

VIOLENT CONFLICT AND VIOLATION OF HUMAN RIGHTS: NEPALESE EXPERIENCES

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CONFLICT A SOCIAL PHENOMENON:

Occurrence of conflict in society is an unusual phenomenon in all societies.² If properly utilized, conflicts engender opportunities for desired progress in the society. In general, conflicts occur as a result of wrong or mismanagement of relations among members of the society. The wrong or mismanagement of the societal relations give rise to exploitative systems marked by accumulation of powers and wealth by a certain group of individuals. Obviously, what can be argued is that conflicts make nests in the structure of the society. In this sense, conflict implies a condition of the lacking of equality in social framework.

All societies are prone to ill define relations between the members.³ While the section occupying powerful or dominant position in the prevailing hierarchy strives for preservation of *status quo*, the others naturally fight for change. All conflicts are thus not essentially 'evils'. Rather, they can be used by people to for legitimate interests.⁴ Historically, people in all parts of the world have used wars to liberate themselves from colonial or despotic rules.⁵ The conflict becomes inevitable when rulers engage themselves to sustain their position.⁶ In this sense, conflict is a struggle between the oppressor and oppressed, rich and poor, privileged and deprived and between those who have access to state powers and those who are deprived of it. Conflict, as such, may have more than one dimension. Politically, it is directly associated with the issue of power sharing. , In political tone, conflict is an outcome of the lacking of transparency, accountability, participation and predictability which

2. Conflict is often taken as a synonym of violence. This is absolutely wrong perception of conflict. Society is marked by conflicts. Dissimilar outlooks exist in society as normal affairs, but it is not necessary that such difference is accompanied by violence. Nevertheless, all types of conflict in society demand acknowledgement and proper and timely treatment in order to avoid a circumstance where the conflict gets transformed into violence. MS-Nepal Newsletter (April 2001) rightly points out: "The Failure to acknowledge the normal course of conflict and act accordingly has left horrifying results in the world. Only the 1990s have witnessed violent confrontation in Bosnia, Chechnya and elsewhere. Over one half million people were killed in Rwanda in three months in 1994".

3. Early Hindu Epics have abundantly discussed on causes of conflicts and revolutions. Conflicts, revolutions and wars have repeatedly been occurred since the advent of the civilization. In *Shrimad Bhagawata Mahapurana*, Sri Sukadev, a sage, tells Prakishit, grandson of Arjuna, the hero of *Mahabharata Uddha* (war), a description of age in which wicked peoples will dominate the earth and genuine people will suffer from hunger and other miseries and worries; the poor will not get justice and rulers will become robbers and human being will live in random violence, deceit, etc. and poverty will be sole criterion for condemning to guilty. The story further told that rulers of that period would be mean and cruel; they would be so greedy that there would be no difference between them and robbers. (Quoted from Shrestha, Chuda Bahdur, 2004. *Nepal, Coping With Maoist Insurgency*; Ne, Published by Chetana Loksum, Nepal: PP 37-38)

4. *Mahabharata Uddha*, for instance, was an intensive conflict between *dharma* and *adharma* (law, morality and ethics vs. disorder, plunder and tyranny). Arjuna in *Bhagawata Geeta* (a Hindu philosophical epic) has categorically urged peoples to fight against *adharma*, and it their duty. Conflicts have been, in all civilizations, a source of inspiration and instruments to change leading to development. They have been largely able to define and establish the 'position of equality' among the human beings. The French Revolution, for instance, ended the tyranny of monarchy and established the declaration of rights that avowed to treat human being on basis of equality.

