



universität
wien

DISSERTATION

Titel der Dissertation

„Negotiated Settlement of Civil Wars and International
Norms“

Verfasser

Anil Sigdel

angestrebter akademischer Grad

Doktor der Philosophie (Dr. phil.)

Wien, 2014

Studienkennzahl It. Studeinblatt:	A 784 300
Dissertationsgebiet It. Studienblatt:	Politikwissenschaft
Betreuer:	Univ. Prof. Dr. Heinz Gaertner

**NEGOTIATED SETTLEMENT OF CIVIL WARS
AND INTERNATIONAL NORMS**

ANIL SIGDEL

2014, VIENNA

To my late parents:

Madhu Hari Sigdel
Sushila Sigdel

Acknowledgement

I am grateful to my supervisor Univ. Prof. Dr. Heinz Gaertner for accepting me as his doctoral student and helping me develop my idea into a full dissertation. I have enriched myself significantly by plenty of discussions on theories and issues in International Relations in his seminars. Similarly, a person who deserves my great debt of gratitude is Ioana because without her support and encouragement this dissertation would not have seen the light of day. Apart from providing me an environment for this intellectual work, she read through my manuscript umpteen times. With her informed knowledge, she gave her critical feedbacks and helped correct errors. In the same way, I must thank my friend Bob who edited my manuscript, as a native English speaker, all the way from Washington State. Finally, I am also indebted to a large number of people -colleagues, friends, families - who have contributed to my project one way or the other.

Preface

The idea for the theme of this doctoral dissertation stems from the experience of being an affected citizen of a prolonged political transition in the post-conflict Nepal. This idea took an academic shape while flipping through the pages of international journals on civil wars. I was struck by the debate about the types of terminations of civil wars: negotiated settlement vs. victory. However, as a student of International Relations (IR), the challenge I had was to find a research gap while connecting the following three elements: theories of IR, Nepalese peace process and the study of negotiated settlement of civil wars. Then, I started doing some research on both quantitative civil war studies and norms in International Relations (or the theory of constructivism) and eventually I was able to convince my supervisor.

When I did an official initial presentation at the doctoral committee at my institute, even though my proposal was approved, professors at the committee recommended me to include the following: structure of the Nepalese society and the conflict itself, and my personal reflections on where norms come from. They argued that while the former would contribute to understand the Nepalese conflict better vis-à-vis the role of norms, the latter would help broaden my theoretical knowledge so that I could apply the theory in a correct way. This dissertation, consequently, beside the dominating norms analysis, also includes chapters on the structural aspects of the Nepalese conflict and my personal reflections on the theory of constructivism and norms.

It also includes a quantitative chapter which both reviews literature and prepares a data set from which the cases for norms studies have been determined. A question was raised at the committee about whether it was reasonable to have this quantitative chapter with a constructivist qualitative analysis. However, we eventually agreed because this analysis would tell us how negotiated settlements were affecting post-conflict peace and would give useful information that could be used in normative analysis. In addition, chapters are organized in such a way that they can also be used as independent journal-length academic articles. As a matter of fact, as of this writing one chapter of this study has already been approved by a peer-reviewed international journal, while another chapter is currently under peer-review. Similarly, contents of some other chapters have already been published on an academic portal in the form of several short articles. I thank my supervisor and the department head for letting me include those published paragraphs in identical form in some sections of my dissertation.

Finally, I strongly believe that this study contributes both empirically and theoretically to the discipline of International Relations.

Table of Content

ACKNOWLEDGEMENT	III
PREFACE	IV
ACRONYMS.....	VIII
TABLES AND ILLUSTRATIONS	XI
1. INTRODUCTION AND RESEARCH PROBLEM.....	1
1.1 RESEARCH QUESTION AND THEORY	2
1.2 HYPOTHESES OF THE STUDY	5
1.3 OPERATIONALIZATION OF THEORY	7
1.4 METHODOLOGY	8
1.5 CONTRIBUTION OF THE STUDY	9
1.6 CHAPTERS IN BRIEF	11
1.6.1 CIVIL WAR STUDIES' STATE-OF-THE-ART	11
1.6.2 STRUCTURE OF CONFLICT	12
1.6.3 INTERNATIONAL NORMS.....	12
2. NEGOTIATED SETTLEMENT AND LONG TERM PEACE: A QUANTITATIVE REVIEW	15
2.1 ANALYSIS OF EXISTING LITERATURE.....	17
2.1.1 <i>Stabilizing the Peace after Civil War: An Investigation of some Key Variables.....</i>	<i>18</i>
2.1.2 <i>The consequences of negotiated Settlements in Civil wars, 1945-1993</i>	<i>19</i>
2.1.3 <i>Ending Civil Wars: A Case for Rebel Victory?</i>	<i>21</i>
2.1.4 <i>Coding criteria's implications for the findings</i>	<i>22</i>
2.1.5 <i>Implications for the data of Negotiated Settlement</i>	<i>24</i>
2.2 STATISTICAL ASSESSMENT I.....	25
2. 3 STATISTICAL ASSESSMENT II	35
2.4 CONDITIONS FOR LASTING SETTLEMENT	46
2.5 RESULTS	56
2.6 CONCLUSION	57
2.7 HYPOTHESES FOR FURTHER RESEARCH REGARDING GOVERNMENT INCOMPATIBLE CONFLICTS	59
3. INTERNATIONAL NORMS IN WAR TO PEACE TRANSITION: EL SALVADOR, GUATEMALA AND NEPAL	61
3.1 QUANTITATIVE OVERVIEW	61
3.2 CASES OF EL SALVADOR, GUATEMALA AND NEPAL.....	63
3.3 SOCIAL CONSTRUCTION AND NEGOTIATED SETTLEMENT.....	65
3.4 UNITED NATIONS IN PEACEBUILDING	69
3.5 NORM DIFFUSION MECHANISM.....	71
3.6 EL SALVADOR.....	72
3.7 GUATEMALA	74
3.8 NEPAL.....	77
3.9 CONCLUSION	78
4. INTRODUCTION TO NEPALESE CONFLICT: CAUSAL FACTORS OF THE CIVIL WAR	80
4.1 DOMESTIC-AND GEO-POLITICS	80
4.2 ETHNIC CAUSE.....	83
4.3 MAOIST INSURGENCY: A GENUINE REVOLUTION OR A PLOY?	84
4.4 BEGINNING OF THE END OF MONARCHY	85
4.5 UNHOLY ALLIANCE OF THE INSURGENTS AND THE DEMOCRATIC PARTIES.....	86
4.6 TERMINATION OF CIVIL WAR	89
4.7 PEACE PROCESS AND CONSTITUENT ASSEMBLY: SUCCESS FOR SOME, FAILURE FOR OTHERS	90
4.8 CONCLUSION AND IMPLICATIONS	96

5. THEORY OF CONSTRUCTIVISM AND NORMS IN INTERNATIONAL RELATIONS	97
5.1 CONSTRUCTIVISM AS POST-POSITIVISM	98
5.2 WHAT CONSTRUCTIVISM HAS THAT OTHERS DO NOT?	99
5.3 CONSTRUCTIVISM-SOURCE OF REALPOLITIK	100
5.4 CONSTRUCTIVISM VS. RATIONALISM	100
5.5 AGENT-STRUCTURE PROBLEM.....	102
5.6 SOVEREIGNTY	102
5.7 IDENTITY	103
5.8 INSTITUTIONS AND IDEAS	104
5.9 LITERATURE REVIEW	105
5.9.1 <i>Alexander Wendt's Anarchy is What States Make of It: the social construction of power politics..</i>	105
5.10 CRITICISM OF WENDT'S THEORY	111
5.11 CONCLUDING REMARKS	112
5.12 DEFINITIONS OF TERMS AND CONCEPTS	113
5.13 NORMS IN CONSTRUCTIVISM	117
5.13.1 <i>Definition of the term "norms"</i>	119
5.14 IMPLICATIONS OF ABOVE DEFINITIONS OF NORMS	120
5.15 INTERRELATIONS BETWEEN WHO CREATE NORMS AND AGENTS WHO ARE AFFECTED	121
5.15 WHEEL OF NORMS	123
5.16 CONDITIONS FOR NORMS EMERGENCE	124
5.17 LITERATURE ON "NORMS"	125
5.17.1 <i>Audie Klotz's Norms in International Relations: The Struggle against Apartheid</i>	125
5.17.2 <i>Martha Finnemore and Kathryn Sikkink's International Norm Dynamics and Political Change</i> ..	129
5.17.3 <i>Martha Finnemore's International Organizations as creators and agents of norms</i>	137
5.17.4 <i>Nina Tannenwald's The Nuclear Taboo: The United States and the Normative Basis of Nuclear Non-Use</i>	137
5.17.5 <i>Jeffrey T Checkel's International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide</i>	138
5.18 CONCLUDING REMARKS	138
6. NEPAL'S SOVEREIGNTY AND NEUTRALITY VIS-À-VIS INDIA: A GEO-POLITICAL ANALYSIS *	140
6.1 COMPLEX BALANCE BETWEEN DOMESTIC POLITICS AND GEO-POLITICAL INTERESTS	141
6.2 NEPAL'S SOVEREIGNTY VIS-À-VIS INDIA, CHINA AND THE INTERNATIONAL COMMUNITY *	146
6.2.1 <i>India and International Norms</i>	150
6.3 INDIAN SKEPTICISM ON NEPAL'S NEUTRALITY*	153
6.4 SCREENING THE ANOMALIES IN THE EXPLANATION OF INDIA'S ROLE*	157
7. NORMS OF HUMAN RIGHTS VS. PEACE PROCESS: TRC AGENDA	164
7.1 MAOIST CONFLICT	166
7.2 PEACE PROCESS	168
7.3 TRC BILL AND ITS FLAWS	169
7.4 TRC AND POLITICS	170
7.5 NORMS VS. SELF-HELP	173
7.6 FINDINGS	178
7.7 IMPLICATIONS	179
8. UNITED STATES, NORMS OF HUMAN RIGHTS AND DEMOCRACY, AND NEPALESE CONFLICT	181
8.1 OVERVIEW OF THE US POSITION IN NEPALESE MAOIST CONFLICT	181
8.2 ANALYSIS OF THE US ROLE UNDER CONSTRUCTIVISM VS. STRUCTURALISM	183
8.3 TEST OF HYPOTHESES	186
8.4 CONCLUSION	202
9. NORMS UNIVERSALITY VS. NORMS INTERNALIZATION: ETHNIC FEDERALISM DEBATE IN NEPAL	203
9.1 EMERGENCE OF FEDERALISM.....	204
9.2 MANDATE AGAINST FEDERALISM.....	206
9.3 PRO-ETHNIC ARGUMENTS:	210

9.4 COUNTER-ETHNIC ARGUMENTS:	211
9.5 ANOMALIES OF THE AGENDA	212
9.6. PRO-ETHNIC ANOMALIES	213
9.7 NEPALESE SOCIAL STRUCTURE.....	214
9.8 SOCIAL PSYCHOLOGICAL “We” AND “OTHER”	217
9.9 CONSTITUENT ASSEMBLY AND FEDERALISM	219
9.10 QUALITY OF THE NORM OF ETHNIC FEDERALIZATION AND IMPLICATIONS	222
CHAPTER 10: CONCLUSION OF THE STUDY	223
REFERENCES	228
APPENDICES.....	239
APPENDIX FOR <i>NEGOTIATED SETTLEMENT OF CIVIL WARS AND INTERNATIONAL NORMS</i> 240	
APPENDIX I.....	240
APPENDIX II	243
APPENDIX III.....	247
APPENDIX IV	258
ZUSAMENFASSUNG.....	268
ABSTRACT	269
EXECUTIVE SUMMARY	270
CURRICULUM VITAE	274

Acronyms

AFDL	Alliance of Democratic Forces for the Liberation of Congo
AFL	Armed Forces of Liberia
AFRC	Armed Forces Revolutionary Council (Sierra Leone)
ASEAN	Association of Southeast Asian Nations
ATTF	All Tripura Tiger Force (India)
AU	African Union
CA	Constituent Assembly
CAR	Central African Republic
CDF	Civil Defense Forces
CNDD	National Council for the Defense of Democracy (Burundi)
CNDD-FDD	National Council for the Defense of Democracy- Forces for the Defense of Democracy (Burundi)
CPN-M	Communist Party of Nepal-Maoist
CRA	Coordination of the Armed Resistance (Niger)
DDR	Demobilization, Disarmament, Rehabilitation
DRC	Democratic Republic of Congo (Zaire)
ECOMOG	Economic Community of West African States Monitoring Group
ECOWAS	Economic Community of West African States
EGP	Guerilla Army for the Poor (Guatemala)
EPR	People's Revolutionary Army (Mexico)
ERP	People's Revolutionary Army (El Salvador) (translated from Ejercito Revolucionario del Pueblo)
EZLN	Zapatista National Liberation Army
EU	European Union
FAL	Armed Forces for Liberation (El Salvador)
FAR	Rebel Armed Forces (Guatemala)
FARN	Armed Forces for National Resistance (El Salvador)
FIAA	Arab Front of Azawad (Mali)
FLAA	Azawad Liberation Front
FMLN	Farabundo Marti National Liberation Front
FNLA	National Liberation Front of Angola
FNL	Hutu Forces for National Liberation (Burundi)
FNLC	Congolese National Liberation Front
FPL	Popular Forces of Liberation (El Salvador)
FRELINO	Front for Mozambican Liberation
FRETILIN	Revolutionary Front for an Independent East Timor
FRODEBU	Front for Democracy in Burundi
FRUD	Front for the Restoration of Unity and Democracy (Djibouti)
FRUD-AD	Front for the Restoration of Unity and Democracy – Ahmed Dini (Djibouti)
GAM	Free Aceh Movement (Indonesia)
INPFL	Independent National Patriotic Front of Liberia
IR	International Relations

JVMM	Joint Verification and Monitoring Mechanism
KFOR	Kosovo Force (NATO)
LURD	Liberians United for Reconciliation and ...
M23	March 23 Rebellion (DR Congo)
MFDC	Movement of Democratic Forces of Casamance (Senegal)
MJP	Movement for Justice and Peace (Ivory Coast)
MLC	Movement for the Liberation of Congo
MODEL	Movement for Democracy in Liberia
MPA	Azawad People's Movement (Mali)
MPCI	Patriotic Movement of Cote D'Ivoire
MPIGO	Ivorian Popular Movement of the Great West
MPLA	People's Movement for the Liberation of Angola
MINUGUA	United Nations Verification Mission in Guatemala
NATO	North Atlantic Treaty Organization
NLFT	National Liberation Front of Tripura (India)
NPFL	National Patriotic Front of Liberia
NS	Negotiated Settlement
NSC	National Salvation Council (Somalia)
OAU	Organization of African Unity
OHCHR-Nepal	Office of the High Commissioner for Human Rights
ONUSAL	United Nations Observer Mission in El Salvador
ORA	Organization of the Armed Resistance (Niger)
OSCE	Organization for Security and Cooperation in Europe
PALIPEHUTU	Party for the Liberation of Hutu People (Burundi)
PCT	Congolese Party of Labour
P-FNL	PALIPEHUTU and Hutu Forces for National Liberation (Burundi)
PGT	Guatemalan Worker's Party
PRPR-EPR	Popular Revolutionary Democratic Party (Mexico)
PRTC	Revolutionary Party of the Central American Workers (El Salvador)
RADDHO	International Red Cross and the African Assembly for the Defense of Human Rights
RENAMO	National Resistance Movement of Mozambique
RCD	Congolese Rally for Democracy (DR Congo)
RUF	Revolutionary United Front
SNM	Somali National Movement
SSR	Security Sector Reform
TRC	Truth and Reconciliation Commission
UCK	Kosovo Liberation Army (Albanian movement in Kosovo and Macedonia)
UCPN-M	Unified Communist Party of Nepal-Maoist
UFDR	Union of Democratic Forces for Unity
UFRA	Union of Forces of Armed Resistance (Niger)
ULIMO	United Liberation Movement of Liberia for Democracy
UN	United Nations
UNITA	National Union for Total Independence of Angola
UNITAF	Unified Task Force (Somalia)
UNMIN	United Nations Mission to Nepal

UNMISET	United Nations Mission of Support in East Timor
UNOMIG	United Nations Observer Mission in Georgia
UNOMSIL	United Nations Observer Mission in Sierra Leone
UNOSOM	United Nations Operation in Somalia
UNSC	United Nations Security Council
UNTAET	United Nations Transitional Administration in East Timor
UPADS	Pan-African Union for Social Democracy (Congo)
UPRONA	Tutsi Union for National Progress (Burundi)
URNG	Guatemalan National Revolutionary Unit
US	United States
USC	United Somali Congress
USSR	United Soviet Socialist Republic
UTO	United Tajik Opposition

Tables and Illustrations

Tables

2.1	1990 onwards Terminations data of Toft	26
2.2	Recurrence of Negotiated Settlement before the end of Cold War	32
2.3	Recurrence of Negotiated Settlement after the Cold War Period	32
2.4	UPDC Conflict Termination 1990-2006	35
2.5	Negotiated Settlement of Territory Incompatibility Conflict	36
2.6	Negotiated Settlement of Government Incompatibility Conflict	39
2.7	Types of Regime	47
2.8	Types of Conflict	50
2.9	Level of War Intensity	51
2.10	Duration of War	53
2.11	Agreement with and without Territorial Provision	54
2.12	Agreement with and without Third Party	55
2.13	Subsequent Peace Process till next five years in postaccord period	60
3.1	Cases with and without International Role	62
3.2	Peace process in the following five years of postaccord period	64
8.1	US Chief of Missions to Nepal and US Administration	196
9.1	Comparison of Elections Results	208
9.2	Regimes and Socio-Political Structures of Nepal	217
9.3	Population Structure (Cultural)	218
9.4	Human Development Index (HDI)	219

Figures

1.1	Theoretical Framework of the Study	5
1.2	Main Hypothesis of the Study	6
2.1	Long Term Freedom Status	30
2.2	Negotiated Settlement Freedom Score	45
5.1	Wheel of Norms	123

1. Introduction and Research Problem

Why study civil wars? As of this writing in the year 2013, according to the Uppsala database on ongoing wars, 27 are intra-state armed conflicts, whereas merely 1 is inter-state. Christian P. Scherrer (2002:7) rightly contends that, owing to a huge surge in civil wars and non-war type massive violence, the very Clausewitzian-type war between states has become a “rather exceptional phenomenon”.¹ How to resolve civil wars now is a life-and-death question for millions across the globe (Stedman et al., 2002). Different scholars have tried to explain this phenomenon by studying the ending of war and post-conflict dynamics with utilitarian and material² perspectives (realist/rationalist).³ Material perspectives are undeniably important. But the question arises, is it only the material determinants that guide settlements among warring factions? Is it not that the ideational factors or inter-subjective understandings between actors make a difference as well? Is it only interest that matters or do norms matter too?

The theoretical tradition of neo-realism or rationalism dominates the research about civil war.⁴ One of several such realist explanations is that antagonists are concerned about their security, survival and power balance and the only solution for these concerns is war, security guarantees or enforcements (Walter, 1997); antagonists declare ceasefires only instrumentally in order to re-gather their strength to launch new attacks etc. (Wagner, 1993). Some realist studies however, do touch upon normative aspects, but apparently give them a secondary importance. Realists also do agree that, when warring sides respect norms, they get international legitimacy. Thus, in a way, for realists also norms do have some effect. But still, they (realists) do not give to norms the meaning or power constructivists would like them to see give, the overall analysis remains realist.⁵

¹ It is to be noted that Scherrer is arguing particularly in the context of ethnic wars but not ideological or territorial; however, that does not make any difference to the overall increase of civil wars in general. This dissertation deals basically with ideological civil wars, for instance, the communist insurgency of Nepal which also has some ethnic element in it; but is not concerned with apolitical violence or non-war massive violence.

² The term “material” means military power, economic and strategic interest as opposed to social norms, institutions and ideas in the context of realism v. constructivism debate in international relations. The definitions of terms and detailed explanations about these theories are discussed in the theory chapter of this dissertation.

³ Harrison Wagner contends that negotiated settlement is likely to breakdown because the segment of power-sharing always retains the capacity to resort to civil war. See Wagner, 1993;

Monica Toft argues that the carrots and sticks measure is needed to prevent a recurrence of war as opposed to one-sided priority to stop war in a negotiated settlement. See Toft, 2010.

⁴ Most journal articles dealing with civil wars over the last few years speak for themselves.

⁵ For a better understanding of the state-of-the-art of civil wars, this thesis contains an entire chapter on reviewing several quantitative civil war studies. It then prepares a new data set to test some existing realist hypotheses and then moves into normative analyses.

This has apparently left a huge gap in the research owing to the absence of constructivist perspectives. This perspective assumes that antagonists are not only concerned about their recognition and legitimacy but also redefine their interests through norms. To fill this gap, it has been necessary to look into the problem through the assumptions of constructivism.

Regarding constructivism, however, there is very little research literature. Except for a couple of studies on the “liberal social reconstruction” in Central American civil wars (see Peceny and Stanley, 2001) and the institution-building to stabilize peace and then promoting liberal democracy and economy for peacebuilding (see Paris, 2004), there are no other works on the basis of which one could convincingly pursue a normative analysis.

Some studies on norms, such as the internationally coordinated sanctions on South African Apartheid regime on the basis of racial equality norms (Klotz, 1995), change of Chilean military behavior in Pinochet’s regime owing to human rights norms (Hawkins, 1997), “diffusion” of norms of European human rights across varied regimes from Germany to Ukraine to Russia (Checkel, 1997), do speak of the effect of norms and how international norms diffuse in domestic politics, but they do not address the dynamics of civil war itself.

This is because constructivists characteristically analyze a state’s behavior only in the international arena. Even though lately constructivists (norms scholars) have started examining domestic politics in relations to norms, no sufficient answers are offered for how norms are affecting stakeholders’ behavior and what impact norms have on intra-state conflict resolution. In addition, it has been understood that norms matter, but the extent to which norms can be effective still begs for more research.

1.1 Research Question and Theory

To facilitate the examination of civil wars under norm perspectives, an overarching research question posed will be the following;

- ***What is the role of norms in the negotiated settlement of civil wars?***

This study is about examining actor’s role in material versus norms perspectives and about the effect of the internalization of internationally institutionalized norms. It seeks to analyze the process of internalization and limitations of norms. In order to be more specific, the following sub-questions are asked:

- How do norms of human rights affect conflict resolution?
- How do actors, national and international, respond to particular norms in the context of civil war?
- Why some norms are internalized and others not? (Finnemore and Sikkink, 1998)
- What are the limitations of norms?
- What is the overall effect of norms on peacebuilding?

Before laying out some hypotheses of the study, since both the research questions and the hypotheses basically correspond to the theoretical assumptions of constructivism, the state-of-the-art of this theory is discussed in brief in the following:

- Constructivism: Inter-subjective understanding and creation of social reality
- Ideational instances over material ones.
- Norms matter: both liberals and constructivists agree but the debate remains
- Norms (re-)constitute interest and identity
- Norms are neither byproduct of interests nor limited to ethical and moral values. Norms matter independently.
- Norms are standards of behavior, logic of appropriateness etc.
- Norms and domestic politics impact ought to be broadened.(Adler,2002:110)

Constructivism assumes that social reality is a construct of inter-subjective understanding between actors (Adler, 2002). Unlike structural theory or neo-realism which assumes that behind the social reality lie hard core instances such as power, economic or military capabilities, interests, and strategies, constructivists rely on “soft” instances of norms, institutions and ideas. Furthermore, in constructivism, actors’ behavior and policy choices depend on the “logic of appropriateness” or appropriate behavior or norms (March and Olsen, 2006 cited in Fearon and Wendt, 2002).

There is a scholarly debate between rationalists and constructivists about whether norms shape interests or interests shape norms, such arguments will remain out of the scope of this study. The study analyzes the role of norms in intra-state conflict resolution, regardless of whether actors are instrumentally using norms or are being internalized by norms (as applied by several scholars, Checkel or Klotz for instance). This study amalgamates both rationalism or regime theory and constructivism in such a way that they complement each other and lead to understanding the phenomenon in question in a broad way (see Checkel,

2001). Put another way, this study combines the “logic of appropriateness” with the “logic of consequences” as recommended by some constructivists and rationalists (Fearon and Wendt, 2002).

Furthermore, constructivists have already shown that actors cannot remain untouched by norms, even though such norms are not in harmony with their interests. These norms affect decision-making processes of actors as they are concerned with their reputations and identities in the international community⁶. Thus, accepting norms is about social benefits rather than economic or power distributions. Actors shape their interests in a way that they (interests) will not be in conflict with norms. In this way, norms alter actors’ interests and identities. Having said that, while analyzing actors’ behavior, the basic or inherent interests of human action remain constant, as even in altruism there are some social interests (Klotz, 1995).

Therefore, it is evident that norms constitute behavior (actors internalize norms and shape their interests), but constrain (actors use norms as means-ends calculations and redefine those interests that clash with norms in order not to be seen as bad guys). It should be noted that constructivism (in an ideal sense) keeps norms as exogenous and analyzes actors’ behavior as a dependent variable.

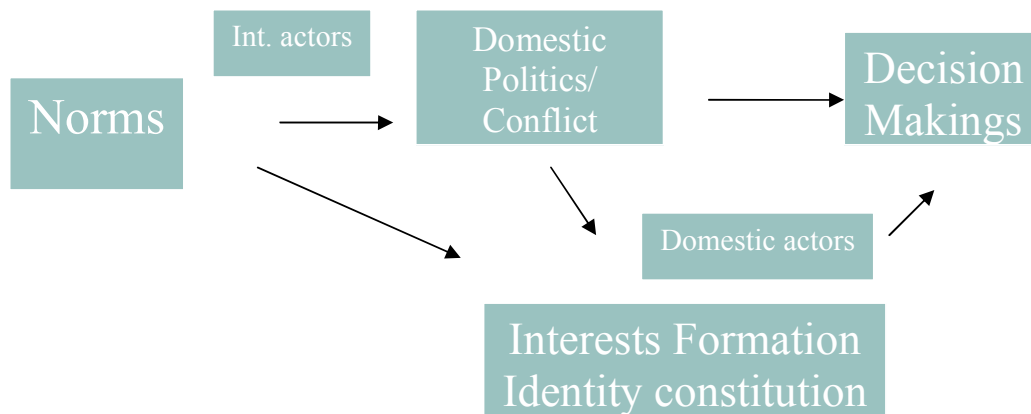
In light of the above-discussed arguments, **the theoretical framework** for this study will be the following:

Norms both constrain and constitute identity/interest/behavior, either by internalization or means-ends calculations.

Theories that will be complimenting the above-mentioned overarching theoretical framework will be the following:

- The international norm of “liberal social reconstruction” resolves intra-state conflicts in the absence of security guarantee or peace enforcement (Peceny and Stanley, 2001).
- States adopt international norms as a source of their policies or conflict resolution strategies. The normative links between international and domestic level help institutionalize international norms at domestic level (See Finnemore, 1993; Finnemore and Sikkink, 1998).

⁶ Klotz Audie elaborated a transmission mechanism that links norms and their policies: community and identity, reputation and communication, and discourse and institutions.

Figure 1: Theoretical Framework of the Study

1.2 Hypotheses of the Study

Having said that norms have implications for policy choice, the question arises, to what extent norms matter in the face of hard choices coming out of material capabilities, power and interest? Therefore, below I will formulate some hypotheses about short-term effect of norms in post-conflict transition.

Main hypothesis of the study: Norms re-constitute actors' interests and identities but further reconstitution meets resistance when norms begin to have huge implications for the original interests and identities of these actors. Hence, they tend to backtrack on commitments made based on those norms. The resulting shifts act as barriers not only to norms but also to conflict resolution and thus lead to a lengthening of the peace process.

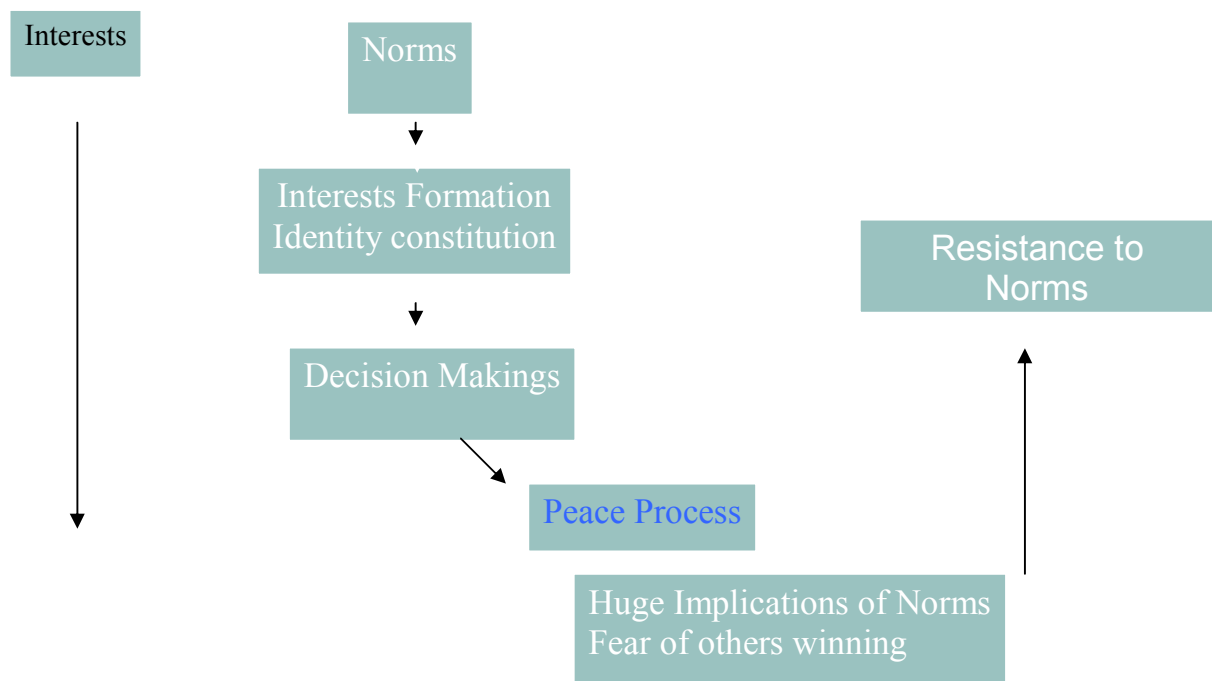
Additional hypotheses:

1. A populace involved in or affected by a civil war would not internalize a norm that would become an existential threat to it. While one group perceives a new norm beneficial only to another group and detrimental to itself, the process of redefining interests through norms stops working. Such norm cannot become universal and the non-universal norm fails to be internalized.

2. Given that the actors in post-conflict transition characteristically entail high tendencies of realist or strategist behavior because of their concern about existence or survival, at those times these actors ignore norms.

3. Despite the fact that certain norms are globally institutionalized and thus understood as universal norms, the compliance or internationalization of these norms by certain actors are hugely contingent upon the strength of norm entrepreneurs' actions.

Figure 2: Main Hypothesis of the Study



1.3 Operationalization of Theory

The theory is operationalized through the following norms. However, since these norms have broad meanings in general, here they have been defined in a particular way so that they become as much relevant to this study.

- Human Rights: the norms of human rights are defined as none of the warring parties, neither governing forces nor rebel forces can justify the violation of human rights and humanitarian law. For instance, the state army's or Maoists' excesses during the insurgency were the violation of the above-mentioned norms.
- Democracy: This norm is defined as no one power centre of Nepal, such as the King, or the Maoists or any other political forces can lead the country at their will, consensus and participation of mainstream political parties are essential. For instance, when king Gyanendra sought to rule Nepal directly by sidelining democratically elected leaders, he was against democracy.
- Ethnic Federalism: This means the re-structuring of the state of Nepal in several federal entities with the social, culture and political domination of one particular ethnic group in one federal province vis-à-vis the long-standing "majority group" domination. This is measured vis-à-vis the regional economic federalism, which means that given the diverse ethnic structure of Nepal and mixed populations across its regions, the basis of the re-structuring ought to be economic or geographic and multi-ethnic equality.
- International Norms: actors, both domestic and international, are expected to consent and follow the international community's policies and priorities. For instance, a widely held practice of bringing the warring factions of civil war to the negotiating table and trying to find some peaceful solutions is a new international norm.

Cases for the operationalization:

- The US behavior (as a representative case for the international community) in Nepal will be tested in the context of human rights and democracy.
- The Truth and Reconciliation Commission as a human rights norm will be operationalized to check the behavior of stakeholders (mostly national, the rebels in particular), and to see the relationship between norms institutionalization and strength of norm entrepreneurs as well as to observe the overall effect of norms on the peace process. While the truth commissions of three cases, El Salvador, Guatemala and Nepal, are operationalized for making comparisons, Nepal's Commission is used for in-depth analysis.
- Ethnic federalism will be operationalized as an international norm (but yet to be universally institutionalized) to check the norms internalization process in the context of the debate of ethnic federalism v. economic/geographic federalism in Nepal.

1.4 Methodology

The study follows a mixed method.

Quantitative Method

This study (one particular chapter) starts with a review of the numerical figures of quantitative civil war literature to show the state-of-the art on the subject: comparisons between studies, comparisons between war termination types (negotiated settlement vs. victory with respect to long-term effect), theory constructions, predictions etc. First, the study will test some hypotheses on an existing data (Monica Duffy Toft's (2010) dataset has been disaggregated for this). Then it will test several existing hypotheses (Hartzell, Hoddie, Rotchild's (2001) hypotheses) on a new set of data which is prepared using the Uppsala conflict database. It is the data of the post-Cold War period prepared with the view to analyze the conditions that allow for a stable post-conflict peace in the current world order. Here, negotiated settlement is an independent variable, and post-settlement situation is a dependent variable, for instance, recurrence of violence or prolonged transition or stable peace. The

content analysis is applied to prepare the data set and on the basis of the numerical data, descriptive realist interpretations of the cases have been given to arrive at conclusions.⁷

Qualitative method:

Then, the other sections will be a comparative study between different cases (El Salvador, Guatemala and Nepal), and some hypotheses testing on the main case (Nepal) to analyze the decision-makings or the behavior of actors vis-à-vis some particular norms. Here, norms will be independent or explanatory variables, the decision-making processes and the crucial phases and results throughout the process will be dependent variables. For instance, the end of the Maoist insurgency, US's cut-down of military aid to the king, Nepalese government's inability to form a truth commission, the failure of the Constituent Assembly, the results of the second Assembly elections, they all are dependent variables. The text analysis is applied to analyze the data. The methodology of giving descriptions of different events and cases as well as finding anomalies in realist explanations for some cases according to their relevance is applied. A couple of chapters, which basically deal with the structure of the conflict or the geo-political dynamic that do not correspond to constructivist explanations, have been presented as complementary sections to better understand the Nepalese conflict. The necessary data sources on Nepal have been collected through in-depth expert interviews and extensive following of media coverage.

1.5 Contribution of the study

- Empirical contribution to the theory that norms constitute actors' interests and identities.
- New data set construction of negotiated settlements along with other key variables.
- Contribution to civil war study through norms in International Relations.
- Test several norms-related hypotheses empirically.

⁷ This chapter does not correspond to constructivist explanations, as mentioned here the objective of this particular section of the research is to show how conflict scholars are doing civil wars research. Besides, the preparation of a new data set is, apart from the analysis of this particular section, basically to find relevant cases for norm studies.

Contribution with regard to the case study

- Amidst burgeoning literature on Nepal's conflict, which is the major case of this study, the theories of interests and power have dominated the discourse. Constructivists' inter-subjective understanding is virtually non-existent. Nepal makes a good case for norms study since its socio-polity heavily relies on international cooperation.
- Due to a communist insurgency occurring after the collapse of Soviet Union, and a power struggle between 21st century monarch and democratic parties, combined with ethnic movement and geo-politics (being situated between India and China), there is a growing interest of international community and scholars in Nepal, which makes this study a very important and timely one.

1.6 Chapters in brief

The thesis can be divided into three different sections: first, the structure of the Nepalese conflict, second, the state-of-the-art of civil war quantitative studies, and third, international norms. The structure of Nepalese conflict entails the social structure, domestic politics and the geopolitics vis-à-vis India and China as causal factors of the civil war. These chapters are included basically as complimentary information to better understand the Nepalese conflict. The state-of-the-art of civil war studies shows what realist scholars are doing and finds a research gap to justify the study of norms in civil wars. The third, or the major section, extensively deals with the normative aspects of International Relations in the context of civil war. The sequence of the chapters, however, is not in the same order as explained here.

1.6.1 Civil War Studies' State-of-the-art

Negotiated Settlement and Long Term Peace: A quantitative Review (Chapter 2):

This chapter is basically about reviewing the state-of-the-art of civil war studies which use the quantitative method of analysis. It focuses on the debate between two camps of war terminations: victory and negotiated settlement. Due to varied coding criteria which have resulted into contradicting results, some comparisons have been made by disaggregating the data into the post-Cold War period. The analysis shows a positive result for negotiated settlement rather than victory. Then, a new set of data of the post-Cold War period has been prepared using the Uppsala conflict database to test several hypotheses related to stable conditions for peace, whereby some findings contradict with the existing knowledge. Importantly, this data has been used to determine those cases which would fall into similar categories and that they (the cases) would make good cases for norms study. The cases that came out of the data are: El Salvador, Guatemala and Nepal.

1.6.2 Structure of Conflict

Introduction to Nepalese Conflict: Causal factors of the Civil War (Chapter 4):

This chapter analyzes the social, political, historical and geopolitical aspects as causal factors of the civil war in Nepal. The emergence of democracy in Nepal in the 1950s with the aid of India, India's proactive involvement in Nepali politics, the tussle between political ideologies, particularly the Nepali Congress representing the liberal democracy, the communist parties and the monarchy as the executive head. The chapter also touches upon the issue of social and regional discriminations and ethnic aspirations which have been found as the major components of the conflict.

Nepal's Sovereignty and Neutrality vis-à-vis India: A Geo-Political Analysis (Chapter 6):

This chapter basically deals with a complex geopolitics as Nepal is situated and has survived so far as an independent state between hostile India and China. Since the earlier chapter shows strong interrelations between Nepalese politics and India, this chapter applies the theory of sovereignty, Alexander Wendt's assumption of sovereignty as a norm, in the context of Nepal's sovereignty and independence vis-à-vis India and its (sovereignty's) implications for domestic politics. The chapter also touches upon the India-China dynamics, and presents a debate regarding speculations of India's undue involvement in Nepalese politics.

1.6.3 International Norms

Theory of Constructivism and Norms in International Relations (Chapter 5):

This chapter is divided into two parts: the first part discusses the theory of constructivism and the second, norms. The first part basically contains theoretical concepts, debates, theoretical terms and components, origins, state-of-the-art etc. Similarly, some literature review of theoretical works done by some constructivist scholars is reviewed and summarized. The second part, similarly, contains the definitions of norms, the process of norms emergence and internalization, or the "norm life-cycle", and the literature review of several authors' work on

theory and empirical studies. Besides, both parts include reflections of my own on the theories.

International Norms in War to Peace Transition: El Salvador, Guatemala and Nepal (Chapter 3):

This chapter makes an important link between the quantitative analyses and the cases to be studied under norms. The new data set prepared in the above-mentioned quantitative chapter puts cases into groups according to particular categories, among which one category is about cases which do not have any security guarantee or peace enforcements but still fared well with regard to peace. From that category, three similar cases in terms of ideological civil wars (fighting for central governance) have been chosen: El Salvador, Guatemala and Nepal. These cases are examined under the theory of liberal social reconstruction vs. realist assumptions of security factor, as argued by Peceny and Stanley (2001). Similarly, they are also examined under the theory of international norms as source of domestic policy as argued by Finnemore (1993). Furthermore, by operationalizing truth commissions of these cases, the main hypothesis of the study has been tested.

Norms of Human Rights vs. Peace Process: TRC Agenda (Chapter 7):

This chapter examines in detail the Truth and Reconciliation Commission agenda of Nepal in the context of the peace process. Beside a hypothesis testing, this chapter also discusses norm dynamics vis-à-vis self-help. It examines the correlations between empowerment of norms and strength of norm entrepreneurs. It basically represents a debate over passing a TRC bill with amnesty law by subordinating the Commission to former rebels and political parties vis-à-vis an independent probe into war time cases with victims' participation. It shows that the fight of norms vs. interests can make a strong impact on a peace process.

United States, Norms of Human Rights and Democracy, and Nepalese Maoist Conflict (Chapter 8):

This chapter's objective is two-fold: first it reaffirms the theory that the US policy has been redefined by international norms, so its "interest" comprises not only realist components, but also normative elements; second, even though the norms of human rights and democracy do not appear to be the focus of political analysts, these norms have actually had a decisive role

on ending the conflict and guiding the peace process. The US withdrawal of military aid to Nepal's king Gyanendra remains a major factor that ended the war and put Nepal back onto a path of democracy restoration. Similarly, US policy has played a major role in upholding the democratic values to the extent that the former guerrillas put their faith on political transformation and peacebuilding disregarding their own security or ideological concerns.

Norms Universality vs. Norms Internalization: Ethnic Federalism Debate in Nepal (Chapter 9):

This chapter brings the most controversial issue of Nepal's political transition, the ethnic federalism agenda, in the context of what Finnemore and Sikkink (1998) argue that the internalization of norms depends on the quality or the universality of those norms. This issue enlightens why some norms do not become universal and the norm that is not universal fails to be internalized. The hypothesis of the study according to which when one group fears the benefit of the other at the cost of its own existence for having internalized a new norm holds true as the majority group fears that any re-structuring of the regions of the state on the basis of single-ethnicity would undermine the rights of others. Thus, they resisted the idea and counter-argued to the extent that, except the ethnic political elites, even the ethnic populations themselves became convinced that such model would lead to violence.

