajbanshi, Tajpuriya, unidentified Adivasi
		5.2.2	**Tarai Janajati (Disadvantaged)** Jhangad, Santhal/Satar
Other	**6. Muslim**	**6.**	**Muslim (Disadvantaged)** Madhesi Muslim, Hill Muslim (Churaute)
	7. Other	**7.**	**Other (Non-Disadvantaged)** Punjabi/Sikh, Bengali, Marwari, Unidentified Others

As discussed above, women of even advantaged social groups have had very limited opportunity in the public domain. While greater effort has to be made to improve the participation of women from the excluded social groups, women of the advantaged social groups need to be provided increased opportunities too.

Source **:** Adopted from Rakesh Ranjan (2009).

ANNEX 2: REPRESENTATION OF POLITICAL PARTIES IN THE CONSTITUENT ASSEMBLY, 2008

SN	Political Parties	Number of Seats			Total	%
		FPTP	PR	Nominated		
1.	Communist Party of Nepal (Maoist)	120	100	9	229	38.1
2.	Nepali Congress	37	73	5	115	19.1
3.	Communist Party of Nepal (UML)	33	70	5	108	18.0
4.	Madhesi People's Rights Forum, Nepal	30	22	2	54	9.0
5.	Tarai Madhes Lokatantrik Party	9	11	1	21	3.5
6.	Sadvawana Party (Mahto)	4	5		9	1.5
7.	Communist Party of Nepal (ML)		8	1	9	1.5
8.	Janamorcha Nepal	2	5	1	8	1.3
9.	Rastriya Prajatantra Party		8		8	1.3
10.	Communist Party of Nepal (United)		5		5	0.8
11.	Nepal Workers and Peasants Party	2	2	1	5	0.8
12.	Rastriya Prajatantra Party Nepal		4		4	0.7
13.	Rastriya Janamorcha	1	3		4	0.7
14.	Nepal Sadbhawana Party (Anandidevi)		2	1	3	0.5

	FPTP	PR	Nominated	Total	%
15. Rastriya Janashakti Party		3		3	0.5
16. Communist Party of Nepal (Unified)		2		2	0.3
17. Federal Democratic National Forum		2		2	0.3
18. Nepali Janata Dal		2		2	0.3
19. Rastriya Janamukti Party		2		2	0.3
20. Chure Bhawar Rastriya Ekata Party Nepal		1		1	0.2
21. Dalit Janajati Party		1		1	0.2
22. Nepa: Rastriya Party		1		1	0.2
23. Nepal Lokatantrik Samajbadi Dal		1		1	0.2
24. Nepal Pariwar Dal		1		1	0.2
25. Samajwadi Prajatantrik Janata Party, Nepal		1		1	0.2
26. Independent Candidates	2			2	0.3
Total	240	335	26	601	100

Sources: Secretariat of Constituent Assembly (2009) available at http://www.can.gov.np/ and Election Commission of Nepal (2009) available at: http://www.election.gov.np.

ANNEX 3 : LIST OF ETHNIC COMMUNITIES IN NEPAL

Ethnic Communities	Census 1991	Census 2001	Census 2011
Chhetree	2,968,082	3,593,496	4,398,053
Brahmin - Hill	2,388,455	2,896,477	3,226,903
Magar	1,339,308	1,622,421	1,887,733
Tharu	1,194,224	1,533,879	1,737,470
Tamang	1,018,252	1,282,304	1,539,830
Newar	1,041,090	1,245,232	1,321,933
Musalman	653,055	971,056	1,164,255
Kami	963,655	895,954	1,258,554
Yadav	765,137	895,423	1,054,458
Rai	525,551	635,151	620,004
Gurung	449,189	543,571	522,641
Damai/Dholi	367,989	390,305	472,862
Limbu	297,186	359,379	387,300
Thakuri	299,473	334,120	425,623
Sarki	276,224	318,989	374,816
Teli	250,732	304,536	369,688