5. Several revolutions in the history of human civilization aimed at achieving breaking of absolute privilege of ruling sections of the societies. Both in the eastern and western civilization such revolutions are found in abundance. More obvious movement for liberty occurred onward the 16th century. The success of the Parliament over the absolutist and anti-people monarchy in UK (known as glorious revolution in 1689), the French Revolution (1789), Proletariat Revolution in Russ in 1917, Declaration of Independence of India 1947 and founding of People's Republic of China in 1949 were a few historical events. All these historical events were directed either to dethrone the feudal monarchies, or to abolish colonialism, or to removal of feudal elitist force from the state power. These revolutions, however, did not appear and ended in a shorter period of time. In fact, the perspective behind them was widespread, wider and extensive. The final result was an outcome of long and perpetuated phenomenon. It was full of conflicts and its successive transformation.

6. Events of brutalities and killings inflicted against the people in these revolutions are unforgettable in the history. The transformation of power to the peoples' representative institutions by the conventional forces has not been achieved without a tremendous and huge sacrifice. The British colonial rulers in India, for instance, committed a series of massacres before it left India. Thousands of freedom fighters were murdered. The Rana regime in Nepal, a puppet regime of British colonial regime in India, continuously suppressed citizens and treated like slaves for a period of 104 years and committed every kind of inhuman crime to defend their regime. In England and France, the royalties did everything possible for them to defend their absolutist power.

collectively constitute indispensable components of a democratic system.⁷ Economically, conflict is an expression of dissatisfaction of general people to the system of ill distribution of the livelihood and development resources. Socially, a conflict is a manifestation of anger against the seclusion some by others. Culturally, the conflict is a quest for preservation of one's traditions and language against the consistent and deliberate encroachment of other. Psychologically, it is an outcome of defense maneuvers designed by one, who perceives threat of its existence in view of powers wielded by others who are dominant in power structure of the given society.

Conflicts might exist in latent and overt forms. Where the dominant class or group, or element has enormous strength over the weaker, the conflict is hidden in the heart and mind of the people. It remains in a sinking condition, where the peoples deliberately but unwillingly suppress their expression of dissatisfaction and anger. The lack of expression, which is often described as a culture of toleration, however, does not rule out the situation of conflict. This form of conflict is called latent conflict, which is essentially structural in nature. The practice of untouchability in Nepal and India is a good example of the structural violence.

Overt conflict is a condition where the silence is broken or the culture of toleration is challenged. It is an expression of quest for change in the *status quo*.⁸ Change calls for equality and equality, in turn, is a foundation of justice. Creation of the condition of equality is in no way possible without change. The process of change from *status quo* to equality is defined as an instrument of transformation of the conflict. The conflict and terrorism differ in this point. Terrorism lacks purpose of transforming *status quo* to a condition equality bound-change. Thus, the overt conflict can be characterized by dynamics of change versus *status quo*⁹ and in this form a conflict in can be defined as an action to set up the condition of equality.

Conflict might be violent and non-violent. The violent conflict justifies destruction of conventional socio-economic, political and legal paradigms for construction of new ones. The violent use of force is synonym of the violent conflict. Violence exerts pain on some for benefits of others. Violence is cyclic as the counter action is an essential character of the violent conflict. Social science has not entirely rejected the justification of violence for change. In fact, a number of great changes in history have been materialized by use of force. Nevertheless, no violence is justified by the history on any ground which is intentionally perpetrated to exterminate human lives. In the 21st century, all forms of violence adversely affecting human rights are *ipso facto* rejected. Of course, a violence which exerts force to achieve change in disregard of human dignity and humanity amounts to be a terrorist act.

In view of its sophistication of societal relations as causes of conflict, it is not easy to fully conceptualize the legitimacy of the conflict. It is why some social scientists have suggested that conflict

7. Dr. Chuda Bahadur Shrestha (Ibid 147) has rightly pointed out: "The falling reputation of high-ranking peoples in Nepal due to abuse of the rule of law forms a crisis in the legitimacy of the democratic institutions in the eyes of observers. The need to root out corruption is seen as a prerequisite for all other positive changes within Nepal". Categorically speaking, the rampant corruption is one of the causes of outbreak of the violent conflict in Nepal. However, corruption is a dependent variable, as it has been fostered or instigated by the societal hierarchy where a few families have maintained absolute domination over the state's institutions. The prevention of corruption is thus largely a myth without abolition of the 'power monopoly of this group'. The power-monopoly of a smaller group based on hierarchical societal structure is the main cause of the conflict, which is overtly political in nature but it is coveted with socio-economic variables.