2. Negotiated Settlement and Long Term Peace: A quantitative Review

As a result of rising internal conflicts and political changes, the study of war and peace shifted its focus away from inter-state wars to intra-state wars or civil wars (Levy, 2002). During the decade that followed the collapse of the communism, the inter-state wars declined, whereas the intrastate wars increased. This change owed particularly to many nationalist conflicts (Wallensteen and Sollenberg cited in Cederman, 2002).⁸ Conflict scholars' interest in studying and preventing wars dates back to the account of the Peloponnesian war and, ever since, wars have continued to occur in one form or another; Clausewitz conceptualized war as "intrinsically political", a "continuation of politics by other means" (Levy, 2002:350; Zartman, 2007).

As wars changed their form, scholars have adapted to different approaches to study them. For instance, the study of war used to invariably focus on the causes of war, but the changing nature of warfare now shifted the focus onto the termination of war (Levy, 2002). The termination of war is interrelated with the relationship between war and conditions for state-building and democratization (Levy, 2002).

It has been understood from scholars that civil wars may terminate in the military victory of the state, rebels defeating incumbent governments, negotiated settlements i.e. no straightforward winning or losing of any side, ceasefires or stalemates (Downes, 2004; Doyle and Sambanis, 2000; Licklider, 1995; Hartzell et al, 2001; Fearon, 2004; Toft, 2010; Walter, 1997). Among these terminations, the practice of the negotiated settlement of a conflict has come to represent the conventional wisdom of academics and policy-makers⁹ that the halting of violence and giving voice to rebels in national politics will pave the way for a long-term solution. This established norm of bringing the warring groups to the round table conference has produced successfully several negotiated settlements of wars.

This established norm of bringing the warring groups to a round table conference has successfully produced several negotiated settlements. However, apart from the scholars and peacemakers who are enthusiastically dedicated to devise better strategies for bringing about

⁸ Lars-Erik Cederman brings out the fact that scholars of IR now have accepted that the ethnicity and nationalism are relevant components of their research, which was not the case until in the 1990s plenty of nationalist conflicts emerged that convinced the scholars to deal with these topics. (Cederman, 2002: 409-428)

⁹ "The conventional wisdom in both academic and policy circles on how best to end ethnic wars contends that secessionist conflicts are best managed by giving regional autonomy to restive ethnic groups, while contests for control of the state should be contained by sharing power". (Downes, 2004)

negotiated settlements, and making them endure, several war scholars question the usefulness of the negotiated settlement itself and whether this is the ideal solution for all kinds of wars.

Furthermore, the varying degree of endurance of negotiated settlement cases, or the question of why some terminations or “solutions” last longer than the others (Licklider, 1995), puzzled scholars. The puzzle resulted into the debate of contesting the types of terminations. Put another way, scholars questioned the primacy of one termination over the other: is it negotiated settlement or victory that will create the most favourable condition to prosper economically and democratically? Most importantly, which termination will not relapse into violence? After all, peacemakers’ concern is to stabilize peace and save lives in the long run. Whatever the case, after the end of the Cold War, preference has been given to negotiated settlements, even though most of intrastate conflicts ended in victories by one of the warring sides (Hartzell, 1999). So, is it the right policy given that these negotiated settlements have proven ineffective (Toft, 2010)?

William Zartman (2007:8) claims that the violence continues to be a final tool to “assert basic internal rights and values” and that “some things are worth fighting for-and against”. Therefore, any “untimely” halt of conflict is not the end because the bone of contention will be carried along. Wagner (1993) argues that a negotiated end is not as stable as a victory because some segments in power-sharing governance tend to resort to war as they regain strength. Therefore, letting a conflict reach its natural culmination will pave the way for a durable peace as the exhausted and defeated parties cannot re-gather their capacity to wage another war (Luttwak and Wagner cited in Toft, 2010). The more recent study reveals that, particularly, the case of the rebel victory ensures the non-recurrence of violence and better conditions for the liberal democratic practices (Toft, 2010).

The perplexity caused by these arguments and findings has brought about this study. The emphatic claims made by these scholars seemingly refer to “*Si vis pacem para bellum*” (if you want peace, prepare for war (Zartman, 2007:19). Furthermore, Downes (2004) argues that the negotiated settlements that ended ethnic civil wars or identity wars failed two-thirds of the times, whereas the ideological wars also ending in negotiated settlements were hardly repeated. He further contends that the “new conventional wisdom” of the devolution of state power in the separatist conflicts, and the “power sharing” in the central power-seeking conflict have not yielded “lasting solutions”.

The agreements on regional autonomy seemed unsuccessful in cases like Moros in the Philippines, Ethiopias’ Afars, Sri Lanka’s Tamils and the agreements on power-sharing met a similar fate in Angola-1994, Sierra Leone-1999, Chad-1979 (Downes, 2004: 230-279). The

author concludes that a better solution in these instances is partition; if not, he contends that the international community should at least focus on taking one side until victory is achieved. However, it should be noted that Licklider has found that a military victory is likely to be followed by acts of genocide (in identity wars cases).¹⁰

These conflicting arguments make commentators and policy-makers even more perplexed on how, when and with which strategy to follow or not to follow, intervene or not to intervene and so on? In any case, one aspect that is worth noting here is that these studies have a tendency of generalization, or, in other words, not considering the idiosyncrasies of every case. Does such “undifferentiated view of civil war”¹¹ help us provide a right understanding of the problem? On the whole, given the uncertainty and dilemma that have pervaded the conflict resolution study for a long time (Zartman, 2007), conflict studies deserve a continuous examination through different perspectives. Therefore, the following sections analyse the prospects of negotiated settlements vis-à-vis victories with regard to the post-conflict peace and governance, as well as the conditions that enable negotiated settlements to succeed.

2.1 Analysis of Existing Literature

In the following paragraphs, I will briefly review some civil war studies that deal in particular with: conditions that lead to lasting settlements; quantitative studies on long term effect of negotiated settlements: both theory testing and theory building studies, and study that questions the practice of negotiated settlements, in order to show variation on how conflict and peace scholars are examining the problem.

¹⁰ Roy Licklider cites Barbara Harff in his article *The Consequences of Negotiated Settlements in Civil Wars, 1945-1993* that she reports cases of genocides in 19% of military victory cases, while none in negotiated settlements (identity civil wars cases). See Licklider, 1995.

¹¹ S.J. Stedman says that in the 1990s peace implementation studies treated civil wars with undifferentiated view, which meant “El Salvador was Angola was Northern Ireland was Rwanda”, resulting in open-ended prescriptions, i.e. more resources, attention etc., causing tautology that if peacemakers really want it, peace can be made. (Stedman et al., 2002: 3,4)

2.1.1 Stabilizing the Peace after Civil War: An Investigation of some Key Variables¹²

This study explores some key variables that are correlated with the endurance of negotiated peace settlements. The authors divide these variables into two groups; one is concerned with the effect of the environment in which wars are settled; and the other is about the settlement arrangements. The endurance of peace settlement for this study narrowly refers to a 5 year period with the assumption that the security concerns of warring parties, which mostly are the critical motives for derailing the settlement, seem higher right after conflicts terminated. First, they explore security concerns types that haunt groups which make it hard to keep their commitment to peace. Second, they introduce a number of hypotheses (7 in total) on peace endurance in correlation with environment factors and institutional choice.

In the cases where there are institutions that promote cooperative behaviors, groups favor constructive interactions; however, there are series of factors that cause high security concerns. The authors argue, supported by empirical evidence, that the “role and limited capacity of the state”, “a society with weak political institutions”, one group repressing another, inability to “offer sustained leaderships to the society”, “exclusion of minority from decision-makings” represent conditions for causing security concerns. (Hartzell et al., 2001:184, 185)

To create a data set of civil wars fought between 1945 and 1998, and in order for conflict to be classified or coded as a civil war in the data set, the authors apply the criteria of Small and Singer’s Correlates of War (COW)¹³ project, which are as follows: at least 1000 battle related deaths per year, government *is* one party to the conflict and conflict within a defined political unit. According to these criteria, 38 cases of civil war terminations are coded as negotiated settlement. Contrary to the pessimism of some war scholars towards peace settlement, the data shows only 14 out of 38, approximately 37 percent, cases of peace settlements returned to violence within the 5 year span.

For the empirical analysis, authors employ a statistical methodology¹⁴ to infer the rate of failure of negotiated peace settlement of civil wars. The results show that the “previous experience with the democratic norms of compromise and accommodation” (Hartzell et al.,

¹² Hartzell, C., Hoddie, M., Rotchild, D. , 2001.

¹³ Small and Singer, 1982. Correlates of War Project. Available at: <www.correlatesofwar.org> , accessed 15 January 2013.

¹⁴ Cox proportional hazards model. The authors argue that this alternative technique helps provide more precise understanding of the relationship between variables and settlement’s short-term endurance, as opposed to techniques applied by Licklider and Walter who categorize agreements as failure if recur in five years, or success if they do not. The reviews of studies of Licklider and Water will also follow in this section.

2001: 198) of the regime reduces the likelihood (hazard) of settlement failure by 90 percent. The states who suffered more intense violence in civil wars show greater likelihood of having a failed peace settlement compared to those states that had less intense wars. A one unit increase of this variable resulted into 140 percent of likelihood of recurrence of war.¹⁵ The study finds that war is less likely to recur if the war period before the settlement was longer.¹⁶ The two variables of environment, issues at stake in the conflict and the structure of international system, do not show significant impact or influence on the duration of the settlement. This could mean that the types of conflict (either identity or socio-political) do not affect the endurance of settlement; and antagonists do not consider that the change in the international structure (the end of Cold War) matters so much because they could always rely on illegal weapons flow.

2.1.2 The consequences of negotiated Settlements in Civil wars, 1945-1993

With regard to the settlement arrangements hypotheses, both the variables, territorial autonomy arrangements and the security enforcement by a third-party state, seem to reduce the likelihood of war recurrence; the former reduces the hazard by approximately 96 percent and the latter reduces it by an estimated 98 percent. The finding of this study, among others, imply that some civil war environments are more likely to result in peace endurance, but others not.

This study tests several hypotheses with regard to correlations between types of wars and types of terminations, duration of wars and causalities. The terminations dealt with are negotiated settlement and military victory. The types of wars' disaggregation include identity war and socio-economic war. Since it is a quantitative research, in order for a conflict to be qualified or coded as a civil war in the analysis, the author lays out three criteria¹⁷ of the "same political unit"¹⁸, "multiple sovereignty"¹⁹ and "large-scale wars"²⁰ in the post 1945 period, which results in 91 cases till 1993 (Licklider, 1995:682). I will discuss only two

¹⁵ One unit is additional 1000 death per month (using natural log transformation)

¹⁶ Each unit, measured as additional month of war, increased resulted in 79 percent reduction in the hazard of recurrence.

¹⁷ For detailed categorizing, and its implications, see Licklider, 1995:682.

¹⁸ Warring groups are expected to be resided within the same political unit after the settlement.

¹⁹ Population of the area obeying more than one institution.

²⁰ Correlates of War definitions; 1000 or more battle deaths per year, and opponents have at least inflicted casualties on the other side at least 5% of its own.

hypotheses relevant for my topic, i.e. the post-terminations' conditions rather than pre-termination dimensions.

As one major part of the study, he tests Wagner's (1993) hypothesis that stipulates: "...negotiated settlements are likely to create internal balance-of-power situations that make it difficult for new government to function effectively....military victory...destroy the organizational structure of one side, making resumption of the civil war much more difficult" (Licklider, 1995:684-685).²¹ This means that long term casualties become higher in the settlements rather than in military victories.

While testing this hypothesis, 57 civil wars have been coded, which did not recur within a 5 year period, and the analysis shows that 34 out of 46 had not relapsed by the time of the study. Out of the 12 cases of recurrence, only 15 percent of wars recurred in military victory cases whereas 50 percent recurred in negotiated settlement. Therefore, the hypothesis has been tested positively. But he does not test the casualty hypothesis.

Secondly, he tests the same hypothesis by disaggregating the wars as identity wars since the conventional wisdom suggests that the identity wars seem more intense and hard to resolve. 79 percent of the identity wars that ended in military victory did not recur till 1994, but 33 percent of them in negotiated settlement did. This supports the hypothesis that negotiated settlements are less likely to hold in identity wars than military victories. However, another crucial revelation of the study is that in 19 percent of wars ending in military victories there are reports of genocide, whereas in negotiated settlements there is none.²²

The study ends by concluding that negotiated settlement in non-identity or political-economic cases seem as durable as military victory and unlikely to be followed by genocide (although possible), but, on the other hand, the former seems less stable than the latter in identity cases. However, in identity wars, military victory seems more likely to be followed by genocides (the author suggests to examine this fact cautiously given the small size of population and over-interpretation of the correlations). He concludes that the key is to determine why some negotiated settlements last in identity wars and others not, and why some military victories are followed by genocide while others not?

²¹ See Wagner, 1993.

²² Roy Licklider cites Barbara Harff in his article The Consequences of Negotiated Settlements in Civil Wars, 1945-1993 that she reports cases of genocides in 19% of military victory cases, while none in negotiated settlements (identity civil wars cases). See Roy Licklider, 1995.

2.1.3 Ending Civil Wars: A Case for Rebel Victory?²³

The author seeks to explain a middle path between the negotiated settlement camp that takes the practice of halting violence as “axiomatic” for greater collective benefit and the continuation-of-war camp that takes unfettered violence as the means to lasting peace (Toft, 2010:7). Furthermore, given the backdrop of liberal democracy promotion by the policy-makers in post conflict conditions, she controls and tests variables relevant to democratic polities and liberal market conditions to check which type will be more conducive for those conditions.

The author prepares a data set of civil wars in the period between 1940 and 2007. She studies the correlations among variables, and concludes the statistical assessments with the analysis of the variables such as levels of democracy or authoritarianism. For the civil war being coded in her data set, she applies 6 criteria; seeking the same political unit (this includes territorial autonomy wars as well), at least two combatant groups, at least average 1000 battle deaths per year, 95 to 5 percent ratio of casualties, internationally recognized boundaries. The implications of these criteria do not produce significant difference with the data set of Licklider discussed above. Her criteria qualify total 137 wars, of which 118 did not recur²⁴.

Her finding shows that 12 percent of civil wars recurred in military victories (i.e. 10 of 81); whereas 22 percent did so (i.e. 5 of 23) in negotiated settlements. This shows a tendency that the wars ended in negotiated settlement seem twice likely to recur than those ending in victory cases. The disaggregated data of victory, between government victory and rebel victory, shows recurrence in 17 percent of wars (i.e. 8 of 48) terminating in government victory, whereas 6 (i.e. 2 of 33) percent so in case of rebel victory.

In order to examine the relationship between the terminations, and duration of wars and the nature of post-conflict peace, besides the key variables, the author brings the control variables such as whether the war is territorial or identity, as well as death toll and casualties. The analysis shows that the likelihood of war recurrence is reduced by 24 percent in victory cases, whereas it is increased by 27 percent in negotiated settlement, relative to all other termination types.²⁵ Besides, the termination types seem to have a substantive impact on

²³ Toft, 2010.

²⁴ No war recurrence meant at least no recurrence for 5 years period.

²⁵ These finding are not interpreted from the number of cases as they are in the statistical data, but applying the statistical tool, logit model, to assess the relationships among these variables.

recurrence as compared to the impact of whether the war being identity or territorial (Toft, 2010).

Furthermore, the author tests the war terminations with post-conflict democracy level on the basis of polity variable²⁶ and post-conflict prosperity on the basis of GDP growth. The author asks to use caution while evaluating the finding given the small number of cases being tested. She interprets that “negotiated settlements may not be the best way to increase the prospects for greater democratization following a civil war” (Toft, 2010:25), as these outcomes seem to meet high level of authoritarianism over time. Regarding the economic prosperity, the GDP growth or decline is not found correlated with the civil war settlement. The study concludes that, *inter alia*, “negotiated settlements are much more likely to recur” (Toft, 2010:27) than other terminations.

2.1.4 Coding criteria’s implications for the findings

The basic criteria of construction of data sets in the studies discussed above are nearly identical. However, the scholars seem to have disagreement over some particular cases and some details while including or excluding them in their data set. This in the end has produced different numbers of conflicts and negotiated settlement cases in the same duration (roughly)²⁷, and has had implications for the theory construction. Below, I will discuss those choices of data selections of scholars and their implications by putting them in the following categories. First four categories correspond to the selection of wars or conflicts and the last two, the negotiated settlements.

Political Unit: Caronline Hartzell, Matthew Hoddie, and Donald Rothchild (2001) - Hartzell et al. hereafter-²⁸ apply the criterion that the war should have occurred within a defined political unit. In Toft’s (2010:12) criteria, the issue at stake was which group would govern the political unit, and that political unit should be within the territories of “internationally recognized state” where the wars have taken place. Licklider (1995) follows the same political unit criterion showing that leaders’ concern is the possible power-sharing with the enemies. All these qualifications of

²⁶ The author uses Polity IV Project Data Set for the analysis of level of democratization. For details on Polity IV, see Polity IV Project: Political Regime Characteristics and Transition, 1800-2010. Available at: <<http://www.systemicpeace.org/polity/polity4.htm>> , accessed 1 March 2013.

²⁷ Hartzell et al.: 1945-1998

²⁸ They have employed the criteria introduced by Small and Singer, 1982 in Correlates of War Project.

civil wars assume that fighters accept the instances of sovereignty and governance. Besides, these also include the wars of secession, where groups challenge the legitimacy of the incumbent government to govern any particular territory or to govern the entire state. These criteria exclude inter-state wars, or wars between states.

Violence scale: Licklider takes the 1000 battle deaths or more per year for the war to be qualified for his data set. Toft employs the threshold of *at least* 1000 battle death per year on average. Whereas Hartzell et al., takes 1000 battle deaths per year, but not average. The average means that even if the war did not necessarily produce 1000 deaths in all the years in conflict, the average should be at least 1000 deaths for every year. These criteria exclude wars that do not reach the violence threshold, or cases of low level violence, and other short-lived riots and movements. For instance, Toft excludes the case of Northern Ireland. On the other hand, Doyle and Sambanis (2000) have included the cases where the war has not caused 1000 deaths every year but at least 1000 death in at least one year.²⁹

Effective Resistance: All three studies are consistent in employing that at least 2 organized combatant groups must have resisted each other effectively. While Hartzell et al. do not give any precise definition, Licklider explains that one side has imposed at least 5 percent of casualties on the other and Toft puts it as at least 95 to 5 percent death ratio. These criteria exclude political massacres from civil wars.

Government: Hartzell et al. applies the criteria that government was one of the parties to the conflict. Toft does not make government a must, instead she explains that one of the fighting factions is “internationally recognized state”. Licklider applies Charles Tilly’s definition of *multiple sovereignty* (Tilly 1978:192 as cited in Licklider, 1995). These criteria separate civil wars from other types of violent incidents such as street crimes, riots and communal conflict involving warring ethnic groups. The cases where central authority had insufficient control and effect are also excluded, like the South African riot in 1976 (Licklider, 1995).

²⁹ I have not reviewed here in detail Doyle and Sambanis’s study as Toft herself has done the comparisons of her data with theirs, but given the fact that it is an important comparison, I will include some part of that comparison later in this heading. See Doyle and Sambanis, 2000.

Negotiating Parties: All these studies seem consistent in the criteria that third-party actors may or may not be involved. It is not a requirement. However, representatives of the warring parties are must in a settlement. The cases where agreement is signed between a third-party and only one warring side become excluded, for instance, the 1989 agreement between Sri Lanka and India which did not include Tamil rebels is excluded.³⁰ Licklider and Toft explain that the termination that ended in some kind of negotiated settlement by ending the violence where parties still somehow retain combat strength are coded as negotiated settlement. Whereas Hartzell et al and Barbara F. Walter (1997) complement this assumption with more specific criteria of “content”, which is discussed in the “negotiation contents” category below.

Negotiation contents: Hartzell et al. (2001:194) take the termination as negotiated settlement if representatives (although in presence of third parties) of warring parties held face-to-face negotiations, also apply a condition that the parties must be making an “effort to implement the settlement”. Walter (1997:344) also applies the criteria of specific content of negotiations that there should be “the issues relevant to resolving the war” included in the talks. Besides, she uses more focused criteria such as the negotiations “undertaken in good faith”, “enough bargaining power” etc (Walter, 1997:344). All these studies employ the 5-years criterion to observe whether the war returned.

2.1.5 Implications for the data of Negotiated Settlement³¹

Due to the validity problem, perhaps, that might arise from the nature of their data, given the inconsistent population and results in their findings, these scholars have compared their data with those of others. I will not discuss the implications already discussed by these scholars themselves in their respective studies, but I will discuss the populations of these studies.³²

Walter’s dataset contains 8 negotiated settlement (NS) in the period between 1940 and 1990. This compared to Licklider, in the same period, there are 14 cases of negotiated settlement even though his data excludes cases like El Salvador, Nicaragua and few others.

³⁰ This example is not mentioned in these studies.

³¹ See the Appendix IV for the comparison of the total population of negotiated settlements across the data sets of Licklider, Hartzell et al, Toft and Walter. I have not reviewed Walter but the data sets are in my compilation in the Appendix IV.

³² See the Appendix IV for the compilations of the population of these studies.

Because his criteria exclude those cases in which violence ended within 5 years before the study year of 1994, otherwise his data would have gone up to 19 cases. Incidentally, Walter's data included Nicaragua. Similarly, Toft's data shows 7 NS cases, while Hartzell et al. have double. They have 14 NS between 1940³³ to 1990. Between 1990 and 1998, Toft's data contains 14 NS, and Hartzell et al.'s have 24 NS. The most recent study here is Toft's, which is up to the year 2007. However, her data has only 2 more cases of NS in the period between 1998 and 2007.

These findings clearly signal the inconsistency of population. This means, any theory in favor or against negotiated settlement should be taken with caution.

2.2 Statistical Assessment I

Before I move into the analysis using the Uppsala Conflict Database, I will test Toft's data of war terminations and outcomes by disaggregating them into different times.³⁴ She shows in her article that rebel victory case rather than negotiated settlement actually guarantees lasting peace and democracy along with economic prosperity using the data from 1940 till 2007. Since my study deals with cases after the end of the Cold War, given the fact that the appearance of UN as an independent actor after the two power blocks lost their ideological interests in civil wars (Stedman et al, 2002), I disaggregate her data to see if they still show negative prospects for negotiated settlement in the new world order.

³³ While some took the period since 1940, and others from 1945, there is no case of negotiated settlement before 1945 in any of these studies, so I have considered them the same period while comparing.

³⁴ The different cases of countries in her data than mine is the result of her categorization of conflict with minimum casualties of 1000 every year, while mine is 25 battle related deaths, and rebels fighting from Government Incompatibility, not the secession cases like Yugoslavia.

Table 2.1**1990 onwards terminations data of Toft:**

<i>Terminations</i>	<i>No. of Cases</i>	<i>Recurrence</i>
Military Victory by Government	9	1
Military Victory by Rebels	8	0
Negotiated Settlement	16	2
Stalemate/Ceasefire	8	1
<i>Total</i>	41	4

The population is very small, so instead of applying any statistical tool, I simply analyze the simple tabulation of data. Here, the author disaggregates the victory cases in rebel victory and government victory, which shows that no single case of rebel victory has ended up in recurrence of violence. However, given the low population and the minimum recurrence, just over 1 percent of recurrence in negotiated settlement, making any inference from such data will not make sense. Besides, less than 1 percent of recurrence out of total terminations suggests that: does the recurrence factor deserve that much attention in policy-making at all?

Similarly, the data either undermines or falls short of verifying the hypotheses of others. For instance, the result does not provide enough evidence or pattern to support Wagner's hypothesis that in negotiated settlement rebels instrumentally utilize the agreement to re-gather their strength so that they could go back to full-fledge war, whereas the victory weakens fighters up to that extent that they could never come back to a full-fledge war situation. Scholars have claimed that even though victories yielded better prospects in the long run, the policy shift of international actors resulted in a decline of victory cases by increasing negotiated settlements. But the data shows 17 cases of victory after 1990, adding both the rebels and governments victories, while only 16 cases of negotiated settlement. And given the low recurrence, there are no compelling reasons for policy-makers to discourage agreement and support one side to push war to its "natural end".

Recurrence Cases in Toft's data set

The cases that are qualified as recurring in this data are: a victory case of Burundi³⁵, and two negotiated settlement cases of Philippines (Moro Rebellion)³⁶ and Angola³⁷. One stalemate case as seen on Table 2.1 is omitted since it is not in the scope of this study. A brief analytical summary of the cases follows which shows that the negotiated settlement will still be a better alternative vis-à-vis victory.

Angola

In Angola, after the independence war against Portugal, three rival forces that emerged engulfed Angola in violence, turning the state into a Cold War proxy war situation. Among these three groups, which are National Liberation Front of Angola (FNLA), People's Movement for the Liberation of Angola (MPLA) and National Union for Total Independence of Angola (UNITA), the UNITA would appear as an incorrigible faction, not accepting defeat and breaching the ceasefire agreements. During the Cold War, UNITA re-strengthened itself with international supply, and in the post-Cold War period it relied on the diamond industry. Although UNITA was "induced" to sign the ceasefire of 1994, owing to government victories (Toft, 2010), which gave it a power-sharing in the government, it re-waged another armed conflict in 1998.

The hypothesis that defeat would leave the rebels so weak that they could hardly re-gather the strength to re-wage war does not hold true in this case. Because, taking into account the fact that UNITA was almost completely destroyed at one point, which was then revived by US support into a solid warring side³⁸, enlightens the fact that relapse into war is contingent on the international structure and interest rather than on the sabotaged conditions of warriors.

Although the Cold War type of international interest was irrelevant when UNITA resumed war in 1998, first, Congo-Brazzaville and Zaire and then Burkina Faso and Togo helped resupply the diamond rich UNITA. As regards the agreement, apparently the reason

³⁵ This case is coded as Burundi Id in Toft's data.

³⁶ This case is coded as Philippines (Moro Rebellion) IIIa.

³⁷ This case is coded as Angola IIa.

³⁸ Former Rebels in Angola Shun Unity Meeting, New York Times. Available at: <<http://www.nytimes.com/1992/11/22/world/former-rebels-in-angola-shun-unity-meeting.html>>, accessed 22 February 2013;

UNITA, Wikipedia. Available at: <<http://en.wikipedia.org/wiki/UNITA>>, accessed 22 February 2013.

UNITA reverted back to armed struggle against MPLA government was mainly MPLA's ill-intentions against it, disputed elections etc. However, the character of the agreement that failed to convince UNITA, its leader Jonas Savimbi in particular, of its political future, could be one major motive for Savimbi embracing war rather than peace, more than anything else.

A strong message UNITA warfare carries for the peacemakers is that, where there regional or international interest and involvement exists, or in the cases of cross-border conflicts, taking civil wars only as internal wars and supporting one side till the other is defeated will perhaps never resolve the problem. Some incorrigible groups will always be willing to exploit outsiders' interest and wage wars again and again. Whereas creating a framework by negotiated settlements would perhaps convince the outsiders that there remain no such groups anymore whom they could mobilize for their "interest". In 2002 Savimbi was killed in a skirmish with government forces. Subsequently the army and rebels signed a ceasefire to end the conflict.³⁹

Philippines

In the Philippines, the southern islands of Mindanao and Sulu have faced long-standing battles between the Christian Philippino government and the minority Muslim insurgents. President Ferdinand Marcos' martial law (in 1972) ignited counteroffensives of the Moro rebellion for full-independence of the region Bangsamoro, "the Moro Homeland", from the Philippines. Although the MNLF accepted peace settlements with the government on increased scope of autonomy in the regions in the Jakarta Peace Agreement in 1996 (Toft, 2010), the breakaway faction MILF stood as another incorrigible force who would take full-independence as non-negotiable. The agreements between the government and the MILF did not endure, the government resorted to full-fledged attacks to uproot the insurgency, and, consequently, the insurgents took a turn into terrorist outfits, increasing the potentiality of transforming the war from a secessionist into a religious war. In 2000, the all-out offensive from the government not only managed to derail the peace process⁴⁰, but also to have MILF declare Jihad against the Philippines.

The Moro rebellion case does not support the hypothesis that heavy offensives would truncate insurgencies, as the rebels resorted to guerilla tactic and built nexus with terrorist

³⁹ For detailed account of UNITA warfare in Angola, see Prendergast, J., 1999.

⁴⁰ Special Report, The Mindanao Peace Talk: Another Opportunity to Resolve the Moro Conflict in the Philippines, United States Institute of Peace. Available at: <<http://www.usip.org/files/resources/sr131.pdf>>, accessed 27 February 2013.

organizations, which only made the conflict more intractable. Eventually MILF softened its claim from full-independence to autonomy; however, although in 1996 the government set up a semi-autonomous region, war continued as the agreement apparently did not address the grievances of southern Muslims. After several episodes of failed ceasefires, in 2012 MILF and the government signed a framework peace plan that would set up autonomous Muslim regions. However, the extremist “Abu Sayyaf group which is affiliated to al-Qaeda remains unreconciled”.⁴¹

In the Moro rebellion case, the taking-one-side until the enemies are finished argument remains weak, as the government’s all-out offense that enjoyed international support only caused to make matter worse. For the outsiders, taking the side of rebels was out of the question given their terrorist character. Although some scholars recommended partition as the best solution for such territorial autonomy war, perhaps the fear of creating precedent, no supporters would follow such policies. Therefore, it seems there is no alternative to negotiating a settlement rather than any other solutions.⁴²

Burundi

After independence, Burundi for decades did not cease to be a consistent battleground due to irreconcilable animosity between ethnic groups of Hutu and Tutsi. Tutsi, although a minority, dominated Burundi politically, which was the underlying grievance of Hutu majority that caused tit-for-tat looking attacks. A short while before the genocides of 1994, in 1991 when Tutsi government had started political liberalizations, a Hutu opposition party PALIPEHUTU waged terrorist type attacks against the government. In several episodes of wars, several Hutu groups joined the agreement, but again the alliance of PALIPEHUTU-FNL would remain incorrigible and continue to wage war.

Other rebel groups FDD and FNL operated from Congo and Tanzania to launch attacks on targets in Burundi. John Prendergast and David Smock (1999) argue that “conflicts in the Congo, Rwanda, and Burundi are linked inextricably through cross-border insurgencies, cross-border ethnic linkages, and cross-border economic ties”.⁴³ Given the fact

⁴¹ Philippines Profile, BBC, News Asia. Available at: <<http://www.bbc.co.uk/news/world-asia-15581450>> , accessed 28 February 2013.

⁴² For detailed account on MILF insurgency against Philippine government, see Philippines, United States Institute of Peace. Available at: <<http://www.usip.org/files/resources/sr131.pdf>> , accessed 28 February 2013.

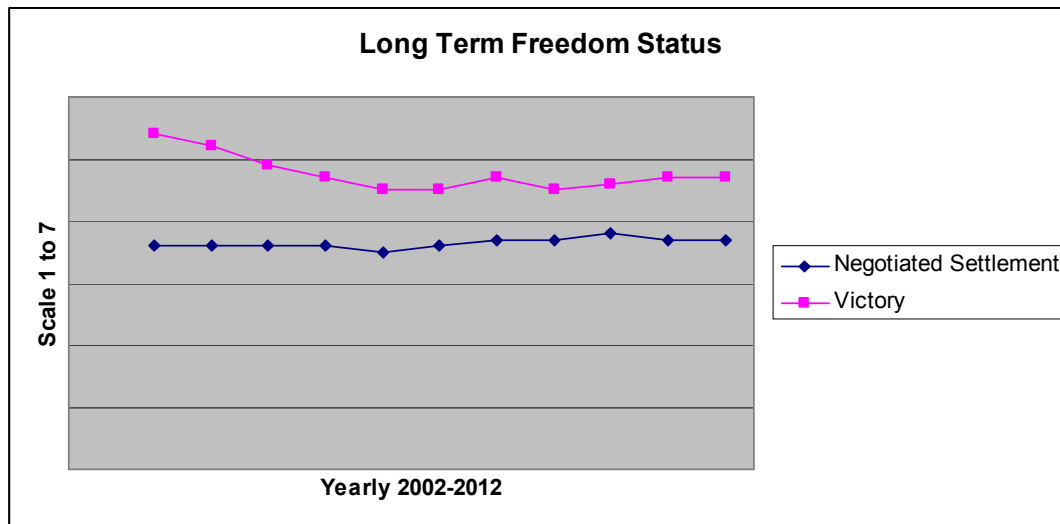
⁴³ Post Genocidal Reconstruction: Building Peace in Rwanda and Burundi, United States Institute of Peace. Available at: <<http://www.usip.org/publications/post-genocidal-reconstruction-building-peace-rwanda-and-burundi>> , accessed 28 February 2013.

that Burundi is part of another cross-border conflict, considering wars exclusively internal and encouraging one side to fight until the “end” does not seem to be right strategy compared to find a framework of negotiated solutions.

Post-war Governance: Freedom Score

According to the nature of the data on Table 2.1, we already realized that the analysis of recurrence of violence seems insignificant, and now the foregoing analysis of the recurred cases also do not support the continue-fighting arguments, I will compare the cases of victories and settlements with another variable, i.e. the freedom score. Since there is also the argument that even if there is no explicit return of full-scale violence, in negotiated settlements states will be marred in bad governance, low economic growth, sporadic violence etc.

Figure 2.1



Note: Scale 1 to 7 means: from 1 “free” and up to 7 “not free”.

The figure 2.1 illustrates the average freedom status⁴⁴ for a span of 11 years from 2002 to 2012. This time segment covers the status of negotiated settlement and victory from

⁴⁴ Here the average means the total of all individual scores in one year is divided by the number of total cases. This means the score shown in the graph does not represent the status of every state separately but the average of the sum of all these cases in each year. In other words, the graph shows the freedom status of negotiated settlement and victory cases, not the states. For detailed calculations and individual scores, see Appendix IV.

10 years up to over 20 years after the end of war; for instance, El Salvador's conflict being ended in 1991, and Sierra Leone and Congo-Zaire being ended in 2002.⁴⁵ We can observe that both victories and negotiated settlements tend to follow the constant level of democratization. Even though the victories resulted in an initial growth of democratization, as evidenced by one point decrease in the freedom score, this change shortly gives way to stabilization on the same range. This initial positive trend speaks of the immediate de-escalation of violence and moving to normalization as this period coincides with the termination of wars in intense cases like Rwanda, Liberia, Burundi etc.

The findings are striking for a few reasons. First, during the entire decade score levels never coincided with one another. The victories continued to remain more autocratic than negotiated settlements. This finding does not support Toft's finding that, although negotiated settlements seem to encourage greater democratization initially, shortly they will show the opposite trend because the regimes will start their crackdown on rebels who try to instigate violence (Toft, 2010).⁴⁶

Second, apart from not coinciding, the score does not show even one point change in the whole period, except the initial change on the victories. This could signify that the terminations and democratization processes are not correlated. Or it could also mean that the continuation of fight until one side wins basically belongs to authoritarian regimes, and in the post-conflict period the character of the regime tends to remain as it was during the war or even in the pre-war period. Whereas negotiated settlements usually happen in more democratic governments in which regimes tend to follow the norms of giving space to varied political demands. Therefore, it could be inferred that since negotiated settlement marks the beginning of the process of accommodating opposing voices, the character of regimes will not transform significantly.

Thus, for the fact that this stabilization of governance in post-negotiated settlement period contradicts Toft's finding⁴⁷ which could be a result of change in the international structure (the end of the Cold War), I will test the hypothesis that the warring sides doubt that they will win the support of international power if they re-wage wars given the fall of Soviet

⁴⁵ Since the scores during the 1990s were not available on Freedom house, they are not analyzed or shown. Available at: <www.freedomhouse.org>, accessed 20 January 2013.

⁴⁶ Since Toft has used POLITY IV Project Data, and I am using Freedom House, I have randomly tallied how they have scored the states that are used in this analysis, and have found them consistent with each other.

⁴⁷ But the post-victories period stabilization seems consistent with Toft's data. Toft disaggregates the victory in rebel and government victory, and in the long run, government victory governance falls significantly. However, she uses the percentage change in this analysis, and applies the logit model that gives the predictive figures of those changes in the long run, as opposed to what I am doing i.e. seeing the straight forward figures without applying any statistical tools.

Union, and decrease in the US foreign aid (Hartzell et al., 2001); therefore, the “end” of war will last.

Hypothesis Test for Cold War and Post Cold War Effect ⁴⁸

Civil war settlements negotiated during the post–Cold War period are more likely to prove stable than those negotiated during the Cold War.

Table 2.2

Recurrence of Negotiated Settlement before the end of Cold War

State	Conflict	Years	Period in yrs	Recur
Sudan	Anyanya	1955-72	22	Yes
Lebanon	First Civil War	1958-58	1	Yes
Iraq	Kurds	1961-70	9	Yes

Table 2.3

Recurrence of Negotiated Settlement after the Cold War Period

State	Conflict	Year	Period in yrs	Recurrence
Angola	Angolan Civil War	1975-94	19	Yes
Philippines	Moro Rebellion	1972-96	24	Yes

During the Cold War, 3 civil wars recurred out of 7, and 2 out of 16 did so in the post-Cold War. In percentage calculation, the recurrence rate during the Cold War seems significantly higher than that of post cold war; 43 percent compared to 13 percent. In the latter case, the hypothesis seems to hold true. Besides, given that the bipolar powers lost their ideological interest to support one side until victory, and the international community preferred to halt the violence by forging peace agreements, not only that the number of negotiated settlements increased significantly than in the former world order, but also settlements seem to hold.

⁴⁸ Hartzell et al., 2001.

If one assumes the school of thought that the civil wars are waged and re-waged with the back- force of outsiders, the argument prevails that warring sides will get no incentives for fighting and get no guarantees of being resupplied in post-Cold War (Hartzell et al., 2001). Therefore, although the grievances and animosity remain (Walter, 1997), rebels somehow adjust to the changing realities, thus shifting from the path of bullets to the path of ballots.

However, Hartzell et al.'s finding shows that there is no significant correlation between the international structure and duration of peace agreement given the fact that in the post-Cold War the black market for arms flow boomed. In this light, it was not expected to show any significant changes. Besides, despite the end of the Cold War, cross-border conflicts or neighbors' intentions and interests or exploitation of resources would continue to fuel one side or the other to revolt. The UNITA case in Angola showed that the illicit diamond trade replaced the power blocks' support for the leader Savimbi to continue to opt for war instead of peace.

Findings

The above analysis does not support the hypothesis that negotiated settlement will cause recurrence of violence significantly more than victory cases do. In fact, the recurrence factor does not seem so crucial that policy-makers should push for one termination or the other. Moreover, also taking into account the fact that the explicit return of violence is not inevitable as countries will entangle in long-term instability, testing the terminations and comparing them with freedom scores, negotiated settlement tend to have more freedom than victories. Therefore, given the enormous human casualties, and complete sabotage of infrastructure in the continuation of war, there is every good reason to push for halting violence and look for negotiated solutions. Besides, the Hartzell et al.'s hypothesis testing shows that negotiated settlement seems to hold better in the contemporary world structure compared to Cold War time.

I have not disaggregated those cases in different types of wars because given that the population is small, disaggregating those cases in identity wars or ideological wars etc., will also give insignificant results. However, testing Licklider's theory that military victories in identity wars result in genocide, the data supports it. The worst massive outbreaks of violence in the 1990s, Rwanda and Liberia lie on the victory side. However, one case of major violence outbreak, Angola, is on the negotiated settlement side.

It is worth noting that most studies discussed here were conducted in the 90s and 2000s, whereas most cases analyzed hail (roughly) from the period between 1945 and 1990. Scholars have critically looked into the post-Cold War policy preference of negotiated settlements, but on the basis of pre-Cold War cases. For instance, Downes argues that negotiated settlement takes all attention of scholars while such "settlements comprise less than one quarter of all civil war endings".⁴⁹ Toft's data set reveals that 7 negotiated settlements fall in the pre-1990 period, whereas 16, more than double, fall in the post-1990. Furthermore, colonial wars or wars of independence make up another critical aspect of the data set construction. It can be expected that colonial governments were bound to lose those wars, which means that rebels won in most cases.

This factor has made a difference in concluding more wins for rebel victory. Apparently, as argued by Toft, Michael W. Doyle and Nicholas Sambanis omitted such wars

⁴⁹ First, this article of the author is published in 2004. And those "less than one quarter" cases he talks about are derived from Roy Licklider's data set between 1945-1993. Here, clearly all those developments in 1990s, several settlements cases, are not taken into account.

perhaps for this particular reason (Doyle and Sambanis, 2004 cited in Toft, 2010). As far as those recurrence cases shown here are concerned, according to Toft, in James Fearon's data set they do not appear at all (Fearon, 2004 cited in Toft, 2010), and Doyle and Sambanis only included Angola. As they all were failed settlements, which are included in Toft's dataset, her findings show more pessimism towards negotiated settlements.⁵⁰

2.3 Statistical Assessment II

For the definitions of categories and terms, and how wars and terminations are coded here as well as the source of data, see the Appendix II.

Table 2.4

UCDP| Conflict Termination 1990-2006⁵¹

<i>Terminations</i>	<i>Number of Cases</i>	<i>Recurrence</i>
Negotiated Settlement	31	7
Victory	26	0
Stalemate/Ceasefire	30	8
Low Activity	80	35

31 cases of negotiated settlements shown on the Table 2.4 correspond to a total of 26 countries only, given that countries like Indonesia, Liberia, Niger, Djibouti, and Bosnia-Herzegovina have two entries of negotiated settlements. This means that these countries experienced more than one war and more than one settlement during the study period. The wars can be of the same cause or different, which will be shown in the following analysis. These 26 cases are disaggregated in the following tables between the territory incompatibility conflict, and the government incompatibility in order to analyze the durability of negotiated settlement in the respective types of conflict.

⁵⁰ For more detailed comparison, see Toft's Appendix, page 10,11.