Chamar/Harijan/Ram	203,919	269,661	335,893
Koiri/Kushwaha		251,274	306,393
Kurmi	166,718	212,842	231,129
Sanyasi/Dasnami	181,726	199,127	227,822
Dhanuk	136,944	188,150	219,808
Musahar	141,980	172,434	234,490
Dusadh/Paswan/Pasi	93,242	158,525	208,910
Sherpa	110,358	154,622	112,946
Sonar		145,088	64,335
Kewat	101,482	136,953	153,772
Brahman - Tarai	162,886	134,496	134,106
Kathabaniyan / Baniya		126,971	138,637
Gharti/Bhujel		117,568	118,650
Mallaha	110,413	115,986	173,261
Kalwar		115,606	128,232
Kumal	76,635	93,389	121,196
Hajam/Thakur		98,169	117,758
Kanu	70,634	95,826	125,184
Rajbansi	82,177	95,812	115,242
Sunuwar	40,943	95,244	55,712
Sudhi	162,046	89,846	93,115
Lohar		82,637	101,421

Tatma/Tatwa		76,512	104,865
Khatwe	66,612	74,972	100,921
Dhobi	76,594	73,413	109,079
Majhi	55,050	72,614	83,727
Nuniya		66,873	70,540
Kumhar	72,008	54,413	62,399
Danuwar	50,754	53,229	84,115
Chepang/Praja	36,656	52,237	68,399
Halwai	44,417	50,583	83,869
Rajput	55,712	48,454	41,972
Kayastha	53,545	46,071	44,304
Badhaee		45,975	28,932
Marwadi	29,173	43,971	51,443
Satar/Santhal		42,698	51,735
Jhangad/Dhagar		41,764	37,424
Bantar/Sardar		35,839	55,104
Baraee		35,434	80,597
Kahar		34,531	53,159
Gangai	22,526	31,318	36,988
Lodha		24,738	32,837
Rajbhar	33,433	24,263	9,542
Thami	19,103	22,999	28,671

Dhimal	16,781	19,537	26,298
Bhote	12,463	19,261	13,397
Bin		18,720	75,195
Gaderi/Bhedihar		17,729	26,375
Nurang		17,522	278
Yakkha		17,003	24,336
Darai	10,759	14,859	16,789
Tajpuriya		13,250	19,213
Thakali	13,731	12,973	13,215
Chidimar		12,296	1,254
Pahari		11,505	13,615
Mali		11,390	14,995
Bangali	7,909	9,860	26,582
Chhantyal/Chhantel		9,814	11,810
Dom		8,931	13,268
Kamar		8,761	1,787
Bote	6,718	7,969	10,397
Brahmu/Baramo		7,383	8,140
Gaine	4,484	5,887	6,791
Jirel	4,889	5,316	5,774
Adibasi/Janajati		5,259	
Dura		5,169	5,394

Churaute	1,778	4,893	
Badi	7,082	4,442	38,603
Meche		3,763	4,867
Lepcha	4,826	3,660	3,445
Halkhor		3,621	4,003
Punjabi/Sikh	9,292	3,054	7,176
Kisan		2,876	1,739
Raji	3,274	2,399	4,235
Byasi/Sauka		2,103	3,895
Hayu		1,821	2,925
Koche		1,429	1,635
Dhunia		1,231	14,846
Walung		1,148	1,249
Jaine		1,015	
Munda		660	2,350
Raute	2,878	658	618
Hyolmo		579	10,752
Pattharkatta/Kushwadiya		552	3,182
Kusunda		164	273
Lhomi			1,614
Kalar			1,077
Natuwa			3,062

Dhandi	1,982
Dhankar/Dharikar	2,681
Kulung	28,613
Ghale	22,881
Khawas	18,513
Rajdhob	13,422
Kori	12,276
Nachhring	7,154
Yamphu	6,933
Chamling	6,668
Aathpariya	5,977
Sarbaria	4,906
Bantaba	4,604
Dolpo	4,107
Amat	3,830
Thulung	3,535
Mewahang Bala	3,100
Bahing	3,096
Lhopa	2,624
Dev	2,147
Samgpang	1,681
Khaling	1,571