8. However, there might be exceptions to this statement. A conflict may not necessarily be directed to change for achieving equality or justice. Some conflicts may have objective to 'prevent change'. The violence launched by Islamic fundamentalists is a good example. But violence for regression often amounts to be "terrorism". Fundamentalism deprives individual's right choice of faith. Regression being against the justice cannot be justified.

9. Change might be a threshold of progress. To make the progress rational and equitable, the concept of equality operates as an inspiration. Equality in this sense exists as a 'value' as well as an 'instrument'. It exists as a 'value' because no progress can ensure 'protection and preservation of rights of all' in absence of the concept of equality. 'Equality' also operates as an instrument because it provides a rational foundation of justice. Concept of equality as such is a justification to 'break the foundation of status quo'. Conflict is a strategic action to 'replace the status quo by equality'.

and cooperation are parts of the human life. Conflicts are as old as human beings. For sociologists, social conflict is a struggle over values and claims to scarce status, power and resources in which the aims of opponents are to neutralize, injure or eliminate their rivals¹⁰. Conflicts become sometimes functional and sometimes dysfunctional depending on the situation. In other words, sometimes conflicts turn into zero-sum games and sometimes manifest.¹¹

Dev Raj Dahal (2003) puts,

“Conflicts, like all human interactions, can be perceived as a state of opposition and the projection of contesting viewpoints between individuals, groups and institutions. Conflicts occur within human relationship. It is a manifestation of human nature and, therefore, represents combative expressions. Individuals, organizations, groups, nations or international organizations may pursue it. Contradictions and conflicts are essential aspects of social and political life. Human beings reflect both diversity and complexity and are closely linked with the political system’s fundamental structures and norms in which their relationships are embedded. But, protracted conflict is deadly to the political system because it destroys the web of human relationships rooted in the system of networks. Similarly, resolution of conflict in the absolute interest of one side cannot achieve durable peace. This notion assumes that managing a political system requires capturing the optimal values for the system’s constituent elements, the nature of which is often transforming. If a sub-system monopolizes its role in the common political space instead of optimizing it, this will certainly disintegrate and destroy the equilibrium of the system as a whole. It is the shared interest of divergent actors that can establish a condition for conflict prevention and peace.”¹²

As pointed out by John W. Burton, conflict is characterized by common patterns of behavior on the part of the parties, their attitudes towards each other, their fears, and their interpretation of events.¹³ For Johan Galtung, conflict is about life pointing straight to contradiction as life-creative and life-destructive. It means that conflict is not always undesirable and destructive. For example, election contest of political parties under agreed rules is a constructive conflict as it offers positive outcome for societal change and as such helps to improve the performance of the system.

Conflict can be transformed in order to reduce its painful and unwanted consequences. This is why transformation of conflict is defined as a ‘struggle for sustainable peace’. Of course, therefore, neither the conflict nor the process for transformation of it is futile. The struggle for peace is usually a struggle for better civilization which comprises better wisdom to address problem and better security of the human lives and his/her surrounding. The struggle for peace or transformation of conflict also means a struggle for ending the concept of state which is founded on the hierarchy, patriarchy and in the arrogance and secrecy. The nature of the conflict and its transformation discussed above help us to sum up the following:

- Conflict is natural social phenomenon, so that it should not be taken as an unusual happening. Conflict does arise when social contradictions are not properly accommodated to give place for ‘diversity’ to exist and interact freely. Violent conflict in the society has its roots on structural violence. Structural violence is an outcome of the ‘domination of minority over the majority for subordination for the latter’s exclusive benefit in the state’s power scheme.