⁵¹ For the source of this table, see the Appendix I. The analysis that follows does not consider terminations other than negotiated settlements.

Table 2.5**Negotiated Settlement of Territory Incompatibility Conflict**⁵²

Countries	Third Party Involvement	Recurrence same cause by same group	Recurrence same cause by different Group	More NS for one cause	More NS for different cause
India, Indonesia I, Indonesia II, Georgia (Abkhazia), Mali, Senegal, Serbia (Kosovo)	× Indonesia (Aceh): Crisis Management Initiative, EU and Asean Georgia: UN, OSCE, Russian Federation Mali: Algeria × Serbia (Kosovo): UN, G8, EU, US and several others.	× × × × × ×	India × × × Mali ×	× × × × × ×	× Indonesia (East Timor, Aceh) × × × × ×

Recurrence Cases' analytical summary: India and Mali**India:**

Northeastern State of Tripura: The Tripura conflict has an armed insurgent terrorist type character waged by rebel groups (Debbarma, K.).⁵³ But the underlying issue of movement in the region was largely ethnic or identity related. Northeastern states of India, immediately after the independence from British Raj in 1947, started seeing identity or ethnic movement

⁵² Yugoslavia: Cases of Bosnia Herzegovina and Croatia I have excluded, even if there are 2 entries of Negotiated Settlements; given the exclusivity of the cases where the states declared independence first which was subsequently followed by war with ethnic character. However, the cases of Macedonia with UCK, and Kosovo are included because these cases occurred almost after 1 decade, but not as immediate aftermath of Croatian and Bosnian wars.

⁵³ This analytical summary presented here is largely based on Debbarma, K., 2005; also, Overview: Insurgency & Peace Efforts in Tripura, Centre for Development and Peace Studies. Available at: <http://cdpsindia.org/tripura_insurgency.asp> , accessed 8 February 2013.

and militancy. Apart from India's internal intra-ethnic trouble in the region, the huge influx of immigrants from ex East Pakistan and afterwards Bangladesh, caused identity assertion of the already residing ethnic groups in Tripura state in fear of being outnumbered by them. Tripura is practically surrounded by the borders of Bangladesh.

Amidst several skirmishes and riots, the Tripura Rebellion broke out, which was led by the militant nationalist groups of National Liberation Front of Tripura (NLFT) and All Tripura Tiger Force (ATTF). Both are tagged as terrorist organizations by the Indian government. However, the outfits underwent several splits. The ATTF signed a memorandum of understanding with the state government of Tripura in 1993, but a splinter group led by Ranjit Debbarma continued its armed movement. A major faction of NLFT under the leadership of Biswamohan Debbarma, is another active outfit in Tripura.

Mali:⁵⁴

The conflict in Mali, called Tuareg Rebellion (as also the case in Niger), was essentially an ethnic/identity conflict of historical Tuareg people who inhabit the Sahara Desert in northern Mali, as well as parts of Libya, Algeria, Niger and Burkina Faso. They have fought several rebellions over the years demanding their own nation-state which they call Azawad. The underlying cause of the rebellion is the "Tuareg's marginalisation and the failure of their governments to adhere to peace agreements" (Kennan, 2012). In the period between 1990 and 1995, Mali plunged into the second major Tuareg rebellion (Kennan, 2012).

In the early 1990s, Tuareg together with Arab nomads from northern Mali had formed Azawad People's Movement (MPA), but the group stopped fighting after signing a peace agreement in 1991 with the government. A break-away faction called Islamic Arab Front of Azawad (FIAA) resumed the fight in 1994, however, the following year it accepted to abide by the accord, which it had reneged earlier, and thus declared a permanent cease-fire.⁵⁵

⁵⁴ Mali Tuareg Rebel's Call on Independence Rejected, BBC News Africa. Available at: <<http://www.bbc.co.uk/news/world-africa-17640223>> , accessed 8 February 2013.

⁵⁵ Mali, UCDP Conflict Encyclopedia, accessed 8 February 2013, <http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=103®ionSelect=1-Northern_Africa>

Findings

In the territorial negotiated settlement cases, the agreement seems to hold, with the exception of different or breakaway faction resuming the war. However, the varied characters of third parties signal varied intensity of these cases, which successfully kept the settlement holding. For instance, the cases of Serbia and Georgia show the highest level of engagement; Indonesia and Mali show comparatively lesser leverage of third-party actors; whereas India and Senegal do not have one. So, the data signal towards the support of such third party involvement that corresponds effectively to the nature of the wars, which successfully results into lasting settlements.

The result also supports the hypothesis of Regan Patrick that it is the characteristic of the intervention strategy rather than the characteristic of the conflict that largely determines the success of the intervention.⁵⁶ However, I have not analyzed the characters of these third-party actors and the conditions of their involvement in these cases; such as whether they intervened, or were invited by the warring factions or they were just for technical or other secondary support or were playing the role of principal peacemakers, what were their mandates etc.

Regarding Indonesia, there are two negotiated settlements, which were for two different cases (territories). East Timor conflict was against Fretilin, and Aceh against GAM, and both apparently did not break up.

⁵⁶ See Patrick M Reagan's (1996) Conditions of Successful Third Party Intervention in Intra-State Conflict.

Table 2.6

Negotiated Settlement of Government Incompatibility Conflict

Countries	Third Party Involvement	Recurr ence: Same cause same group	Recurrence: Same cause different group	more NS for one cause	More NS for more causes
Angola	Witness: UN, US		×	×	×
Burundi	UN, SA, Tanzania	×	×	×	×
CAR	Witness: UN	×	×	×	×
Congo	Gabon President	×	Congo⁵⁷	×	×
Cote D'Ivoire	-	×	×	×	×
DR Congo	UN, AU	×	×	×	×
Djibouti I	×	×	Djibouti	Djibouti	×
Djibouti II	-----	×	----	----	----
El Salvador	UN, USA	---	×	×	×
Guatemala	UN, USA	×		×	×
Liberia I, II	ECOWAS, UNMIL	×	×	×	Liberia
Mexico	×	×	Mexico	×	58
Macedonia		×			×
Mozambique	Saint Egidio		×	×	
Nepal	India, UN	×	×	×	×
Niger I	France	×	Niger	×	×
Niger II	Algeria, France, Burk.	×	×	×	
Sierra Leone	UN, ECOWAS	×	×	×	×
Somalia	Egypt	×	×	×	
		×		×	
Tajikistan	UNM Observers, Russia	×	Tajikistan		

⁵⁷ one of the earlier groups continues⁵⁸ Fought against different governments.

Recurrence Cases' analytical summary: Mexico, Tajikistan, Congo, Djibouti and Niger

Mexico:

Mexico saw an indigenous people's revolt, which I categorize as ethnic/identity, and also an ideological insurgency. The government of Mexico fought against two guerrilla groups in Chiapas in 1990s, the EZLN (Zapatista National Liberation Army) and the EPR (People's Revolutionary Army). The Zapatista uprising began in January 1994, when the EZLN, led by "Sub-comandante Marcos" declared war on the central government for the cause of improving living conditions and getting better rights for the indigenous Indian peasants in the southern Chiapas region. The conflict with the EZLN ended with a minimal accord called the **San Andres accord in 1996** on increased rights for the indigenous population. The accord was not implemented to the satisfaction of the rebels as President Zedillo did not live up to the commitments and subsequently unleashed military crackdown on the insurgents in Chiapas and Guerrero. The anti-insurgent strategies and killings perhaps fuelled more radicalism in the regions.

A break away guerilla group, with a fairly Maoist ideology, the EPR, which formed a militarized political party called Popular Revolutionary Democratic Party (PRPR-EPR), launched its attack against the government in 1996. Though the EZLN discards any support or alliance with EPR owing to its terrorist type activities, the latter asserts its support of Zapatista. While EZLN was considered a group with social base, EPR was more of insurgents of "bad reputation". The conflict with the EPR was terminated by low activity. A paramilitary group in Chiapas called the Paz y Justicia (Peace and Justice) group mainly targeted Zapatista sympathizers in support of the government.

Tajikistan:

Tajikistan mainly experienced a civil war of an ideological, religious and ethnic alliance, and then also witnessed warlord type war. In the aftermath of the fall of Soviet Union, a civil war in Tajikistan began in 1992 when under-represented **ethnic groups** from the regions of Garm and Badakshan revolted against the government of Soviet era Leader Rakhmon Nabiev. The civil war was fought between Moscow-backed government and the Islamist-led opposition United Tajik Opposition (UTO) from 1992-1996. UTO was an alliance of democratic, nationalist and Islamist parties. The UN brokered agreement, “**General agreement on the Establishment of Peace and National Accord in Tajikistan**” in 1997 in Moscow, signed between the UTO leader, President and UN representative terminated the conflict. However, the return to peace remained fragile owing to violence in different regions.

Apart from an armed group operating in Dushanbe and fighting between government factions, in 1998, a force led by a warlord, former Army Col. Khudoiberdiev (an ethnic Uzbek), in Leninabad Province took control of Khujand. He put forward several demands including some share in the government. In its response, the government began a counter-offensive, in which UTO also joined, took control of the province after an intense fighting. After the defeat of the movement, conflict became inactive. In Tajikistan’s conflict, Russia and Uzbekistan were involved, and between 50,000 to 100,000 people died by 1997.

Niger I

The Tuareg-rebellion in Niger and in Mali was an ethnic insurgency against the government for the formation of their (Tuaregs) own nation-states. Niger experienced both territorial and governmental incompatibility wars by different splinter groups. In north Niger, in the region of Aïr and Azawad, where Tuareg ethnic group is a majority population, FLAA (Azawad Liberation Front) started a war for a federal system. FLAA was one of the groups that sought greater autonomy and decentralization of power. This conflict ended as FLAA signed a peace agreement in 1992 -in Paris Accord.

Niger II

The Tuareg rebels split with the result of a new umbrella rebel organization called CRA (Coordination of the Armed Resistance), which led to an armed conflict over territory in 1994

striving for autonomy for northern Niger. The CRA and its successor ORA (Organization of the Armed Resistance) signed two peace agreements (in 1994 and 1995) that ended the conflict.

After yet another fractionalization in the wake of a peace accord, in 1997, the UFRA (Union of Forces of Armed Resistance) was formed and restarted the conflict over government. This conflict ended with a ceasefire agreement in 1997 itself.

Djibouti I

Djibouti experienced civil conflict based on **ethnic grounds**. It got independent from France in 1977 and the government that followed maintained a balance between the two main ethnic groups of Djibouti. They are: the Somali origin Issa and the Ethiopian origin Afar.

Hassan Gouled Aptido, Djibouti's first president, ruled the country through his authoritarian one-party regime, which was dominated by the Issa community to which he himself belonged. In this way, the Afar resentment erupted into a civil war in the early 1990s. Owing to the pressure from France, President Gouled conceded a limited multi-party system in 1992. However, he failed to satisfy the Afar rebels, the Front for the Restoration of Unity and Democracy (FRUD), who were excluded from the system.

Consequently, the war continued while Gouled's Popular Rally for Progress party won all seats. A power-sharing deal in 1994 ended the conflict, the **Agreement for Peace and National Reconciliation**, which brought the main faction of FRUD into government.

Djibouti II

A splinter, radical faction of FRUD led by Ahmed Dini continued a low-level fight until 2000, and then it signed peace agreements with the government in 2000 and 2001 which effectively ended the conflict.

Congo:

Congo was afflicted by wars mainly based on ethnic mobilization. Leaders mobilized their respective ethnic groups to fight others. Even the army split along ethnic lines. Several warlords were motivated to fight for Congo's oil rich offshore. A Marxist-Leninist Party called PCT dominated Congo till the early 1990s. In the process of democratization, the first of two destructive bouts of ethnically-based fighting between pro-government forces and the oppositions followed the disputed parliamentary elections in 1993. A ceasefire and the inclusion of some opposition members in the government helped to restore some peace. In the wake of the 1992-93 legislative and presidential elections that gave victory to Pascal Lissouba and his party UPADS (Pan-African Union for Social Democracy), but since the leaders continued to fight for the control of government, it led to three phases of intrastate conflict - 1993-94, 1997-99 and 2002.

Congo's major ethnic groups are the Batéké, Bacongo, M'Bochi, and Sangha. Within these groups there are numerous sub-groups. To make credible claims to power, the three main parties mobilized youths from their respective ethnic constituency into armed militias - the Cobras (PCT), the Cocoyes (UPADS) and the Ninjas (MCDDI: the Congolese Movement for Democracy and Integral Development). PCT leader Denis Sassou-Nguessou came to power once again in 1997. He had already led Congo from 1979 to 1992. In order to win power this time he had mobilized his Cobra militia along with the troops from Angola to topple the government of Lissouba. PCT continued to rule Congo till 2000s.

Findings

The repetitions of war cases show a common pattern that they all have ethnic factor in combination with other causes such as ideology, resources and religion; if ethnicity is not the sole reason. In Mexico, the revolt broke out owing to the government's policies of bypassing indigenous people's rights and demands, which then took an ideological turn when groups became radicalized owing to state's repression. In Tajikistan, an alliance of ethnic, democratic, and Islamist groups waged war against the Soviet Era leader's domination that belonged to another ethnic group. Besides, it also fought against ethnic Uzbek warlords in the east.

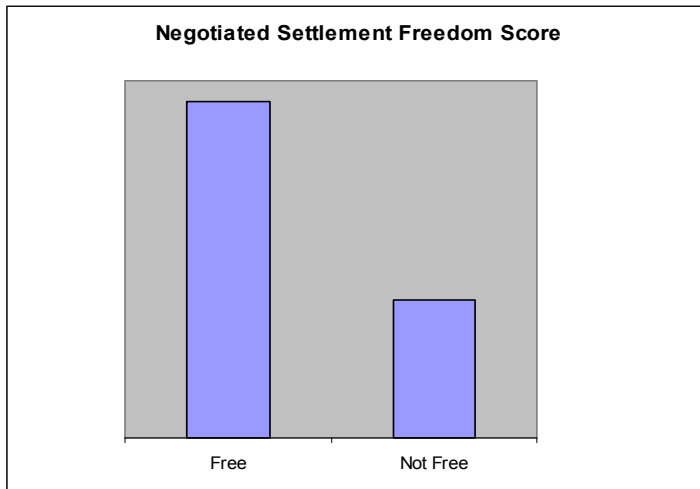
The conflict in Niger was predominantly the Tuareg-rebellion that existed both in Niger and Mali. The findings show consistency in the territory incompatibility conflict pattern in that: the settlements seem to hold, except that the splinter rebels continued the war, or some new group waged wars for similar or different reasons; although the data is not apt to analyze the third party's effect on non-recurrence, it shows the tendency that parties with lesser leverage, or no involvement at all seem to recur.

Freedom Score of Negotiated Settlement

As the comparison between victories and negotiated settlements earlier in this chapter suggested optimistic prospects for negotiated settlement, now I compare the freedom status of negotiated settlement only, to find out what prospects it will show.

The figure 2.2 below illustrates that the success in negotiated settlement tend to be double than failure.⁵⁹ This finding reinforces the argument that wars will die down overtime. Particularly in regimes that accommodate opposing political demands, potential rebels tend to opt for a rational choice: utility of peace becomes more tempting than utility of war. Given the fact that usually rebels come to the negotiating table when exhausted by the government's military might, and on their parts governments reciprocate by sharing the chunk of political power or giving in a lot more than they would in normal circumstances so that the rebels would not go back to the battlefield, utility of peace reigns on both sides.

⁵⁹ For the clarity of differentiation, I have aggregated the free and partly free scores as free to compare against not free. The states which have more than one war are only counted once. The score calculated belong to 2012 freedom score only. See Freedom in the World, Country Reports, Freedom House Report.

Figure 2.2

Besides, ceasefires and subsequent negotiations expose the strength and the intention of both sides to a large extent; underground fighters come to public light; behind-the-scene actors become exposed; deliberations over rebels' demands in the government cause conflict among leaders and political parties; pressure builds up on both sides with fear of losing legitimacy as international actors keep a close eye on the process etc. Against this backdrop of vulnerability, reverting back to armed struggle increases the fear of opposing side winning. Thus, parties will stick to no-war status, rather rally for the support, national and international, to devise roadmaps which will increase the "credible commitment" on both the sides, and decrease mutual security concerns, possibly with a presence of a third party guarantor.

2.4 Conditions for lasting settlement

The above-findings are striking in one merit. The optimistic prospects seen on the settlement side begs more focus on variables that correspond to stable peace in post-settlement environments rather than studying victory terminations or making comparisons between terminations. Therefore, I will pursue some hypotheses testing that will further the understanding of environment and conditions that aid successful implementation of peace agreements.

‘In this section, I will test the hypotheses of above mentioned authors. These authors have introduced seven hypotheses in their study reflecting “settlement environment” and “settlement arrangements”. The former includes the “characteristics of the country”, “larger international environment” and the “civil war itself”. The latter includes “arrangements” included in negotiated settlements; “territorial autonomy” and “third party enforcement”, among others.’ (Hartzell et al., 2001: 186-192)

One of them, regarding pre-and post-cold war impact or the international environment variable, I already tested in Toft’s data analysis since it was relevant in that section. Here I am not comparing my data sets to that of pre-Cold War period, so I will only take the rest of the hypotheses.

Hypothesis 1

Civil war settlements agreed to by actors in countries whose previous regime type was democratic or semi-democratic are more likely to prove stable than those constructed by actors in countries whose regime was authoritarian.

Table 2.7**Types of Regime**

<i>Regime:-</i>	<i>Democracy</i>	<i>Semi-democracy</i>	<i>Semi-autocracy</i>	<i>Autocracy</i>
<i>Cases:-</i>	India	Burundi, Djibouti I, II, El Salvador Indonesia I,II Macedonia, Mali, Mexico, Mozambique, Nepal, Niger I Senegal	Angola, CAR, Congo, Ivory Coast, DR Congo, Georgia, Guatemala, Tajikistan, Sierra Leone, Niger II, Liberia II, Kosovo	Somalia, Liberia I
<i>Recurrence:</i>	India	Mali, Mexico, Niger I, Djibouti I	Tajikistan, Congo	Somalia

The authors employ this hypothesis in terms of previous experience with compromise and accommodation. Therefore, I took “rule of law” as an indicator⁶⁰ close to this assumption because any regime respecting rule of law is expected to be accommodative and responsive to opposing political demands. Table 2.7 shows that the recurrence of conflict in Tajikistan and Congo lies on the semi-authoritarian side, and the recurrence in Djibouti, Mali and Mexico lies on the semi-democracy.

Somalia’s recurrence is on the extremely low side. 16 per cent recurrence is seen on the semi-autocratic regimes, whereas 25 per cent on the semi-democratic side. Put another

⁶⁰ I have discussed in detail in Appendix IV how the variable of democracy or autocracy/authoritarianism is derived from Rule of Law indicator. I have taken the Rule of Law indicator from Worldwide Governance Indicators (WGI).
Worldwide Governance Indicators (WGI), World Bank.

way, democratic regimes have experienced more failures of settlements than authoritarian regimes. On the other hand, both Somalia and India, authoritarian and democratic regimes respectively, have experienced the recurrence. If we add these two cases also to their respective sides, i.e. authoritarian and democracy, then the authoritarian side will get 23 per cent, and the democratic side 34 per cent.

As per the above analysis, the hypothesis does not hold true. This arguably supports rather the flip-side argument that democracy, as a less repressive regime, experiences more wars than authoritarian regimes (due to absolute power). This finding contradicts the argument of the authors who found that, if the regime was democratic before the civil war, the “hazard of failure of the negotiated settlement decreases by 90 per cent” (Hartzell et al., 2001:198). The recent case of Nepal can provide an important insight in this respect.

The Constituent Assembly, which was mandated to write a new constitution with extensive participation of every section of the society, failed to give a new constitution, and subsequently the growing polarization and distrust between the Maoists (former guerrillas) and the political parties left the country on the brink of resumption of violence and state failure. In order to find a way out, the international community devised the only available formula of appointing an apolitical government, led by the incumbent Chief Justice, with the special mandate to hold the second elections for the Assembly. Despite wide criticism and strong protests from many quarters, the government was formed and held the elections amid huge uncertainty.

Spoilers like the splinter Maoist faction, along with several other regional and ethnic fronts, boycotted the elections and, in the name of democratic practice, continued their obstructionist policies. The Maoists went as far as terrorizing the population, intimidating the candidates, planting improvised bombs in public transportation in order to thwart the elections by capitalizing on the liberal accommodative policy of the government. Although some people lost their lives, a record number of people cast their votes and the elections were conducted in a free and fair manner.

A fresh mandate from the population has given peace another chance, which would have not been possible if the political parties had not been side-lined for a while, the principle of power separation had not been ignored for the period, and if the international community had not endorsed all that. These measures prevented the democratic and accommodative regime from succumbing to the spoilers. It should be noted that in Nepal the civil war was waged while the country was practicing a multi-party parliamentary democracy and the peace agreements were signed with the Maoist insurgents (also) by the democratic parties.

Furthermore, the categorization of governments as democratic or authoritarian and its implications for the negotiated settlement are not free from anomalies. Importantly, the recurrence cases here, if considered not as recurred but as new and different wars (since they are wars re-waged by separate groups), regardless of the regimes' character, there is no recurrence at all. Besides, a regime like India, which is basically democratic, but has been following a tougher politics towards regional conflicts, continues to have violent movements in several regions. The case in point is Tripura, India, where the war recurred. Consequently, the correlations between the accommodation of competing political views and the endurance of negotiated settlements seemingly do not hinge only upon the liberal or authoritarian character of the government, but they depend rather on the specific policies of the government towards particular issues. Besides, the different levels of government, central and the state or regional government policies also need to be scrutinized.

Hypothesis 2

Negotiated settlements are more likely to prove stable when the issue at stake in the conflict is politico-economic rather than identity based.

Table 2.8**Types of Conflict⁶¹**

<i>Types</i>	<i>Identity/Ethnic</i>	<i>Socio-Political</i>
<i>Cases</i>	Burundi, CAR, Congo, DR Congo, Ivory Coast, Djibouti I, II, Georgia, India, Indonesia I, II, Kosovo, Macedonia, Mali, Mexico, Niger I, II, Senegal, Somalia, Tajikistan	Angola, El Salvador, Guatemala, Liberia I,II, Mozambique, Nepal, Sierra Leone
<i>Recurrence</i>	Tajikistan, Somalia, Mali, Mexico, Niger I, India, Congo, Djibouti I	No Recurrence

Table 2.8 reveals an important fact: the wars in which the issue at stake is identity outnumber the wars with politico-economic stakes. The proportion of identity and political wars is 68 to 32. Twice as many civil wars have been waged for identity issues than for socio-economic and socio-political issues. This result is also consistent with the data of Robert T. Gurr (1994) that in the early 1990s, 70 different ethno-political groups were waging wars. Among others, the case of Yugoslavia stood as a shocking example of the complexity of identity conflicts in that period.⁶² Therefore, identity wars are expectedly more

⁶¹ The conflict has been distinguished basically in two groups: Identity and Political. Together with this main groups included are ethnic or territorial, and socio-economic respectively. The major sources for this categorization are derived from the datasets of Licklider and Toft. Those still not covered by these two data sets, I have relied on my analytical summaries of those conflicts, which are compilation of various sources such as Uppsala Conflict Encyclopedia, BBC etc. I have treated the ethnic wars as identity wars as several other scholars have done so and I have also combined territorial wars as identity war, as in most datasets in most cases both coincide. For instance, in Toft's data set, only one case where identity and territory do not coincide is the Korean war of 1953.

⁶² However, the Yugoslavian cases of Bosnia and Herzegovina, Croatia are not coded in my dataset

intractable than the non-identity ones. All the war recurrence cases, 7 in total, correspond to identity wars, whereas there is not a single recurrence of socio-political war.⁶³

This finding does not match that of Hartzell et al. as their analysis shows that the stakes in the conflict do not have a “determining influence” on the duration of the settlement. They argue that the warring groups have similar concerns over their security, regardless of the type of wars. The authors do not see any particular reason for the character of wars to have an influence on the endurance of settlement. But the finding here suggests that the identity stake shorten the settlement duration. The pattern of this data also shows that since the number of identity wars is much higher than that of socio-political wars, the probability is naturally higher for the former than the latter to recur.

Hypothesis 3

A negotiated settlement is more likely to fail if it concludes a civil war of high intensity.

Table 2.9

Level of War Intensity

<i>Intensity Level</i> ⁶⁴	<i>Extremely High</i>	<i>Very High</i>	<i>High</i>	<i>Medium</i>	<i>Low</i>
<i>Cases</i>	Congo, DR Congo, Kosovo	Angola, Georgia, Somalia	Tajikistan, Mozambique El Salvador	Sierra Leone, Nepal, Liberia II, Burundi	Ivory Coast, Djibouti I,II, Georgia, Guatemala, India, Indonesia I,II, Macedonia, Mali, Mexico, Niger I, II, Senegal
<i>Recurrence</i>	Congo	Somalia	Tajikistan	No - recurrence	Niger I, Mali, Mexico, Djibouti I, India

The authors relate the high intensity of war to “profound security concerns” of the warring sides, whereby parties are apt to take any gesture of the opposing side as prejudicial

⁶³ The reason this analysis varies from the analyses of the Table 2.3.1 and 2.3.2 is that the former show groups of wars whether they are government incompatible or territorial, but do not speak of the fact that if the government incompatible is due to identity or non-identity. Thus, the latter analysis has been necessary.

⁶⁴ See the Appendix I and IV for how the conflicts are coded for Intensity level.

for their own future. This factor, combined with “sunk costs” and “relentless violence”, leads to the conclusion that settlements are prone to break down. However, examining the table 2.9, a different pattern emerges: most recurrences rather lie on the lowest intensity level side. Though the recurrences on high intensity lie on the level of 33 per cent, which would hold the hypothesis true to some extent, 36 per cent of the recurrences on the lowest side would beg some explanations as well.

In the low level fighting, governments seem reluctant to give in to the rebels owing to the combating limitation of the rebellion. Since the low intensity of war falls short of creating enough pressure on the governments to compromise their power, or to accept radical changes in the status quo in order to restore peace, they play heavy-handedly towards the rebels’ approach for peace settlement, underestimating their inner-intention to revert to plan B (re-launch attacks). Besides, the ruling sides store a covert strategy that once they manage to bring the rebels into national politics, they will turn their back towards the rebels gradually. While the rebel leadership eyes the same strategy after having the share of power, radical factions see their aim being materialized better by violence than by talks, and, given their capability to wage low-level wars (sometimes also turning into terrorist type wars) , the wars recur.

In Djibouti, President Hassan Gouled Aptidon displayed a dismissive attitude, although he installed a multi-party system, as he kept the rebels Afar away from it. Following his (President Aptidon’s) party’s absolute victory in the elections, the Afar’s Front for the Restoration of Unity and Democracy (FRUD) continued to fight. Similarly, when the Mexican government signed a peace agreement with the Zapatista National Liberation Army (EZLN), but subsequently launched a heavy crackdown in the region, a terrorist type Maoist insurgency was ignited by the People’s Revolutionary Army (EPR) in the proximity. In Tripura, India, All Tripura Tiger Force (ATTF) compromised with the state government, but National Liberation Front of Tripura (NLFT) resumed terrorist-type attacks. Similarly, in Niger and Mali, the splinter groups saw more chances of bending the government down by violence rather than talks.

Hypothesis 4

The longer the duration of the war, the greater the probability that the negotiated settlement should prove stable.

Table 2.10**Duration of War**

<i>Duration Yrs</i>	<i>1-5</i>	<i>6-10</i>	<i>11-15</i>	<i>16-</i>
<i>Cases</i>	CAR ,Djibouti II, Georgia, India, Indonesia I, Liberia I, Kosovo, Macedonia, Mali, Mexico, Senegal, Niger I, II, Congo, Ivory Coast, Djibouti I, Liberia II, Tajikistan, Angola, DR Congo	Indonesia II, Somalia, Nepal Sierra Leone	Burundi, El Salvador Mozambique	Guatemala
<i>Recurrence</i>	Congo, Djibouti I, Tajikistan, Niger I, Mali, Mexico, India	Somalia	No	No

Table 2.10 illustrates the fact that, in time, wars die down. The authors' argument holds that the longer the war period, the more the warring sides realize the "futility of prevailing" and desire some settlement that would minimize their mutual security concerns. The argument goes in line with how Zartman defines this condition - the "hurting stalemate". By this point, no side retains the will or energy to launch or resist attacks, rather they start devising plans for their future in politics than in the combat fields. For instance, in the longest war case in the data set, in Guatemala, although the rebellion had virtually died down without any achievement, the government signed a peace agreement with the rebels to plan a future path together. In Angola, after decades of Savimbi's love of war, the country saw the prospect of peace right after his death in a gunfight with the government in 2002.

On the other hand, 35 per cent of recurrence in the shortest duration of war in the data set reflects that, besides some signs of willingness to sign agreements, the best option for the rebels to gain prominence in the polity is to opt for the worst way, i.e. violence. Perhaps this

aptly explains Wagner's hypothesis that the rebels instrumentally exploit the recess during the ceasefire or agreement in order to re-gather their combat and organizational strength, thus resulting in an intense violence which is usually seen right after the breakdown of agreement.

Hypothesis 5

Negotiated settlements that include territorial autonomy provisions are more likely to prove stable than those that do not.

Table 2.11

Agreement with and without Autonomy Provision

<i>Provision</i>	<i>Autonomy Provision</i>	<i>No Autonomy Provision</i>
<i>Cases</i> ⁶⁵	Georgia, Indonesia I, II, Kosovo, Senegal	India, Mali
<i>Recurrence</i>	No	India, Mali

The finding reinforces the phenomenon that conflicts where the identity factor overlaps the territorial or regional factor, in which the rebels are not seeking the central governance, like in the conflicts that demand the federalization of the state or decentralization of central power to subunits (if not a secession type war), agreements that do not offer an autonomy provision are bound to collapse or at least other factions emerge to continue the struggle. As Downs and Stedman (2002) contended, such all-or-nothing wars stand as a great challenge for agreement implementers; 100 per cent recurrence in the no-autonomy provision confirms it. High-leverage-external implementers forcing Serbian government to sign an agreement on Kosovo which ended the war is a glaring example of the gravity of such wars.

However, the authors of this hypothesis argue that, although a negotiated settlement with autonomy provisions, federalism in particular, eases the implementers to restore peace, over time, the central political forces will start turning their back on demands of decentralized institutions. This argument holds true in Nepal's peace process where the agreement on the state re-structuring and federalization provided a common ground for the liberals and the

⁶⁵ The table does not contain other cases (government incompatibility) because the autonomy provision in the analysis is only relevant with territorial incompatibility conflict cases.

radicals, the centrists and the federalists, but over time the parties backed away from their promises, which resulted into the collapse of the constitution writing process (at least it is said so by the politicians while the assembly demised). However, the prospect of some sort of federalization has, arguably, staved off the armed conflict.

Hypothesis 6

Negotiated settlements are more likely to prove stable if they make provisions for third-party enforcement.

Table 2.12

Agreement with and without Third Party

<i>Third Party Involvement</i>	<i>Enforcement or Pre-, Post- Agreement Responsibilities (monitoring, supervision etc) including mediation, observation, witness.</i>	<i>No role at all, or only mediation or observation or witness, but no Post-Agreement Responsibilities</i>
<i>Cases</i>	Burundi, CAR, Ivory Coast, El Salvador, Georgia, Guatemala, Indonesia I,II, Liberia II, Kosovo, Macedonia, Mali, Mozambique, Nepal, Senegal, Sierra Leone, Tajikistan	Angola, Congo, DR Congo, Djibouti I, II, India, Liberia I, Mexico, Niger I, II, Somalia
<i>Recurrence</i>	Mali, Tajikistan	Congo, Djibouti I, Mexico, Niger I, India, Somalia

The authors laid out this hypothesis against the backdrop that, although the third-party involvement managed the conflict in the short run by reassuring the warring sides of their security guarantees, in the long run, without their promise to enforce peace if the rebels or the states back away, settlement will break down. However, given the pattern of the data set, in which the enforcement as such hardly exists, except the case of Kosovo where outsiders enforced the agreements and the post-agreement implementation, this study talks about the post-agreement *roles* only. In any case, the data still reveals that the post-agreement role remains instrumental in holding a negotiated settlement for a longer period; there is only a 12 per cent chance of recurrence in the case of the post-agreement role side as opposed to a 55 per cent on the no post-agreement role side.

Given the fact that the carrots-only policy or the toothless approaches vis-à-vis sticks seemingly work, the data also supports the authors' argument that the recognition and legitimacy the outsiders bring to the warring parties count. This finding, in fact, also supports the constructivist argument that the norm of "liberal social reconstruction" can transform the conflict in the absence of any security guarantors or any peace enforcement provisions, as argued by Peceny and Stanley (2001). In other words, if the rebels and the states redefine their interest to accommodate co-existence, put their faith in the social reconstruction, peace enforcement is not necessary, as it was the case in Guatemala and El Salvador, argue Peceny and Stanley.

2.5 Results

The hypotheses tests have yielded the following results.⁶⁶

- In post-Cold War era, negotiated settlements have brought about enduring post-war peace as opposed to the pessimistic arguments that favor victories. On governance, the emerged pattern shows that the terminations have not showed any correlation with post-conflict governance. However, the negotiated settlement side still shows better conditions than the victory side. The study sample or the cases are too few to make any plausible generalizations.
- The analysis on the recurred cases of Angola, Burundi and the Philippines shows a pattern that all-out offensive from government failed to stop war since rebellion took a guerilla and terrorist type turn and continued to fight (for instance, the Moro Rebellion). In case of cross-border conflict like Burundi, it shows that ending wars by winning is not sufficient while cross-border interests can reignite conflicts. Therefore, simply understanding civil wars as exclusively domestic matter and taking one side or the other would not necessarily stop a war. Similarly, Angola, UNITA war, shows that the shift in super powers' interests could be replaced by illicit trades of diamonds with the support of neighboring states. Besides, completely sabotaged rebels could re-surge when outsiders wanted to, as the US re-fuelled UNITA when it was virtually collapsed.

⁶⁶ First three results were from the analysis on Toft's data

- The hypothesis that negotiated settlements during the post-Cold War seem to endure more as compared to those during the Cold War came out true. It could arguably mean that even though the international bipolar structure was replaced by illegal arms trade, in general, rebels have adjusted to the reality that there would not be significant outside support if they re-started wars. However, this result contradicted with that of Hartzell et al.
- The post-Cold War data set reveals the striking fact that no parties to negotiated settlement re-waged wars. The wars returned because some splinter factions or new rebellion started them again.
- Similarly, the results show that: regimes with good rule of law (or democracies) are likely to see more wars than those with bad rule of law (autocracies); identity or ethnic wars seem much more intractable than socio-economic wars; low intensity wars tend to recur more than high intensity ones; the longer the duration of war, the lower the chances of recurrence; and third party involvement, ideally enforcement, and the autonomy provision in territorial or regional wars seem to stabilize peace settlements.

2.6 Conclusion

This study sought to review the theory according to which negotiated solutions to civil wars more often fail to stop a continuation of war by testing it on the cases of the post-Cold War period. The world has come a long way from the wars of independence, the wars of self-determination or decolonization and the bipolar power blocks' proxy war fields, therefore, one could argue that the theories built upon the data encompassing 7 decades will misinterpret the current pattern of conflicts and terminations. Besides, arguably the time is ripe to test those long-term predictions about postwar peace and governance, given that some postwar states have already lived around two decades of relative peace; for instance, El Salvador, Guatemala and Tajikistan. Thus, here I have not predicted any effect of the correlations between variables on the long-term peace prospect, but simply tested a few current hypotheses on the cases to check how true those predictions would come. The result showed some striking patterns.

Toft argued in her article that negotiated settlements are less effective in ending conflicts whereas victories, rebel victories in particular envisage better prospects for post war peace and governance. I used her data set, disaggregated it for post-Cold War period and tested her hypothesis. The result showed positive prospects for negotiated settlements regarding both post-war peace and post-war governance. Besides, apart from the criticism of the foreign policy that favored negotiated settlement, the author falls short of explaining in what conditions international policymakers should align with one side or the other?

Even though the author recognized the fact that the norms of liberal market democracy reflected outsiders' interests and sufficient conditions for civil war settlement after the Cold War, she takes it only as a reason for negotiated settlement. She does not take into account what effect these norms have on the post-war situation. She does not speak about the normative basis on which the international community should formulate common policies when they need to align with one side? What will be the possible future implications of pushing one side to victory?

Secondly, there is not a single case where parties to negotiated settlement denied their commitment to peace, or, in other words, entire settlement cases seemed successful to stop wars. The cases that saw return of war were re-waged by either splinter parties or different rebel groups. This finding reveals some crucial aspects: on the one hand, it shows that the current expertise on and implementation of negotiated settlement seems adequate enough to prevent wars, but, on the other hand, such practice has failed to satisfy other potential fighting groups.

Some important questions arise from there. Is it negotiated settlement that causes drift within rebel party as some succumbed to temptation of power-sharing, while others choose to fight? Or negotiated settlement itself is a by-product of already drifting values within rebel leadership? Should peacemakers look for causing splits within rebels so that they would come to the negotiating table? Have these splinter groups been able to yield similar might and menace as their mother parties had? Is it really worth to sign peace agreements with only some while others remain on the battle field? Are splinter groups or new rebellion more manageable than the wars currently in hand? Scholars of civil wars are yet to answer these puzzles.

Thirdly, if one examines the theoretical perspectives of civil war studies, perhaps it is no wonder that the established tradition of (neo-)realist paradigm dominates. The prevailing assumptions are that the domestic politics play out under an anarchic structure, parties' major concerns lie on security, survival and power balance, and the only solution to these problems

is either war or peace guarantee by someone else. Some others have tried the “softer” theory of rational choice where the parties calculate and compare the utility of war against the utility of peace, and make their wise choices accordingly. Rationalists argue that rebels instrumentally make use of the international norms of bringing warring groups to the negotiating table if they envisage more benefits for them this way than by war. Similarly, realists and rationalists argue that ceasefire is a recess for rebels to re-gather their strength, therefore, victory should be given priority.

Regarding constructivists or normative perspectives, besides recognizing the effect of recognition and legitimacy that the third party brings on halting wars, these studies are basically silent about norms. This leaves a huge gap in civil war research from a different perspective. Wars are fought to be able to co-exist ultimately, which implies that no groups could deny values and norms forever. The destruction and sabotage has a limit, sometimes less and sometimes more, but nobody would like to see complete annihilation, as then there would be no meaning in fighting.

Finally, the study concludes by saying that although the accumulated knowledge of civil war studies has reached a point whereby it can undeniably provide crucial guidelines for the policy-makers, the “differentiated view of wars” would still be a wise choice for policy makers and commentators rather than generalized “undifferentiated” treatment.

2.7 Hypotheses for further research regarding government incompatible conflicts

- 1. Neighboring powers' leverage makes negotiated settlement endure.*
- 2. Power-sharing during transitional government with rebels makes negotiated settlement last.*
- 3. Peace Agreement's character makes negotiated settlements endure: Security Sector Reform, Constitution Writing, and Elections.*
4. As seen in the table 2.13 below, all three cases of El Salvador, Guatemala, and Nepal fall into the same category of conflict, i.e. ideological war, or communist rebels fighting to seek control of central governance. While El Salvador's and Guatemala's settlements have been lasting for years now, Nepal's case too has endured the

minimum threshold period of 5 years without returning to armed violence. The table shows subsequent processes in the post-agreement period in these cases, where all seemingly followed similar practices, although different in their details. For instance, while El Salvador only had electoral reform by its legislative assembly, Guatemala had the reform but also constitutional amendments. Nepal had them both during transitional period, and went for Constitution Assembly elections. While El Salvador and Guatemala had both SSR and DDR, Nepal only had DDR so far, among other details. But all three cases did not relapse into violence. What will explain this?

Thus, I laid out a hypothesis: *with the probabilistic assumptions that where a third party (norms diffusing actors in particular) is involved normative factors become salient, domestic actors become concerned of ignoring norms as this could harm their image; reputation (government side or status-quo side) and legitimacy (rebels side). Thus, the chances of full-fledged return of violence are minimal, even though the conflict is prolonged. But, conflict lasts longer precisely because of the concern over norms. As parties go on accepting changes even though they were not exactly in their interest or compatible with their identity, at the point when any more acceptance of changes will possibly cause huge implications for their own identity and political future, they will back track. Hence, the same parties that were instrumental in bringing changes to resolve problems earlier come out as troublemakers..*

Table 2.13: Subsequent Peace Process till next five years in Post-Accord period⁶⁷

Cases	Peace Accord	Third Party	Elections and constitution	Security Sector Reform		Recur (within max. 5 yrs)
				SSR	DDR	
El Salvador	1991	United Nations, US pressure	Electoral reform by legislative assembly	Yes	Yes	No
Guatemala	1995	UN, US (long involved in conflict)	Constitutional amendments, electoral reform	Yes	Yes	No
Nepal	2006	India (behind the scene), UNSG Good Office indirectly	Interim Constitution, Constituent assembly elections, CA failed.	No	Yes	No

⁶⁷ Main source of data for this compilation is: Stedman et al. (eds.), 2002. And also varied sources.

3. International Norms in War to Peace Transition: El Salvador, Guatemala and Nepal

The end of the Cold War marked a significant shift in International Relations from the traditional neo-realist anarchic understanding to a systemic social inter-subjective understanding whereby international rules and norms are not only constraints on domestic politics anymore but also the sources of state policy (Finnemore, 1993). States follow the international social structure not only as behavior constraints, but covet to have similar domestic structures (Finnemore, 1993). International organizations, in particular, transmitted some specific practices globally to the extent that states started to redefine their interests and identity as per those global practices (Finnemore, 1993). As a result, the values propagated by the organizations, then by the “epistemic communities”, “ideas”, and “transnational actors” (Finnemore, 1993), became internalized across the powerful states and subsequently to small and weak states.