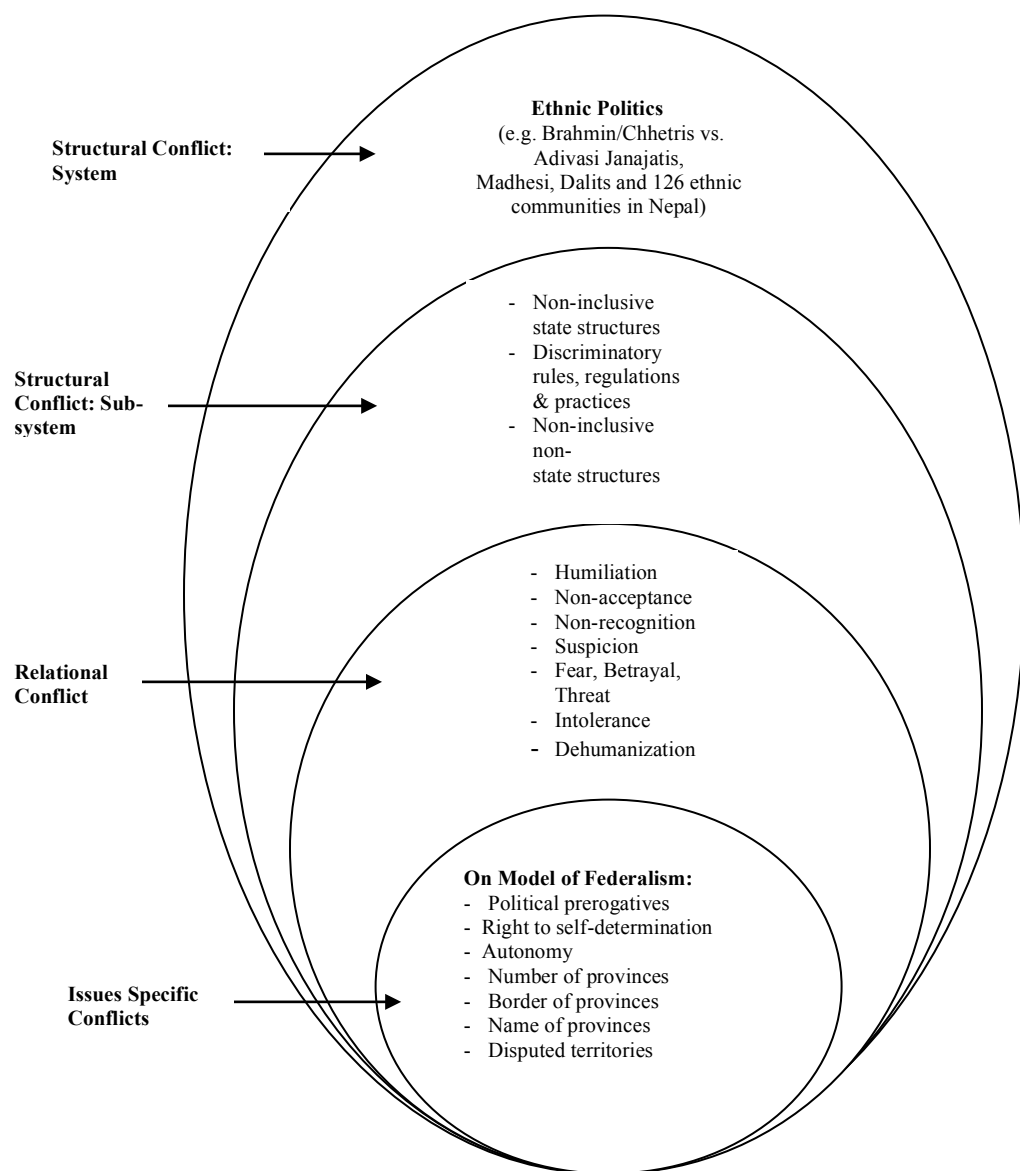|			
Topkegola			1,523
Loharung			1,153
Dalit others		173,401	155,354
Unidentified Castes and Ethnicities		231,641	1,228
Tarai others			103,811
Undefined others			15,277
Foreigner			6,651
Banid	101,868		
Others (Tarai)	627,514		
Others (Hill)	184,216		
Others (Mountain)	1,741		
No Caste (Foreigner)	2,951		
Not Stated	4,858		
Total	*18,285,300*	*22,730,924*	*26,494,504*