¹⁰ . Coser, Lewis A, 1964. *The Functions of Social Conflict*; New York: The Free Press: P 7

¹¹ . Bhattachan, Krishna B. 2003. “Sociological Perspective on Internal Conflict Resolution/ Management in Nepal”. A paper presented in a Seminar on **Conflict Resolution in Nepal** organized by Nepal Foundation for Advanced Studies (NEFAS).

¹² . Dahal, Dev Raj, 2003. “Conflict Resolution: A Note on Some Contending Approaches”. (Unpublished), a paper presented in a Seminar on **Conflict Resolution in Nepal** organized by Nepal Foundation for Advanced Studies (NEFAS).

¹³ . Burton, John A. 1974. “Resolution of Conflict” in David McLellan et al eds. *The Theory and Practice of International Relations*; New Delhi, Prentice Hall of India: P. 38

- Structural violence¹⁴ is a condition of the ‘status quo’ that denies change in the pattern of power structure. ‘Status quo’ rejects change in the condition of the ‘deprived or secluded’ groups of peoples. Continuation of the structural violence is thus ultimately a denial of the ‘human dignity’, and the suppression of the conflict for change a violation of human rights.
- Suppression of change for structural violence will lead to emergence of violent conflict which in turn will pose a serious threat to human freedoms, liberties, development and most importantly the right to life itself. Violent conflict may obtain an escalatory character thereby creating unlimited hazard to the human life itself.
- Transformation of conflict is fully possible by recognition the ‘condition of human rights deprivation’ due to existence of structural violence in the society.¹⁵ Respect for and protection of human rights is thus a primary requisite transformation of the conflict of any type since the suppression of it will fuel the escalation. The transformation of the conflict in this sense means ‘a process for creating a society that respects and protects the human rights’ as a foundation of rational and civilized society.

NEED OF NEW THINKING ABOUT CONFLICT TRANSFORMATION

Conventionally, conflict in the society was viewed as a struggle for power between contesting groups. The sociological investigation of social affairs and relations, however, suggests that the conflict in the society are usual phenomenon resulted out of power imbalance or ill-adjustment of social relations. It is therefore not necessary always to view the conflict an evil outcome. Conflict is potential of being transformed and as such may be is prelude to the social progress, a foundation for readjustment of the social relations and preservation of human rights irrespective of unavoidable differences¹⁶ between human beings. The universal standards of human rights are recognized as a foundation for the peace and justice. Obviously, these standards provide a rich ground for, and justification or rational of, transformation of the conflict. The transformation of the conflict in this sense can be understood as an instrument of realizing the human rights standards in practical life. The transformation conflict thus should not signify a condition where leadership of the conflicting parties simply reach an agreement to share the political power to the rule the people. Rather it is a condition where the structural violence (the cause of violent conflict) is replaced by the recognition and protection of human rights. Thus, it is a condition of equality in treatment from the state, the power sharing among the peoples, and the equitable sharing of resources by all individuals and groups.

Kevin P. Clements says:

“The world clearly needs some new ways of thinking about old problems and new ways of acting if we are to survive into 21st century. If it is vital, therefore, that students of peace and conflict work out ways of harnessing the creative imagination of everyone so that all peoples can envisage a positive future and ways of realizing that

¹⁴ . According to Meena Acharya (2003), structural violence is defined to include a conflict situation resulting from the social, political and economic structures perpetuating a situation of unequal power, domination and dependency (Acharya, Meena, 2003, “Towards Conflict Transformation in Nepal—Recent Trends in Government Maoist Dialogue (draft)”. A Working Paper presented at a Seminar organized by NEFAS, May 15, 2003)

¹⁵ . According to Meena Acharya (Ibid), conflict as a catalyst for social change would imply a more fundamental treatment to the causes underlying dysfunctional relationship fostering the oppressive and unequal social conditions. Conflict in this sense is an ‘expression of change’ to address the structural violence. However, when the conflict receives a ‘violent form’, it invites unimagined harm to the masses who actually are supposed to be the beneficiaries.