The end of the ideological war between the two power blocks provided an unprecedented space in the international system in which the social aspects rather than the anarchic material aspects of the system filled the niche. In a way, as a corollary of these systemic structural changes, the way civil wars ended changed from prolonged fighting to negotiated settlements (Hartzell, 1999; Toft, 2010). The practice of negotiating to save the warring parties from defeat unlike in the past and to establish liberal institutions as a framework to resolve conflicts constituted a new norm, argues the realist Toft (2010).⁶⁸ While the international community backed away from committing militarily to civil wars, the usefulness of the “liberal social reconstruction” became globally institutionalized (Pecený and Stanley, 2001). Consequently, realists’ epiphenomenal elements like norm or morality in the International Relations turned into independent elements, at times complementing interests, other times dominating ones.

3.1 Quantitative Overview

The Table 3.1 shows all the post-Cold War negotiated settlement cases in which international organizations applied conflict resolution strategies, in some more intensively leading by themselves, while in others simply through observations or providing technical or financial

⁶⁸ She has argued against the practice of ending civil wars with negotiations, and emphasized on the robustness of the security sector reforms as the necessary requirement to prevent the relapse of wars. She has taken the normative aspects of the conflict resolution clearly epiphenomenal, thus, a realist.

resources. None of these cases had international security guarantees or peace enforcement. Seventeen cases in total qualify for this category, out of which only two cases seem to have relapsed. The case of Kosovo has been omitted since it represents the only case where the international community guarantees the post-conflict peace. The success to failure ratio stays at 88:12. However, in the 11 cases which qualify for the category where no outsiders had any post-conflict responsibilities, 6 cases have relapsed into war. Here, the success to failure ratio is 45:55. Therefore, the former category shows an encouraging result in itself with 88 percent of success, but also compared to the latter which has less than 50 percent of success. This reinforces in a way the significance of the international community's mere presence in peace processes.

Table 3.1

Cases with and without international role⁶⁹

<i>Third Party Involvement</i>	<i>Enforcement or Pre-, Post- Agreement Responsibilities (monitoring, supervision etc) including mediation, observation, witness.</i>	<i>No role at all, or only mediation or observation or witness, but no Post-Agreement Responsibilities</i>
<i>Cases</i>	Burundi, CAR, Ivory Coast, El Salvador, Georgia, Guatemala, Indonesia I,II, Liberia II, Macedonia, Mali, Mozambique, Nepal, Senegal, Sierra Leone, Tajikistan	Angola, Congo, DR Congo, Djibouti I, II, India, Liberia I, Mexico, Niger I, II, Somalia
<i>Recurrence</i>	Mali, Tajikistan	Congo, Djibouti I, Mexico, Niger I, India, Somalia

The earlier chapter already tested Hartzell et al.'s hypothesis, which showed that the involvement of external actors or peacemakers, but not necessarily security-guarantee or peace enforcement, positively affected the endurance of peace. In this chapter, testing Peceny and Holiday's hypothesis on the same data table seems to hold true as well: the liberal social reconstruction, arguably, provided sufficient credibility to neutralize warring sides' security

⁶⁹ This table has also been discussed in the previous chapter. This is given here again for its relevance to this chapter. The difference is this table does not include Kosovo, and is examined from the social reconstruction perspective.

dilemma (rebels' in particular) and pave a future path to conflict transformation. Therefore, the enforcement provision became unnecessary (Peceny and Holiday, 2001).

3.2 Cases of El Salvador, Guatemala and Nepal

In light of the above-discussed phenomenon, I will examine three war-to-peace transition cases: El Salvador, Guatemala and Nepal vis-à-vis the role of international norms. The former two were the wars fought during the Cold War and the timing of their negotiated settlements marked the starting point of the institutionalization of liberal social reconstruction, whereas Nepal's Maoist insurgency started in the post-Cold War period and, by the time of its settlement, international peacemakers had acquired significant experience of the conflict resolution in the new world order.

In all three cases, normative factors were rather salient given the proactive involvement of several international actors, even more so in the former two as the UN itself led the negotiations. In Nepal, it was less the case as the UN had been only indirectly involved and the negotiating parties invited the UN officially only in the aftermath of the peace agreement. In El Salvador, above all, the UN had the exclusive role from mediation to observation and to verification. The UN itself took charge of the formation and implementation of several mechanisms, for instance, the Truth Commission. In Nepal, the formation of the Truth and Reconciliation Commission appeared to be subjected to the parties' mutual consensus. However, the idea itself had apparently also stemmed from the Nepalese warring parties' internalization of international practice of respecting and upholding human rights as opposed to any outsiders' pressure only.⁷⁰

This chapter focuses on checking the role and effect of norms (norms diffusing actors and the diffusion mechanisms) in redefining the identity and interest of rebels to governments to civil societies to individuals, and their (norms) overall effect on the political transition. As seen in Table 3.1, all three cases of El Salvador, Guatemala, and Nepal fall into the same category of conflict, i.e. ideological war, or communist rebels fighting to seek control of

⁷⁰ The Truth and Reconciliation Commission issue does not appear in the first break-through agreement between the warring sides called the 12 point understanding. It was not decided in the understanding whether the UN or other "reliable" actors would be invited for the verification of the peace process. In the Comprehensive Peace Agreement few months after the understanding however, the UN's role was already expected, so both parties had already sent identical letters to the Secretary General, and the issue of the Commission also appears in the agreement. This fact clearly shows that the international norm teachers diffused the norms and the elites learnt them.

INTERNATIONAL NORMS IN WAR TO PEACE TRANSITION

central governance. While El Salvador's and Guatemala's settlements have been lasting for years now, Nepal's case too has endured the minimum threshold period of 5 years without returning to armed violence; in fact, eight years of post-agreement period so far.

Table 3.2

Peace process in the following five years of post-agreement period

<i>Cases</i>	<i>Peace Accord</i>	<i>Third Party</i>	<i>Guerrilla to political party transform</i>	<i>Elections and constitution,</i>	<i>Security Sector Reform</i> <i>SSR DDR</i>		<i>Truth Commission</i>	<i>Recur (within max. 5 yrs)</i>
El Salvador	1991	United Nations mediation, observation, verification US pressure, Others	<u>Yes</u> Within 2 years after the accord	Electoral reform by legislative assembly -FMLN second party in elections	Yes	Yes	Yes. Recommendations not implemented -Under UN	No
Guatemala	1995	UN moderation, US (long involved in conflict), Others	<u>Yes.</u> 1 and half years of accord	Constitutional amendments not materialized), electoral reform -URNG's disappointing results in elections	Yes	Yes	Yes. Recommendations not implemented -Under UN	No
Nepal	2006	India (behind the scene), UNSG Good Office indirectly, UN post-agreement presence, Others	<u>Yes</u> Immediately after the peace accord joined the interim parliament	Interim Constitution, Constituent Assembly elections, CA I failed -Maoist won the CA elections in 2008	No	Yes	Agreed but Not yet established / Under Nepal Gov.	No

El Salvador and Guatemala have suffered from increasingly high level of violence over the post-conflict years, but the violence is basically apolitical and mainly criminal. In Nepal there have been cases of sporadic violence, but nothing resembling the sort of

organized armed movement in which the violence magnitude has surpassed the “low-level violence”⁷¹ threshold.

Table 3.2 shows subsequent processes in the post-agreement period in these cases, where all seemingly followed similar practices, although different in their details. For instance, while El Salvador only had electoral reform by its legislative assembly, Guatemala had the reform but also constitutional amendments. Nepal had them both during the transitional period, and went for the Constitution Assembly elections. While El Salvador and Guatemala had both SSR (Security Sector Reform) and DDR (Disarmament, Demobilization and Rehabilitation), Nepal only had DDR so far. The truth commissions, similarly, were formed immediately after the agreement in El Salvador and Guatemala and submitted their reports, while in Nepal, despite the government’s expressed commitment to it, it has not yet been formed given the disagreements over on the amnesty recommendation issue. Even in the former two cases, the recommendations of the report would not be implemented given the amnesty vs. prosecution disagreements as well. None of the three cases, however, did relapse into violence.

3.3 Social Construction and Negotiated Settlement

The foundation for the reconciliation between warring parties and the international endorsement relied on the globally institutionalized norms of liberal democracy and open-market economy. The democratic structure provided the essential common ground where both domestic and international interests became streamlined. The understanding emerged that the liberal polity would provide space for opposing voices of the society, and the open-market economy would improve the low socio-economic condition, which eventually would transform the structural causal factors of the violent wars.

Peceny and Stanley have argued that, although the “credible commitment” of the security guarantors (US in particular) to save the insurgents FMLN in El Salvador if needed remained non-existent, peace remained. They further explained that, despite the fact that the “security dilemma” existed (as argued by Barbara F. Walter), in reality, the liberal social reconstruction proved essential to resolve the conflict (Peceny and Stanley, 2001).⁷² The

⁷¹ Uppsala Conflict Encyclopedia defines the 25 battle related deaths as the low-level violence category in the intra-state conflict.

⁷² The social reconstruction referred to the belligerents redefining their interests and identities by accepting the liberal institutional framework.

FMLN had convinced itself of relying on the liberal polity to achieve what they could not through civil wars.

In Guatemala, similarly, the insurgent URNG had already been “essentially defeated”, hence resolving the armed violence was not an issue anymore (Stanley and Holiday, 2002:421). The Guatemalans themselves had internalized the international norms of negotiating a settlement to start a democratizing process with the help of international peacemakers (Stanley and Holiday, 2002). While El Salvador and Guatemala internalized democracy and free market to resolve the socio-political divide, Nicaragua did not do so, for which it had to struggle much more than the other two neighbours (Stanley and Holiday, 2002).

The Maoist insurgents of Nepal, similarly, changed their political course from a violent movement to peaceful politics and expressed their commitment to human rights, rule of law and democracy, which not only ended the war but kept the ex-guerrillas at peace. They had redefined their interests and identity and so accepted the liberal political journey. The split of the Maoist radical faction, its criticism of the original party for its transformation, and its violent activities to thwart peaceful resolution strongly reinforces the significance of the social (re-)construction aspect of conflict resolution.

The realist analyses that the Nepalese Maoists accepted the politics because: first, its liberation army (PLA) became exhausted against the national army’s strength; second, behind-the-scene patrons decided to stop fighting; third, because of their rationalist calculation that the utility of peace seemed higher than the utility of war; four, the major element of the insurgency, the republicanism, was achieved and consequently, there was no reasonable cause to re-wage war. None of these can justify the pressure the splintered Maoists have exerted on post-conflict Nepal.

While all the stakeholders were on one side and firmly committed to hold and participate in the elections, the splintered Maoists alone not only resisted the elections but caused serious concern among the government, election commission, security forces, international community and civil societies due to their behavior of intimidation and violence. Their threat went to the extent that the government deployed the Nepal Army, only for the second time in the country’s history, to maintain law and order during the elections. Therefore, one could convincingly argue that had it not been for the original Maoist party’s self-assessment and reconstruction of its interest, despite all the strategic factors, peace would still have been a far cry.

Some realist explanations have bypassed the normative aspects emphasizing the Security Sector Reform (SSR) as a key to the endurance of the peace agreement (Toft, 2010). It is, together with the Disarmament, Demobilization and Reintegration (DDR), undeniably a hard core aspect of the conflict resolution formula. However, as seen above, Nepal has not had any SSR (although stipulated in the accord) but the peace endured. Both the RNA and the Armed Police Force (state's paramilitary type counter-insurgency force) did not cut down on their numbers, but rather went on increasing their numbers. During the intensive fighting period, Nepal government created the armed police wing, and during the same period the size of the Nepal Army more than tripled from around thirty thousand. By now it is staggeringly high at almost one hundred and fifty thousand soldiers. Whereas the Maoists initially faked to have thirty thousand combatants, only a meager few hundreds eventually integrated into the army.⁷³ During the DDR under UNMIN's observation, as a gesture of reciprocation on its part, Nepal Army (only symbolically) cantonized an equal number of soldiers and weapons to that of the rebels (Martin, 2010).

One the other hand, the Maoists held their leverage by maintaining their own army. They did not cooperate for DDR by turning away from the commitment of the peace accord. To some extent, initially, it pointed to either the security dilemma or to a strategy to win elections, but eventually it turned out to be rather a fund misappropriation by the Maoist leadership in the name of combatants. It showed that returning to war was never an option. This explains that the redefinition of interest held the peace intact rather than the security dilemma or a credible commitment.

The scholars of constitutionalism, similarly, assume that the international norm teachers have used the blueprint of constitutional reform across several civil wars resolution (Mehler, 2012). The cases here show variation in the post conflict constitutional reform, if any. First, El Salvador's peace accord did not stipulate any constitutional reform or new constitution writing; at the same time this shows that international peacemakers did not choose constitutionalism as a tool for conflict resolution. Thus, the existing constitution

⁷³ "Out of 19,602 verified Maoist combatants who opted for rehabilitation packages, around 14,000 chose voluntary retirement and went away with cash packages. Altogether 1,444 former Maoist combatants participated in the training, including 71 training for officer level ranks and the remaining 1,373 for other ranks."

Pariyar, 2013. "Army Integration Reaches Logical Conclusion." Available at: http://www.myrepublica.com/portal/index.php?action=news_details&news_id=60253, accessed 09 November 2013.

endorsed by a Constituent Assembly few years earlier remained the supreme law in El Salvador.

In Guatemala, the peace accord had stipulated some reforms in the constitution, but given the debate between elites and the civil society organizations, the constitutional procedure of two third majorities and a referendum eventually did not get through (Stanley and Holiday, 2002). Its bid to make the constitutional reform process extensively participatory explains the international actors' choice of constitutionalism in this case. By contrast, Nepal's political goal of a representative constitution goes back decades earlier at the advent of democracy in the country. Nepal saw different constitutions over the years, but still the Maoist insurgents had carried the agenda of a new constitution to be written by a Constituent Assembly (CA) as their major goal.

International actors also internalized the CA bid and formulated their policies accordingly to encourage an extensive participation of the people in the constitution writing process. International actors went on to play a critical role as regards the articulation of the insurgents' demands in the Interim Constitution, 2007. Furthermore, those demands had not featured in the first Understanding document but later appeared in the Comprehensive Peace Agreement. The country is still run under the Interim Constitution although practically already scrapped by partisan interests. Nepal also resorted to second CA elections to try and complete and endorse a constitution which the first CA could not.

Regardless of the normative reconstruction aspect of the conflict resolution in Central America, one could hardly deny the fact that the two aforementioned wars basically ended given the end of the power blocks' ideological interests in the region. Stanley and Holiday contend that the post-conflict evolution in the region should not be separated from the conditions that precipitated the resolution. However, from a geopolitical perspective, Nepalese Maoists always had the India vs. China card like other power centers in Nepal had done in the past. The Royal Palace, in particular, had relied on the China card in the past. Another common explanation that the rebels became exhausted and thus rationally decided to join politics shows another anomaly. The rebels who had fought the RNA, which was backed by the US military aid, would back away from the battle field when the US stopped its military cooperation and most other stakeholders were sympathetic towards the Maoists.

Even the utilitarianism strategy of the Maoists to get more shares from politics rather than from war reinforces the fact that the rebels redefined their interest, be it for rationalist or utilitarian motives. At the same time, we cannot discount narrative generations of a political solution to the armed conflict promoted by normative agents - IOs, states, civil societies,

individuals – who pushed the warring side to their limit so that they would rethink their identity and interest.

The most striking revelation across these cases, as seen in the Table 3.2, is that the only common and complete element of the peace process has been the transformation of the guerrillas into political parties within a reasonable time frame after the peace accord. Regardless of the incompleteness of some provisions and variations across the peace formulas, the accords have turned out to be successful. This speaks for itself in terms of the overarching importance of the redefinition of identity and interests as per the norms of democracy, human rights and rule of law vis-à-vis the realist claims. Having said that, other military or political factors are equally important to check and give momentum to that identity reconstruction.

3.4 United Nations in Peacebuilding

For the first time the United Nations emerged as the most useful international actor in dealing with civil wars and their settlements in the absence of the Soviet-US proxy war (Stedman, 2002). The UN's unrivaled expertise on the conflict resolution, impartiality, resources, legitimacy, normative power, and the back-up of several member states, the organization would increasingly involve through the 1990s and 2000s in its peacekeeping missions, political missions, good offices and so on, institutionalizing the practice of international involvement in domestic wars. Importantly, domestic actors internalized the practice of involving United Nations and several NGOs in the conflict resolution by willingly accepting the scientific formula brought by these organizations.

The international norms teachers (Finnemore, 1993) have empowered national government organizations to non-governmental organizations to civil societies in helping institutionalize and implement the values and mechanisms of conflict transformation. The norm teachers' role in formulating acceptable terms to belligerents for the peace agreements, extensively mobilizing the civil societies to encourage a participatory social process of conflict transformation, holding the warring sides accountable for their past impunities, pressuring states and rebels to redress their past violation of human rights through transitional justice mechanism, have sensitized the citizens to the extent that spoilers have refrained from waging full-fledged wars. It should also be noted that the domestic norm agents' role is also crucial in bringing and empowering norms at national level.

INTERNATIONAL NORMS IN WAR TO PEACE TRANSITION

Finnemore and Kathryn Sikkink (1998) have shown that some international norms are used by domestic norm entrepreneurs to strengthen their position and make them domestically institutionalized. Likewise, scholars have recognized that the norms' and law's working mechanisms are similar at both domestic and international level (Finnemore and Sikkink, 1998)). This combination of the norms-interrelationship between domestic and international level and the powerful effect of the coordination among the normative actors at different levels has given a scope to analyze the norms' effect on the concerned case studies.

Some obvious examples of the above-mentioned-normative phenomenon and its usefulness in transforming the conflict are as follows:

- Endorsement of the National Human Rights Commission of Nepal as a constitutional body in the interim constitution of 2007 by the Nepali Government as a result of the sensitizing by UNOHCHR-Nepal, in coordination with UNMIN and other partners, of the government and the civil society to empower the Commission which had largely remained moribund.
- Government's decision to form the Ministry of Peace and Reconstruction with a broader scope by replacing the erstwhile Peace Commission. The Ministry has the mandate to oversee the formation and implementation of Truth and Reconciliation Commission (TRC), high-level monitoring, post-conflict reconstruction, victim reparations, etc. and so on.
- Guatemala formed "dozens of commissions" to oversee the peace agreement implementation (Stanley and Holiday, 2002) under the aegis of the United Nations and other international stakeholders. The agreement on the truth commission emerged from the Oslo accord. The MINUGUA initiated extensive dialogues between civil society and state, known as the Civil Society Assembly.
- Guatemala oversaw its peace process through the National Reconciliation Commission (CNR) which was formed after the Esquipalagos accord of five Central American republics in 1986 which had initiated the Grand National Dialogue in 1989.
- El Salvador's right-wing President Cristiani himself had stated that the "absence of democratic political space" caused the civil war, which the left-wing FMLN also

agreed with (Call, 2002:384). El Salvador went through several important reforms under the broad mandate of the UN. El Salvador formed the National Human Rights Advocate's Office to oversee the human rights issue, which was further empowered by the ONUSAL while leaving (Call, 2002).

Critiques claim that the UN and other INGOs enjoy their leverage given that they financially empower national organizations and civil societies. Therefore, national actors invite the foreigners or accept their influence in the society. The involvement of international organizations undeniably cause substantial financial expectations; however, these claims overlook the fact that the international-national normative link functions under a larger identity of a democratic regime (of the war-torn state) which only further strengthens the normative or "social power" (Ingebritsen, 2001:1). The larger democratic identity of Nepal, Guatemala's desire to democratize its socio-polity and El Salvador's acceptance of international organizations' lead on nation-building enabled the systemic normative relations. The reductionist arguments which dismiss the social dimension emphasis on the financial dimension overlook the fact that the same money which was used for defeating the opposition to end the conflict is now used to resolve the conflict by accommodating opposing views.

3.5 Norm diffusion mechanism

Norms' diffusion, empowerment and internalization have shown varied mechanisms from "statist" to "liberal" to "corporatist" (Checkel, 2000:478).⁷⁴ In these three cases, the learning process has played out both ways; top-down and bottom-up learning. However, the most natural tendencies have been the liberal polity where the society pressurizes the elites to take certain decisions. Society makes a particular norm salient (Cortell and Davis, 2000). The elites have increasingly become more accountable and have been forced to make policies according to people's choice.

The international actors have followed the empowerment of the civil societies, sensitizing people to their rights, to translate and formulate the policies of institution building. The participatory processes of constitution writing or the formation of the truth commissions provide an acid test of the political elites in relation to norms internalization (norms vs. self-help aspect). Therefore, the agenda of the truth commission is operationalized

⁷⁴ Statist: elite learning, Corporatist: first society then elite learning, liberal: society to elite pressure (Checkel, 2000)

to test the hypothesis that the norms internalization can only go up to a certain limit; when more internalization would have huge implications for the existence of the actors, actors start denying norms.

3.6 El Salvador

El Salvador's negotiated settlement between the rebels FMLN and the right-wing government represents an ideal post-conflict reconstruction case right at the beginning of the post-Cold War era. The UN led the peace process with a broad mandate and the conflict resolution strategies applied by international normative agents achieved significant success: the guerrillas transforming (into political parties) to security reform to judicial reforms and so on. Since the peace settlement never broke down, the encouraged international community then carried the similar formula soon in Guatemala and several other cases in the 1990s and 2000s.

The knowledge and experience acquired from this case have been implemented in the negotiated settlement immediately in Guatemala and in cases as recent as that of Nepal. The realization that the UN-led TRC did not contribute to El Salvador's peace process (Call, 2002) and Guatemala, where the truth commission had an international character also, had a similar fate, determined the OHCHR and other human rights agencies to pursue the policy of giving ownership to the Nepali stakeholders themselves by asking the Nepali government to pass the TRC bill. At the same time, they put huge pressure on the government to make the formation and implementation of the TRC fully democratic in particular through victims' participation.

In addition to the realist explanations, the dominating reason for the endurance of El Salvador's peace was the liberal social reconstruction of the socio-polity, particularly the emergence of the insurgents' understanding of and belief in the democratic polity as means to pursue their objectives (Peceny and Holiday, 2001). Peceny and Holiday (2001) concluded that the peace did not break down, despite the absence of any forceful implementation, given the constraining effect of international norms and the institutional reforms. Toft (2010) conceded that international norms had significant influence in preventing the relapse into war given the financial leverage and "moral authority" of international organizations. The United States policy of human rights and democracy as main condition for further assistance upheld the systemic change in International Relations; the US had even applied the process of "human rights certification" to scrutinize the behavior of both sides in El Salvador (Call, 2002).

While the tough agenda of the extensive security reform overwhelmingly succeeded (Toft, 2010), the right-wing ARENA did not cooperate as expected in terms of the Truth Commission's recommendations. Since the UN itself presided over the transitional justice mechanism process agreed in the Mexico Peace Agreement between the FMLN and the government, the Commission, led by three international commissioners, produced its report in just six months time. On the one hand, given the speed of the Commission's formation and investigation (within one year), one could argue that the UN was concerned with completing the process anyhow, even without producing a satisfying outcome. On the other hand, the UN seemingly feared that the longer the process took, the bigger the opposition to the works of the Commission would become. Therefore, it only examined a few infamous cases of the El Salvador conflict: El Mozote village massacre, murder of six Jesuit Priests and so on. (Call, 2002)

The reports "attributed 85 percent of the acts of violence to state agents".⁷⁵ Even though the Commission's recommendations were binding as per its mandate, apart from some half-hearted judicial reform and purging of some army staff, the government and the army refused to implement the recommendations to the extent to which the legislative assembly passed an amnesty law in complete defiance of the international effort. Even the Supreme Court judges charged the Commission with being excessively over-reaching in its mandate and a few convicted army officers were even released. The Commission only managed to denounce some individuals and affect their elections prospects (although some won anyway); otherwise both the ARENA government and the FMLN did not follow the ban on public office for those charged of crime (Call, 2002). It should be noted that the Commission was mandated to investigate "serious acts of violence" since 1980.⁷⁶

The above-discussed facts point to several explanations: first, the weakness of international actors to enforce norms in the domestic arena; second, stakeholders would not internalize international norms if they hugely put themselves in jeopardy; the universality of transitional mechanism norms under the human rights universal norms is contested. The same stakeholders, particularly the right-wing ARENA, who accepted the guerrillas in the political power-sharing and significantly cut down on the security forces, did not follow the Truth Commission. The ARENA used the rumor of military coup to subsequently pass the amnesty law.

⁷⁵ Truth Commission: El Salvador. United States Institute of Peace (USIP). Available at: <<http://www.usip.org/publications/truth-commission-el-salvador>> , accessed 15 October 2013

⁷⁶ Truth Commission: El Salvador. United States Institute of Peace.

The Maoists in Nepal similarly convinced the international community to delay in the formation of the Commission citing the possibility of relapse into war. However, the backlashes from human rights defenders compelled the Nepalese government to arrest and indict some perpetrators of “serious crimes” without the formation of the TRC. The UN forced the Salvadorian government to pass the Criminal Procedure Court in 1996 to further protect the rights of the defendants and victims as had been recommended by the Commission.⁷⁷ In Guatemala, eventually with the UN’s role, the government agreed to form the International Commission against Impunity in 2007.

These events show that even though some norms meet resistance and the universality some norms is contested, strong empowerment of norms by agents still diffuses norms. However, the empowerment factor, among others, has been affected by financial expectations, argue human rights defenders. The funding matter among the normative agents themselves has negatively affected the norms’ strength (or diffusion process). Call (2002) writes that the National Human Rights Advocate Office survived by the international funding through UNDP and empowered by the outgoing ONUSAL performed unprecedentedly effectively in El Salvador, whereas other human rights NGOs themselves grudgingly accepted the Office’s role, despite the migration of their funds to the Commission. The National Human Rights Commission of Nepal stopped cooperating with the OHCHR for fear of its potential funding from the international community being taken away by the international community (Sharma and Rawski, 2012).

3.7 Guatemala

While El Salvador learnt the liberal reconstruction from the outsiders, Guatemala had internalized its importance and usefulness, thus it demonstrated the international community its desire for similar post-conflict development like in El Salvador. The internalization succeeded however by the human rights conditions put by the US and other international organizations, particularly the World Bank and the European Parliament (Stanley and Holiday, 2002). While in El Salvador the demobilization and security reforms happened smoothly because although the security guarantee was absent and the warring sides put their faith in liberal reconstruction under the presence of the international community (Peceny and Stanley, 2001), Guatemala had rather a moribund civil war than a stalemate.

⁷⁷ See Truth Commission. El Salvador. USIP.

The staggering thirty-six-year long civil war had exhausted both the government and the insurgent URNG, so both domestic and international stakeholders had to worry about the post-conflict reconstruction but not about how to stop the war or to maintain the ceasefire. The then-Secretary-General credited the implementation of the definitive ceasefire as “a testimony to the determination of both the Government of Guatemala and URNG to put an end to the bitter armed conflict between them”.⁷⁸ The EU, the OAS and several UN agencies and governments contributed their resources and expertise to complete the demobilization process. In Guatemala, normative actors had the opportunity to apply the further consolidated reconstruction programs from the experience in El Salvador to another liberal foothold in Central America.

Guatemala represents an example of extensive participation of the civil society in the initiatives to end the war through the Grand National Dialogue and the Civil Society Assembly, which were emboldened by the auspices of the United Nations, leading to several agreements on institution-building. Thus the Comprehensive Agreement on Human Rights, emerged from the Oslo negotiation process, was established in 1994. In fact, the MINUGUA, which was initially named the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala, was already in place under the UN General Assembly, and the verification had already begun before the final negotiated settlement. In the postaccord period, the emphasis on human rights worked as a deterrence to prevent abuses. (Stanley and Holiday, 2002).

The Commission for Historical Clarification established under the UN, chaired by the German Law Professor Christian Tomuscat, produced its report which claimed that the “state forces and related paramilitary groups were responsible for 93% of the violations documented” during the conflict which claimed two hundred thousand lives - 83 % of those killed were Mayan.⁷⁹ Unlike in El Salvador, this Commission was not “allowed to name” the perpetrators, so some symbolic measures, some reform in the military and judiciary were recommended. President Arzu immediately apologized for past abuses by the state. The implementation process, however, practically stalled.

By 2009, merely one military staff was convicted of human rights violation as charged by the Commission report. Stanley and Holiday write that the charges did not come

⁷⁸ Guatemala: Minugua. Background. Available at:

<<http://www.un.org/en/peacekeeping/missions/past/minuguabackgr.html>> ,accessed 20 October 2013.

⁷⁹ Truth Commission:Guatemala. United States Institute of Peace. Available at:

<<http://www.usip.org/publications/truth-commission-guatemala>> , accessed 20 October 2013.

as a surprise but the charges of genocide and racism committed by the armed forces in their ruthless campaign against the guerrillas in the early 1980s came as a surprise, issued as they were by the UN-sponsored effort. The government refused to implement any of the key reforms proposed by the Commission, saying that important reforms were already under way, including reparations for war victims.

The UN continued to work with the government that agreed to form the International Commission against Impunity in Guatemala in 2007. Some trials began in 2010 against some military officials, and as late as in May 2013 the former de facto head of state Jose Efraim Rios Montt was convicted by the Guatemalan court to 80 years in prison for genocide and crimes against humanity which he had committed during 1982-1983. The international community hailed the conviction as having “monumental importance” at national and international levels.⁸⁰

First, Guatemala represents a positive case for the theory that states adopt their policies from the norms institutionalized on global level. The distinction is not clear-cut, however, on whether international norm agents or national actors are more instrumental in enabling the adaptation of established practices, making the international-national normative links closely inter-related. The extent of norms internalization, similarly, is related to the normative agents’ strength. On the one hand, the military, which initially hesitated to share power with the insurgents who had already become moribund, eventually did so by internalizing the international norms of democracy and human rights because of the need to improve its image in the international community.

On the other hand, it did not implement the Commission’s recommendations since that would have implicated the military significantly. As a result, the good cop UN which steered the peace process became a bad cop. The constitutional reform, similarly, did not get through due to the “no” in the referendum, which revealed the short-term complications emerged from wide participation of civil society, as it became impossible to get consensus (Stanley and Holiday, 2002). On the other hand, the conviction of the Rios Mont after three decades by the national court proved the importance of creating ownership in the peace process.

⁸⁰ From the Human Rights Council High Commissioner Navi Pillay’s statement.

3.8 Nepal

The growing discourse flared up by national and international norm agents to end the conflict through political dialogue under the supremacy of human rights and democracy created a space for negotiated settlement.⁸¹ Regardless of the realist explanations for the causes of such settlement, the warring parties' commitment to human rights and democracy, which have been articulated several times in the peace document, reinforces the normative argument. The successful national and transnational human rights advocacy diffused among the elites the understanding of the importance of forming several institutions to oversee the conflict transformation.

Among those commitments appears the agenda of the Truth and Reconciliation Commission formation, first articulated in the CPA-2006 document, and then enshrined in the Interim Constitution 2007. The United States' withdrawal of military aid from the Royal regime in the context of human rights violations and democracy undermining had been proven fundamental in terminating the war and driving the rebels into the democratic set-up.

Wordings like “mutual consensus” and the “high-level” justice mechanism, however, from the very beginning signal the parties' intention to play smart by superficially fulfilling their human rights obligations.⁸² Since the warring sides had an implicit understanding that any impartial commission would implicate them significantly, despite huge pressure from the civil society, human rights organizations like Human Rights Watch, Amnesty International, several domestic rights defenders, as well as the NHRC and OHCHR, the government drafted a TRC with discretionary power. Provisions like the selection of the commissioner by the major parties or the Commission's mandate to recommend blanket amnesties, which clearly contradicted the international standards, flared up huge controversy.

As a matter of fact, the intention of the parties to instrumentalize international norms could already be seen while selecting the commissioners of the NHRC under partisan interest. The NHRC who had enjoyed UN “resources and political capital” eventually ended up

⁸¹ During the intensive conflict before the settlement, the multiplicity of international peacemakers contributed to that normative understanding in different ways. Teresa Whitfield listed those actors which are as follows: UN good offices, Swiss government special advisor to peace-building, Centre for Humanitarian Dialogue, Carter Center, Crisis Management Initiative, Community of Sant'Egidio, Friedrich Ebert Stiftung, International Alert, International IDEA, Transcend, and US Institute for Peace. Denmark, Finland, Germany, Sweden, Switzerland, UK, US (in the period of 2002-2006). (Whitfield, 2012). Similarly, many other bilateral organizations, UNDP, EU, Amnesty International, Human Rights Watch and so on. Most important were, perhaps, the OHCHR and UNMIN.

⁸² These terms are used in the Comprehensive Peace Agreement, 2006. Nepal.

pulling OHCHR out of Nepal given the politicization of the Commission (Sharma and Hawski, 2012: 197). The increasingly polarized polity and partisan interest on institution-building tested the strength of the international norm agents. Some claim that this inability of the international partners is because of their conflict of interest, some say that it is their lack of commitment, and some argue that the international community has given the benefit of the doubt to the leaders as Nepal was grappling with the complex issues within an unrealistic time frame.

However, the government repeatedly amended the TRC provisions, responding to a wide call from the human rights defenders. The amendment still did not satisfy the opponents as the bill maintained some tricky provisions which eventually allowed the Commission to grant amnesty. The government apparently did so in an effort to form the Commission to give a clean sheet for past crimes rather than exhuming them. Eventually, after a long tumultuous debate, despite the President's endorsement of the bill, the Supreme Court blocked its implementation. Eight years after the commitment had been made in the agreement, not a single individual has been prosecuted or punished for his/her war crime.⁸³ Those charged with murders still hold strong position in the Maoist party and run for elections.

All in all it cannot be denied that the elites have internalized the norms to a large extent, but the complete institutionalization of norms depends on: norms' universality and norms' usefulness. Meanwhile, the norm agents empowered civil society and individuals to the extent to which citizens are aware of their rights and are politically aware in an unprecedented manner. Moreover, leaving aside the incompleteness of some norms' institutionalization, many believe that the role of the international actors has been an effective deterrent, thus preventing the peace process from relapsing into war.

3.9 Conclusion

The norms of democracy, rule of law and human rights, or the liberal social reconstruction, provided space for the warring side to trust the system which accommodates opposing voices and led the wars to end in negotiated settlements. International organizations, transnational advocacy and civil societies and governments put their resources and expertise to give momentum to the post-settlement process by neutralizing the violent method of expressing

⁸³ A couple of murder cases during the war, after a huge public outcry, have been re-opened, and the perpetrators are arrested as per the conventional justice system given the seriousness of the crime. The Maoists have vehemently opposed it claiming that all war-related cases should be dealt with by the TRC.

grievances and providing the insurgents with reasons to ignore the security dilemma. On the other hand, the individual state itself has learnt and internalized the globally institutionalized norms from both national and international actors and has accordingly formulated its plans and policies.

While examining the short term diffusion of norms, the first phase represents the strength of norms, but then gradually some norms struggle to be internalized, while others, owing to the universality of the norms, actors' interest, test the strength of the normative agents. The hypothesis that actors oppose norms given huge implications for their existence holds true.

As far as the civil war is concerned, the norm dynamics has also become an effective deterrent to re-waging wars. The armed conflict is neutralized and transformed into social political debate with wide people participation, which in some cases prolonged the process: for instance, in constitutional reform or constitution-writing process with extensive people's participation, in the truth commission formation and implementation of recommendation, etc. All in all, the reasons for the return of full fledged violence are neutralized.

4. Introduction to Nepalese Conflict: Causal Factors of the Civil War⁸⁴

Nepal's Maoist Insurgency represents a long-standing struggle for democracy in Nepal that saw several movements, sometimes violent, sometimes peaceful campaigns.⁸⁵ These movements have always shown positive correlations with the internal struggle between several power centers, predominantly between the monarchy, the biggest political party Nepali Congress⁸⁶, and the leftist alliance, as well as the involvement of outsiders, particularly India. Added to that, in recent times, some regional political parties and ethnic fronts as well as a growing Western involvement have also wielded significant pressure.⁸⁷

Scholars and commentators invariably correlate these political struggles of Nepal with the making of modern Nepal that occurred in the late eighteenth century when several small states came under one rule.⁸⁸ This approach has helped to understand the structural aspect of the conflict both internally and geo-politically. Similarly, another crucial point of study experts maintain is the early 1950s period when the absolute dictatorship (Rana oligarchy) came to an end and the concept of the rule-by-people saw the light of day.⁸⁹ While the former point helps explain more about the social and political structure of Nepal, the latter enlightens the struggle for political power and ideology, as well as India's leverage and its effect on Nepal.

4.1 Domestic-and Geo-Politics

Indo-Nepalese relations commentators, on their part, claim that the events in the 1950s invited India to resolve Nepal's internal matter which turned into undue interferences and became a cause of instability in Nepali politics for years to come.⁹⁰ What happened then was that the hereditary dictatorship of the Rana clan, known as Rana oligarchy, was not spared of

⁸⁴ This chapter I have made available on the academica.edu platform in order to have feedbacks.

⁸⁵ Movement that made its mark: 1950-Democratic Movement against Rana Regime, 1971 Jhapa Communist uprising, no-party or multi party Referendum-1980, People's movement I-1990, People's Movement II 2006.

⁸⁶ Nepali Congress had been the biggest party in all parliamentary elections until 2008 Constituent Elections in which it remained second to the Maoists.

⁸⁷ Mostly the US and the group of small countries: Nordic, EU, Switzerland and the UK.

⁸⁸ A king from the region of Gorkha, Prithvi Narayan Shah, succeeded in his campaign to unify several small states, declared Kathmandu the capital of modern Nepal in 1769 AD.

⁸⁹ Nepal was ruled by a family dictatorship, known as Rana dynasty, for 104 years which ended in 1950.

⁹⁰ "...King's self preferred exile to India could be taken as the beginning of the beginning of the Indian penetration in Nepali affairs. King Tribhuvan committed a blunder", in Telegraphnepal, 2013. "Nepal: Sushil lands in Delhi, to meet leaders who control Kathmandu". Available at <www.telegraphnepal.com>, Accessed 03 October 2013.

the global movement of decolonization and independence as the next-door India came out of the British Raj in 1947. After the fall of the dictatorship, in the subsequent political transition, three major forces competed for the ruling power. Negotiations took place in New Delhi where PM Nehru imposed his terms.⁹¹

In the first democratic elections, the Nepali Congress secured an absolute majority and formed a government under BP Koirala, but it immediately fell prey to king Mahendra's putsch in 1960 paving the way for a 30-year-long non-party system. PM Koirala ended up in jail. This event marks the third crucial move which was going to affect the politics of Nepal as late as in 2013. At this point, the very fundamental geo-political feature of the region – India's security concern vis-à-vis the perceived power-seeking China - manifested itself.

Nehru's principal concern, when he settled the Nepalese tripartite negotiation in New Delhi, alluded to the fact that he sought to hold sway over Nepalese actors in order to cover the southern flanks of the Himalayas against the Chinese threat. When Nepal had a democratic government under BP Koirala, who seemed to be slipping out of India's grip as he eyed a closer relationship with China, Nehru allegedly suggested the king Mahendra to topple the democratic regime⁹². Earlier, the king Tribhuvan who himself had declared that Nepal would go for a Constituent Assembly which was expected to declare Nepal a republic, had turned his back on his promises. It is noteworthy that what he was doing from the beginning while the end of Rana regime was being negotiated in Delhi was what Nehru asked him to do (presumably).⁹³

The same royal rule, paradoxically, found its legitimacy in the already simmering anti-Indian sentiment, whereby the palace converged on a communist parties' position, anti-Indianism as Nepali nationalism. They also converged on another position where both saw the Nepali Congress as the biggest hurdle in their ambition; the palace needed to undermine the democratic forces, while, for the communists, the Nepali Congress represented the Western bourgeoisie values. Furthermore, many have always perceived the Nepali Congress as a pro-Indian party which would presumably not hesitate to submit Nepal to India.

⁹¹ A tripartite negotiation took place between the Nepali Congress leader BP Koirala, the Rana leader Mohan Shumshere and the king Mahendra under the Indian PM Nehru's care. Several senior leaders from both the Nepali Congress and the leftist front have claimed that Nehru imposed what he believed was in his interests on the Nepali actors.

⁹² Dr. Shashank Koirala, a Nepali Congress leader and a son of BP Koirala, said so, very recently at a function in Kathmandu.

⁹³ Excerpts of the book by a veteran Nepali Congress leader, Ram Hari Joshi, in; Annapurna Post, 2013. Available at: < <http://annapost.com/politics/news8361>> , Accessed 02 October 2013.

It had become clear by that time that, for the durability of any regime in Nepal, India's consent was fundamental. Some even go on to claim that king Mahendra went on to concede secretly to India's control the strategic point of Kalapani, the most controversial strategic point of Nepal close to India and China, in exchange for India's not bothering much about Mahendra's rule.⁹⁴ Moreover, from this point on, the palace allegedly started to fuel communists to undermine the Nepali Congress, and this trend could be seen as late as in the Maoist movement.

Under the wish of the palace during king Birendra's reign, the-then Royal Nepal Army (RNA) did not attack Maoist insurgents. The palace remained so to such an extent that when top brass Maoists were encircled at one point by the army in a village of Holleri, the army's inaction prevailed. Despite the-then PM GP Koirala's request, the palace did not deem necessary to give orders. Koirala later resigned for the inaction of the army. Soon those spared Maoist leaders succeeded in toppling the monarchy itself.

Meanwhile, a palace massacre took place in Kathmandu in which prince Dipendra killed the king and the queen along with several other members of the royal family and in the end he killed himself, according to the official report. The king's brother Gyanendra immediately ascended to the throne. Subsequently, the army was deployed against the Maoists which had never happened under king Birendra. Conspiracy theories are aplenty regarding the palace massacre, as well as regarding the army's role vis-à-vis the Maoists. Several authors mentioned this event (palace massacre) in relation to the army deployment against the Maoists.

