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Nepali troubled transition: Some broader patterns

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The dissolution of Nepal's Constituent Assembly (CA) without delivering a constitution has derailed Nepal's slow political transition and the peace process. This critical rupture in interparty relations is a clear departure from what since November 2005 had become a familiar pattern – a last minute deal at the end of a protracted period of brinkmanship. Although the CA dissolution was the direct result of Nepal's Supreme Court order setting May 27 as the deadline for the CA to either deliver or dissolve, it was the lack common grounds among the political parties on the basic principles of state restructuring – federalism – that pushed them over the cliff.

The end of the CA has amplified Nepal's political uncertainties. The question that looms large is whether Nepal's political parties will continue to work together to deliver a constitution that regularizes democratic process or whether they will drift further apart and endanger the gains already achieved. My paper argues that the basic dynamics underlying Nepal's current political transformations remains unchanged. Cooperation among Nepal's political parties has been the most crucial factor in this transformation. Interparty cooperation among Nepal's political parties and the critical role of Nepal's neighbors are the two linchpins of this dynamics. How will these internal and external factors impact Nepali politics in the new context of CA dissolution? In the following sections, I identify five broader patterns that have set the contours of Nepal's current political transition and then I follow up with brief explanations of the same. These five patterns are (a) interparty cooperation amidst widening participation, (b) confrontation to conciliation and then confrontation again, (c) deepening distrust, (d) assertiveness of the judiciary or judicial activism, and (e) the key role of external actors.

There is only a short history of *serious interparty cooperation* in Nepal. It began in late 1980s and was a driving force behind what now is known as Nepal's first Democracy Movement, which heralded a multiparty system under the 1990 constitution. Soon, however, the political parties drifted apart amidst intense rivalries for power. The Maoist insurgency of

1996 was the severest blow to this new democracy. The assassination of King Birendra in summer 2001, led to fresh attempts by the new King Gyanendra, to push back Nepal's democratic forces, which, in turn, brought the political parties closer.

Historical 2005 Understanding and the CA Elections

The CA elections of April 2008 marked the realization of long delayed historical undertaking for Nepal. Provision for a CA was a major part of the Delhi Accord of 1950 also, but King Mahendra sidelined the CA elections then. The demand for CA elections resurfaced when the Communist Party of Nepal- Maoist declared insurgency; the CA was one of its forty demands. CA was one of the main points on which Nepal's other political parties had to yield to the Maoists to reach the November 2005 understanding to end the Maoist insurgency; this understanding proved a watershed in the interparty cooperation in Nepal. Political parties showed an unprecedented determination to narrow their differences to further Nepal's democratization process. The results were phenomenal. The April 2006 popular movement was a joint effort of all the political parties including the Maoists. It forced King Gyanendra to restore the national assembly that he had been dissolved in October 2002. A sweeping declaration by this resurrected assembly shifted the locus of power from the palace to this assembly and new constitution, including the loyalty of Nepal's military. In April 2008, CA elections were held. The new CA during its first meeting abolished Nepal's monarchy and declared the country a republic. These were bold achievements in a short time, compared to other democratic movements that achieved their goals incrementally, a process known as "democratization on installment plan."⁴ In the rest of this paper, I briefly explain major patterns that have emerged from interparty interactions in Nepal since the 2005 understanding in the hope that they might offer some clue to the likely future scenario.

Nepal's political parties also narrowed their differences on the thorniest issues of federal model and the form of government. In April 2012, the UCPN (Maoist) leaders said that the party was sticking to its revised 10-state model. The NC leaders pushed for the seven-state model. The UML, on the other hand, took a softer stance with its readiness to

⁴ Larry Diamond, Juan J. Linz and Seymour Martin Lipset. "Introduction," in Diamond, Linz and Lipset eds., *Politics in Developing Countries: Comparing Experiences with Democracy* (Boulder: Lynne Rienner Publishers, 1995), p. 44.

consider 7-12 states models.⁵ The dissolution of the CA occurred amidst growing agreement among the political stakeholders over issues that had taken the longest to resolve. The closing of the Maoist combatant camps through integration of thousands of combatants into Nepal Army and through rehabilitation programs and packages for thousand others was indeed a major breakthrough.⁶ By May 15th the political parties announced an agreement on all major issues, including the number of states and a mixed political system with popularly elected President and a Prime Minister chosen by the parliament.