¹⁶ . Sex and genetic differences are unavoidable but not antagonistic to ‘equality’ of human being. Equality recognizes difference for providing perfect equality. Women and men, for instance, are biologically different in many respects. Their biological roles are different. These biological roles are exclusively protected by the law and by doing so man and woman are placed in a condition of equality. Similarly, different ethnic groups have their typically different cultural traditions and behaviors. However, values related to the human dignity do recognize the significance of all these traditions and behaviors. The protection of tradition or behavior of one group of people does not signify the rejection of other. All traditions are categorically recognized and protected because they are different. Maintaining the difference of each tradition and behavior is thus a value attached to the concept of equality.

*future. This imagining cannot be narrow. It has to be broad, inclusive, interdisciplinary and systemic but it has to begin if we are to have a viable future?*¹⁷

Although the conflicts and wars in the history has occasionally helped transformation of the human societies to more liberal and progressive civilizations, the cost human beings have paid for that is immense and irreparable. The present world is full of conflicts subjecting millions of peoples to unnatural deaths, miseries, displacement and starvation. The change is still not taking place as the overwhelming majority of the people subjected to societal structural violence are voiceless, the marginalized, the excluded and the victimized.

The most part of the social science and works in conflict analysis is still missing opportunities to hear what these voiceless and marginalized victims have to say. The state's policy makers and social scientists often forget these voiceless peoples as target groups of the change and development. Their human dignity is ignored, if not subjected to apathy. Violators of people's dignity and life enjoy impunity threatening the entire fabric of civilized society.¹⁸

The parties of the conflict simply escape the responsibility by condemning each other.¹⁹ The cessation of the cold has not resulted in stable and peaceful relations within and between countries. Germany was reunited but countries like the former Soviet Union, Yugoslavia, Sudan, Somalia, Nigeria, Liberia, Ghana, Rwanda, Burundi, Sri-Lanka, Nepal and India are being still hit by powerful ethno-nationalist and secessionist movements. The actors involved in conflict enjoy impunity for violation of human rights. Nepal, for instance, underwent one decade long violent insurgency before election for Constituent Assembly held. However, the State virtually failed to bring those into notice of justice who had been involved in gruesome violation of human rights. The perpetrators of human rights today enjoy the State's privileges.

NEED OF RETHINKING ON THEORIES OF PEACE AND CONFLICTS

The classical theories on peace and conflicts and their management have been obsolete to capture the complex dimensions of the conflicts in the modern and post-modern periods. The societal structural changes are rapid with globalization trend as a major feature. As noted by Prof. Kevin Clements the logic of global economic, social and political development is currently leading two slightly contradictory directions. The first is towards a deepened sense of globalization. Economically, for example, multinational companies are the norm rather than the exception. Politically, the rapid expansion of the inter-governmental sphere in all forms international relations has been phenomenal. Similarly, the

¹⁷ . Kevin P. Clements, 1997. "Peace Building and Conflict Transformation" in Peace and Conflict Studies, Vol. 4 Number <<http://www.tcnj.edu/psm~pcs/contents/v4n1.htm1>>

¹⁸ . In Nepal, for instance, the royalties have very few instances of engaging in welfare of the people. The population is often taken as a 'mass of slaves'. They are '*praja*', meaning a person not with its own identity and independence. If one looks at the history of Nepal, the 'royalty' means a .synonym of conspiracy and killing'. Historically, in court of each king, the nasty political conspiracy of courtiers is the sole business they discharged. Killing of one by another is a regular phenomenon. Often, the security system is so fragile that even the reigning king's life could not be protected. None of the killer is punished. More interestingly, Ranas plundered the Nepalese peoples for over a century as hereditary Prime Ministers but above the kings in executive powers. None of them however were accountable for that plunder (See for detail, Nepal, 2050 B.S.). In 30 years Panchayat regime, the nation was plundered by a group of 'political psychopaths'. They were too rewarded. Political parties that came to power after 1990 plundered the nation too with full impunity. The issues of subordination of women and dalit community, marginalization of the larger part of the population and lack of accountability of governance system continued reinforcing the 'stratified structure of the society', and thus fueling the structural violence to "transform into violent conflict'.