There are other theories, however, for why the RNA did not attack the Maoists, which basically contend that political parties saw the army as a royal institution, therefore, antagonistic to democratic forces; whereas the army resented parties' dismissive attitude towards them (the army) but an extra-care for the police department (Chalmers, 2012). In the same fashion, the army justified its inaction by citing that attacking fellow Nepalese had never been in the RNA's conscience (Chalmers, 2012). In any case, anyone would find the

⁹⁴ Nepal Magazine (2013). "yasari gumyo Kalapni /Kalapani was lost this way". Available at: <<http://www.ekantipur.com/nepal/article/?id=5956#UkmFJP7rgHo.twitter>>, accessed 07 October 2013. Regarding these types of claims, however, there are no convincing evidences. Thus these stories about what Nehru did, or what Mahendra did and so on seem rather speculations than facts. But, such behind-the-scene issues naturally do not have hard evidences, therefore, some degree of reliance on such interpretation has become useful to understand the history of Indo-Nepal relations better.

army's explanation doubtful given their long-standing supreme status and aloof position vis-à-vis any political change or leadership.⁹⁵

4.2 Ethnic Cause

The ethnic advocates seemingly have had the conviction that the causes of political struggle in Nepal lie in the Kathmandu-centric (the capital) socio-polity which was established by the Shah Kings (see Thapa, 2012; Lawoti, 2012). The rule, argue the “ethnic entrepreneurs”, basically downplayed the multi-faceted society, culture and regions of Nepal by maintaining the cultural hegemony of the Shah across the country.⁹⁶ Furthermore, some economic commentators also argue that the centralized and traditionalist polity failed to reach out to the people, and whatever social mobility opportunities were available, only those in the urban areas, those who belonged to the dominating culture or at least were well acquainted with it were able to reap the fruits (Panday, 2012).

The caste based society which was codified as law by the Rana dictators had acquired deep roots in the society which did not significantly change even though King Mahendra abolished it in 1963. In practice, the cultural bias and its interrelations with development and democracy further increased in the era of the non-party Panchayat⁹⁷ system (Thapa, 2012). The ethnic campaigners' major criticism have been the constitutionally endorsed Hindu state, one national language-Nepali, one national dress-Daura Suruwal, which in their view hit other old cultures and their people hard.

Despite some reasonable grievances of the people from other cultures and languages, in a country where more than 100 different languages and ethnic groups co-exist, a question of sustainability and practicality of any all-satisfying democratic model remains unanswered. The counter-argument goes that the fresh restructuring of Nepal would at least diversify the state-model from uni-culture (Brahmanism or Hindu) to multi-culture (Limbu, Tamang,

⁹⁵ It happened in a way only once when then-Maoist PM Prachanda sacked the Chief of Army Mr. R.K. Katawal, but immediately to be revoked by the president.

⁹⁶ The Shah dynasty founded the modern Nepal and ruled it till 21st century. The Shah Kings are of Hindu religion and culture and have acquired partly their legitimacy from the religion declaring them Hindu kings and Nepal as a Hindu kingdom. Since they had accepted the primacy of the Brahmins with regard to policies, cultures, and so on, the polity came to be called as Brahmanism or Bahunbad, and came to be related to ordinary people of Bahun or Brahmin caste. But the rulers were never from that cast. Bahun is the highest category in the caste system. The ethnic advocates put all the casts and clans pertaining to rulers and ruling culture under the generic label of Bahunbad or Brahmanism, and of late, there has been a new use of the old term Khas to define this group.

⁹⁷ Panchayat system, 1960-1990, was founded by King Mahendra which bestowed the monarchy the executive power. The word literally means a village council and the political parties were banned during Panchayat.

Sherpa, Madhesi etc.); but in any case, some assertive and capable cultures would end up dominating the weaker groups, hence, all in all this is a “difficult-to-implement proposition” (Panday, 2012:93).

Although the ethnic aspiration has long existed in Nepal, the movement apparently never achieved so much prominence as it did in the aftermath of the Maoist insurgency. While Maoists used ethnic grievances and provocations to recruit civilians from the dissatisfied groups into their army, on their part, the ethnic advocates instrumentalized the fractured polity caused by the Maoists to make their voices heard in an unprecedented manner. To recall, while writing the 1990-constitution after the people’s movement then, the leader G P Koirala, strong believer in the liberal democracy and civic nationalism, had simply dismissed the demands of the ethnic advocates despite the fact that many had warned him of the consequences.⁹⁸

4.3 Maoist Insurgency: A Genuine Revolution or a Ploy?

The start of the Maoist insurgency gives quite a fuzzy picture. The initial gun shots of the Maoist insurgency were heard in the mid-western region of Nepal in February 1996, in one of the least developed socio-economic regions. This fact has been used by some scholars in favor of their argument that, had the insurgency been incited due to poverty, the poorest far-western region should have been the battle ground (Saubhagya Shah cited Mishra, 2004); therefore, the fundamental cause for the war was grievances towards the exclusionary state. Similarly, some argue that the encouraging growth in all economic indicators in the aftermath of the 1990 movement, which restored the parliamentary system and brought the monarchy under a democratic constitution, did not stop people to carry guns, justifying the argument of grievances (Lawoti, 2010).

On the other hand, geo-political experts argue that India incited the violence using the long-standing communist movement of Nepal for its intention of undermining the institution of monarchy and manipulate a fluid Nepalese politics to fulfill its interests (Mishra, 2004). Similarly, some point out that had the fight been for people and democracy, Nepalese people just had won it back from the palace, therefore, the insurgency immediately after the win of democracy could only be an ill-attempt to undermine it but not to uphold it (Dixit, 2009).

⁹⁸ Former Chief Justice late Biswonath Upadhyaya who was in the constitution writing committee in 1990 had spoken about Koirala’s attitude towards the ethnic advocates in an interview.

Despite suspicions of bad intentions and various explanations of the insurgency, the success Maoists had, unlike any other movement in Nepal, is the most striking. Maoist insurgency remained fundamentally different from earlier communist movements in that it added the caste struggle to its traditional class struggle. Many cite Maoists' organizational skill and coherent strategy guided by the communist ideology which gradually held sway over several regions of the country. The insurgency which was initially being downplayed by the-then establishment in Kathmandu, and consequently, dealt through police force as a law and order situation (Whitfield, 2012), ended up holding sway over around 80 percent⁹⁹ of the state at its high. It put on an invincible resistance against the Royal Nepali Army (RNA). The intensifying Maoist menace caused an upheaval in the polity in Kathmandu which was already reeling under power games between parties and within parties. The weakening politics ended up dragging King Gyanendra into taking the executive power. The period from 2003 to 2006 under king Gyanendra represents the most critical phase of Nepalese politics vis-à-vis the Maoist conflict.

4.4 Beginning of the end of Monarchy

Most explanations on King Gyanendra's intervention in the parliamentary politics rely on the classic view that the royal palace which had grudgingly conceded its executive power to the parliamentary movement of 1990 needed the right moment to win the benefit of the doubt of the Nepalese people in order to grab the power back. From this perspective, king Gyanendra, the head of the army, did exactly so when the elected government seemingly remained helpless against the growing Maoist menace. Political parties were tarnished by inter-party and intra party feud due to their desire to hold on to power.

With hindsight many observers argue, since during 2013-14 Nepal was being ruled by the Chief Justice Khila Raj Regmi, it was not Gyanendra himself who chose to be in a catch-22 situation. The seemingly eternal impasse made the concerned sides bring him to intervene;¹⁰⁰ just as what happened when the Chief Justice was brought as the head of the

⁹⁹ 80 percent in the sense that the state did not have "effective control", but did not mean that Maoist had the control either, according to Einsiedel et al.

¹⁰⁰ Leading national daily Kantipur's Chief Editor Mr Sudhir Sharma told the BBC Nepali Radio Service, while talking about his recently launched book on India's role on Nepal, called "Prayogsala" (Laboratory), that the King stepped in to dissolve the parliament in October 2003 with New Delhi's encouragement. Delhi wanted him to remain subordinated to them, but apparently he denied. It has not been known why he did so for which it cost him the entire institution of the monarchy. He further explains, the interrelation between Nepal-India is so, that even when the royal courtiers floated the idea of a Baby King after the end of the monarchy, they had sought India's support itself;

government. Furthermore, a conspiracy theory goes that king Gyanendra just became a pawn of the India plan to undermine the institution of monarchy. He unknowingly slipped into the quagmire, which would soon become the cause of his ousting.¹⁰¹ There is also the argument that, since the monarchy that already had conceded its power to democracy in 1990 and easily abdicated responding to the people's movement of 2006, it would not make much sense to claim that he had put his feet in the quagmire at his will. Furthermore, the constitutional role given by the 1990-constitution to the monarch as the head of the state gave him the power to remove obstacles, therefore, his call of dissolution of the parliament back then did not represent a breach of the law, according to many experts.

As a matter of fact, in the post-Constituent Assembly period in 2012, President Ram Baran Yadav was not spared either from being asked, rather pressurized, to intervene in the face of extreme polarization between the big parties. Similar constitutional right of the head of state, as was the case with king Gyanendra, was invoked in this case also by commentators. As one journalist hypothetically puts it, "had the king been suggested to bring the Chief Justice instead of he himself as the chairman of the cabinet, that would have saved the institution of monarchy".

Having said all that, king Gyanendra had publicly stated that unlike his brother (late King Birendra) he would not just sit and watch what was going on, thus it should not be discredited that he had been eyeing a situation where parties would prove inapt and he would legitimize his move to take over. In February 2004, he famously said the "days of monarchy being seen but not heard... are over".¹⁰² Similarly, the King's typically dismissive attitude towards the leaders, arrogance, and excessive reliance on traditionalist courtiers are self-evident.

4.5 Unholy Alliance of the insurgents and the democratic parties

The Maoists stepped up their attacks in the post-palace-massacre, which compelled the-then government to declare a state-of-emergency. It was apparently Gyanendra's wish also, and therefore, he deployed the army in 2001. Consequently, the following year marked the highest casualty figures of the entire conflict period with over four thousand deaths in one

Nepal Sandarva, 2013. BBC Nepali radio service, podcast. 25 September 2013. Available at: <http://www.bbc.co.uk/nepali/topics/prog_nepal_sandarbha/index.shtml?page=003>, accessed 26 October 2013.

¹⁰¹ From a conversation with a journalist.

¹⁰² BBC, 2008. Profile: Nepal's ex-king Gyanendra. Available at: <http://news.bbc.co.uk/2/hi/south_asia/4225171.stm>, Accessed 06.October 2013.

year. Owing to the emerging discourse that the conflict did not have a military solution and the fear of the emergence of an autocratic rule, parties disagreed over the extension of state-of-emergency. However, the disagreement prompted the King to invoke his constitutional right to act as the head of state and dissolved the parliament.¹⁰³ This period marks an increased support of the US, UK, and India who supplied required financial and military aid to counter the Maoists; by then, the Maoists were taken as a terrorist group.¹⁰⁴ The support quickly turned into displeasure when the king staged a coup in 2005 and undermined any possibility of having a democratic resolution with political parties (Whitfield, 2012). But his move not only cost him a withdrawal of military support by the foreign actors but also prompted the agitating democratic parties and the rebels to form a strategic alliance.

The characteristically anti-communist leader GP Koirala, who had sought maximum use of force against the Maoists (Muni, 2012), went on to make a deal with the Maoists themselves who were basically regarded as an anti-democratic force by both the Nepali Congress and the UML. The typical shortsightedness of the leaders, the personal ego clash between G. P. Koirala and the King (similar to the one between BP Koirala and king Mahendra) , G.P. Koirala's absolute power within his party and intra-party feud with the leader Sher Bahadur Deuba's faction (as well as the apparent encirclement by the King and UML leaders), made him put at stake the entire political future of the nation.

It should be noted that the Maoists had offered him the post of the president of Nepal, provided the king was ousted, in the New Delhi negotiations of 12-point-understanding.¹⁰⁵ King Gyanendra's growing ambitions turned the tide for Koirala. Other disgruntled leaders, the sacked PM Deuba of Nepali Congress-Democratic along with the UML and Sadbhawana Party (Madhesi regional party) coalition colleagues, also joined Koirala's venture to ally with the Maoists after the king's coup.

Gyanendra, on his party, had deemed it necessary to act unilaterally against the Maoist threat to save the monarchy which at the same time would fulfill his wish to establish the monarch as the executive head. Given the circumstances where the Maoists were asking for the re-structuring of Nepal through a Constituent Assembly which would presumably end the monarchy, the monarch backed by the army did not have much reason to trust the divided political parties and inconsistent foreign partners to save the institution. The royal palace had

¹⁰³ Article 127 of the 1990 constitution.

¹⁰⁴ The US declared them terrorist in 2001 following suit of Nepali government during Secretary Collin Powell's visit. Indian Foreign Minister Jaswant Singh used the term "terrorist", but India officially never did so.

¹⁰⁵ This fact has come out in the press several times, the Congress leaders themselves have admitted so, and has become an open secret.

invariably maintained the valid assumption that the political parties would not be able to stand as the bulwark of national interest against India as the palace would. For instance, India had always sought to take an undue advantage of Nepal's water.¹⁰⁶

S. D. Muni¹⁰⁷ (2012:320) also writes in his article that the King suspected that India was "sympathetic" towards the Maoists. Besides, the extraordinary pace of all these developments (and the stakeholders changing their instances very quickly on the age-old institution) made many observers suspect India's "connivance" with the Maoists (Muni, 2012:320). Many argue that India was seemingly supporting the government but actually fuelling the rebels with the objective of bringing the monarchy down. To name one such voice, Mr. Vivek Kumar Shah, a retired army general, writes in his book that the Indian establishment had trained the Nepalese Maoist guerrillas at a place called Chakrata near Dehradun, India.¹⁰⁸

Many commentators hold that republicanism in Nepal was fundamentally an Indian agenda, in which it (India) succeeded to bring the US in its line vis-à-vis China. While others dumped King Gyanendra, China actively supported him (Muni, 2012), but eventually under US pressure, China denied military supply to Nepal following the US Ambassador J F Moriarty's visit to Beijing. Wikileaks revealed that the-then Foreign Minister Ramesh Nath Pandey sought the resumption of American military cooperation while negotiating with the US ambassador, but apparently in vain. King Gyanendra, eventually, was left without any option to back his regime.

While king Gyanendra got involved from the dissolution of the parliament in 2003 to the coup in 2005, negotiations between the political parties and the Maoists were already playing out in India under the paramountcy of the Indian establishment. As a matter of fact, the Maoists leaders - the party chairman Puspa Kamal Dahal (nom de guerre-Prachanda) and Vice-chairman Dr. Baburam Bhattarai (PhD from JNU)-had already been enjoying the Indian silver platter at a governmental accommodation in New Delhi. The long-standing suspicion about India's connivance with the Maoist conflict, particularly owing to the Siliguri (Indian

¹⁰⁶ The veteran bureaucrat and expert Surya Nath Upadhyaya writes in his book "International Watercourses Law and a Perspective on Nepal-India Cooperation" that India has always deceived Nepal regarding its right of an upper riparian state by applying a *fait accompli* policy; building dams and bunds their way without Nepali consent.

¹⁰⁷ Prof. Muni, who had the Maoist leader BRB as his student at JNU, Delhi, apparently played a crucial role in establishing Maoist contact with the Indian establishment. Besides, many believe in Nepal that he has been the Maoist mentor all along. He is a Nepal expert; his PhD in the 1970s was on Nepali politics. He currently lives in Singapore. Maoist Chairman Prachanda has visited Singapore in recent past umpteen times, allegedly to get the advice of Muni.

¹⁰⁸ "Maile Dekheko Durbar/ the Palace I saw"

city very close to Nepal border in the West Bengal state) meeting of leftist leaders under India's protection immediately after the palace massacre, re-surfaced when Muni recounted the Maoists' approach to Indian establishment in 2002 and India's mediation in the conflict thereafter.

However, many observers in Nepal categorically deny his story given several revelations about Maoists' leaders' nexus with Indian establishment long before 2002. To name one, the former Maoist leader Bharat Dahal discloses that back in 1997 already, a meeting in Lucknow (Indian city near Nepal border in the state of UP) had taken place under India's protection.¹⁰⁹ He further clarified that his decision of quitting the party owed particularly to the fact that his leaders had a covert sponsorship from the neighbor. Meanwhile, the fact that the Maoists had approached king Gyanendra at one point to form an alliance against political parties explains that the war was never really a genuine people's revolution as it was claimed or understood.¹¹⁰

4.6 Termination of Civil War

Maoist increasingly struggled to resist the RNA who was supported by the US, which, on the other hand, made India very wary; as it always did when Nepal had any close military cooperation with countries other than India (Muni, 2012). The political parties, whose street protests had no effect on the king considered, as a last resort, submitted to India yet again. They had in fact relied on India since the early days of their existence. Accordingly, the Seven Party Alliance (SPA) and the CPN-Maoist inked a 12-point-Understanding, brought about by the Indian interlocutors in New Delhi, which was subsequently followed by the Maoists' armed attacks on one hand, and the peaceful protests by the parties against king Gyanendra on the other.

The political parties, whose own cadres had been victims of the Maoists' violence during the insurgency, were carried away to such an extent that they themselves asked the Maoists to physically harm the candidates of the elections called by the king which they (the parties) defied¹¹¹. The strategy culminated in a huge people's movement, known as People's Movement II, where millions of people took to street protesting the King. Meanwhile, much

¹⁰⁹ Interview with Bharat Dahal. Available at <www.telegraphnepal.com> , Accessed 15 September 2013.

¹¹⁰ The chairman of the RPP (Rastriya Prajatantra Party) Kamal Thapa recently disclosed this fact which the Maoist second-man BRB did not fully deny.

¹¹¹ Former Minister of the Royal regime Deepak Gyanwali said so at the Sajha Sawal Program. Sajha Sawal, 2013. Media Hub sponsored program on BBC Nepali radio service. Podcast. Available at: <www.bbc.co.uk/nepali>, accessed 10 November 2013.

diplomatic maneuvering played out in the palace, particularly by the Indian envoy and some phone calls from New Delhi, whereby Gyanendra reinstated the parliament.

This juncture marks yet another ambiguous development in which several actors changed their instances very quickly and in a dubious manner. The international community, along with India, who had asked the king to dissolve his cabinet and let the leaders form their government, within a matter of hours gave its consent to the parties' demand of ousting the king and reinstating the parliament. Earlier, western ambassadors were trying to find a common ground based on the "two pillar policy" (multi-party system with constitutional monarchy), but ended up asking the king to step down. This event alludes to India's conviction by then that king Gyanendra would not submit himself to Indian establishment, therefore Indians were presumably pushing the Nepali agitating parties towards republicanism.¹¹²

While Maoists were adamantly asking to end the monarchy and form some sort of people's assembly or a round table conference, GP Koirala floated the idea of the parliament re-instatement and eventually so happened. The policy shift of the international community, particularly the US who had whole-heartedly re-supplied the RNA against the Maoists, reinforced the already simmering argument that the US had outsourced its Nepal policy to India in the face of the fight against terrorism in the post 9/11. Given the global dimension of Chinese might many commentators in Nepal unequivocally started to claim about India-US nexus in Nepal vis-à-vis China. No wonder even Chinese views allude to the India-US nexus in Nepal.¹¹³

4.7 Peace Process and Constituent Assembly: Success for some, failure for others

The Comprehensive Peace Agreement (CPA) in the aftermath of the ousting of the king transformed the Maoists' temporary ceasefire into a permanent end of the armed conflict. Since the alliance managed to defeat the king with the help of foreigners, the negotiated

¹¹² Muni also recounts some disagreements between the two Indian intelligence agencies, IB (Investigation Bureau) and RAW (Research and Analysis Wing), over how to go about with the king. Apparently, at this point Indian government itself was led by the Intelligence agency. While the Indian government was telephoning the king to give the power to the party and reconcile, on the other hand, allegedly, the RAW had pressurized or encouraged the agitating parties to not to relent unless the king completely goes. However, some other important figures have contradicted this argument. For instance, senior Indian Congress leader Karan Singh, a relative of the Nepalese Royal family who was in Kathmandu during the people's movement, denies that the Indian establishment wanted to keep the monarchy, but the opposite. He has said so while talking to the Kantipur daily's Devendra Bhattarai in New Delhi. Available at: <ekantipur.com> , accessed 07 March 2014.

¹¹³ China's Nepal expert Prof. Wang Hong- Wei so says talking to the BBC Nepali. BBC Nepali Radio Service Podcast.

settlement between the agitating partners endowed the Maoists with equal sits as the second biggest party UML. Most analyses have overlooked the fact the conflict terminated in a victory (not in negotiated settlement) because, the king fought on one side and the SPA-Maoist Alliance on the other, whereby the latter defeated the former. In the post-Gyanendra period, the power-sharing between the agitating groups entailed the winners' share only, not the losers'.

This fact explains to a large extent the inconclusive peace process because the winning partners tried to outsmart each other. In several other cases of civil war, one of the main reasons for continuation of war or instability is that one group emerges as incorrigible. The strategic and uncharacteristic alliance between the parliamentary parties and the Maoists succeeded only in ending the monarchy, but there were naturally doubts that whether the liberals and the radicals could become permanent friends. However, if the king put aside, there has definitely been a negotiated settlement between the rebels and the political parties, hence there is no clear distinction whether the war ended in a victory or a settlement.

Consequently, the interim parliament suffered from Maoists' obstructionism time to time unless other parties would (grudgingly) give in to their demands. The tallest leader GP Koirala himself, who had even denied using the term "republic" and made the Maoists acquiesce with terms such as "end of autocratic monarchy" and "complete democracy" in the 12-point, succumbed to Maoists' pressure by proposing the republic agenda in the re-instated parliament before the CA elections. There are speculations that the endorsement of several agendas in the interim parliament before the CA elections against the wish of big parties was nothing but India's ploy which it was pursuing through the Maoists.¹¹⁴ Senior Political Analyst Saurav unequivocally claims that republicanism is imposed on Nepal by India, and secularism by the West, hence Nepal's domestic politics is caught in the middle.¹¹⁵

Looking domestically however, beside the still-not-institutionalized termination of the monarchy and secularism as well as the assertiveness of some regions and groups, one would wonder if the insurgents achieved for what they had carried guns. But as a corollary of what they did, Nepal seemed to be mired in extreme polarization, endless transition and instability.

¹¹⁴ There are two opposing views on this crucial post-conflict period: one view goes that the government which led and endorsed all the new agendas in the interim parliament was unconstitutional, because of that Nepal has got to a point where it cannot find its way out unless the whole process is reverted. Another view is, although in principle the government was unconstitutional, it was under the people's mandate, and the agendas endorsed were the revolution's imperatives.

¹¹⁵ Saurav, 2013. Facebook. 30 September 2013. Available at: <<https://www.facebook.com/pages/%E0%A4%B8%E0%A5%8C%E0%A4%B0%E0%A4%AD-Saurav/144909905707765>> , accessed 05 October 2013.

Some do give credit to the Maoists for triggering the much-needed change process in Nepal, and claim that the condition the post-conflict Nepal is in, represents the unwillingness of the traditional forces to concede the defeat.

In addition, very ambitious time-frame to institutionalize all the agendas that would radically change the existing socio-political structure of Nepal explains the plight of the peace process. The view that the restructuring of Nepal solely represents either the Maoists' unilateral agenda laden by violence or an agenda imported from abroad and therefore carries a significant risk for the existence of Nepal, put on strong resistance to it. Some argue that the instability is precisely what India wanted so that it (India) would not loose its grip on Nepal since it (India) already did as regards its other neighbors vis-à-vis China.

The first CA elections were held in 2008 in which the Maoists surprisingly stood as the biggest party but fell short of getting the simple majority.¹¹⁶ Despite the extraordinary circumstances in the aftermath of the civil war and violence, and the sensitivity and urgency of the post-conflict agendas, thanks to the continuation of the daily ordinary game of the political equation and mathematics in the assembly, the CA collapsed. Due to the fact that parties were mostly engaged in passing or blocking bills and allying for ministerial portfolios, after two times extension of the mandate of the CA, it lapsed in 2012 without any new constitution.

Similarly, the issue of integration and rehabilitation of the combatants overshadowed the initial years of the constitution writing process as the Maoists looked quite determined to maintain their army (presumably to have the leverage). They were not only extremely reluctant to give in, but also through its Young Communist League (YCL)¹¹⁷ engaged in extrajudicial killings (Martin, 2010). The combatant management eventually completed in

¹¹⁶ Maoists secured around 30 percent of the total votes in the 2008-CA elections. The party bagged double the Nepali Congress vote (hitherto biggest party)- 220 total seats from First-past-the-post and the Proportional Representation. As a result, the total communist votes surpassed the non-communist votes in the elections securing 56.98 against 40.48 percent for the first time in elections history in Nepal. However, when the foreign observer, President Jimmy Carter, came ahead of the Election Commission to judge the elections as free and fair, it caused displeasure among many. Because, candidates of other parties were not allowed to fully being mobilized in the pre-elections days due to Maoists' and YCL's menace. Some time later as the facts started to come out, questions were raised about the fairness of the election day itself. Now, while preparing for the next CA elections in 2013, some striking facts and anomalies have emerged. For instance, in the Maoist Vice Chairman Dr. Baburam Bhattarai's constituency where he had bagged a landslide victory, it turns out that he had bagged more votes in 2008 than the total voters in the list now in 2013. This fact, even the then-Chief Election Commissioner Bhoj Raj Pokhrel admits as "allegations" in his book "Nepal Votes for Peace" co-authored with Shristhi Rana. However, the Chief argues that the elections had several flaws if compared to normal situation elections, but the overriding factor was one of the party had its own army, so giving peace a chance was the dominating factor. The fact that the election was not free and fair explains to some extent why this time the leaders seemed hell bent on not allowing any other party to lead the government before going for the elections, thus, they ended up accepting Chief Justice's government.

¹¹⁷ YCL is the politico-military youth wing of the Maoists.

2011, but not because the Maoists were willing to do so, but owing to the simmering displeasure and potential anarchy in the cantonments, the party had no choice. However, this caused a huge displeasure among hardliner members of the party-led by Mohan Vaidya.

The head of OHCHR¹¹⁸ and later also of UNMIN¹¹⁹, Ian Martin, observed that the activities of the Maoists undermined the encouraging prospects of peace which had initially been considered as an extraordinarily successful conflict resolution led predominantly by the national stakeholders themselves (Martin, 2010). Teresa Whitfield (2012) also put that apart from the initiative of the Humanitarian Dialogue and the UN General Secretary's "good office" during the early negotiation which failed, the international professional peacemakers arrived at the scene in the post-conflict period. The arrivals of peacemakers began to be called as "conflict tourism"¹²⁰ or the "Masala Peacemaking" (Whitfield, 2012: 155,169). However, given India's covert but fundamental role in the conflict and post-conflict evolution, which has been an open-secret, the fact that these international actors, who have had significant involvement in the peace process, have looked rather naïve in this regard only adds to the confusion.

Furthermore, some events reinforced the fear that the Maoists' principal objective still remained "state-capture". In a video released in a suspicious manner (allegedly by someone in the Nepal Army), then-PM Prachanda was seen "boasting his guerrilla troops number had been five-fold inflated during a UN count"¹²¹. His sacking of the RNA Chief RS Katawal not only reinforced the atmosphere of distrust, which the president revoked in controversial circumstances, but also jolted India for Prachanda's potential dilly-dallies in relation to China. In the same fashion, they (Maoists) circumvented the supposed understanding with G. P. Koirala and India on the presidential candidate by deceptively opting for elections since they had the majority of seats in the CA election.

Meanwhile, the intransigence of the Maoists in the post-conflict parliament gradually put other actors in a catch-22 situation. The Maoist leaders carried guns inside the legislature. They went on to pummel the Finance Minister on the eve of Budget Speech for ignoring the

¹¹⁸ The king's regime agreed to accept Office of the High Commissioner for Human Rights as his regime faced a heavy criticism nationally and internationally in relation to the violation of human rights and humanitarian law.

¹¹⁹ On the basis of the 12-point Understanding, both the SPA and the Maoists agreed on and invited the presence of the UN to immediately assist the CA elections, combatant managements and so on. It is said that India characteristically opposed the idea but, since G P Koirala asked India itself to carry out the task, it conceded. Similarly UNMIN departed without accomplishing the major mandate of combatant integration because India saw it as an unnecessary "white elephant".

¹²⁰ Commentator CK Lal so says, cited in Whitfield.

¹²¹ The Times of India. 2009. "Prachanda grapples with damaging video tape." Available at: <<http://timesofindia.indiatimes.com/world/south-asia/Prachanda-grapples-with-damaging-video-tape/articleshow/4492097.cms>>, accessed 25 September 2013.

Maoists' demand to block it, to show a few instances. Taking into account the imperatives of the post-conflict politics and the people's movement II's mandate, the Nepali Congress succumbed to the Maoists' demands. On their part, the Maoists applied the *fait accompli* policy just in case others backed away.

While some took the CA as now or never or do or die, others took it as an open-ended process. Mostly the lawyers involved in the CA argued in favor of completing the constitution writing within the original time frame of 2 years, regardless of the fact that the constitution would not satisfy all and sundry. The lawyers believed that the delay would only jeopardize the whole process. While others, mostly the concerned political scientists, argued in delaying so that the radical demands would die down or be somewhat accommodated. In any case, given the umpteen agendas laden on the anticipated constitution, and given the parties with opposing ideologies, from day one many doubted about promulgation of a new constitution. Besides, the CA did not function in a fully democratic way as it should have because top leaders made the CA hostage to their interest.

The Maoists claimed that they could not pass their agenda because they did not have the simple majority in the elections and because other parties did not cooperate and stuck with the status quo.¹²² One could also argue that the Maoists' tactic of forcing the interim parliament to endorse agendas which were not mentioned in the peace agreement caused the CA to be crushed under its own weight. For instance, scrapping the existing constitution of 1990, the declaration of the republic, secularism, federalization,¹²³ are what the intransigent Maoists foisted on others, particularly on the Nepali Congress so that the majority would endorse the bill in the parliament.

The growing polarization in the aftermath of the CA-collapse, consequently, between the political parties not only eluded Nepal from new constitution but also sidelined the leaders from power. Furthermore, the unified leftist parties that came to be known as the

¹²² It is cited that the disagreement over how to federalize Nepal, whether on ethnicity/identity base or capacity base (economic and resource), how many federations, what names, rights etc., became the cause of the failure of the CA. Some speculate the skepticism of China and India on the federalization of Nepal. In recent times, Indian and Chinese leaders have reportedly expressed their fear regarding the ethnicity-based restructuring of Nepal.

¹²³ The federalization agenda, basically, was brought up by the Madhesi movement, from the southern region, in 2007, which then other parties endorsed. This event not only brought an agenda but structurally influenced the peace process. The original signatories of the peace process lost their dominance since the new national force of Madhes emerged in the scene which further complicated the process. The Madhesi force, however, is not spared of controversy either as they are in general seen as the pawns of India mobilized to undermine the politics of Kathmandu. Besides, the long-standing controversy of allegedly granting citizenship to Indians in the Madhesi region has made the matter very complicated. It has to be noted that the most assertive group, the Madhesi People's Right Forum, had been a part of the CPN-Maoist as well. The split of the Madhesi faction from the Maoists had structurally affected the Maoist movement, reducing them to a force parallel to the Madhesi but not the most dominating anymore.

CPN-Maoist who waged the civil war from the mid-1990s ended up splitting during its post-conflict struggle.¹²⁴ After 7 years of the signing of the Comprehensive Peace Agreement in 2006, as of 2013-14 Nepal is still supposedly ruled under an interim constitution endorsed in 2007 which has been amended several times in controversial circumstances. But the much-anticipated all-satisfying constitution, which was the major demand of the Maoists, and later several other movements also wanted the same, still seems a far cry. The politics for more than a year after the CA collapse got stuck on disagreements over, not to write constitution but to go for fresh Constituent Assembly elections.

The elections were declared for November 28, 2013 amidst huge controversies but the questions remained: first, the repeating the same process which already failed; second, the splintered CPN-Maoist of Chairman Vaidya (along with over thirty small parties) vehemently opposed the election and warned the candidates of consequences; third, it was presumed that the next CA election was laden by foreigners on the unwilling national actors, thus, argued many, that although in principle holding elections is the best answer to ease the difficulties, but given that some national actors are not agreed upon some key issues, would anything change?

The ex-rebel party, CPN-Maoist (Vaidya's hardliner faction), a major force of the peace process was being left behind for whatever reason in the next elections, which left suspicion about the state of peace in Nepal in the days ahead. In the same fashion, suspicion about the fairness due to election related violence remained; as Nepal looked forward to holding elections in November, in October one UML candidate was already shot dead.

CA Elections 2014

Despite huge uncertainty, the elections took place in a largely peaceful manner and saw a record number of turnouts. The election results jolted all and sundry as the-then biggest party

¹²⁴ The hardline faction of Vaidya's CPN-Maoist had always been understood as a barrier for the Prachanda's and Baburam's UCPN Maoist to fully cooperate with the peace process, particularly regarding the handing over of the keys of the cantonments to the government. Finally, the party did so because of the growing anarchy in the cantonments. But at the same time agonized the Vaidya faction to the extent that it decided to leave the UCPN-Maoist. There are speculations that from within both parties are still together, it is not an ideological divide, but rather material/financial one. However, Vaidya's vehement opposition to the elections have raised several other speculations: first, Prachanda's tactic to maintain the hardliner faction as his plan B just in case if the mainstream politics does not favor him; or the party is acting under Chinese directives; or it is working for some inside or outside forces who are seeking to foil the elections etc. Some commentators see this in positive a light arguing that they sought to break the tradition of Indian involvement. In any event, given the dramatic change of instance of the mother party UCPN-Maoist against India, there is not any good reason to believe so with the Vaidya faction.

UCPN Maoists came out third with a huge difference of votes against the first and second parties Nepali Congress and UML respectively. Eventually, after few months of political wrangling, Nepali Congress formed its government with a coalition with the UML.

4.8 Conclusion and Implications

Nepalese experience sheds important light on the understanding of a civil war in the sense that the case has shown deep interrelations between the geo-politics and the fault-lines of domestic politics. The causes of conflict and the plight of the post-conflict process have shown strong correlation with the genesis of the nation-state itself vis-à-vis its geo-political position, particularly India. The relations between the domestic political fault-line and the outsider's interest has not been convincingly explained, but the tendency of playing on the fault-line by domestic power center itself and rallying for the support of the neighbor has significantly polarized the domestic politics and weakened the nation's sovereignty.

Similarly, the case also shows that, beside the ideological fault-lines and game of power, the social structure of the nation-state shows positive correlations with the geo-political threat. The dilemma of power devolution to smaller unit from the center against the backdrop of the perceived necessity to maintain a strong center has largely undermined the governance. A fully democratic and decentralized governance has been a far cry. The theory that India seeks a "controlled instability" in Nepal to maintain its sphere of influence, to exploit resources and to deploy own security apparatus seems the most relevant.

5. Theory of Constructivism and Norms in International Relations

The term “constructivism” is derived from the phrase “socially constructed” (Hurd, 2008:3). The “social construction” is the fundamental assumption of the theory of constructivism.¹²⁵ Constructivism sees the social world or social reality as a construct of knowledge. The structure of the societies or the global society and different social phenomena taking place around us are interrelated and interdependent with our own knowledge and perceptions of society. Some components, like actors or systems, of this social world may seem to be located away from us and beyond our control, but in fact they are our own construction-- for instance, states, inter-state relations, international systems, international domains etc.¹²⁶ Thus, scholars of constructivism contend that International Relations (IR) is not like the solar system out there (as observed by Jackson and Sorensen, 2003), it (IR) functions the way we ourselves have compounded it to function.

This worldview of the constructivists has motivated many scholars to re-examine the way other social scientists had been studying social political phenomena. This re-examination particularly affected the proclivities of those scholars for whom scientific methods were the foremost, thus treating the social reality as invariant material reality or a reality of nature.¹²⁷ Given this alternative view of examining social patterns, the understanding and interpretations of constructivism have identified a major anomaly in the explanations of the established tradition of IR, that is, neo-realism. For instance, Kenneth Waltz’s (1979) *Theory of International Politics* propounds a scientific theory of international politics on the basis of international “structure” which basically assumes that states (units) behave under the primacy of international “anarchy”. By contrast, the constructivist scholar Alexander Wendt (1992) refutes that anarchy by writing a ground-breaking article *Anarchy Is What States Make Of It*.

According to Wendt (1992), if such a reality as international structure of anarchy were to exist, that structure would not mean anything had not we ourselves given it meaning.¹²⁸ In

¹²⁵ For the definition of this phrase, refer to the definition section of this chapter.

¹²⁶ It is not only constructivism that argues for social construction as source of friendship or conflict between actors, and neither neo-realism discards the possibilities of change in each other’s behavior. Given the huge debate between these theories, constructivism remains more appropriately as methodological issue rather than proper theories like liberalism or realism.

¹²⁷ Constructivism lies in the middle of interpretivism and positivism. Thus, it is sort of middle path to do research. I will discuss later in detail about the methodologies, and where constructivism stands as regard “understanding” and “explaining”.

¹²⁸ Such argument of Wendt makes clear that there are not many differences between the components of these theories or their analyses. The only difference is whatever the world becomes or the way it works, the source of that is different. In other words, both Wendt and Waltz s see the world system and its dynamics in a similar way.

other words, Waltz's (1979) international anarchy is not like the sun above us that we cannot do anything about; it is not invariant. If anything, anarchy is the object (social fact) of our knowledge. Emanuel Adler (2002) elucidates that the objects of our knowledge come from our interpretations. Adler notes, rather importantly, that knowledge is both the resource for construction of social reality and the tool to interpret that social reality. This shows the vital interrelations and interactions between the social world, its meaning, the knowledge that gives it meaning and the source of that knowledge (Adler, 2002). Thus comes his remark that a "constructivist sees the world as a project under construction, as becoming rather than being" (Adler, 2002: 95).

5.1 Constructivism as post-Positivism

This philosophical attack of Wendt on Waltz's international structure represents nothing else but a long-standing resistance of those IR scholars who never digested the scientific attitude of others that emerged in the 1950s and 60s in the US in the form of scientific behavioralism in political science. The scientific method applied to International Relations, also known as "positivism", shook the classical scholars of those times who basically relied on history, philosophy and law (Jackson and Sorensen, 2003). The triumph of positivism during the Cold War gave birth to powerful scientific theory like Waltz's neo-realism.

Waltz criticized the systemic positivist methodology by saying that the world system is different from the natural system, and, arguably, that a "reductionist" methodology is not enough to explain the world system and he went further to develop the structural theory (Buzan and Little, 2000)¹²⁹. However, after the unexpected end of the Cold War, the group of theories known as post-positivist, counterattacked the scientific theories of IR and they are: the normative theory, post-modernist theory, critical theory and constructivism.

These four post-positivist theories¹³⁰ share some basic lines of ontology, but from their common base each one embarks on a separate epistemology. Critical theory shares its view with constructivism that there is no objective external reality, thus the social world is a construction of time and place. What is unique to this theory is that the critical theorists believe that, although social knowledge constructs the international system, it is not value-

¹²⁹ Waltz was not satisfied with Melvin Small's methodology of quantitative analysis, correlation between variables, causal mechanism in systemic perspectives that could not explain the system at the unit level.

¹³⁰ I draw upon Jackson and Sorenson, 2003 for briefly explaining these four post-modernist methodologies.

free, or in other words, knowledge is biased. They emphasize the prevailing inequality of the social world and attribute the social construction to powerful states.

Postmodernism, similarly, takes the social world as inter-subjective as does constructivism. It does not differ significantly from what the critical theory assumes. It is skeptical of the social science tradition that seeks to build an objective knowledge of social phenomenon. The postmodernists call the scientific attitudes of scholars as “conceptual prison” (taken from Jackson and Sorenson, 2003:250). They argue that seeking to accumulate objective knowledge of the social or human world is tantamount to having religious faith or belief. While critical theory stresses the bias of the researcher, the post-modernist questions the so-called “truth” that the positivists try to reveal.

Normative theorists, like their postmodernist or constructivist counterparts, assume that the social world and systems are made of inter-subjective understandings, or ideas and beliefs. This theory emphasizes on the basic moral issues of International Relations. There are two strands of normative theories. One takes human beings as its unit of study assuming that humans are the ultimate units carrying rights and ethics of the world system; this is known as cosmopolitanism. Another takes states or communities as units of world system, this is known as communitarianism. Normative theory criticizes positivism for falling short of dealing with moral dilemmas of International Relations.

5.2 What Constructivism has that others do not?

IR has a multitude of theories and methodologies that questions one another’s primacy, which basically stems from different ontological and epistemological stances of theorists. But at the same time, the ontological stance is shared across different paradigms for instance, constructivists cannot or do not take the social world differently from neo-realists. Both share the view that components like power, interests, norms, institutions, economic capabilities and distributions, identities etc. determine actors’ behavior.

Similarly, both share the epistemological stance also in that the social world reacts to “structure”, but for neo-realists that structure is invariant, whereas for constructivists that structure is socially constructed and undergoes a metamorphosis. Neo-liberals also share with constructivist argument that the structure undergoes a continuous change. Neo-liberals attribute this change to learning processes whereas constructivists to the social construction. For neo-realists, states’ behavior is constrained by the structure; by contrast, constructivists argue that the social structure not only constrains but constitutes behavior.