Source: CBS (1991, 2001, 2012a).

ANNEX 4 : STATE OF CASTE/ ETHNIC INCLUSION IN NEPALESE ARMY (AS OF APRIL 1, 2009)

SN	Caste/Ethnic Groups	Population Census 2001	% of Total Population	Representation in NA	% of Total Representation
1.	Chhetri	3,593,496	15.80	39,824	43.64
2.	Brahmin	2,896,477	12.74	7,634	8.36
3.	Magar	1,896,477	7.14	6,444	7.06
4.	Tamang	1,282,304	5.64	5,473	6.00
5.	Newar	1,245,232	5.48	6,035	6.61
6.	Tharu/Chaudhary/Ranjbansi	1,629,691	7.17	4,343	4.76
7.	Gurung	543,571	2.39	3,145	3.45
8.	Thakuri	334,120	1.47	2,967	3.25
9.	Kami	895,954	3.94	2,488	2.73
10.	Rain / Sunuwar	635,151	2.79	2,687	2.94
11.	Sanyasi	199,127	0.88	2,058	2.25
12.	Dhamai Dholi / Gandharba	390,305	1.72	1,900	2.08
13.	Sarki	318,989	1.40	1,034	1.13
14.	Gharti/Bhujel	117,568	0.52	1,257	1.38

15.	Kumal	99,169	0.44	763	0.84
16.	Hajam / Thakur	98,169	0.43	707	0.77
17.	Limbu	359,379	1.58	434	0.47
18.	Majhi	72,614	0.31	325	0.36
19.	Teli/Yadav/Rajput	304,536	1.34	260	0.28
20.	Darai	14,859	0.07	142	0.16
21.	Sherpa / Thakali	180,558	0.74	120	0.13
22.	Dusad/Paswan/dom	158,525	0.70	124	0.13
23.	Danuwar	53,229	0.23	104	0.11
24.	Muslim	971,056	4.27	12	0.01
25.	Mechhe/Tatma	3,763	0.02	47	0.05
26.	Jirel	5,316	0.02	52	0.06
27.	Thami	22,999	0.10	10	0.01
28.	Chepang	52,237	0.23	9	0.01
29.	Pahari	11,505	0.05	33	0.04
30.	Raji	2,399	0.01	6	0.006
31.	Others			821	0.09
	Total			91,258	100

Source : Adopted from the Nepalese Army (2009).

ANNEX 5 : CRUX OF THE PROBLEMS IN THE PROCESSES OF STATEBUILDING AND PEACEBUILDING

Structural Conflict: System

Ethnic Politics
(e.g. Brahmin/Chhetris vs. Adivasi Janajatis, Madhesi, Dalits and 126 ethnic communities in Nepal)

Structural Conflict: Sub-system

- Non-inclusive state structures
- Discriminatory rules, regulations & practices
- Non-inclusive non-state structures

Relational Conflict

- Humiliation
- Non-acceptance
- Non-recognition
- Suspicion
- Fear, Betrayal, Threat
- Intolerance
- Dehumanization

Issues Specific Conflicts

On Model of Federalism:
- Political prerogatives
- Right to self-determination
- Autonomy
- Number of provinces
- Border of provinces
- Name of provinces
- Disputed territories

Nested Model
© Framework adopted from Maire Dugan (1996)

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[Note: All web-sites cited in this dissertation accessed on August 3, 2013 unless otherwise mentioned specifically]

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