¹⁹ . Himalayan Times (19th May, 2003) carried out a story on wives of some deceased journalists. They are looking for support for livelihood. Their children are deprived of education. Their families are shattered. Who should compensate them? For Maoists such actions are not unusual as the revolution is not bloodless. For Government, some of those were "terrorists". It never recognizes that the security forces have killed any people. For government, all those killed by the security forces were "terrorists".

international relation at people' level is also widespread.²⁰ The second major tendency, however, is both a reaction to globalization and a self-propelling dynamic. As Kevin points out, "this is the process of fragmentation sometimes referred to as "retribalization" when different religious, ethnic, communal, or nationalist groups desire to reassert their distinctive, separate identities in opposition to the homogenization of the global culture and the world trade."²¹

These new dimensions and complexities of conflicts require refreshment in approach to examine the dynamics behind the conflict and the peace building. The popular democracy with emphasis on political freedom and participation alone is unable to address the causes of conflicts. The politics has ceased to be the answer for all problems. The political democracy alone has ceased to be an aspiration of the people. The innate quest for "distinct identity" and love for own governance is apparent features of human beings in the modern and post modernist societies.

The disintegration of society likely to be created by quest for self and distinct identity was largely addressed in Europe by developing the concept of Welfare State. The development of the welfare state was the greatest single achievement of European democracies, and surely one of the greatest achievements of the 20th century. It has, over the years, helped eliminate class differences, thus promoting social integration.²² This model developed social justice alongside economic growth. The political systems were largely framed to serve the welfare systems, i.e. the social justice and the economic empowerment. The devolution of the governance power to the local entities was one of the instruments to institutionalize the welfare system, which tremendously helped people to take ownership on the programs for social justice and economic upliftment. As an outcome, many countries in Europe after the Second World War had been able to divert the perils of social disintegration. As Romano Pordi puts,

"The welfare state, by ensuring that more people take part in economic life, actually stimulates economic growth. Social protection, far from being a burden, must be regarded as a productive factor-offering security for the individual and making economic changes socially and politically acceptable".

The story is not similar in many developing countries, especially in South Asia. The welfare of peoples has never been a priority of the state in this part of the world. Military and armed build up has been comparatively emphasized priority of the South Asian countries. Here it would be worthy to give a brief glance on the last ten years' performance of the Nepalese governance system, which is predominantly marked by interference of World Bank, Asian Development Bank and International Monetary Fund. These organizations have virtually plunged the Nepalese economy into an uncontrolled open market model, thus ending the role of the State machineries towards the social protection of the deprived communities. This process has tremendously benefited a small section of the population which controls the resources. The so-called exploitative open market system has forced the overwhelmingly large majority of the populace to the marginal line of the development.²³ Most part of the national income is extorted by a limited number of people in the higher strata of the society. This development has not only disintegrated the community pushing the poor into a condition of crisis.

Seemingly, issues of human rights protection and sustainable peace building are dependent on development of alternatives to power politics. No structural violence can be addressed without a change in the traditional power politics game. The success in avoidance of conflict, of course, lies on a

²⁰ . Ibid..

²¹ . Id.

²² . Romano Pordi (President of European Commission). Opening Speech for Conference on "Progressive Governance for the XXI Century". Conference Proceedings, Florence 20th and 21st November, 1999.