Neo-liberals had already challenged neo-realists for falling short of explaining the cooperative behavior of states under the anarchic structure by arguing that through learning processes the structure not only produces war but also cooperation. It is not the case that neo-liberals are said to be analyzing only behavior by keeping identities and interests constant as they are endogenizing identities and interests of actors by learning process (Wendt, 1992). This leaves only one component that is unique to constructivism, namely the fact that it endogenizes identities and interests like neo-liberals, but by social construction (Hurd, 2008).¹³¹ It is also worth noting here that constructivism is not only about norms, but also about interests. But it endogenizes interests. Similarly, neo-realism also takes norms into account, but take norms as second to interests and interests are fixed.¹³²

5.3 Constructivism-Source of Realpolitik

Taken at face value, one tends to separate constructivism and realism as two sides of one river which never meet; they are two different world. But the fact is that constructivists also accept *realpolitik*. But they have shown that even *realpolitik* does not stem from structure, but from ideas. In other words, the source of *realpolitik* strategic behavior is not structural or material, but ideational. Alastair Iain Johnston (1996), in his article *Cultural Realism and Strategy in Maoist China* examines the Chinese cultural historical strategic behavior across different regimes and shows that China's strategic thinking does not correlate with structure but with its culture. He argues that throughout the history China had "relatively consistent hard *realpolitik* or *parabellum* strategic culture" at different structures of different times including the Mao era (Johnston, 1996:216-268).

5.4 Constructivism vs. Rationalism

The so-called Great Debate between rationalism and constructivism has strongly marked IR studies. The debate touches on all integral aspects of the two; ontological, methodological, analytical and empirical (Fearon and Wendt, 2002). But why this debate? There are,

¹³¹ Wendt himself has admitted that at this point, the difference between neo-liberalism and constructivism is extremely minimal. Ian Hurd has pointed out that the "social construction" is the only difference, disagreeing with most other scholars who sees the difference in "behavioral" analyses of neo-liberalism who keep identities and interests exogenous.

¹³² It is important to have precise definition of what is interest and what is a norm in order to understand what the theory is trying to explain. Sometimes norms and interests are coincided and sometimes not. Besides, this should not be confused with the interest that is inherent in every human action. Under the norms theory chapter, I have summarized what the norms scholars have to say about this particular issue.

generally speaking, two opposing schools of thought. One sees the debate as a zero-sum game because the two theories have different ontology, hence there is no point in trying to compare. Another sees a win-win game because both theories are more about methodologies than about substantive theories. They are more complementary than competing, thus a synthesis between them would be an added-value in IR studies. The realization of constructivist scholars that rationalism also deals with norms and ideas in world politics, and that “norm entrepreneurs” are equally rational while pursuing their interests, Martha Finnemore and Kathryn Sikkink (1998:893) have discussed this link between the two, which is discussed under the chapter of norms later.

Given that political science has borrowed useful ideas from economics and sociology, and rationalism is built on economics and constructivism on sociology, each theory allows us to ask some questions, but not others (Katzenstein et al., 1998). Peter Katzenstein, Robert Keohane and Steven Krasner (1998) argue ,

[...] if you have a puzzle, formulate it as a problem for rational actors with unproblematically specified interests, competing in a situation characterized by scarce resources. Constructivist theories, in contrast, look to the humanities and sociology for insights into how “reality”, including the interests that partially constitute the identity of actors, is socially constructed. (Katzenstein et al., 1998: 646).

This worldview implies that each theory seeks different answers. On the other hand, the constructivist Wendt and the rationalist James Fearon see the rivalry from the flip side. Since the debate seemingly was or is leading us nowhere in better understanding the social truth, Wendt and Fearon filtered several aspects of the “bones of contention” (Wendt and Fearon, 2002: 58) and recommended to focus on pragmatic views, that is, scholars should be seeking problem-driven questions and answers but not method-driven ones. The necessity of this synthesis was recognized by several other constructivists like Martha Finnemore and Kathryn Sikkink (1998), Audie Klotz (1995) and Jeffrey T. Checkel (1997).

5.5 Agent-Structure Problem

Unlike the fight of two camps of rationalism and constructivism, the agent-structure debate represents the debate *within* constructivism. Adler (2002) explains the debate in the following ways.

The debate focuses on whether the IR should revolve around actors, structures or both. Wendt, targeting Waltz's and Immanuel Wallerstein's theories, argued that the international structure on the one hand can only constrain state agency but cannot constitute and on the other hand, world systems are only structures. Thus, Wendt argues that since social structures depend on practices and self-understanding of agents, structures explain the causal powers of agents. Wendt chooses to avoid this one-sided view and emphasizes the inter-relationship of both. Adler mentions that Wendt's view has been criticized by Hollis and Smith on the grounds of "level of analysis" and the *explaining vs. understanding* approach.

5.6 Sovereignty

Constructivists assume that sovereignty was/is not a given structure, but an evolutionary concept. 'Thomas J. Biersteker (2002) shows that the founding components of sovereignty, i.e., territory, authority and identity, evolve with changing practices, which he proves by historicizing and contextualizing the concept in the following way.¹³³

He argues that the absolute Westphalian sovereignty is just ideal, and in the contemporary world, sovereignty has become conditioned by several factors. For instance, for the recognition of a new state, in the early 20th century it was enough to accomplish minimum Weberian criteria, but that was added up to the factor of political alignment in the mid-20th century, and now, the democratic character of government is added up to the recognition criteria. However, these criteria are not universal either. US recognized Croatia's and Bosnia's sovereignty without their "firm" territorial boundaries.

Similarly, the forms of states in the beginning of the 20th century were more empires than states, transformed into nation-states in the middle of the century and by the end of it, some appeared to be failed states (in Africa), while others emerged as a sort of superstate (in Europe). By the same token, in the contemporary world, the advanced and post-industrial

¹³³ This summarization of Biersteker's article has been published as a part of my article "Nepal, India and Sovereignty" on Telegraph Nepal. See Sigdel, 2013a.

states have come to understand sovereignty in the terms that “intervention is legitimate to secure democracy”; whereas, the developing states understand it as “non-intervention in domestic affairs is inviolable” (Biersteker, 2002:166).’ (Sigdel, 2013a)

Wendt (1992) ascribes sovereignty and state’s interests to social construct in the following way.¹³⁴

‘Sovereignty is an institution established by the widely held practice of mutual recognition of states. It is an established norm in the international system, but not a given structure. This institution only exists in virtue of intersubjective understandings and expectations. Recognition of one’s sovereignty by others not only creates state but also community because identities are relational. This community recognizes each other’s right to territorial existence. Although states fight for borders, this does not change the fact that state sovereignty is mutual recognition. He further says that the norm of sovereignty is taken for granted to a far extent. Sovereignty is an ongoing practice, it does not exist apart from practice.’ (Sigdel, 2013a)

‘The reason why the US does not annex Bahamas or why Nigeria refrains from seizing Togo owes not that much to the fear of sanctions than to the norm of sovereignty. Similarly, small states rely on “institutional fabric of international society” than national means (Wendt, 1992:415). They learn that the “collective recognition is a cornerstone of security” (Wendt, 1992:415). The same European states where the military power and the principle of nation-state and nationalism were the foremost in the mid-twentieth century which resulted into World War II, now their interests and identities have been transformed from within into a collective European identity under a supra-national institution. However, power does play a role in community of states, some states threaten others’ existence, but even this behavior hovers around the terms of sovereignty.’ (Sigdel, 2013a)

5.7 Identity

As discussed above, sovereignty evolves with practice; in a similar fashion, constructivists look at the phenomenon of identity, which is not fixed either. European integration obviously has been an ideal case of identity transformation for many scholars. Even though critics claim

¹³⁴ This summarization of Wendt’s article has been published as a part of my article “Nepal, India and Sovereignty” on Telegraph Nepal. See Sigdel, 2013a.

that identities do not change that easily as constructivists argue (Mearsheimer, 1994 as cited in Adler, 2002), drawing on the historical arguments of the formation of nationalism, European integration, they have shown that identity transforms (Adler, 2002). Identity is at the base of constructivist analysis as it constitutes state or actor's interests. Here "identity" means the combination of actor's image and role vis-à-vis others' image and roles. Identities of national groups expand beyond national borders and become security communities (Adler, 2002). The identity transformed in the case of post-war Germany which embraced Europe as its own identity. (Adler, 2002).

Richard Hermann (2002) has defined collective identity in relation to constructivist's exploration of identity formation process in the following way:

It refers to the boundaries of a group examining who belongs to the group: "the attributes of a prototypical group member" and the relationship between collective actors. Hermann (2002) talks about the literature of nationalism putting it in the constructivist camp to explain the changing identity as social construction. He does so to find the answer of why people identify themselves with a particular group or nation, or why such conceptions become politically significant etc. He argues that scholars have relied on the causality of mass politics and emergence of nationalism given that the French and American revolutions engendered the conception of sovereignty and political authority.

5.8 Institutions and Ideas

Constructivists, under the domain of institutions and ideas, study how the ideas and mindset instantiated at and promoted by international institutions make their way through to the formation of states' interests (Hermann, 2002). The phenomenon resembles the normative process where states reconstitute their identities through the norms promoted by international organizations. But norms studies show that states do so as they understand them (norms) as appropriate behavior, but not as the political utilitarianism. The study of institutions and ideas focuses on the genesis of ideas at the institutions before the states, and whether institutions encourage cooperation. Scholars do so either by process-tracing where the idea first came, and the correlation logic if states pertaining to the organizations adopted more ideas than those who are outside (Hermann, 2002).

Hermann explains that, unlike the above-explained constructivist phenomenon, a neoliberal institutionalist, Keohane, has developed a theory about institutions and

cooperation. In this theoretical paradigm, states are not seen as redefining their identities, but international institutions or organizations supervise and verify whether rules and norms are followed by states in the world system. Keohane and Lisa Martin have argued that the institutions, through their verification mechanism, and by extension, warnings, sanctions and adjudications, help states to overcome security dilemma (Hermann, 2002:128). This theory has been empirically tested in economic and security studies (Hermann, 2002).

5.9 Literature Review

5.9.1 Alexander Wendt's *Anarchy is What States Make of It: the social construction of power politics*¹³⁵

Wendt (1992) departs with the following point of concern: to what extent is state action influenced by the structure (anarchy and distribution of power) versus influenced by the process (interaction and learning)? He argues that since both neo-realists and neo-liberals rely on rationalism, and as rationalism only analyzes behavior but not identities and interests, neo-liberals and neo-realists share the belief that agents, i.e. “states define security in self-interested terms” (Wendt, 1992:392). Since the self-interested or self-help policies of states are not understood as institutions, they are “unaffected by interaction” (Wendt, 1992:392). Thus, he argues that some behavioral adaptations may become possible through learning, but that (learning) does not redefine identities and interests.

Although some weak liberals agree with neo-realism that the structure dictates, they (liberals) also see at least some possibility of cooperation under that anarchic structure, not only war. Liberals argue that such cooperation happens by the help of “process” despite the fact that self-help system or anarchy is exogenously given. Some strong liberals go one step further and agree that identities and interests are transformable. Wendt mentions the following authors in that regard: for instance, through Joseph Nye’s “complex learning”, Robert Jervis’s “changing conceptions of self and interest” and Keohane’s “sociological” conceptions of interest (Wendt, 1992:393). However, this does not satisfy Wendt because these liberalists are still giving in to the primacy of structure over process. The reason is that

¹³⁵ This particular article of Wendt has been summarized following the same headings and subheadings of the original article, and in many cases using the same terms because otherwise it would be difficult to interpret well his arguments. The reason for summarizing this article in this way is that this article could elucidate the concept of the theory of constructivism in a complete manner and that the shortened version of the article would be useful for the readers to understand constructivism.

they are overlooking the fact that the transformation of identities and interests transform the structure. Thus, they cannot explain how changes in the system occur. Beside Wendt, the constructivists Friedrich Kratochwil and John Ruggie also oppose this rationalist positioning of liberals (“ontological individualist”) with the “intersubjectivist epistemology” to show why liberals or regime theorists could not explain the change.

In order to enlighten the changing process of the world system that liberals did not explain, Wendt focuses on the idea of “social construction of subjectivity” (Wendt, 1992:393) derived from the social theories (called “reflectivist” by Keohane), and tags the theory as “constructivist” by borrowing the term from Nicholas Onuf. The reason he brings this dimension into International Relations is that even though different social theories are not without differences, they all share the concern with the “sociological” issue sidelined by rationalists, i.e. the formation of identities and interests. At this juncture, he points out that both constructivists and strong liberals come very close with regard to explaining the formation of interest. The difference is that constructivists rely on the process which is cognitive and intersubjective, therefore, they take identities as endogenous; whereas rationalists consider identities exogenous.

Wendt aligns himself with modernist constructivists¹³⁶ as he elaborates his work on behalf of the liberal claim that international institutions can transform state identities and interests. He hopes that, by doing this, constructivism itself may benefit because constructivists had been neglecting the learning and cognition of liberals. For that purpose, he follows the strategy of showing anomalies in the neo-realist assumptions, some of which are described below.

The self-help world is not because of the structure but because of the process; it does not have a causal relation with anarchy nor is it logical to claim that it does; “self-help and power politics are institutions, not essential features of anarchy”; “anarchy is what states make of it”; “... power politics is socially constructed under anarchy”; (Wendt, 1992:395) identities and interests are transformed under anarchy through sovereignty, cooperation, and transformation from egoistic to collective identities.

¹³⁶ He compares between modernist and postmodernist constructivist as regard to epistemological debate.

Anarchy and Power Politics

Wendt criticizes Waltz's dismissal of the role of first image (human) and second image (domestic politics of state) in making of the third image (international) arguing that the causes of anarchic systems come from the former two. He argues that the fact that the anarchy may or may not have power politics as states are not fighting all the time, is determined by the practice in the realm of first and second image or by human or domestic factors. Thus, neo-realism fails to explain the shaping of what character, war or peace the anarchy will have, and hence power politics or self-help is taken as an independent factor given by the structure. Therefore, he starts to un-knit the anarchy in the following ways; anarchy does not pose self-interested security conceptions; self-help politics are the result of interaction of states, where anarchy is only permissive; and first and second image cause identity-formation in different types of anarchies.

Anarchy, Self-help and Inter-subjective knowledge

Wendt contends that Waltz's definition of political structure does not talk about states' behavior, thus it cannot explain whether two states will be friends or enemies. State behavior cannot be seen as logically deriving from anarchy. It is the intersubjective understanding between states if whether they want to maintain status quo or fight; thus, the self-help politics. The constructivists' fundamental assumption is that people give meaning to objects, and according to that meaning they act or behave. He gives the example of British missiles that do not constitute threat to US interest compared to Soviet's missiles .

It is the collective meaning that determines states' action; for instance, if the US and Soviet Union had decided that they were not enemies any more, Cold War would have been automatically over. If society "forgets" that there is any institution or structure called university, then automatically professors will cease to exist. The distribution of power can "affect states' calculations", but depending on the "distribution of knowledge" (Wendt, 1992:397).

From collective meaning actors acquire identities, usually multiple identities. The multiple identities, for instance, of a state are; a state is sovereign, imperial power and so on. States or actors acquire identities while confronting different situations and by institutionally defined roles. Identities are relational. and "are the basis of interests" (Wendt, 1992:398). If we say professors have "interests" in research, we are speaking on the basis of a role-identity

of the professors. If they do not do research, they will not get tenure. The absence of roles creates confusion, just as in the absence of Cold War that would define its identity, the US was confused about its interests.

Institutions are cognitive entities and they exist in the collective knowledge of actors. Thus the identities of actors and collective cognitions are “mutually constitutive”. So, the institutionalization is a process of internalizing identities and interests and it is also a cognitive process, not only behavioral. Therefore, institutions can be cooperative or conflictual. They are relatively stable self-other relations defined intersubjectively. Self-help or the security of the self depends on the cognitive identification of each other. In a “competitive” security system, states are skeptical of their intentions, so under anarchy states are worrying about relative gains (realism). In an “individualistic” security system, states are indifferent to others, and although they are concerned about their own security, they are only worrying about absolute gains (neoliberal).

Both systems are self-help forms of anarchy and due to lack of positive cognitive identification, states try to manipulate others for their own interests. By contrast, in a “cooperative” security system, given the positive cognitive identification of each other, self-security transforms into collective-security. Here the “self” is not self anymore, because it is the whole. Therefore, this “collective security” arrangement restructures power politics in terms of shared norms rather than relative power.

He argues that the International Relations scholars see power and institutions as two different or rather opposing components of foreign policy which is faulty because they do not see the intersubjective aspect. He explains that power is something constituted by the “self-help” factor, which is intersubjective understanding. Similarly, there are other institutions, like self-help, that constitute other types of anarchy, like cooperation. Therefore, in order to go from structure to action, on the three-part definition of structure of Waltz, a fourth element should be added, that is the intersubjectivity. In the very first encounter of states, since they have no positive or negative conceptions about each other, it would be too much of an assumption to say that they automatically have a security dilemma. Anarchy does not constitute self-help or security dilemma, it is an institution, argues Wendt.

States, in their original state, consist of domestic society and desire to survival; but still there is no “self-regarding”, because before any interaction with others, there is no self. How states view this desire to survive depends on the processes, and the “self” emerges from there. So, are the “foreign policy identities and interests of states exogenous or endogenous to the state system?” (Wendt, 1992:402) Waltz says they are endogenous to structure, but while

saying this he already pre-supposes self-help, which is not a constitutive feature of anarchy. James Morrow argues that Waltz's mechanisms of competition and socialization (structure) only affect behavior but not identity and interest.

Anarchy and the social construction of power politics

If self-help is not constitutive for anarchy, then anarchy is only permissive. Therefore, in this situation, when states encounter one another for the first time, they understand that "only self-regarding conceptions of identity can survive" (Wendt, 1992:403). This means rationalism and neo-realism make sense when they keep identities constant. But even in a permissive causal situation, the anarchy can restrict interaction and other possible forms of anarchy. Wendt introduces the mirror theory which asserts that the self is a reflection of actors' socialization.

Then he elaborates the metaphors of ego and alter-ego, as well as the alien's arrival on Earth to show that the society exists because of probabilities, not because of "worst-case possibilities" (Wendt, 1992:404), and that these are produced by actors' interaction, and that the social threats are constructed, not natural. Wendt explains that the "social act", which comprises of several gestures like signaling or responding, starts developing intersubjective understanding. It is the interaction that rewards actors for having certain ideas about each other, creating relatively stable self and other. His figure module discusses the competitive and cooperative security system already discussed earlier in this summary.

Predator states and anarchy as permissive cause

Some states are predisposed to predation, however, the possible attacks of predators do not mean that others would react or that war may occur any time soon. In any event, once the predator emerges, it conditions identity and interest formation in certain ways. Depending on the capabilities, weaker actors form alliance to defend against the predator. If the predator is still undefeatable by the alliance, the balance of power politics will be reestablished. But if the structures of identities and interests are already Hobbesian, then emergence of alliances becomes difficult. Moreover, when the predator goes away the allies themselves start to fight. The timing of the predation's emergence matters. Will the disappearance of Soviet threat cause fights among NATO members? Since identities and interests are relationship-specific, perhaps they may, but if there exist other threats other than Soviet then they may not.

Wendt argues that where predation comes also makes a difference. If it comes from within a state but not from systemic interaction, then it becomes a “genetic trait” which cannot be unlearned. But if the predation is from systemic interaction, that is amenable to change through processes. Hence, regardless of whether the predation is endogenous or exogenous to the system, it is what states do that determines the quality of their interactions. This explanation is consistent with classical realism as opposed to neo-realism because the latter does not need predation, because self-help is given. At this point, Wendt realizes that the role of human nature and domestic politics play a determinant role in world politics at the expense of systemic theory, which begs a revisit of the first-, second-, and third-image theories of state identity-formation. This put aside, he argues that the realist-rationalist alliance reifies self-help and treats it as foreign to human, but not internal. Far from being exogenous, the competition is constructed by the process of “social will formation” (intersubjective knowledge) (Wendt, 1992:410).

Institutional Transformations of Power Politics

Although socially constructed, world politics is not necessarily malleable. Once constituted, social system promotes some behavior while barring some other. Self-help rewards competition while punishing altruism. Besides, with the fear of consequence of breaking commitments to domestic constituencies or to foreign allies, identity is not transformed.

Sovereignty, recognition and security

Wendt argues against the Hobbesian state of nature, which assumes that states can stand on the basis of their “material capacity to deter threats from other states” and that the capacity to become and remain a state does not bear any relation to social recognition (Wendt, 1992:412). Under the section of “sovereignty” earlier in this chapter, Wendt’s explanations are discussed.

Cooperation among egoists and transformations of identity

Sovereignty transforms the Hobbesian type world system into a Lockean one of “egoistic conceptions of security”, enabling states with more cooperation, thus causing interdependence (Wendt, 1992:416). But interdependence could equally lead to conflict or to

cooperation. While “the game-theoretic analysis of cooperation” is basically behavioral, in constructivism the process of cooperation reconstructs states’ interests based on shared social norms (Wendt, 1992:417). The author uses the example of Europe at the end of the 20th century to show the difference between rationalist and constructivist explanations. While the former explains that, despite the changes in the Soviet threat and the rise of Germany, European states would remain with the same interests as forty years earlier, the latter claims that meanwhile the states have redefined their interests, thus Europe in 1990 would not be that of 1950.

Critical strategic theory and collective security

Roles are changing by the “creative capacity” of actors (Wendt, 1992:419). Such situations arise when new social situations become inevitable, and the reward for being renewed will be greater than the costs of role change. Given these conditions, actors transform their identities and interests or rules of the game (the structure) according to which actors behave. The author elaborates this theory - how a competitive security system transforms into cooperative one - with the aid of Mikhail Gorbachev's policy of New Thinking. The breakdown of consensus within the Soviet Union about Leninist theory for several reasons resulted into a rethinking of old identities and redefining of new ones.

But rethinking only ones own identities or ideas will not be enough given that the old identities are sustained by the system of interaction. Therefore, the practice between alter and ego makes one another adapt the changed identities. This practice should contain actions from one state that would convince the other that it does no longer pose any threat, one example being Gorbachev's pulling out of Afghanistan. He put the ball in the West's court to act on his redefined interest and identity. Wendt argues that, in order for such practices to be able to transform a competitive security system, when one state adopts confidence building measure, others should reciprocate by rewarding the former.

5.10 Criticism of Wendt's Theory

Adler (2002) notes that Wendt has been criticized by his constructivist counterparts themselves, mostly along the following lines:

- instead of providing structures that entail domestic construction and thereby enabling us to understand International Relations better, Wendt reinforces Waltz's theory of inter-state system.
- Wendt's unequal treatment of agents and structures, "bracketing" the domestic sources of identity constitution, makes his theory unable to explain the rise and decline of international societies.
- the theory is unhelpful for the study of "transnational communities" or "security communities" (Adler, 2002:108). Wendt's reification of the state is because the fact that a subject that makes decisions on behalf of a state is not unitary eludes him.

5.11 Concluding Remarks

Towards the end of the Cold War, some scholars who were not satisfied with the dominant realist and liberalist explanations vis-à-vis powerful states' behavior in some occasions where no clear self-help or self-interest was present, started an alternative approach to examine the puzzle. These scholars borrowed elements and ideas from sociology and psychology - the social construction - which came to be known as constructivism (in IR). They typically followed the method of identifying those gaps in the realist and liberalist explanations that begged some convincing answers.

As the world system went through a transition during the end of the Cold War period, while states and realist scholars had not figured out what new identities, interests and policies would appear, constructivists spotted this weakness and exploited it; they problematized states' identity and interest with the aid of the social construction argument which was unprecedented in the field. As they succeeded in producing a good flow of convincing explanations using such arguments, studies under this approach have been burgeoning over the last two decades.

5.12 Definitions of Terms and Concepts

The terms and concepts essentially applied to the theory of constructivism in International Relations, along with the terms borrowed from the theory of neo-realism are as follows.

Constructivism: The theory of IR that claims that the *source* of all the components of international system, for instance, state's interests, strategies, patterns of behavior, anarchy, cooperation, enmity or affinity among states etc. is the *social construction*.

Social Construction: This is the lifeblood of constructivism. The social world where we reside is the source of our knowledge, and we use that knowledge to interpret that social world. So, it is a circular process. This creates our social reality, which is a social construction. It is precisely this argument that distinguishes constructivism from other "scientific" theories or positivism that takes the social world as the sun and the moon, which are not dependent on our knowledge and interpretation.

Inter-subjective Understanding: The ideas and beliefs that are shared among actors, and these shared understandings are put into practice (institutionalized).

Institutions: The intersubjectively understood practices such as: sovereignty, human rights, democracy. If there is any "anarchy" as such, even that is institution.

Norms: The "institutions" stated above - sovereignty, human rights, democracy - are also understood as norms. Norms are also the appropriate behavior or standards of behavior of actors that are consistent with shared values. Constructivism ideally says that actors' identities and interests are shaped by norms. But if not, it borrows the argument of rationalism that says that actors' identities and interests are always already there, so norms cannot change them from inside; nevertheless, actors follow norms with cost-benefit calculations. Constructivists treat norms as independent variables, but for neo-realist norms are secondary to interests.

Identity and Interest: Actors' identities are what they are and how they are. Actors' interests are what they do or they believe that they should do. Their interests come from their

identity. Over time each actor or agent has made up an identity or existence, thus its behavior or interest is correlated with its identity. What is unique of constructivism is that identity and interest are continuously changing due to social construction.

Structure and agent: Structure is the platform on which the agent acts. For instance, the UN is the structure and the member states are the agents. Depending on what structure, individuals or non-state actors, social organizations etc. can be agents. Constructivism does not like to separate structure in 3 different levels or units of analysis like in neo-realism: international, state, and individual level. That is why constructivists claim that they have pluralism in unit level analysis.

Modernist Constructivism: Those scholars who have mixed the “scientific” and “unscientific” methods, or put another way, have combined “explaining” the causal mechanism and “understanding” the constitutive relations of social phenomenon are modernists. They are Martha Finnemore, Jeffrey Checkel, Emanuel Adler and Michael Barnett, John Ruggie, Peter Katzenstein, Alexander Wendt and Thomas Risse-Kappen (Adler, 2002:98).

Modernist Linguistic Constructivism: The modernist linguistic constructivists also combine the explaining and the understanding, but emphasizing language and rules. While the modernists use objective hermeneutics, the linguistic modernists use subjective hermeneutics. They assume that the rules and discourse form a process which constitutes social facts. The known scholars are Nicholas Onuf, Friedrich Kratochwil etc. (Adler, 2002).

Radical Constructivism: The radical constructivists strongly adhere to the analysis of language, discourse and narratives. They reinforce the primacy of language and statements. They are agonistic towards material reality. (Adler, 2002)

Critical Constructivism: This is a pragmatic approach that stresses a better understanding of social mechanisms. This means it accepts that there is something called material reality outside human interpretations. While the radical constructivists follow subjective hermeneutics with deconstructionist view toward knowledge, the critical follow the objective hermeneutics (Adler, 2002)

Neo-realism: Unlike previous theories of realism, neo-realism stands upon the scientific explanations of international system which is believed to comprise an international structure. The units or the states are secondary to structure because it's not the state but the structure that makes them decide their moves. Kenneth Waltz propounded this conception which basically drew upon the economics mechanism where it is the market that sets the price of goods, not the seller that sets the market.

International Structure: This is the lifeblood of the neo-realist theory. This structure determines states' action. Here the actor is the state, because this theory takes state as the unit of analysis. Changes in structure occur when powerful state capabilities rise or fall. It is precisely this structure that distinguishes this theory from other realisms. Neo-realism is a scientific theory in the sense that it takes the international structure as the unchangeable solar system that states cannot change. The structure is made of international anarchy.

International Anarchy: Although all states are equal in principle, their capabilities vary. The powerful states dominate the system in which there is no supreme authority to control the behavior of these states. Therefore, the states are concerned with their security and survival and balance of power. The system is prone to war.

Levels of Analysis or Image: First Image: this is also known as individual level analysis in which personal traits of leaders or other individuals are studied.

Second Image: This is also called state level analysis. Here the domestic politics of states are studied.

Third image: This is the international level analysis. Here the inter-state relations, international institutions, etc., are analyzed.

Material vs. Ideational: This comparison is usually applied to differentiate neo-realism from constructivism. While Neo-realism epitomizes material power such as military and economic capabilities and power distribution, constructivism upholds the primacy of ideas, intuitions, norms etc. in International Relations.

Neo-liberalism: Liberalism focuses on progress, change and good of human beings. The early liberalism focused on democracy and idealism. Neo-liberalism gives a scientific turn to liberalism and removes idealism (Jackson and Sorenson, 2003). The institutionalist liberals, interdependence liberals, sociological liberals and republican liberals are neo-liberals. Neo-liberals like Joseph Nye, Robert Jervis and Robert Keohane come pretty close to constructivism by the virtue of their arguments that the identities and interests transform with “complex learning”, “changing conception of self and interest” and sociological conceptions of interests (Wendt, 1992:393).

Rationalism: Rational choice examines only behavior while keeping identities and interests constant. Both neo-realists and neo-liberals (to large extent) use rational approach. In rationalism actors make decisions keeping in mind its cost and benefits, or consequences of following some norms, but not internalize them. While in constructivism actors internalize norms, thus changing identities and interests. In rationalism, identities and interests are fixed.

Behavioralism or Positivism: This is a conception of international system that sees the social world akin to natural world, hence the facts and truth about the social phenomenon can be explained by the same method applied in natural science; this methodology sought to develop systemic perspective in International Relations. The positivists tend to quantify the data to examine causal mechanism of the society. The behaviorilists focus on human behavior, thus sees the organizations or states not other than the structures composed of humans. In the early days of this tradition, Small and Singer applied the positivist method (Buzan and Little, 2000).

Post-positivism: The post-positivism theories or methodologies are the constructivism, postmodernism, critical and normative theory. They all refute the positivist way of treating social components and social phenomenon as scientifically observable or measurable facts separating completely from human knowledge and interpretations.

5.13 Norms in Constructivism

Constructivists have shown that norms can not only independently matter vis-à-vis interests, but also constitute the interests themselves (Adler, 2002; Finnemore, 1993; Finnemore, 1996; Finnemore and Sikkink, 1998; Klotz, 1995; Checkel, 1997; Wendt, 1992). Hence, norms are undoubtedly embedded in global social phenomena from systemic to domestic levels. Even though realists, rationalists, institutionalists and constructivists give norms different priorities and understand norms mechanisms in a slightly different way from each other, in reality, norms *are* affecting actors' decision-making in several ways. For instance, if not through power, then norms matter through "influence" in the international arena as the Scandinavians have shown (Gärtner, 2001:5). Similarly, if not through material power, norms matter through "social power" (Ingebritsen, 2002). Neo-realists or structuralists do see norms as epiphenomenal to power, which in a way reinforces the effect of norms.¹³⁷ Liberalists argue that norms constrain or regulate behavior.

Some adopt norms and internalize them and accordingly allow the reconstitution of their identities - this is what constructivist scholars like to explain. The rationalist argument is that some adopts norms instrumentally through a cost-benefit analysis. It is a matter of debate whether rationalists agree to some extent that the cost-benefit analysis of norms reconstitutes identity to some extent or identity remains unchanged.¹³⁸ In the context of this study, since the research question is rather problem driven than methodological,¹³⁹ as regards the theoretical framework, assumptions of both schools are combined as several other constructivists have already conducted their studies (for instance, see Checkel 1997, Klotz, 1995).

This combination has been a result of continuous debate between rationalists and constructivists over the role of norms in relation to identity, interest and behaviour (Adler, 2002). Eventually a "scope condition" has been developed which assumes that norms sometimes constitute and sometimes constrain (Checkel, 1997). All in all, constructivists contend that it is not about whether norms matter or not anymore, but how norms matter.

¹³⁷ Klotz, Audie puts that only "avid neo-realist" denies autonomy of norms, which imply that there are realists who give more power to norms. Besides, the issue is not that realists dismiss power of norms, but that they understand norms in terms of self-help or self-interests as opposed to constructivism's assumption that interests of states themselves are constituted by norms.

¹³⁸ The issue that the internalization of norms and means-ends calculations through norms represents the broader debate of rationalism vs. constructivism, or the interests vs. norms or the logic of consequences vs. appropriateness. The difference has become grey as both camps have realized the interrelation between these two methodological approaches and recommended the cross-fertilization of both.

¹³⁹ This follows the scope conditions introduced by Checkel.

A question arises however: to what extent norms matter in the face of hard choices coming out of material capabilities, power and interest? Besides, as we already know how norms mobilize, or yield coordinated actions among international organizations, transnational actors and states towards upholding certain norms (Klotz, 1995), the present study is concerned with how certain internationally institutionalized norms and international standards, for instance, norms of human rights and humanitarian law, are projected onto the domestic conflict resolution. Do norms project enough power so that they will be embedded in conflict resolution process, and to what extent and how? Do domestic actors alter their behavior responding to norms?

One way to look at it could be as a radical constructivist who argues that, since interests are also formed through shared understanding among actors, it is not really necessary to distinguish interests from norms because agents come to understand what their interests are only under certain normative understanding or contexts. But then how could we study to find out that choices are based not only on interests but also on norms, at least in the scope of this study? Therefore, a reasonable approach will be to start with separating the interest factor and normative factor to analyze behavior patterns and thereafter, to try to broaden the argument that even interests are shaped by normative understandings.

So for the present context of the research, I will start keeping the inherent interests embedded in any actions as constant, and then look into the behavior of actors according to norms.¹⁴⁰ That is, to be more precise, when actors take a decision even if there is no material benefit for it, that will confirm that norms are at work.¹⁴¹ However, at the heart of constructivist explanation is that even interests are endogenously given. While realists or rationalists affirm that interests and identities as exogenously given and analyze the behavior, the constructivists consider interests and identities as dependent variables.

¹⁴⁰ Klotz argued that even altruism entails some interests: self-affirmation and group-interest, thus this confusion has to be cleared away.

¹⁴¹ But not always in empirical research we find these clearly separating situations. Actors find themselves in situations where the issue is whether to follow norms even they are against actors' self-interests, in the cases where they have not changed themselves by internalizing norms.

5.13.1 Definition of the term “norms” ¹⁴²

Before talking further about norms, at this point it becomes important to define what norms are and where they come from. Is this study talking about international norms only or domestic norms too? What are international norms, what are domestic norms etc.? And certainly many more questions will arise. In any case, I will try to define norms that are most relevant for my case study: an internal political conflict of a state.

After many deliberations, I have arrived at the conclusion that looking into only one norm, say, human rights or identity-based democracy etc., and then study the decision-making of several actors in the post-conflict evolution through one such norm will fall short of explaining the phenomenon satisfactorily. Besides, we already know from other studies that norms like human rights or racial equality matter when decisions are made both in domestic politics and International Relations. Given the post-conflict situation where several issues need reconciliation among warring groups, and national and international peacemakers are looking to find a common ground for best possible solutions, norms should be defined in a broad sense. Therefore, I will be operationalizing different norms relevant to different issues to get an overall picture of norms’ effect on conflict.

5.13.1.1 Norms as standards of behavior

I define norms as standards of behavior based on widely accepted values and practices. These values and practices can be both international and national. In other words, norms are appropriateness, the desire of not being labeled as pariahs in the socio-political community and the need to conform to the general expectations. Nobody would like to be called a bad guy, because this would have negative consequences on one’s identity. In the absence of real incentives, actors sometimes act properly because of “peer pressure”. (Finnemore and Sikkink, 1998)

¹⁴² The elaboration that follows in these pages about norms is basically the mixture of Klotz’s and Finnemore and Sikkink’s theories, to which I have added some of my personal reflections as well, particularly regarding the conditions for norms emergence and the wheel of norms.

5.13.1.2 Norms as contextual concept

Norms are relative to different contexts (Klotz, 1995). For instance, in nuclear weapons' issue, "non-use" would be the norm that states would follow. In inter-state wars, the norm of sovereignty would become salient. In the case of racial discrimination, norms of democracy, human rights, equality would be relevant. In global trade, property rights etc. would be relevant (Klotz, 1995). Therefore, the study covers only the norms that are relevant to this research question.

5.13.1.3 Norms as values and principles propagated by international organizations

Norms are those ideas first instantiated in international organizations which subsequently become internationally institutionalized as states' machinery starts to understand and adopt these ideas as their own (Finnemore, 1993).¹⁴³ Professionals working in international organizations introduce ideas such as environmental protection, poverty reduction, equality-based governance models etc. which states come to internalize and constitute their own interests and identity accordingly.

5.13.1.4 Constitutive and Regulative Norms

Apart from law or regulative norms, norms should also be understood as constitutive norms or "institutions" like democracy, human rights and sovereignty.¹⁴⁴

5.14 Implications of above definitions of norms

This broad definition of norms will help avoid confusions regarding a few concepts, say, are ideologies norms too? Can a communist regime be considered norm or only political pluralism? Is constitutional monarchic democracy a norm or is it only republican democracy a norm? Is parliamentary democracy a norm or only democracy without parliament? Is executive presidential system a norm or executive prime ministerial system? Is federal system

¹⁴³ As regards this definition, refer to the chapter of constructivism for institutions and ideas and this chapter itself for Martha Finnemore's study about international organizations as teacher of norms.

¹⁴⁴ Norm scholars do assume that institutionalized norms could become regimes or laws; however, norm studies in IR are concerned basically with constitutive norms as opposed to laws or regulative norms. However, in norm studies, international law dimension also makes an important component of their explanations.

democracy a norm or unitary democracy? To answer this particular conceptual confusion, let us put it this way: when one party advocates its policy and most others accept, it can become a norm. But if the policy is not well received or rather protested by most other actors, such policy will remain an ideology of that particular party only. The acceptance should be at both national and international level. The wider acceptance of policies or norms is what matters the most for conflict resolution.¹⁴⁵

Therefore, the above-definition of norms will naturally pre-suppose certain patterns of behavior. Actors make compromises in terms of their ideologies, preferences, interests and go with the flow, i.e., follow what others do. That will be in your interest also, and that will be legitimate or appropriate behavior and identity for one particular community. It is important to specify the particular community given different communities' existence in International Relations.

For instance, there are certain criteria for a state, say, tenets of democracy, in order to be a European Union member, whereas simply being a state, regardless of its regime, is a qualification to be a member of the United Nations (Klotz, 1995). Therefore, this clarification of communities that actors can have multiple identities will also clarify that actors do not necessarily follow consistent policies or behavior. But it is important to have policies that are taken as legitimate or appropriate in one community or one particular case.

But the question comes: how suddenly are some norms, which were not at the horizon a short while ago, accepted? Why certain practices are accepted norms in a certain timeframe and space, whereas the same norms are not accepted in different time and space coordinates? Why some norms are accepted in one space, whereas the same rejected in another space, but at the same time? Who legitimizes such practices? Put other way, who are the creator of norms? Why some norms are accepted while others rejected?

I will come later to what prominent scholars who discussed norms at length have explained. First, I will explain my own reflection on norms creation.

5.15 Interrelations between who create norms and agents who are affected

Scholars tend to separate entities who are “principals” of global norms, say, International Organization like UNESCO, and the social and political domestic agents who are affected by

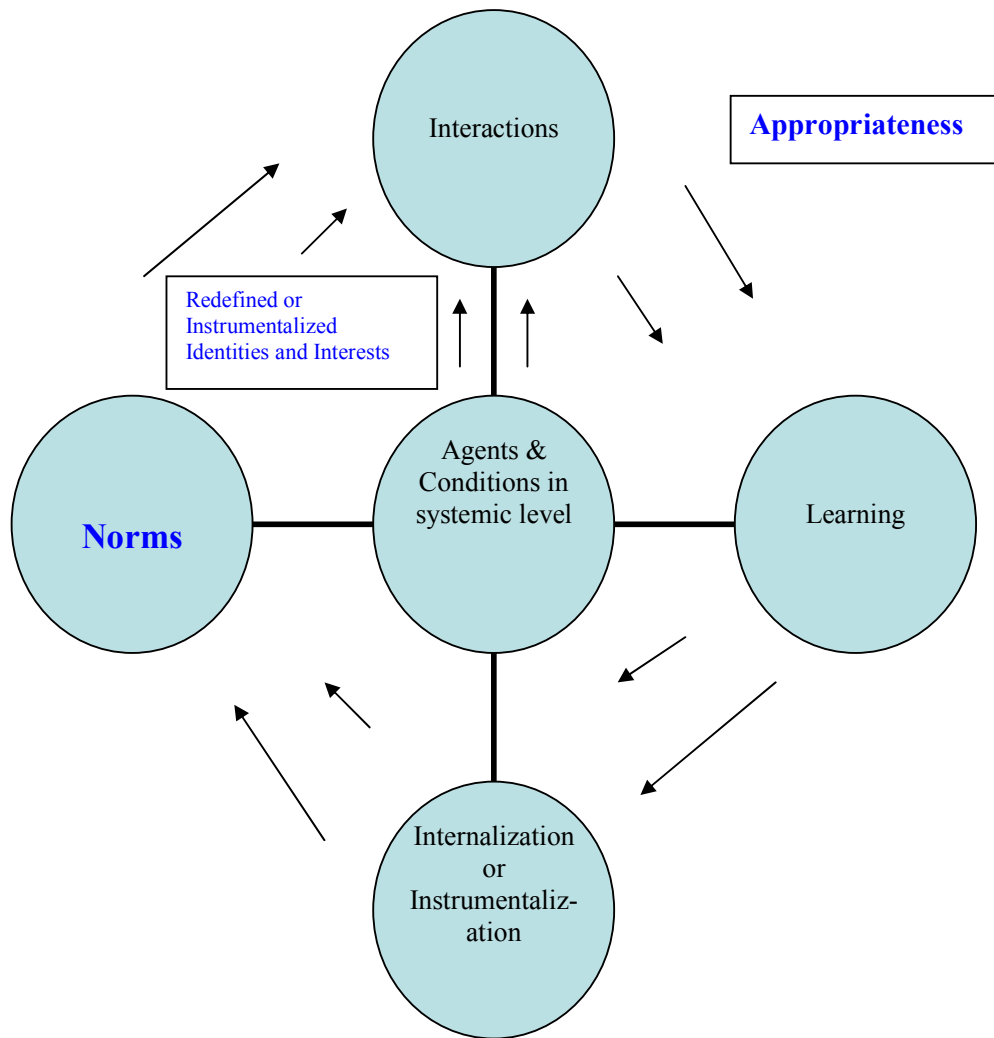
¹⁴⁵ In the fluid situation of political transition after an armed conflict, where multiple interests groups and stakeholders advocate their values, principles, and models, some new ideas have more impact than others. Thus, to avoid confusion about different norms, at least those ideas and principles that have made a long way or survived the debates, and somehow got into their opposition's agenda, I define them as norms.

these norms, say, decision makers in domestic politics, civil society, bureaucracies etc. But I do not make clear distinctions between these elements because international organizations are composed of domestic representatives. The human rights principles that were proffered to states from the international organizations are not ideas similar to technologies or science. Instead, the need to protect human rights stemmed from domestic societies also. The cycle of norms creation, norms salience and their effect characteristically dissolve agent-structure frontiers as they are processed at a systemic level from top down to bottom up. I will define norms through the following diagram of a progressive mechanism which I will name “wheel of norms”.¹⁴⁶

¹⁴⁶ The idea of explaining the internalization mechanism of norms and my own reflections through wheel of norms is largely based on what Martha Finnemore and Kathryn Sikkink explain in their “norms lifecycle” as well as on what Alexander Wendt explains about constructivism.