Nepal's case supports a wider recognition in democratization literature of the critical role of "contingent interactions among key political actors" in driving the success or failure of democratization.⁷ Bermeo, for example, attributes the breakdown of democracy to the refusal by a substantial sector of the civilian elites to "compromise or bargain and abide by the outcome of the democratic game." Democracies, she says, are "recreated piece by piece, institution by institution, and the creators are usually old enemies." Nepal's case also vindicates Lijphart's thesis that "consociationalism is possible only when elites understand the perils of political fragmentation."⁸ Studies on Latin America and Southern Europe have compared the consequences of elite settlements with "social revolutions" and underlined the need for more scholarly attention to this phenomenon. Cohen finds deep suspicion between moderate sides of each other's intentions as a key factor that led them to cooperate with extremists and produced the outcome that none of them favored.⁹

⁵ <<http://www.nepalnews.com/archive/2012/apr/apr28/news08.php>> accessed June 20, 2012.

⁶ <<http://www.ekantipur.com/2011/11/02/top-story/how-the-agreement-was-finally-sealed/343092.html>> accessed August 15, 2012.

⁷ Michael Bratton, and Nicholas van de Walle. "Neopatrimonial Regimes and Political Transitions in Africa," *World Politics* 46 (July 1994), p. 454.

⁸ Nancy Bermeo, 1992 "Democracy and lessons of Dictatorship," *Comparative Politics* 24:3, (April 1992), pp. 273-281.

⁹ Youssef Cohen, *Radicals, Reformers and Reactionaries* (Chicago: University of Chicago Press, 1994), pp. 6-7

Confrontation to conciliation and then, confrontation again continue to define interactions between Nepal's political parties. For example, Nepal's non-Maoist parties reached out to the Maoists only after their demand for restoration of popular rule was repeatedly rejected by the King. Nepal's major political parties dismissed the Maoists' strength until they captured a large swath of Nepal's territory and challenged the state, including the democratic leaders. Once the Maoists joined the government in 2007, the governing coalition adopted the same dismissive stance towards others raising demands upon the state for greater inclusion. For example, in 2007, the government faced a strong movement in Nepal's southern plain region by Madhesis for broadening their participation in the state. The government yielded to their demands only after prolonged confrontation that resulted in dozens of deaths.

Despite continuing interactions between the political parties, *deep distrust among the parties* still persists. For example, both the Nepali Congress and CPN-UML leaders keep saying that they cannot trust the Maoists. The differences between the political parties increased in the wake of the CA elections and in the formation of a Maoist led coalition. Deep distrust became once more evident in the last rounds of talks to save the CA when the party leaders blamed each other for the CA dissolution. Cut throat competition inside political parties between rivals for power also delays and derails sensible negotiations.

In the political vacuum left by the incessant partisan rivalry among parties, *Nepal's judiciary* has seized a greater role. The judiciary did not obstruct any of the sweeping measures in the wake of the April 2006 Movement, including the House Declaration stripping the king of most of his powers. Subsequently, however, the government's relationship with the judiciary has suffered. Nepal's judicial leaders have been deeply resentful of the Interim Constitution provision subjecting the appointment of judges to parliamentary hearing and recommendation. The Maoists were especially insistent on parliamentary oversight of the judiciary. The judges have been emboldened to go on offensive against the political establishment in view of both interparty differences and denuding popular approval of political leaders. As noted earlier, the biggest judicial blow to Nepali politicians came from the Supreme Court's order rejecting extension of the CA beyond May 27.

No account of Nepal's political milieu will be complete without including *vital role of Nepal's neighbors, especially India*. Extensive Indian involvement has underpinned each critical decision ranging from the 2005 understanding to government formation. In a rare acknowledgement, the Maoist leader Pushpa Dahal has characterized India's support as critical to the success of Nepal's peace process.¹⁰ In February 2008, Nepal's Madhesi leaders and the mainstream political parties reached an agreement in the premises of the Indian Embassy with the direct involvement of the then Ambassador S. P. Mukherjee. When the Maoist Prime Minister Prachand resigned over the President's decision to restore the COAS overriding the cabinet decision to fire him, Nepali commentators openly noted the non-Maoist parties rallying with India in support of this decision. Rising Indian involvement has also led to expedited Chinese diplomacy in Nepal. Many Nepali observers see the country fast turning into a battleground for influence between major powers leaving less and less room for Nepali political actors to find solutions on their own.

The Future Scenario

Despite all the volatility, Nepal has certainly become more democratic since 2006. Popular sovereignty has become indeed dear to the people. There are many more stakeholders in Nepali politics today than ever before. Grassroots mobilization has never been more powerful. Regions, classes, castes, religious communities are all joining the fray to have their demands/aspirations included in the state restructuring process. Pressure to accommodate diversity has risen across the board. However, the substantial progress made before the CA's dissolution could dissolve under the heat of the new CA elections. This could further complicate and prolong the political ordeal of the Nepalese people.

¹⁰< <http://www.nepalnews.com/archive/2012/apr/apr17/news08.php>>, accessed July 13, 2012.