²³ . In Nepal vast majority of the population comprises poor overwhelmingly subsistence farmers. The top 10 percent of the households in terms of income receive around 47 percent of total income, while the bottom-line 20 percent receive less than 5 percent, which is further accentuated by a highly unequal distribution of land holdings (Martinussen, John, 1995, *Democracy, Competition and Choice: Emerging Local Self Government in Nepal*. Delhi, Sage Publication Pvt. Ltd India: P. 36.)

deepening awareness of human rights and rule of law values among the general people. For this the recognition and protection of each individual and his/her groups' identity is a starting point. Political process is a means by which each individual or group can express its ideologies of development. The power politics discard these core democratic values. It prevents weaker or marginalized sections of the population from participating in the political process and deprives them right to express their development ideologies.

No peace building process is possible without examining the underlying causes. Prevention or management of conflict is not simply a matter of political discourse. As suggested by Prof. Kevin Clement, for the sustainable peace, the peace building process has to take into account a number of ingredients as follows:

- It should aim at channeling the energy generated by conflict in constructive, non-violent rather than destructive and violent directions. It means that conflict is not essentially an evil. The conflict transformation must aim not to eliminate conflict but to utilize conflict solving processes for generative and positive changes.
- Conflict transformation occurs when violent conflict ceases and/or is expressed in non-violent ways and when the original structural sources (economic, social, political, military, and cultural) of the conflict have been changed in some way or other.
- Conflicts can be transformed, by normal socio-political processes (incremental changes through time) by the parties acting alone, by expert third party interveners, and parties acting together and/or by judicious advocacy and political intervention. Conflict transformation should incorporate a wide cross-section of political decision-makers, citizens, aid and development agencies, religious organizations, and social movements. Too often, in the past, the conflict transformation has been conceptualized largely as a political problem. It has to consider social and economical problem as well if sustainable structural change is to occur.
- Such conflict transformation can take place at any stage of the escalatory cycle. If preventive peace building does not take place at the first sign of trouble and problems remain unaddressed, then transformational processes, in the early stages of an evolving conflict, may take the form of early warning and the application of suitable preventive measures. As the conflict escalates (especially if it turns violent), transformation may depend on some kind of crisis management or intervention and later it may require conciliation, mediation, negotiation, arbitration and collaborative problem solving processes. Finally, of course conflict transformation involves reconstruction and reconciliation.

NATURE AND TYPES OF HUMAN RIGHTS VIOLATION IN VIOLENT CONFLICTS: SOME INSTANCES OF NEPAL

The violation of human rights during the violent conflict is acute and widespread. Conflicting parties are vulnerable to apply all those modes and means which they find helpful in their mission of harming or defeating the opponent. In the context of the Maoist insurgency in Nepal, the following human rights are directly and seriously violated:

- The Right to Life: As statistics have shown about 15000 people have been killed in a period of decade.²⁴ The number of civilian killed during the insurgency both by the state and rebels was really dreadful. The loss of sensitivity to the killing and toleration of violence increased as a culture. The respect to the life and dignity is seriously jeopardized by the insurgency in even in the post conflict situation. The use of smaller weapons in the post conflict situation has become a serious problem. The culture of street violence has increasingly been

²⁴ . Source: National Human Rights Commission of Nepal

consolidated. Crime is politicised and the politics is criminalized. The culture that the violent protest will yield the attainment of demands is phenomenal.