5.15 Wheel of Norms

Figure 5.1



In the hub of the wheel are: “agents” and “conditions”. The agents are, for instance, international organizations, global civil society, domestic assemblies, political parties, bureaucracies, revolutionaries etc. These agents are affected by existing norms, and also give impetus to process new norms. The “conditions” represent that impetus, arising out of new

need, which activate the wheel of norms. Therefore, as we can see on the figure, the agents themselves are affecting the conditions also. They are both givers and receivers.

The outer realms represent four causal links. These progressive links are overwhelmingly guided by the force of “appropriateness”. Thus, in the first realm of “interaction”, i.e. when agents or actors come in contact in pursuit of their interests, the concern of appropriateness control their behavior. Therefore, that understanding of interests that agents come to get, which is based on the logic of appropriateness is represented by the second realm of “learning”. The realm of internalization represents the acceptance of what they have learnt and finally such acceptance leads to the emergence of norms.

The emergence of norms itself may not be sufficient cause for redefining the identities of agents as the salience of some norms would do. But, in any event, after norms emerge or become salient, agents again go through the process of internalization, and eventually the reconstitution of their identities takes place. However, the newly redefined identities and interests do not crystallize because the potential impetus of changing conditions will refine the identities again and again. But it does not happen that frequently.

In addition to the constructivists’ assumptions of internalization and reconstitution, the third realm (“instrumentalize”) shows the rationalist perspective which focuses on using norms as a means-ends calculation.

5.16 Conditions for norms emergence

In domestic politics, when a state goes through turbulent times, norms come from the street i.e. from the people’s movement. In other times, norms come from political parties and ballots. The ultimate legitimacy, i.e., norms, stems from the mandate of the mass of people expressed in public or by voting. That popular mandate will erase any previous norms, and create new ones fulfilling the need risen in time. But these norms, in order to be valid, should be somehow compatible with widely accepted values and practices at international level, and be understood as reasonable choices. Norms are created from the extrapolation of realization of new needs of the hour, experience, expression of long embedded aspirations in conscience of the people, lessons learned, desired identity, interest and behavior etc. One example is, approximately twenty years ago, adopting environmental policies was taken as a luxury at the

United Nations, whereas now the environmental factor is an internalized and institutionalized norm at global and domestic level¹⁴⁷.

Norms come from following others or advising others. The desire to be part of the same community, norms can be imported or exported, accepted, internalized and institutionalized, and of course rationally instrumentalized. Similarly, norms come from the interaction among various actors. Through their inter-subjective understanding, they create their own social reality (Wendt, 1992; Adler, 2002). Subsequently, they feel the obligation to respect that social reality, in which different norms are embedded.

Norms emerge stepping on the existing norms. Say, if norms of racial equality emerge, they can only emerge against the backdrop of norms of human rights (Klotz, 1995; Finnemore and Sikkink, 1998); if norms of ethnic politics emerge in the face of civic politics, it can emerge where democracy already exists.

5.17 Literature on “norms”

The above-discussed reflections on norms have been influenced by the theoretical development and empirical explanations of several international scholars. Scholars have discussed norms in detail and posed several questions that are yet to be answered. Some reviews of the study of norms in constructivism follow.

5.17.1 Audie Klotz’s Norms in International Relations: The Struggle against Apartheid¹⁴⁸

Audie Klotz persuasively argued that the transnational advocacy of anti-apartheid campaigners pushed for the salience of the global norm of racial equality both at international and domestic level, as a result of which several states maintaining long-standing material interests with South Africa (SA) responded by imposing sanctions on SA. She showed how the case of apartheid was internalized in the domestic discourse of racial discrimination in the US, and convinced the Congress to act upon the call of the campaigners against the wishes of

¹⁴⁷ Taken from a lecture about the journey of environmental issue by an environment veteran of the UN speaking at a lecture at the University of Vienna.

¹⁴⁸ This particular article of Klotz has been summarized following the same headings and subheadings of the original article as it was the case with Wendt’s article earlier.

President Reagan whose administration had continuously vetoed any sanctions on South Africa.

The author elaborates the norms dynamics in a way which is extremely useful to understand the norm theory. A summary of her theory follows.

Norms in International Relations Theory

Given the dominant tradition of realist perspectives in International Relations, the power of norms has been reduced to ethical or ideal component subordinated to material interests. The relationship between interests and norms has something more than what realists believe. Even altruism cannot be free of interests, given that when one gifts another out of charity, still self-affirmation and group interests are embedded in that charitable action. Thus, the author recommends keeping the inherent interest of any action constant, and examines the dynamics of self-affirmation and group interests. She applies the theory to understand why states, whose material interests were constant, came out sanctioning South Africa regarding Apartheid.

Regime theory explains that international rules and norms oblige states to act according to changed environment and states pursue their interests within the space allowed by international institutions. Like realists, regime theorists keep norms separate from interests, thus falling short of explaining the identity dimensions of norms. Therefore, interpretivists, as she addresses constructivists with this term, claim that both neorealism and neoliberalism fail to realize the importance of norms given that norms are a fundamental component of the international system and actors' interests. She also claims that the positivist methodology is also incapable of explaining the inter-subjectivity of norms.

Systemic norms and interests formation

The state system is a historical construct constituted by the norm of sovereignty. In different contexts, different norms like property rights, or human rights and democratization play larger role whereby domestic jurisdiction lose its ground. Interpretivists argue that states or actors' identities and interests are defined by norms which vary over time. By extension, if anarchy in the world system causes war for survival, that anarchy evolves over time. Thus, war between great powers does not exclusively change the system, but constitutive norms do so. Therefore, how do these "norms (systemic level) affect states' interests?" (Klotz,

1995:18) Neorealists believe that interests are constituted by the structure of anarchy and military capabilities. Institutionalists do so as well. Regime theorists do so to some extent, but realizes that there is something more to material capabilities as regards interests formation, thus seek to examine domestic politics. By contrast, interpretivists follow a system-level explanation of interest formation.

The origin of norms

Neorealist institutionalists see norms coming from hegemonic states' domestic politics and interests, and neoliberals see them coming out of actors' interaction. Constructivists argue that new norms emerge out of the existing norms. For instance, GATT emerges from property ownership and global capitalism, racial equality from liberal individualism etc. Regime theory assumes that norms stem from powerful states, but do become autonomous to some extent by being institutionalized in international organizations. Constructivists do not disagree that norms become institutionalized but argue that they do not have to for norms socialization; for instance, no "anti-apartheid regime" is needed for the norm of racial equality. Besides, great powers are not always agents of norm, but followers of norm.

The Causes of Norm Change

For hegemonic and interaction regime theorists, changes in norms occur when great powers' strength and interests change. Regime remains stable as long as great powers maintain the cost of regime. Interpretivists do not deny that norms strengthened by great powers' support or norms originally might be established by great powers, but norms change depends upon the existing institutional structure. Although decolonization was against colonial powers' interests, against the established norm of self-determination they could not stop it. Many newly independent states who advocated racial equality successfully did so in the state-centric system against the great powers' interests.

Constructivists and regime theorists, nevertheless, share the view that norms can become reified and establish as regimes or social institutions shaping "structures" under which states act. At this stage, norms are taken for granted, they are not contested significantly any more. Thus, the norms' effect becomes apparent in institutions, from international organizations to informal shared understandings. Although these two theories

compete over whether norms should be taken as independent or intervening variables, both agree that norms are not byproduct of interest.

Norms as Constraints

Realists typically assume that norms compliance correlate with hegemonic powers' interests. Since coercive enforcement is required, logically, international law lacks the power to constraint actors against their pursuit of interests. Regime theorists understand the compliance either with limited constraint or as incentives. When norms are institutionalized through reciprocity and practice between actors, compliance constitutes long-term interests (benefits) vis-à-vis (cost) short-term interests. Thus, states maintain the regimes costs regardless of the hegemons' commitment. Unlike these means-ends calculations, constructivists follow the logic of appropriateness as regards the means and ends. In their explanation, norms against territorial expansion legitimized the multilateral sanctions against Iraq's invasion of Kuwait in 1990.

Norms as motives

While regime theory talks about institutionalization of means and long-term calculations, for constructivists, norms *define* means, goals and interests, thus actors redefine their identities and interests. For the former, domestic factor is exogenous to systemic factors in interest formation, whereas constructivism connects domestic politics with transnational advocacy; racial equality norm represents such connection. In terms of a relationship between norms and interests, the author introduces a couple of hypothesis: first, the emergence of a new norm (constitutive) reconstitutes actors' interests, which could also create new actors. Second, the new actors and new interests can produce regulative norms to establish that new constitutive norm. There are two ways how the international system (norms based) changes: defining mutual understandings and imposing sanctions to control behavior whereby constructivists provide broader explanation of change based not only on power, but on appropriate views of actors.

Transmission Mechanism

The author elaborates 3 transmission mechanisms in order to explain how norms link to decision-making processes: community and identity, reputation and communication, and discourse and institutions.

The author argues that the disaggregation of communities that states are member of, such as the UN or the EU, could be helpful in examining how identities influence actors' behavior, given the constructivist assumption that actors define their identities and legitimize their actions under existing normative frameworks. Communications, similarly, enable us to examine the intentionality and acceptability of actors towards certain norm as opposed to behavioral compliance, which leads to understanding of norms constraints.

States are members of communities, so significant deviance of community's shared understanding would make them pariahs. Any disrespect towards norms will yield huge ramifications on states' reputation (Klotz, 1995:30). Hence, reputation concern makes "a source of vulnerability" and constraint on actors' goals (Klotz, 1995:30). Examination of discourse, finally, the author argues, is the key to understand norm-based behavior without being meshed with individual thoughts and motivations etc.

Klotz's hypothesis that the variations in the prevailing discourse affect policy choices seem to hold true as the racial equality norm made it through to the domestic politics of US through its own discourse of discrimination against black population, but could not do so in terms of domestic discourse in the UK. UN General Assembly, similarly, related the racial equality to anti-Nazism, but the UN Security Council did not take it as a threat to international security.

5.17.2 Martha Finnemore and Kathryn Sikkink's International Norm Dynamics and Political Change¹⁴⁹

The authors at start make the case that, although normative and ideational aspects of international politics seemingly had waned till the end of the Cold War, in reality they had lived through critiques of material power paradigms or had influenced transnational actors or through the regime theorists' focus on principles and norms. They argue that the growing scholarships of norms from the 80's followed a static approach to examine the effect of

¹⁴⁹ Like the articles of Klotz and Wendt, this particular article of Finnemore and Sikkink has been summarized following the same headings and subheadings of the original article, and in many cases using the same terms.

norms in political change, that is, taking norms or standards of behavior as constant. Therefore, Finnemore and Sikkink (1998) are concerned with explaining the change in norm itself, for instance, how does the “appropriateness” evolve? Thus, they search the answers to questions such as, where do norms come from? How do you recognize norms?

Relying on norms scholarship, three arguments are constituted. First, although the re-appearance of norms represented the traditional aspects of the scholarship, normative issues have benefited from the growing standards of empirical research. Second, the evolution of norms is represented by norms’ “life cycle”, segmented into three phases: origins of norms, their execution mechanism and the conditions for their influence. Third, rational choice and norms are inextricably linked, just as norms condition rational choice, rationality is not free of normative change.

The Return to Norms

Under this section, the authors give a historical overview of norms existence, interlude of material dominance, and the new “turn”. Throughout the history, scholars have faced the centrality of morality and power, ethics, norms, legitimacy in politics. But the behavioral revolution brought about the “turn” away from norms given the political scientists’ proclivities towards economic methods in the 70’s and 80’s. Realists followed the “utility maximization” in material terms, whereas the liberals used the Prisoners’ Dilemma or Stag Hunt to counter-argue that cooperation was possible even in “self-seeking human nature”. Nevertheless, those economic methods contributed to the discipline’s more serious research design and theoretical clarity.

As a result, norms scholars built their systematic empirical researches on alternative explanations of actors’ behavior, standards of evidence and social theoretic bases. Some examples are: Klotz’s article on the end of Apartheid in South Africa, Risse-Kappen’s end of the Cold War, Price’s prohibitions against certain kinds of weapons and so on. Since actors do not behave as “ordinary men” do, according to Carr, Lumsdaine applied the alternative explanations based on evidence. This particular strength of norms scholars of providing alternative explanations which other schools would not satisfactorily do, re-strengthened the norms study.

Definitions

In general, a norm is defined as a standard of appropriate behavior in the context of actors' identity. However, different disciplines give different meanings to norms. For instance, the term norms for constructivists stands for "institutions" for the sociologists for explaining the behavioral rules. While norm refers to an isolated standard of behavior, institution covers the interrelation of different norms or rules of social institution. Besides the common distinction between regulative norms and constitutive norms, which constrain and constitute behavior respectively, the authors particularly emphasized prescriptive or evaluative norms given that these concepts particularly separate norms from rules; for instance, "we only know what is appropriate by reference to the judgments of a community or a society".

Similarly, those "bad" norms about racial superiority or divine right or imperialism used to be good norms because those were standards of appropriate behavior for some, and for others they had no choice. The way one could study norm and its effect on state or non-state behavior is through indirect evidence and justifications for action vis-à-vis "oughtness" or "shared moral assessment". One example is, when the US gives justifications for using mines in South Korea shows that the US is aware of its norm-breaking actions vis-à-vis emerging norms of not using mines.

Connecting Domestic and International Norms

Domestic and international norms are inextricably linked. Some norms originate domestically and become internationally institutionalized, such as women's suffrage. Some international norms are used by domestic norm entrepreneurs to strengthen their position and make domestically institutionalize. Likewise, scholars have recognized that the norms' and law's working mechanism resemble both at domestic and international level. Thus, possibly IR scholars could learn from domestic analogies.

Stability Versus Change

The macro-level theorizing explains how norms produce stability. But like realists, constructivists cannot explain change. In realism, change in balance of power transforms the international structure, so does the norm shift in constructivism. John Ruggie points out that

the micro practices with transformative effect, thus, need to be studied, which the authors do in this article.

Evolution and Influence of Norms

This section deals with three propositions: origins of international norms, processes of their influence, and which norms and which conditions drawing upon the women suffrage issue and the laws of war.

The Norms “Life Cycle”

The authors explain the life cycle in 3 stages: emergence, cascade and internalization. Between the first two, lies the threshold of “tipping point” which refers to wide acceptance of norms by state actors. The change at each stage is affected by different actors, motives and mechanisms. At the first stage, norm entrepreneurs persuade the “critical mass” of states to accept new norms. Secondly, these states promote new norms by trying to socialize other states. These norm-leader states at this stage are motivated by different factors such as pressure for conformity, international legitimacy and self-esteem. In the final phase, norms become taken for granted; for instance, nobody questions today the women’s rights to vote. However, all emerging norms do not necessarily make all the way through. The authors then, by process tracing, show how the women’s suffrage norms history fits into the above-mentioned life cycle.

Stage 1: Origins or emergence of norms.

Norms Entrepreneurs

“Norms do not appear out of thin air...”, but from the effort of some agents driven by desired appropriate behavior in the community (Finnemore and Sikkink, 1998:896). Swiss banker Henry Dunant’s personal experience of war brought about the International Committee of the Red Cross. Similarly, some women engaged in transnational moral proselytism founded the women’s suffrage campaign. Norm entrepreneurs are critical in ‘framing’ new issues and competing with the prevalent norms. They (entrepreneurs) face the huge challenge of discounting the existing logic of appropriateness by ‘inappropriate’ (strikes, not paying taxes

etc.) means to establish new appropriateness. What would explain the entrepreneurs' motivation, persuasion and inappropriate actions? The authors argue, "empathy, altruism and ideational commitment" lead to these actions (Finnemore and Sikkink, 1998:898).

Organizational Platform

Norms are promoted and promulgated at the international level with the help of organizational structures. NGOs such as Greenpeace or the Red Cross are constructed specifically to promote norms. The larger transnational advocacy is comprised of these NGOs to promote norms like human rights, environmental norms etc. Similarly, norm entrepreneurs can work through organizations which have more agendas and purposes besides norm promotion such as World Bank or the UN. Expertise and information of these organizations help promote or block new norms as well.

According to Peter Haas, ecologists successfully accomplished the cleanup of the Mediterranean by persuading governments to create agencies. Likewise, the anti-poverty norms met resistance from the economist staff at the World Bank vis-à-vis the "good economics". The support of state actors, different tools, resources and leverage of organizations, appropriate vs. inappropriate strategies are what the norm entrepreneurs need in order to endorse norms and norms socialization. Similarly, the institutionalization of norms in specific sets of international rules and organizations contribute to the norms cascading.

Tipping or Threshold Points

Although empirical studies supported the tipping point and cascading of norms, the theoretical account of why they occur in the first place and when and how is missing. The authors laid out the hypotheses that after one-third of the total of states (critical mass) at a given time adopt the norm, the tipping point is reached; for instance, the women's suffrage case in 1930, adopted by 20 states; the land mines case in 1997 adopted by 60. Likewise, the states which are relevant to a particular case or norm are critical to norms' adoption. The norms regarding land mines vis-à-vis the states that do not produce them would not trigger norms cascade as the producer states (critical states) would do.

Norms Cascades

Unlike the normative change prior to tipping point that needs domestic support, post-tipping point entails international influence of norms or international socialization. States and networks of non-state entrepreneurs play as agents of socialization persuading norm-breakers to transform into norm-followers. “Socialization is (thus) the dominant mechanism of a norm cascade...” (Finnemore and Sikkink, 1998: 902). Socialization works because states behave in line with their identities to co-exist in the international society, a sort of “peer pressure”. This pressure is motivated by legitimacy, conformity and esteem.

In this section, the authors discussed social elements such as image, reputation, credibility etc. of a state vis-à-vis their legitimation; even the domestic legitimacy comes from international legitimation. Similarly, conformity and esteem refer to evaluative relationships between “peers” or states; here the actors are concerned with what others feel about them as well as how they themselves feel (self-esteem). Norm entrepreneurs use the strategy of provoking “cognitive dissonance” among norms violators so that they would become careful about their international image. This has been empirically shown in the human rights area.

Internalization

At this stage, norms are so widely accepted that they become taken for granted, and are not of concern of IR scholars because internalized norms are not the focus of debate. By contrast, institutionalists precisely focus on the internalized norms (Western norms such as market exchange, sovereignty, and individualism) and study the similarities between states as opposed to studying the variation of behavior between states. These similarities refer to past norm cascades that made the actors adopt new responsibilities. Professions, similarly, are powerful agents that bust internalization of norms, professional trainings “actively socializes people to value certain things...” (Finnemore and Sikkink, 1998: 905). Since state bureaucracies and international organizations are increasingly professionalized, policies entail more normative biases of professions. Iterated behavior and habit make another powerful mechanism for internalization. For instance, European integration was a result of frequent interactions that brought about habits of trust, which resulted into change in identity.

Which Norms Matter Under What Conditions?

The authors laid out few hypotheses for future testing.

Legitimation: States adopt international norms while in the periods of domestic turmoil as the politicians' legitimacy is at risk. Similarly, states follow international norms if they are internationally insecure with regard to their status and role.

Prominence: Some domestic norms gain prominence internationally depending on their quality and the quality of the states carrying these norms. For instance, women's suffrage norm leaders were Western states. Likewise, in case of cultural prominence, such as of China and Greece, their conquerors accepted these states' norms.

Intrinsic characteristics of the norm: The norms that are clear and specific and those that make universalistic claims for the good of all people have more expansive potential than ambiguous and particularistic norms. Norms underpinned by the principles of universalism, individualism, voluntaristic authority, rational progress and world citizenship tend to successfully socialize internationally. To be more specific, norms that "resonate with basic ideas of human dignity common to most cultures" -prevention of bodily harm, equality of opportunity - are more likely to succeed (Finnemore and Sikkink, 1998: 907). This explains why the women's suffrage campaign succeeded but others did not. Some scholars, similarly, emphasize the functional arguments of norms, while others reject it. Richard Price argues that, although the chemical weapons are not more dangerous than other weapons, only those weapons have been subject of prohibition.

Adjacency claims or path dependence: The new normative claims become much likely to be socialized if they fit the effective existing norms. This basically depends on how the activists frame the new issues. The success of anti-chemical weapon campaign could be attributed to framing it as poison, which was already prohibited. The campaign against "female circumcision" could not make it unless it was framed as mutilation under "violence against women".

World Time- Context: Some unusual events in the international system bring about new ideas and norms. The changes in communication and transportation technologies, as well as global interdependence are leading to homogenization of norms. Given the accelerating speed of norms cycle in terms of violence against women compared to the period of women's suffrage, the authors introduce a hypothesis that the speed of normative changes has increased a lot in the late twentieth century.

Norms, rationality and Strategic Social Construction

This section extensively discussed the increasing reconciliation between IR scholars' dichotomous positions on norms and rationality. Rationality could be equally ideational as material (as mostly understood). Norm entrepreneurs, similarly, are highly rational while achieving their goals. The authors argue that the debate of rationality vs. norms is about the *link* between these two more than anything else, which they discuss in terms of materialism, utilitarianism, choice and persuasion.

There is growing understanding that the norm-based behavior cannot entirely be explained by material preferences, thus nonmaterial and other preferences are taken into account. The behavioral logic or the utility maximization was the cause for norm-conforming behavior; whereas March and Olsen's "logic of appropriateness" provides an alternative motivation for norm-conformance. The rational choice invariably focuses on choice, while others focus on the internalization of norms in actors leading to accept what the social structure provides rather than thinking of alternative choice.

The persuasion, finally, is the process which transforms norm entrepreneurs' cause into social structure. Given the limitation of rationality of not being able to define change in preferences, and institutionalists not defining why some models succeed and others not, the authors turned towards the legal component of international norms as well as the communicative processes that produces changes in attitudes and beliefs and preferences.

5.17.3 Martha Finnemore's International Organizations as creators and agents of norms

Martha Finnemore (1993) poses a question of whether norms emerge from domestic demands or not. In her large N study of states' science policy bureaucracies, she found out that it was not domestic "demand-driven" that states were opting for such policies, but it was the international organization UNESCO that was teaching states to adopt these values, which were reflecting the norms established in the international community. She also examined Red Cross and the operation of Geneva Convention, as well as the World Bank's policies toward poverty, and across these cases she showed that these organizations were not simply agents of norms, but creators of norms. Because, argues Finnemore, the norms established (or "instantiated" in her word) in these international organizations were transmitted into individual states, which then learned, internalized and institutionalized them by redefining their interests and identities (basic constructivist principle). Importantly, as constructivism assumes, states did so even if they had no material benefits or interests for doing so.

5.17.4 Nina Tannenwald's The Nuclear Taboo: The United States and the Normative Basis of Nuclear Non-Use

Nina Tannenwald (1999) examines 4 historical cases to show that the non-use of nuclear weapons was not because of deterrence or any other realist factors, but due to leaders' learning that using the "taboo" weapon would damage the image of US because it would not be a behavior of a civilized state. The cases were Japan 1945; the Korean war, 1950-53; Vietnam War in the 1960s, and the Persian Gulf War in 1991. Put in other words, it would not be an appropriate or standard behavior for the US. She showed several anomalies that exist regarding the non-use of nuclear weapons and that only deterrence theory or realist theory does not explain this phenomenon sufficiently. For instance, she argues that a huge numbers of US's nuclear warheads could not stop Iraq from attacking Israel, Kuwait, and the US soldiers in Gulf. She supports her arguments with more examples, like, even if there was no fear of retaliation, the USSR did not use nuclear weapon for Afghanistan's defeat, or the UK could use on Falkland and so on. So, in the heart of the explanation for why 1945 was the only use of "taboo" weapons is, argues Tannenwald, the norm of non-use of stigmatized weapons of mass destruction.

5.17.5 Jeffrey T Checkel's International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide

Jeffrey T. Checkel (1997) makes the case that rationalists and constructivists have been indulging in their own ways ignoring what others have to say. He, consequently, builds the “scope conditions” which predict that norms sometimes constrain and sometimes constitute. The study basically follows a public policy mechanism, calling “compliance” as “implementation”, to understand how international norms reach domestic political agenda in the first place, which he compares to the “agenda setting”. Beside the “diffusion mechanism” that constructivists and rationalists have followed, which are societal pressure and elite learning, in order to examine the variations in the norms diffusion, the author divides the domestic structure into “liberal”, “corporatist”, “statist” and “state-above-society”.

The European human rights regime is operationalized in three countries with differing political structures: Ukraine, Russian Federation and Federal Republic of Germany, and the argument is extended to the case of Great Britain. He concludes that, just to mention one important point, his results contradict the ones of Andrew Moravcsik. Moravcsik apparently argues that the European norms affect democracies only, by contrast, Checkel's test on Ukraine was positive. This shows, according to Checkel, that Moravcsik's argument relies on methodological premise of rationalism; therefore, Moravcsik failed to see that actors' are not only constrained but are constituted by norms.

5.18 Concluding Remarks

The term “norms” in International Relations apparently refers to social norms to international law to regimes to institutions to logic of appropriateness to legitimacy. Scholars have argued that norms basically stem from social campaigns. If social movement for a cause succeeds to be widely accepted, then the cause transforms into norm. Consequently, actors adopt the new norm which will have implications for interest constitution, subsequently, on policy formulations. Once norms become established then they are incorporated in laws or regimes. But norms can continue to exist without laws as informal understandings or expected behavior of each other.

Theorists of norms, both rationalists and constructivists, have engaged in a long-standing debate over the relationship between the effect of norms and choices of actors.

Despite the fact that theoretically there have been some common grounds to complement each other rather than a zero-sum game, the disagreements continue. Moving beyond the issues of whether norms constitute interest or constrain behavior, scholars have examined where norms come from, how norms matter, and how they change. There have been several norm studies which have adequately alluded to realists' anomalies in explaining policy-makings of several states and convincingly showing that norms do constitute interest and identity.

6. Nepal's Sovereignty and Neutrality vis-à-vis India: A Geo-Political Analysis ^{*150}

No other violent movement in Nepal had reached the level of the Maoist insurgency which culminated with ending the two-centuries-old monarchy of Nepal. As the first shots were fired by the insurgents in a rural mountain area of Nepal in February 1996, intellectuals in Nepal and outside expressed their curiosity about the communist insurgency that happened in the aftermath of the global collapse of communism (Lawoti, 2005). Initially, they all described the movement as totally homegrown. Such description was not illogical given the existence of several domestic factors that could possibly lead to some violent movements as seen in other cases around the world. As they put it, the social exclusion and extreme poverty had caused huge grievances and resignation among majority of the population towards the government, which translated into aggression with the help of the ideological ignition of the Maoists (Thapa, 2012).

Beside the scientific analyses of the causes of war focusing on the socio-polity and economics, some commentators suspected geo-politics to be the main factor. As top brass Maoist leaders used Indian territory as a safe haven during the insurgency, many had suspected India's covert role in the insurgency. Scientific scholars had not totally denied this aspect but apparently considered it a secondary component (compare for instance, Pahari and Lawoti, 2005; Einsidel et al. eds. 2012). Over time, as the transition prolonged and many aspects of the insurgency started to reveal, the nexus between the Maoist leaders and the Indian establishment during the insurgency has become an open secret. Many commentators are now outspokenly claiming that India ignited the Maoist insurgency in Nepal in order to terminate the strong institution of monarchy so that it could pursue its interests through political leaders in a fluid political environment.

This fact clearly shows the causal relationship between the geo-politics of the region and the domestic politics of Nepal. The analyses of the domestic causes of war, for instance, grievances and resignation of the population towards the state, have explained the phenomenon well only up to how Maoist leaders exploited socially and economically marginalized population for their cause. Some studies, similarly, focused on the power of

¹⁵⁰ *Most parts of this chapter have been published as different short articles on the academic portal of Telegraph Nepal. Therefore the paragraphs are identical to those of the published versions. See Sigdel, Anil (2013a, 2013b, 2013c, 2013d.)

ideology or the leadership (Lawoti,2010). But, just to indulge only around these aspects would merely be a romanticization of the civil war. Therefore, it becomes imperative to examine the geo-political aspect vis-à-vis Maoist civil war. However, given plenty of commentaries and studies on India's undue interest in Nepal, in order to make a new contribution, in this chapter I will apply the perspectives of norms of sovereignty and neutrality of Nepal vis-à-vis India and the price its people have had to pay for being sovereign. **"Put as a hypothesis, small state (Nepal) can remain sovereign and neutral against big powers (India and China) given the international norm of sovereignty, but sovereignty and neutrality do not come without cost."** (Sigdel, 2013a)

6.1 Complex balance between domestic politics and geo-political interests

The domestic political landscape of Nepal has always been closely related to the geo-politics of the region. Its unification occurred against the backdrop of external threats from British in the south and Chinese in the north.¹⁵¹ After the unification, Nepal established itself as a buffer state between China and India and put an effective resistance against the British expansionism. It survived between the two incomparably powerful China and British-India owing to their mutual suspicion that if one annexed Nepal another would come in too.

The British had considered annexing Nepal after it defeated the Nepalese forces,¹⁵² but it could not do so fearing Chinese reaction (Maxwell, 1970 cited in Sigdel, 2013d). However, beside the survival of Nepal as a "complete sovereign"¹⁵³ on paper, in practice, domestic rulers could apparently never free themselves from the two neighbors' influence in internal matter vis-à-vis their geo-political interests. Many analysts hold the geo-politics of the region more responsible than domestic feuds or socio-political complexities for Nepal's long struggle for democracy and its unenviable socio-economic conditions.

India's pressure on Nepalese politics and administration has always surpassed the Chinese influence given the geographical and cultural proximity with India. However, in the context of the growing Chinese power, its infrastructure build-up in Tibet and towards Nepali borders, growing social and political activities between China and Nepal, in other words

¹⁵¹ The King P. N. Shah, who hailed from a small principality from called Gorkha, had launched a campaign of unification by forcefully annexing and diplomatically persuading several small states, confederacies, principalities and declared Kathmandu as the capital of modern state of Nepal in 1769. Further expansion continued even up to many regions of the present day India which Nepal lost to British later.

¹⁵² After the war, British and Nepal signed a treaty in 1814-16 called Sugauli treaty where British imposed its victory terms whereby Nepal lost its hitherto conquered territory in northern India.

¹⁵³ The term is used in the 1950 Indo-Nepal friendship treaty, the first treaty with the post-British India.

China's "grand diplomacy framework"¹⁵⁴, Indians seem to have been alarmed by growing Chinese influence in Nepal vis-à-vis India's security concerns. It is noteworthy that while the Nepalese only talk about India's undue interest in Nepali matter, the Indians mostly highlight their perception of ever growing Chinese involvement in Nepal at both governmental and people's level. Meanwhile, the ever growing proximities of both neighbors have been producing a detrimental effect on Nepal's wish to act neutral in the region and on its internal conflict resolution.

Beside the traditional neighbors, the Western countries enjoy significant leverage in the social, economical, and political environment of Nepal. Some also incessantly argue about some covert understanding between the US and India to exploit Nepal's fluid politics for anti-Chinese activities. All this means that a stable Nepal needs to maintain a balance between all these power centers and create some compatibility between domestic and foreign interests. Since the Maoist insurgency¹⁵⁵ in Nepal stirred the social fabric of the diverse society of Nepal on the one hand, and given Nepal's long-standing tussle between the erstwhile palace¹⁵⁶ and political forces and the ideological¹⁵⁷ fault lines between political parties on the other, to strike an all-satisfying balance has seemed more than difficult.

Nepal under British and Chinese understanding

'In geographical terms, given the natural frontier in the north i.e. the Himalayas, India had practically surrounded Nepal from every corner. In those days the Chinese themselves had to ask for a British permission to go to Tibet to make the trip shorter (Maxwell, 1970). Unsurprisingly, Nepal submitted to the domination of India from the very beginning. The British saw Nepal as a part of their "chain of protectorates" together with Sikkim¹⁵⁸ and Bhutan¹⁵⁹, other two Himalayan independent states, securing their border up to the southern flank of the Himalayas (Maxwell, 1970). The British saw that, although Nepal rested under

¹⁵⁴ Gautam. U. (2013) "China's Grand Diplomacy Framework". Available at: <www.telegraphnepal.com> , Accessed 02 October 2013.

¹⁵⁵ The Communist Party of Nepal-Maoist waged a war against the Nepali government under a constitutional monarch from 1996-2006. In the insurgency around 15000 people were killed.

¹⁵⁶ The monarchy came to an end in 2006 following a huge uprising against the King Gyanendra.

¹⁵⁷ Communist parties in Nepal have always been major political forces in Nepal. The democratic politics has been dominated by the opposing instances of the capitalist centre right Nepali Congress, the biggest party for many years against the communist fronts and alliances. Many see a causal relationship between huge poverty and the ideology, while others see it as the palace's strategy to undermine the Nepali Congress.

¹⁵⁸ Sikkim was integrated into India in 1975 following domestic political upheaval.

¹⁵⁹ Bhutan has embraced India's suzerainty on its foreign and security policy.

Chinese “suzerainty”¹⁶⁰, they (British) seemed satisfied that Nepal accepted British sphere of influence (Maxwell, 1970). Some Nepalese commentators¹⁶¹ also do not seem confident in claiming that Nepal had enjoyed a complete sovereign status vis-à-vis British or post-British India and it was so both during the Rana rule¹⁶² and the Panchayat rule¹⁶³. To make it worse, experts claim that, domestic movements in Nepal time and time again further invited India’s undue involvement in Nepalese politics.

Maxwell reveals an interesting fact that the Congress party (India) had envisaged a democratic India in the post-British rule, and had consequently anticipated policies whereby neighbors would need not to be wary of India. However, once the British were gone, the party adopted even more aggressive policies towards the cis-Himalayan states, but he did not explain the reason why. One could derive that, although Nepal managed to remain completely sovereign on paper, the informal understanding regarding Nepal at least among Indians, if not Nepalīs, did not differ much from Sikkim’s or Bhutan’s status.

India apparently had expected that China would respect that understanding; however, the establishment of diplomatic relations with Nepal changed the game.¹⁶⁴ In addition, commentators claim that Indian PM Nehru was disappointed over Nepal remaining aloof from the India-China border conflict in 1962. However, the Gorkha force fought against China. The Gorkha force was formerly British and now an Indian Army regiment which recruits Nepali citizens along with Indians.’ (Sigdel, 2013d)¹⁶⁵

India’s bullying Policy

‘The way India still behaves with the Himalayan neighbors reinforces the fact that India does not tolerate losing its influence in the region. On their part, for smaller neighbors cooperation with India apparently means embracing Indian domination. The unbelievably successful

¹⁶⁰ The term “suzerainty” in this paper should not be understood as a legal right but as an informal understanding. The term is borrowed from Neville Maxwell’s book “India’s China War”.

¹⁶¹ Some history commentators told me during our conversations.

¹⁶² Rana clan, an oligarch hereditary dynasty, ruled Nepal for 104 under its dictatorship that ended in 1952.

¹⁶³ From 1960 to 1990 Nepal had a non-party system of Panchayat (village council) with the king as the executive head. King Mahendra employed this system after a putsch in 1960 whereby the democratic leaders were arrested and put into jail. A conspiracy theory that whether he did so for his own power ambition or was for India”’s PM Nehru’s suggestion because the Nepali congress leader BP Koirala had started to look towards China is still not very clear. However, recently the Nepali Congress leader Dr. Shashank Koirala, son of BP Koirala, also said that it was Nehru’s advice to do so.

¹⁶⁴ Nepal and China established their diplomatic relation in 1955.

¹⁶⁵ Such recruiting and fighting have inherently caused some identity confusion regarding ethnic origins, nationalists, and the term Gorkha and Nepal. There is also another Gorkha regiment of the UK government known as British Gorkha regiment.

bullying policy of India towards its northern neighbors have surprised many realists to idealists. India's recent withdrawal of subsidies on cooking gas and kerosene to Bhutan as a punitive measure right before the elections is reminiscent of its trade and transit restrictions imposed on Nepal in 1989-90 and strongly symbolic of India's hegemony in the region. Bhutan, the outgoing PM Jigme Thinley and his party DPT (Druk Phuensum Tschogpa) in particular, reportedly paid the price for circumventing its understanding with India by reaching out to China as they lost the elections to the opposition PDP (People's Democratic Party). Incidentally, the 1989-90 embargo on Nepal seemed to be a game changer given that India lifted it only after the palace-led non-party Panchayat system fell and the interim PM Krishna Prasad Bhattarai succumbed to several of its demands.¹⁶⁶

The vice-regal status Indian envoys have been enjoying in these two countries; the way one after another senior Nepalese leaders are being summoned to the "court" of New Delhi; a recent row over the "micro management" of India regarding the appointment of a former Chief Secretary, Mr. Lokman Singh Karki, as the head of the Commission for Investigation of Abuse of Authority(CIAA); senior Nepalese leaders, including ex- PMs, lining up bypassing the protocols to meet the visiting Indian Foreign Minister Mr. Salman Khursid at a luxury hotel, Dwarika's, in Kathmandu; all this is something perhaps China will look enviously at vis-à-vis an unruly North Korea and a firm American "bridgehead" South Korea, needless to speak of Taiwan.¹⁶⁷

Although the P-5, the five permanent members of the United Nations Security Council are present in Kathmandu unlike Bhutan which is not allowed by India to enjoy their company, India has been engaging with the Nepalese stakeholders in such a practice under the guise of "special relationship" that it has largely metamorphosed Nepal into a semi-sovereign nation-state vis-à-vis India. However, the chicken and egg puzzle, whether it is India or the Nepalese themselves responsible for the sorry state of Nepal is yet to be convincingly answered. As journalist Rabindra Mishra puts it, Nepalese leaders themselves seem more concerned with what Indians want rather than being accountable to the Nepali citizens¹⁶⁸.

¹⁶⁶ Status quo ante was in place on June 10, 1990.

¹⁶⁷ India's policy on Bhutan has clearly upset China which could be derived from the Chinese Scholar Liu Zongyi's writing as he has "hit out at India for 'interfering' in Bhutan's recent elections and attempting to prevent the recently developing ties between Thimphu and Beijing". See Krishnan, A (2013). "India treating Bhutan as protectorate." The Hindu. Available at : <<http://www.thehindu.com/news/india-treating-bhutan-as-protectorate-says-chinese-commentary/article4991436.ece>>, accessed 20 September 2013.

¹⁶⁸ Rabindra Mishra talking to NC leader Sushil Koirala. BBC Nepali radio service podcast.

Having said all about India, any outsider's role should be put into perspectives. The international interference into Nepali matters is not exclusively Indian. Explaining the plight, Nepali Congress leader Dr. Shashank Koirala notes, "While the leaders themselves are in the capital (Kathmandu), the Western ambassadors are on field visits"¹⁶⁹ concerning the controversial elections declared to be conducted on November 19, 2013. At the same time, Nepalese politicians are not free from occasional accusations that when they have to indignantly settle on the margins of power, international friends become enemies; but it wouldn't take too long to turn the same enemies into friends when they got the ministerial portfolios¹⁷⁰.

In any case, it is almost an accepted fact that India wants Nepal to compromise its sovereignty. Following what political scientists have argued in many other cases across the world, India is apparently determined to form a "security community" (Kupchan, 2010) or usually called "security umbrella" vis-à-vis the Chinese threat in which it desperately needs Nepal. Then such a community would eventually, possibly, turn into a "union". The "cultural commonality" and "narrative generations" are two fundamental elements to achieve that community as explained by Prof. Charles A. Kupchan. As regards the cultural commonality, India would argue that they have aplenty, but for Nepal it does not look enough.' (Sigdel, 2013c)

Concluding Remarks

'Three major obstacles in India's wish, however, to form such a community with Nepal are: first, Nepal has not had a sovereignty threat as such from China; second, previous Nepali regimes somehow resisted the "offer", although allegedly at the expense of democracy and economic prosperity for the Nepalese; third, there has not been such narratives, or at least not enough, to convince Nepalese that it shares the common Indian identity. The first motive still remains the same because China obviously is well aware of the fact that merely such a signal would make Nepal turn toward India in the blink of an eye ; the second motive has hugely deteriorated, and the third, Madhesi movement, claim observers, is on that particular path. The critical question is: the reason behind this deterioration is internal or external?' (Sigdel, 2013c)

¹⁶⁹ Talking with Bhusan Dahal on Fire Side talk program on Kantipur TV

¹⁷⁰ Journalist Bijay Kumar on his TV show Disha Nirदेश on Kantipur TV

6.2 Nepal's Sovereignty vis-à-vis India, China and the International Community *

After the long-standing Indian and Chinese suzerainty which practically always decided the fate of Nepal, Nepal's conditioned sovereignty has later got a third dimension to it, namely the international community. Beside the rationalist view that India would not do anything fearing Chinese reaction and vice versa, another aspect that has been overlooked is the norm of sovereignty. States survive in this anarchic world not only for power balance or strategic reasons, but simply states, mostly powerful ones, redefine their interests whereby naturally they have to accept the existence of other weaker states whether they like it or not¹⁷¹. The following paragraphs will discuss why India did not and cannot annex Nepal?