- The Right to Arbitrary Arrest and Detention: The security forces were engaged in indiscriminate arrest and detention of persons, and were fully exempted from any liability to the violation of rights guaranteed by the constitution and the international instruments of human rights to which Nepal is a party. A large number of peoples were arrested illegally detained by the army and police without surrendering to the judicial authority. Similarly, CPN Maoist rounded up hundreds of peoples and punished to work in its concentration camp. They too killed number of peoples with full impunity.
- The Right to Fair Trial: As a rule, the detainees were locked up without trial. The preventive detention was used under the Public Security Act to avoid the judicial scrutiny of the detention. Only a rare number of cases were brought to the courts. The person released by the court were rearrested and locked up without any charge. The distrust of the security forces and government to the judiciary was unbelievably wider. The independence of the court was virtually challenged. The Right against Torture: The torture in the police custody was phenomenal in Nepal. In the wake of insurgency, the army stepped in arresting and detaining persons, and the torture in their custody was phenomenal too. In 2000, for instance, 1035 victims of torture were identified.²⁵
- The Right to Freedom of Expression: The freedom to freedom of expression was threatened both by the state and rebels. The number of arrest of journalists was huge. Killings and torture perpetrated to the journalists virtually threatened the freedom of expression.
- The Right to Freedom of Peaceful Assembly: During the emergency the right to freedom to peaceful assembly was banned.²⁶ Even after the withdrawal of the emergency, the right was seriously violated. In September 2000, the government put ban on torch rally. In the last two years, the government declared a number of places in Kathmandu as prohibited zones. The Government of Surya Bahadur Thapa declared the Kathmandu city inside the ring road as the prohibited zone, which was violated by the political parties resulting in arrest of hundreds of political leaders and unlimited use of force by the police.²⁷
- The Right to Liberty of Movement and Residence: The movement of peoples was obstructed by the security forces. It was put under strict and unlimited scrutiny of the unified force. Security forces had put blocks and check points in countless of places in the highways and roads. Travellers had been roughly treated and manhandled often. In the check points, the travellers had to wait hours for clearance. They had to walk out of the vehicles with their belongings and approach the security personnel to get themselves and belongings checked. Manhandling of the travellers in such circumstances was common and any protest might result in serious consequence. There are at least two deaths reported in 2004 by firing of the sentries during such inspection.
- Right to Residence and Foods: The right to residence and food was severely affected due to unprecedented displacement of the peoples from many parts of the country.²⁸ In some part of the country, it was simply difficult for people to live due to cross fire between the security force and rebels, and harassment by both of them. Many families were thus forced to leave out the villages putting themselves into a miserable condition of displacement. The Right to Education: The right education of children was severely affected too.²⁹ Many schools in

²⁵ . Luitel, Shom.2001, "The Maoist People's War and Human Rights in Nepal". Asian Human Rights Commission, Hong Kong. <http://www.afs.ahrchk.net/mainfile.php>

²⁶ . See, National Human Rights Commission, Report on "Emergency and Human Rights", June 2003.

²⁷ . See for detail, Report of the National Human Rights Commission, July 17 , 2002 to July 16, 2003.

²⁸ . See, Report of the National Human Rights Commission, p. 24. July 17 , 2002 to July 16, 2003.

²⁹ . See, Report of the National Human Rights Commission, p. 24. July 17 , 2002 to July 16, 2003.

villages were taken by the rebels or security forces. Schools were, therefore, the most unsafe place for children in villages.

The situation has hardly changed in the post conflict situation. The anarchy and chaos and the failure of the government to deal with it has tremendously affected the lives of people. In absence of law and order, the crimes of kidnapping, extortion and murder have unbelievably increased. The criminalization of politics is one of the serious issues in the post conflict situation. The misuse of youths by the political parties by forming violent groups has also become a serious challenge.

CONCLUSION:

Conflict as a part of the social process is usual to occur. Its management in the right direction can be a boon for the positive transformation of the society. However, the failure to use it for the positive transformation might be converted into a violence posing a serious threat to human humanity itself. Violation of human rights in number of forms would be phenomenal in conflict which gets out of the control of people. The South Asia is one of the volatile zone from the point of view of conflict and human rights violation. The poverty, ill-governance and corruption constitute the major factors for escalating the conflict in this zone. To create a vibrant society by rapid economic and social transformation of the people is only safe way to avoid the unwanted consequences to be created by ongoing conflicts.