‘Although the very first article of the Treaty of Peace and Friendship between the Government of India and the Government of Nepal of 1950 contains the message of mutual acknowledgement and respect for each other's “complete sovereignty”, precisely this very concept of complete sovereignty has haunted since then the bilateral relations between the two sovereign states. Seemingly, India has always been showing only a grudging respect for Nepal's independence. For its part, Nepal has always tried to assert that it deserves better. The sovereignty debate vis-à-vis India (but not only India) reached an all-time high during the formation of a technocratic electoral (or ministerial) council charged of conducting general elections or Constituent Assembly elections in November 2013.

Almost all political pundits including some political leaders cogently claimed that the idea was “foreign” made and foisted on Nepal. Some even got a step further and speculated that, given the domestic mess, sooner or later Nepal would meet the same fate what the Himalayan state of Sikkim did or at least Bhutan for that matter. Sikkim was merged into the Union of India in 1975. However, it had already been India's protectorate (Indo-Sikkim Treaty of 1950) unlike the sovereign status of Nepal vis-à-vis India. Bhutan submitted its foreign and security policy to India.

Furthermore, some found rather amazing that this non-party government formula, supposedly dominantly Indian, was endorsed in the same breath by other world powers,

¹⁷¹ Alexander Wendt gives the example in his article “Anarchy is what state makes of it”, that why the US does not annex Bahamas or Nigeria does not do so with Togo. He argues it is because of sovereignty norms more than anything else.

*The paragraphs are from my published article. See Sigdel, 2013a.

including China and the US (nonetheless, there were plenty of rumors that the formula was devised in and imported from Europe). The strategic belief of many in Nepal that drawing in China and others would yield a balance of threat or power in the region turned out wrong raising some critical questions. Why is it so that breaching Nepal's sovereignty is in every others' interest? How come the inherently hostile India and China have one voice in this issue? For the sake of their own strategic interests, regardless of what the neighboring power foists upon Nepal, will the faraway powers (US and Europe) continue to endorse it? Has the world relented that Nepal falls under India's sphere of influence? And also, why the act of interference for some is the gesture of mediation for others? Why the breach of sovereignty for some is the act of friendship for others? And so on. In the end, the source of all these perplexities boils down to one concept, i.e. the concept of sovereignty.¹⁷²

Given the fact that states are increasingly intrusive in domestic affairs of others or the double entendre of the concept of sovereignty or the non-intervention in domestic affairs at the level of United Nations and its applications (Biersteker, 2002), the critical question will be what does this mean for the existence of minnow states? Are the chances that minnows will cease to exist higher than that they continue to exist in a compromised sovereignty or not?

The sovereign state system is just too seductive for powerful states as long as the sovereignty remains "soft" on weaker sides (this rationalist view cannot be denied at this point because simply annexing another state can be a catch-22 situation). Besides, no states would like to invite a conflict with international norms, or international law by trying to usurp others' sovereignty. What does it mean for Nepal's sovereignty vis-à-vis India? The answer is that Nepal will continue to exist, but with or without compromised sovereignty will depend on India's identity and behavior.¹⁷³ Why so? First, India-China or India-Nepal are not inborn enemies or threats to each other, it is simply that they make of each other that way, which is largely unfounded;¹⁷⁴ and second, there are more normative elements at play than the power asymmetry between India and Nepal or the geo-politics of the region (also to some extent). I will explain further.' (Sigdel, 2013a)

¹⁷² For these paragraphs it would be recommended to refer to what I have discussed in detail about the sovereignty norm theory of Alexander Wendt and Thomas J Biersteker in the theory chapter.

¹⁷³ India's identity and behavior seems to be continuously dictated by mainly its security concerns vis-a-vis China, Pakistan and terrorism, and then its economic as well as social interests in Nepal.

¹⁷⁴ While many leftist commentators emphasize on the US-India nexus to encircle China, this is this very unfounded hostility that they also admit that there is a possibility that the China and India come together one day to defend the Western maneuvering in the region.

Threat Construction

‘After six decades of bilateral relations between the post-British India and the never-colonized Nepal, both seem still unsure what to make of each other. But one thing is certain, they see themselves as self-contained and unyielding entities, and posing threats to each other all the time one way or the other. But such perception is clearly unfounded. An expert on the matter, Mr. Gopal Khanal observed in the leading daily Kantipur, that it was only once in its entire history that somehow Nepal was dragged into India’s security threat motive, and that was the incident of IC 814 hijacking; but India’s policy has been entirely guided by the belief that Nepal is invariably India’s Achilles heel.

The Indian Airlines Flight IC 814 on the way to Delhi from Kathmandu on 24 December 1999 was hijacked by a Pakistan based militant group. After several stops eventually the aircraft was landed in Kandahar, Afghanistan. India ended up swapping some terrorist prisoners to release the hostages. One person was killed. There are opposing voices regarding the hijackers being operated from Nepal as some in Nepal claim that the hijackers were already in the aircraft when it came to Nepal in the first place. Besides, very recently a startling fact came out in the Indian press that the Indian establishment had the pre-information about the hijacking but it apparently did not act on it seriously enough.¹⁷⁵ In any case, the issue that India sees it as necessary to put Indian air-martial in the inbound-outbound flights of Nepal, and Nepal’s denial as it sees the proposal as the breach of sovereignty, marks one of the anomalies in the so-called special relationship between Nepal and India.

In the same fashion, there has been only one trade embargo on Nepal by India in 1989-90, which was labeled as an “unfortunate interlude” by the then Indian PM V. P Singh.¹⁷⁶ The 15 month embargo was imposed by the PM Rajiv Gandhi apparently on the grounds that Nepal denied signing a single treaty both covering trade and transit, and particularly for annoying India by turning towards Chinese weapons.¹⁷⁷ Even those restrictions took place against the backdrop of a democracy restoration movement in Nepal, in which the palace had to climb down to agree

¹⁷⁵ Kumar, S. 2013. “Govt was warned of IC-814 Kandahar hijack”. Available at: <<http://www.sunday-guardian.com/news/govt-was-warned-of-ic-814-kandahar-hijack>>, accessed 11 October 2013.

¹⁷⁶ Crossette, B (1990). New York Times. “India to Lift Nepal Embargo and Discuss Rift”. Available at: <<http://www.nytimes.com/1990/06/12/world/india-to-lift-nepal-embargo-and-discuss-rift.html>>, accessed 20 April 2013

¹⁷⁷ Crossette, 1990.

with democratic forces to a multi-party parliamentary democracy, ending the 30-year-long palace-led non-party Panchayat system.' (Sigdel, 2013a)

India and China Mutual Threat

'As regards India-China mutual threat, The Economist, August 19, 2010,¹⁷⁸ puts that "despite several threatened dust-ups...there has been no confirmed exchange of fire between Indian and Chinese troops since 1967". A much talked-about trade volume between India and China, sometimes labeled as a "tectonic movement", represents a strong case for "interdependence liberalism" how growing mutual dependence discourages violent conflict between states. However, unlike the most economically successful states like Japan and Germany in the post WW II that cut down their high military-expenditure (Jackosn and Sorenson, 2003), India and China have got into an extraordinary arms race. But there are policymakers in the West who believe that the "alarmingly" growing military spending, particularly in China, reflects China's economic transformation and projection of a reasonable military status for its size; thus China going unruly in the region is not inevitable¹⁷⁹.

Even if it would, the strategic analysts predict that China would try to deter the US vis-à-vis Taiwan, but any potential conflict with India seems improbable. The contested "pockets" along the 4000 km border between these two states stem from the British era for not being clearly demarcated, more than anything else.¹⁸⁰ When Tibet and Sikkim "merged" into their respective capitals, apart from just securing its own territory, none of them tried to escalate the situation.' (Sigdel, 2013a)

It is also worth mentioning what Maxwell argued; it was basically Nehru's heavy-handedness towards then-struggling China and his intransigence concerning the negotiations on border demarcation (Maxwell, 1970). He argues that Nehru was excessively adamant on claiming that the McMahon Line, an informally understood border as the British legacy, represents the border between two countries, with our without map, which in the end compelled the Mao China to come down to forcefully seized its borders (Maxwell, 1970) Even now since

¹⁷⁸ The Economist, 2010. "India and China: A Himalayan Rivalry". Available at: <<http://www.economist.com/node/16843717>>, accessed 20 April 2013.

¹⁷⁹ See The Economist, 2012. "China's military rise: The dragon's new teeth". Available at: <<http://www.economist.com/node/21552193>>, accessed 07 April 2013.

¹⁸⁰ The Economist, 2010. "India and China: A Himalayan Rivalry".

no politicians in India would apparently dare to question what Nehru established, also for the nationalism issue and so on, the hostility and suspicion remain. Besides, the fact that Mao's nationalist propaganda and a tactic to legitimize the Great Leap Forward could have prompted him to attack India cannot be denied.

Nepal on the other hand, involuntarily bears the brunt of this perceived hostility particularly from the Indian side. Incidentally, in a controversial interview published in the Times of India, Nepal's Chief of Army Staff Gaurav S. Rana¹⁸¹ also surprisingly gave his statement that "In all military agreements, there are problems when you draw lines of control on maps using a pen. Whenever there is a violation, either country then blames it on the thickness of the drawn line. So there are no signs of any concern for India."¹⁸²

6.2.1 India and International Norms

'The irony in the economic growth of India and China is that each of them embraces an opposing ideology. Given the relevance of the "democratic peace theory" that democracies do not fight each other, in order to tackle the headlong military growth of China, the international community's focus naturally comes to India. China, being second to US in military spending, what concerns the West the most now is how to engage China in international institutions, rules and norms in the hope of averting any potential conflict as well as utilize China's economic might to heal world's problems¹⁸³.

India, although not quite confident that the West would come to its rescue when really needed, the most powerful leverage it has is its democratic character. Both the West and India need this very character of India more than ever before. Its alliance with the West hinges upon this; and by extension, the deterrence vis-à-vis China, aspiration for the permanent membership

¹⁸¹ Chief Rana was educated in India, and both his mother and his wife were from India as well. He is a good example to show the socio-political complexities between the two countries. His "undiplomatic" statement drew a huge controversy in Nepal. One commentator I interviewed said that this very confusion regarding Nepali and Gorkhali (Nepalese of India) identity always comes into play, put it other way, what the chief said was as being Gorkhali but not Nepali. This issue is inherently complex and out of the scope of this study.

¹⁸² Dua, R. 2013. "China can't afford to enter India: Nepal Army Chief". Available at: <<http://timesofindia.indiatimes.com/india/China-cant-afford-to-enter-India-Nepal-Army-chief/articleshow/23488581.cms>>, accessed on 11, Oct. 2013.

¹⁸³ Several journal articles or newspapers argue in this line. For instance, see Ikenberry, John G. (2008) "The Rise of China and the Future of the West", Foreign Affairs. Available at: <<http://www.foreignaffairs.com/articles/63042/g-john-ikenberry/the-rise-of-china-and-the-future-of-the-west>>, accessed 05 April 2013

at the United Nations Security Council, securing its energy supplies, fight against terrorism, and many more. Against this backdrop, could India afford to, say, *sikkimize*, Nepal? Will it do so at the expense of its democratic identities and interests?

Any action that would put its democratic identity in jeopardy is not in India's or in the West's interest. The contemporary India relies on the rhetoric like, for instance, in the words of the former Foreign Secretary of India and the former ambassador to Nepal Mr. Shyam Saran “(I)ndia is the only nuclear weapon state to declare that it believes its security would be enhanced, not diminished, in a world free of nuclear weapons”¹⁸⁴. That is perhaps because of the transformation of threat from Pakistan, as India's policy-makers fear that the Pakistani regime itself is not much of a threat for India compared to what a failed Pakistan could constitute in the context of nuclear weapons falling into extremist hands.

Nonetheless, it shows India's identity of a democratic state, and so it redefines its interests. Even in realist perspective, for instance, will it be willing to set precedent in the region so that China would legitimize its aggression against Taiwan, which would certainly drag in international powers? The international community has already given some concessions by turning its blind eyes on Kashmir, or Sikkim, or North East India, or India not signing or ratifying the Nuclear Proliferation Treaty and the Nuclear Test Ban Treaty and so on.’ (Sigdel, 2013a)

Concluding remarks

These facts perhaps explain why India's unilateral “patronage”, and thus its unilateral formula for Nepal will not work anymore, unless the international community endorses it. India not only accepted the supposedly European formula of apolitical electoral government in Nepal, although it was not an option, it also had to use its leverage on Nepal to ensure that the foreign plan would be successfully employed. Even though many experts still see such practices as a diversification of interference in Nepal from one or two to four, making it more difficult to function as a sovereign nation, the most important aspect of this has been overlooked; **the weak state strengthens its sovereignty by the community's recognition.**’ (Sigdel, 2013a)

¹⁸⁴ Saran, S. 2013. “Weapon that has more than symbolic value”. Available at <<http://www.thehindu.com/todays-paper/tp-opinion/weapon-that-has-more-than-symbolic-value/article4682120.ece>> , accessed 02 April 2013.

‘Although, on the one hand national sovereignty has been seemingly breached, on the other, Nepal has rescued its running-down-the-river sovereignty vis-à-vis India via the international community. Former Foreign Minister and political analyst of Nepal Mr. Ramesh Nath Pandey claims that a country like Nepal where all the five permanent members of the UN Security Council are actively present, it would not be that easy for India to simply annex it¹⁸⁵. His argument further reinforces the theory that the group recognition makes the weak state stronger as regards its sovereignty against a predator state. Having said all that, although it is true that the “soft” state acquires sovereignty not from the national capacities but from the external recognition, too much weakening of national capacities could provoke the same external actors to ruin its sovereignty.’ (Sigdel, 2013a)

¹⁸⁵ He said this while taking at a popular TV talk show Disha Nirdesh with Bijaya Kumar on Kantipur TV.

6.3 Indian Skepticism on Nepal's neutrality*

The unifier king Prithvi Narayan Shah in his “divine council” had said that Nepal was like a “yam between two boulders”, referring to its two giant and shrewd neighbors: India and China. The pressure that the kings or other rulers of Nepal of the 20th century felt while getting to deal with India and China was apparently no different from what the king PN Shah had quite reasonably identified in the 18th century. ‘The king Birendra in 1975 had proposed a neutrality policy before the international community which a hundred or so countries endorsed but, to his dismay, India never did.’¹⁸⁶

India dismissed the king Birendra's¹⁸⁷ Zone of Peace (ZoP) proposal although it sought to secure Nepal's sovereignty and a peaceful co-existence in the region for several reasons.¹⁸⁸ First, the proposal apparently contradicted the spirit of 1950 friendship treaty. Second, the supposed informal understanding between Beijing and New Delhi that India would remain silent on Tibet cause and China would reciprocate on India's domination of Nepal. Third, given the Chinese paranoia in India particularly after China dumped India's (PM Nehru's) diplomatic romance¹⁸⁹, for security reasons there seemed no way India would endorse such a desire from the King of whom they were already skeptical; that the king could dilly-dally on the way. According to Saurav (Mr. Dinesh Satyal), a prominent analyst in Nepal, “(New) Delhi had perceived that the others' support of ZoP was being used to put pressure on India”¹⁹⁰.’ (Sigdel, 2013d)

¹⁸⁶ Some only endorsed it in principle. For details see Surya Prasad Subedi's Dynamics of Foreign Policy and Law: A Study of Indo-Nepal Relations.

¹⁸⁷ The king Birendra had proposed the ZoP in 1975 at his coronation. In 2001, he was killed along with his family members by his own son Prince Dipendra, who then killed himself, according to the official report. There are many conspiracy theories however, that speculate that it was his brother Gyanendra who became the next king behind the massacre. Some political analysts also claim that it was India, through its intelligence RAW, got him killed for he was posing threat against India's geopolitical interest for being close to China.

¹⁸⁸ See Isabelle Duquesne's Zone of Peace discussion at <www.telegraphnepal.com>.

¹⁸⁹ PM Nehru had promoted the India China bhai bhai rhetoric as he was becoming a successful global diplomat and believed that China would need his support to establish it globally. He had never apparently imagined that China would defy his heavy-handed approach towards Aksai Chin border lines which he was so intransigent in negotiating. (source: Maxwell, 1970)

¹⁹⁰ Saurav. (2013). Available at: <www.ekantipur.com/np> , accessed 04 September 2013.

Chinese Proximity

‘While the hardship to resupply the soldiers up north in 1962 is still fresh in India’s mind, the smooth Chinese asphalt has already reached Nepal. Besides, it is not just an unrealistic dream anymore that China could build a railway up to Tatopani border (Nepal-Tibet/China border at a distance of around 120 km from Kathmandu) or in other points-pretty likely to happen sooner or later. Regarding the “wordplay”, the “equi-distance” has apparently changed into “equi-proximity”. Indian commentators frequently mention China’s growing presence in Nepal in fields such as hydropower, military, culture and so on. For instance there are already more than 300 hundred Chinese Mandarin Language Center including Confucius centers in the Terai (southern) region, unlike in the past when there were incidents that Nepal had to cancel the East West Highway contract with China and hand it over to India, given that India had resisted having Chinese workers in the Terai region.¹⁹¹

However, as a corollary of the Chinese proximity, the Indian intelligence, RAW, has reportedly stepped up its “gesture” in Nepal and will become much bigger in the days ahead. Since the changing realities make any possible “macro management” (Nepal submitting its foreign and security matters to India) out of the question, logically the outsiders have resorted to a “micro management” to safeguard their own interests.¹⁹² Being a buffer state, and given the global dimension of growing Chinese might and the US “pivot” to Asia, commentators in Nepal quite reasonably argue that the outsiders’ interference in Nepal will become a part of its life.

In the context of changing threats, the conditions are predisposing Nepal to bear the brunt of both conventional/military threats to non-military threats. The events unfolding clearly give that signal. Recently in two separate events, Indian Intelligence agencies arrested Abdul Karim Tunda, a Laskar-e-Taiba member and Yasin Bhaktal, a most wanted terrorism suspect, in the India-Nepal border areas; the leading news daily, Kantipur, reported that Bhaktal was actually caught in Kathmandu itself. Talking to the BBC Nepali radio service, the Nepal-India relations expert retired General Ashok Mehta said that these are the “biggest catch in Nepal ever”.

¹⁹¹ General Mehta said so on BBC Nepali Radio Service, podcast.

¹⁹² The term “micro management” is being frequently used in Nepal referring to India’s involvement on all levels of governance in Nepal. Senior Analyst Saurav revealed that the Indian Embassy pursued the Home Ministry and Foreign Ministry of Nepal merely not to air a documentary, the Greater Nepal, on Nepal’s history, and instead asked to air the one on the end of Nepal’s monarchy owing to homegrown revolution, for instance.

On the military side, India has recently bought with the US ten transport aircrafts, the C-17 Globe Master, “capable of lifting tanks to the border” in the North and the North East¹⁹³. One of these aircrafts has already touched a base in Uttar Pradesh. It is worth recalling that by building a home-made warship INS Vikrant very recently, which can carry MiG 29K fighters, India has joined the exclusive club of four which have the “capability to design and build such a war-ship”¹⁹⁴: Russia, UK, US and France. Needless to speak of nuclear weapons ambition, test launches of ballistic missiles and so on.

Time is definitely not easy for India. It has got entangled, on the one hand, in an economic free fall with 400 million population still under \$ 1.25 a day (Zakaria, 2013), and a massive investment in military, on the other. China, with three decades of two digit economic growth and a colossal military budget, second to the US, is successfully keeping its opponents guessing at what security strategy China follows. Whether it is the “Confucian-Mencian” strategy that anticipates the “submission” of enemies without resorting to force or the “hard realpolitik...*parabellum*...offensive strategy” to storm enemies (taken from Johnston, 1996), to India’s dismay, it has no option but to prepare for every eventuality. Needless to say, that all these Indian hardships will most likely befall Nepal.’ (Sigdel, 2013d)

Concluding Remarks

‘While Indians point to Nepal’s reluctance to cooperate with India’s security concerns and they say that they have bigger fish to fry, the crux of the matter has been the confusing meaning of these “concerns”. Experts claim that the security cooperation proposal from India always comes with strings attached. India’s proposal to king Birendra in 1989-90 and the recent draft treaty on building security posts along the border reinforce the fact that these proposals come with some controversial clauses also¹⁹⁵. In idealistic terms, for all the good virtues that exist in Nepali society, with regard to the armed-neutrality, Nepal has every possibility to remain neutral if it so desires¹⁹⁶. In security terms, both the neighbors’ extra-care for Nepal Army (NA) suggests that

¹⁹³ See NDTV news. India. Available at: < www.ndtv.com > , accessed 01 September 2013.

¹⁹⁴ NDTV.

¹⁹⁵ for these proposals and treaties, see <www.telegraphnepal.com>

¹⁹⁶ See Dahal, D. R. (2012). Zone of Peace: Revised Concept for Nepal Constitution. Available at: <www.telegraphnepal.com>, accessed 15 August 2013.

the NA would not be in a position to take one side anyway. Finally, in realist or constructivist terms, neutrality in its absolute meaning seems a far cry.' (Sigdel, 2013d)

6.4 Screening the anomalies in the explanation of India's role*

'The term sovereignty perhaps automatically leads one to think of international law and states' obligation to abide by it, or states should fear the sanction cost for not doing so. However, the basis of the argument here is rather on the institutionalized practice in the international community of respecting each other's sovereignty as opposed to the obligation of international law. Let's assume for a moment that India, either with or without force succeeded in taking control of Nepal's sovereignty; even in that case it would be hard to buy that the international community or even China would attack India or bombard Nepal to eject India out of it¹⁹⁷.

If anything, India would have to bear minimal sanctions from the UN and from some Western powers, Chinese military would come few more yards into the Ladakh region or somewhere else, but nothing significant would happen; perhaps fearing that too much of tussle with India would not be in their interest either, vis-à-vis the loss of sovereignty of a state which did not have that much of strategic significance. But the point is, rather interestingly, India would still not do it. Because this is how the world system works. If it was not so, Nepalese remaining independent between the "predator states" (Wendt, 1992) like India and China, it would not have been anything more than a wishful thinking.

Nepal has managed to remain as it is so far for more than 65 years after India's independence from the British Raj and the successive integration of several princely states into the Union of India. Besides, Nepal has survived against the huge disenchantment and discomfort (apparently) on the Indian side over Nepal's independent status right at its backyard. The geographical proximity between New Delhi and the south-westernmost point of Nepal would easily startle any Indian given that Nepal is a foreign country. To make the matter worse, on the other side of it lives a mighty dragon. The Indian establishment has all along suffered from the paranoid of insecurity, vulnerability and encirclement, particularly owing to Pakistan and China. Prompted by such psyche, for instance, it implemented the policy of fuelling guerilla warfare on the one hand, and supporting the government on the other in Sri Lanka (Bose, 2002), which only managed to raise the hackles of international community and to witness an embarrassing retreat of its army from the island.' (Sigdel, 2013b)

¹⁹⁷ In the interviews I took, experts also agreed with this argument that nobody would come to Nepal's rescue militarily should India annex Nepal now.

‘Amidst all that, arguably what more India had to lose had they annexed Nepal during that period? Or the “process of merger” it adopted in the case of Sikkim, what had bothered India not to apply the same to Nepal? If thousands of tributaries to Ganga (Ganges River) were India’s prime concern, why not a “macro” solution once and for all? Incidentally, a fact that needs some attention by the scholars and experts alike is, why did not India get settled with “micro management” in Sikkim instead of a “macro” solution?’

It is true that states do not need to explicitly militarily annex other states to fulfill their interests or address their strategic and security concerns. They could easily instigate internal clashes by fuelling state or non-state groups and try and achieve their interests. This is exactly what has happened in several civil wars around the world; during the Cold War for ideological or containment reasons; during and after Cold War such phenomenon continued as war lords fought over “blood diamond”, neighboring state instigated violence in the pretext of “ethnic solidarity” etc. But again, instigating insurgency is one thing, but guaranteeing your own interest is another.

In other words, civil war cases and the settlement of civil wars cases showed, more often than not, secession from one entity into several, rather than integration or annexation from several to one. A realist journalist cum sociologist strongly opposed this argument saying that it is not about guaranteeing interest, but just to make another state crack off for good so that the small entities remain weak and accept the bigger ones’ suzerainty. He used the example of Yugoslavia under the assumptions of conspiracy of others to break it. However, in case of Nepal, the historical and geographical context does not match with that of Yugoslavia. Besides, breaking the current entity of Nepal would practically leave no unit capable to run as a state by itself, which definitely is not what India wants given the Chinese on the other side.

How far does the ill-intention of neighbors have been able to secure their interests by fuelling insurgency in the neighborhood? Is there any guarantee that the mess created by some would not slip from their own hands? For instance, recently there was a carnage inflicted by the Indian Maoist in Chhattisgarh state of India where top ranking Congress leaders fell prey to the insurgents. Could India be so sure that rebels under its tutelage in Nepal (if it was true) would not come to bite it someday? Even it was true, has it been able to take any good out of all this mess so far? What if even others would be tempted to play the same game in Nepal? Would it be in India’s interest?’ (Sigdel, 2013b)

‘It should be noted that basically the discussion here is in terms of India (not China) as regards Nepal’s sovereignty because given the population dynamics, Nepalese would not fit into the collective imaginative community of Chinese nationalism. Growing people to people relation between Nepal and China: easing of border control for Nepalese living in the north, more and more Nepalese students flying over the Himalayas, growing Chinese studies center in Nepal and so on will still have a long way to go for any significant changes in nationalistic regard vis-à-vis the racial and cultural similarities between Indians and Nepalese. Therefore, despite securing its strategic points across the bordering region to Nepal, the Chinese military parading into Nepal’s inner territory seems highly unlikely anyway.

Coming back to the earlier point, one could argue that if interference in a state could involve multiple states - as seen of late in Nepal - there is no reason not to believe that others would come down to instigating violence as well. In this perspective, it is definitely not in India’s interest to fuel insurgency in Nepal. In any event, too much reliance on armed conflict to pursue its own interests will wither away over time. Studies show that civil wars do end. So the challenge for India would be how to deal with Nepal in peace rather than just relying on fuelling civil wars.

This has become clearer as the post-conflict situation in Nepal unfolded. India could not save the BIPPA¹⁹⁸ friendly PM Bhattarai from eventually resigning, and apparently no one - neither the insurgents nor their potential patrons - seem likely to go back to the jungle right now.¹⁹⁹ Having said all these, a question immediately comes, if India did so, as it supposedly had the conviction that the monarchy in Nepal had posed a significant threat to its geo-political interests vis-à-vis China, what about the Nepalese? Nepalese had equally discarded the king if not more than India. The sea of people from all walks of life took to the streets to protest king Gyanendra.²⁰⁰ It is noteworthy here that the outsiders’ intention will fail to materialize unless

¹⁹⁸ The treaty that Nepal under the UCPN-Maoist PM Baburam Bhattarai signed with India. It anticipates the security of investments of Indian company in Nepal. While the main opposition NC accepted the deal, the UML, and CPN-Maoist opposed it.

¹⁹⁹ General understanding among commentators was Bhattarai was India’s man, so it supported him to continue with the PM post despite wide call of resignation by all political spectra. In a way, India lost by loosing Bhattarai as Nepal’s PM. This is a crucial turn to understand my argument: India going up to the extent of causing civil war in Nepal to have its protégé as the PM to pursue its interest, it succeeded up to that point, but it did not even last a blink of an eye, so if it believes that causing havoc it address its interest is sheer miscalculation.

²⁰⁰ Though it looked that time that the whole country was against him, over time it turned out that there was opposing views in the parties, particularly in the Nepali Congress, whose leader GP Koirala had gone against his party’s wish. Similarly many people had accepted the situation given the Maoist menace and for wide desire for

their interests resonate with the domestic ones (Risse, 2002). Hardly anybody would disagree with the fact that it was king Gyanendra himself who ended the monarchy more than any other force.²⁰¹ (Sigdel, 2013b)

‘As the transition prolonged and people seemed to be losing patience, it gave a chance to examine what had happened so quickly in hindsight. Many argue that the way the king was ousted was illegal. The way umpteen agendas which were not featured either in 12-point-understanding or in the Comprehensive Peace Agreement were being endorsed by the unconstitutional government in the name of revolution and so on. Maoists’ menace, leaders’ ambition of the presidential post and popular desire for peace as well as India’s push seemed to be instrumental to hastily declare Nepal a republic.

Leaving these arguments aside, what seems strikingly valid is the point that India is encroaching into Kathmandu politics through the southern region of Terai-Madhesh; injecting citizens from across the border and naturalizing them, advocating for a single Madhes region, increasing the constituencies given its huge population, and getting hold of the central politics in Kathmandu. This is an assumption based on the arguments frequently seen in the media that India is behind in building an alliance between Madhesi political forces for this particular purpose²⁰². Some even claim that not only the alliance, but the parties and leaders themselves are India’s pawns.

Besides, many claim that causing eternal political instability, dragging the army to intervene on the one hand, and empowering the Madhesi politics on the other, some sort of *fijiization* process is in the pipeline by the neighbor. But given the assumptions that neither China nor India would want conflict in that magnitude in Nepal which could potentially spill over into neighboring borders, there is enough space to question the *fijiization* speculation. UCPN Maoist leader Ram Karki said, taking to the Himalaya Times Nepali Daily, that “China

peace in the already war-torn Nepal. Nonetheless, the king himself took some steps which clearly contradicted the democratic practices and antagonized the party and the international community. The palace massacre few years earlier had also played some role in people going against king Gyanendra.

²⁰¹ At a point where the international community wanted the king to reconcile with the parties, he increasingly isolated the parties and seemingly run the state unilaterally, which turned the tide towards republic advocates, including India (presumably).

²⁰² Dhakal, A. (2013). Available at: <www.setopati.com>, accessed 29 July 2013.

and India will not do any silly thing like turning Nepal into Afghanistan or Balkan like battlefield”.²⁰³ (Sigdel, 2013b)

‘Besides, even these stories have a flip side. A media person inclined towards Madhesi politics gives a different account with nationalism and sub-nationalism perspectives. He argues,²⁰⁴

‘The fijiization is nothing else but the Pahadi (Nepalese from the mountain region or anti-Madhes sentiment) chauvinism, and thus not embracing the Madhesi population as equally Nepalis as Pahadis. He says, it is true that people move across the border back and forth given their cultural proximities and family relations, but Nepal has no choice but to accept it. In the past, given the autocratic regimes, whole Madhes remained subordinated to the Pahadi nationalistic regime. Now since Nepal is an inclusive democracy or at least we are trying for it, the Madhes dynamics have appeared the strongest in the entire history. This fact is definitely going to have huge implications for “Nepali” nationalism and social political structure of Nepal. Now, understand this as a legitimate process of inclusive nation-building or India’s ill-intention, this is what it is.’ (Sigdel, 2013b)

Nepal seems to put the blame on others to ignore its own weakness. It seemingly expects its neighbor to be motivated by pure altruism. For instance, in recent days despite the Chinese military incursion in Ladakh, Indian PM Manmohan Singh had no choice but to turn a blind eye on that ground reality and welcome the Chinese PM and profess together about the “the new dawn”. Similarly, it cannot be easily denied that India seeks a “controlled instability” in Nepal to pursue its interest. However, all these geo-political motives correlate with the domestic politics, its politicians and other stakeholders.

To survive as a sovereign, political forces should be able to devise a “common institutional position”²⁰⁵ towards outsiders putting aside internal feuds. Nepalese politics got mired in personal ego clashes from the beginning, political forces have sought India’s favors to defend their regimes.’ (Sigdel, 2013b)

²⁰³ Himalaya Times (Nepali), 2013. “Ram Karki’s Interview”. Available at: <www.himalayatimes.com.np>, accessed 28 June 2013.

²⁰⁴ The following paragraph is what I gathered from him through several round of conversations.

²⁰⁵ Former Ambassador to India, Bhesh Bdr. Thapa at a program

‘Some raised a question to this argument by saying that when politicians themselves are the collaborators of the foreign powers in the first place, how come a common position could be determined? But then this leaves no space for arguing about India’s role because it suggests a total submission to India. In addition, regardless of the circumstances how states are formed, states themselves over time redefine their existence to stand as a complete sovereign. But Nepal still seems to be submerged into what PM Nehru had done fifty years ago.

One could argue that the theory that India had always sought instability in Nepal falls short of explaining convincingly the thirty-year existence of the King Mahendra and Birendra-led partyless Panchayat system despite the fact that King Mahendra’s or King Birendra’s policy did not succumb to India’s interest.²⁰⁶ As a matter of fact, pro-Indian commentators have always described these kings as irresponsible leaders coveting Chinese care at the expense of the welfare of Nepalese citizens by annoying India. The argument that the 1990 parliamentary movement was dominantly Indian formula discards the fact that Nepalese people had their wish and aspiration regarding democracy and economic prosperity. Such reductionist argument would imply that the anti-Rana movement in the 40s-50s was never a fight for democracy apart from India’s conviction that the Rana would not fulfill their interest anymore.

Furthermore, the splintered extremist faction CPN-Maoist, who have been propagating hardcore anti-Indian slogans, are suspiciously silent about their nexus with India. As a matter of fact, the CPN Maoist leader Dev Gurung denied the claim that the entire insurgency itself was India’s child, but accepts the fact that India did play a role in mediating to bring about a political solution. This debate seemingly does not end since there are plenty of others who argue in contrast. The debate only represents an extremely polarized and antagonized socio-polity in Nepal up to the extent that that even leading publications do not seem to care about the border between professional journalism and mission journalism, so claims many journalists themselves. News, views, interviews, almost every argument is politically biased.’ (Sigdel, 2013b)

‘Presuming that India did do some “mischief” in the past, but would it be reasonable for it to do so again and again? Will then India continue to follow what it presumably has so far, i.e. fulfill its interests by divide and rule or the pendulum policy? Will the northern friend’s (China)

²⁰⁶ The interrelations between Indian and Nepali society, personal and family relations of the Nepalese royal family (Shah and Rana clans) in India also play an important role beside what is being seen on the political level. There are also contradictory arguments that the king compromised on the strategic point of Kalapani, while general understanding is that the monarchy has defended Nepal’s natural resources and territories and sovereignty.

words for Nepal- “from dear friend to excellent partner”²⁰⁷ - always remain in words, and India will continue to succeed in its British-era policy?²⁰⁸ Putting all this perspective, neither a strong monarchy and stable Nepal nor the fluid Nepali politics under republicanism is serving India's interest up to its satisfaction.’ (Sigdel, 2013b)

Concluding Remarks

‘Plethora of such questions regarding India's role in Nepal typically lead experts to conclude that India's Nepal policy is not consistent. Besides, there are functionalist politicians who deny that India unduly maneuvers Nepal's domestic politics, and they are of the view that the cooperation between the two countries would be rather in Nepalese people's favor. For instance, the Nepali Congress leader/former PM Sher Bahadur Deuba represents this strand of thinking. But the nationalists, mostly leftist, vehemently criticize those views not as useful but submissive towards India's domination. In a recent historic turn, the Maoist ideologue Baburam, who had argued “Indian expansionism” as an underlying cause for Nepal's failed development, both at party level and at personal level shifted his stance to a pro-Indian functionalist who even ended up signing the BIPPA agreement with India. The trade agreement was seen by many to be on India's advantage while undermining Nepal's sovereignty.’ (Sigdel, 2013b)

** The paragraphs in this chapter are identical to those of published versions of my articles.*

²⁰⁷ The visiting Chinese Asst. Foreign Minister Yang Jechi said so in Nepal in 2013.

²⁰⁸ The same divide and rule policy, which is understood as a continuation of what British had pursued.

7. Norms of Human Rights vs. Peace Process: TRC Agenda²⁰⁹

The Nepalese Maoist insurgency²¹⁰ came to an end when the Maoist guerrillas' leadership and the Seven-Party-Alliance (SPA)²¹¹ signed a 12-point-understanding in New Delhi in November 2005. The Comprehensive Peace Agreement (CPA) soon followed in 2006 in Kathmandu giving an official start to a "peace process,"²¹² which then saw a promulgation of an Interim Constitution²¹³ of Nepal in 2007. All these documents reflected the signatory parties' emphasis on democracy and human rights as a common ground to lead the peace process to a "logical end."²¹⁴ Therefore, as regards the transitional justice mechanisms, expectedly, the CPA signed by the concerned political parties had envisaged, among others, a formation of the National Peace and Rehabilitation Commission²¹⁵ and the High-level Truth and Reconciliation Commission "as per mutual consensus."²¹⁶ The former was expected to "normalize the adverse situation" in the post-conflict society and the latter to probe "those involved in serious violation of human rights and crime against humanity in course of the armed conflict."²¹⁷

²⁰⁹ A customized version of this chapter, together with the theoretical framework this study, was presented at the international conference New Directions to Humanities, held in Budapest, in June 2013. This chapter/article has just been approved by two blind peer reviews and is going to be published soon in *The International Journal of Civil, Political and Communities Studies*, Vol. 11 (2014). ISSN: 2327-0047 (print), 2327-2155 (online)

²¹⁰ The civil war was waged by the Communist Party of Nepal- Maoist.

²¹¹ The SPA was composed of seven parliamentary parties elected in the 1999 parliamentary elections. The parliament was dissolved in 2002 by the king Gyanendra. The SPA was dominated by the biggest party Nepali Congress's President late Girija Prasad Koirala.

²¹² The peace process of Nepal, according to the Maoists' definition, basically entailed the combatant management, integration and rehabilitation. It took the constitution writing process separately from the peace process. However, in general, other stakeholders and commentators have perceived the issues of combatants, constitution, and several other agendas together as the peace process. This difference in conceptualization of what comes in the peace process and what not has also affected the importance of several other issues, for instance, the TRC. For instance, in the media it appeared that after the handing over of the Maoist combatants and the dissolution of the Special Committee which oversaw this issue, the peace process was over. But then the question remains: how about so many other outstanding issues?

²¹³ The interim parliament reinstated by the king Gyanendra endorsed the Interim Constitution of Nepal 2007 replacing the Constitution of Nepal 1990. The Maoists were already inducted into the interim parliament following the power-sharing arrangements agreed upon in the earlier agreements.

²¹⁴ The term "logical end" as mentioned from the very first agreed documents has been reiterated rather frequently by the leaders and the media, but some confusion regarding its meaning and connotation remains.

²¹⁵ Ministry of Peace and Reconstruction, which was established replacing the Peace Secretariat following the CPA, initiated the drafting of the TRC bill in 2008. The envisaged National Peace and Rehabilitation Commission (in the CPA) as such has not been formed so far.

²¹⁶ The words in quotes are taken from the CPA.

²¹⁷ The words in quotes are taken from the CPA.

However, since the early days, a bill drafted by the government²¹⁸ in order to establish the TRC (in 2008) drew wide criticism from the civil society, human rights activists, and national and international rights agencies. This is because the bill failed to live up to the international standards, owing in particular to the bill's granting of discretionary power to the Commission in relation to granting amnesties to perpetrators. After seven long years of signing the CPA, which included a four-year period of the Constituent Assembly (CA), and more than a year of the post-CA period, as of May 2013, an ordinance of the TRC endorsed by the president Ram Baran Yadav failed to satisfy the stakeholders.

Even though the ordinance was issued following some amendments, it was blocked by the stay order of the Supreme Court of Nepal. The court was responding to the writ petitions filed against the promulgation of the ordinance which (writ petitions) claimed that some of the ordinance's "provisions contradicted the Interim Constitution."²¹⁹ The plaintiffs claimed that the Commission (not formed so far) would possess discretionary powers to grant amnesties even in the cases of serious human rights violations.²²⁰

Throughout the peace process, the TRC apparently could not gain equal prominence vis-à-vis the "major" agendas such as constitution writing, combatant management, integration and rehabilitation, state restructuring (federalism)²²¹ and changes of governments. At last, two unexpected cases brought the TRC agenda to the fore. These cases gave the transitional mechanism issue an unprecedented attention and importance that had previously been merely a side-issue of the peace process.²²² One case is when the Prime Minister Baburam Bhattarai

²¹⁸ Regarding the government, it should be noted that in post-2006 Nepal, there have been several governments. Until the end of 2013, all three big parties, the Nepali Congress, United Marxist and Leninist, and the Communist Party of Nepal-Maoists (ex-rebels) as well as a Chief Justice had led the government. However, the CA collapse and the issue of the TRC bill political ordinance happened under the Maoist Prime Minister Baburam Bhattarai (BRB).

²¹⁹ Kharel, Pranab. 2013. "Supreme Court Stay TRC Ordinance Move." Available at: <http://www.ekantipur.com/the-kathmandu-post/2013/04/01/top-story/supreme-court-stays-trc-ordinance-move/247094.html> , accessed 10 May 2013.

²²⁰ The ordinance had remained for 9 months in the president's office before it was revised and the blanket amnesty provision was removed. Then the president's endorsement followed. However, the right groups claimed that, even though the ordinance looked better than its earlier version, they still could not accept it due to some clauses that could leave perpetrators go unpunished. Besides, although this amended version of the ordinance promulgated by the president has exempted rape cases from amnesties, unlike the earlier version, experts argued that even these cases could be granted amnesty.

²²¹ Federalization was not envisaged in the CPA, thus was not mentioned in it either. The federalization agenda appeared following the Madhesi movement (regional ethnic movement) in the southern Terai region of Nepal. Therefore, the agenda of federalization entered into the peace process from 2007 onwards only.

²²² The reason for such attention is two-fold: first, given the Nepali Congress's (NC) and the United Marxist Leninist's (UML) protested the PM BRB right after the CA expiry, the journalist case got mixed up with the

(BRB) from the UCPN-Maoist intervened in the judiciary (January 2013) with the purpose of obstructing the investigation into the murder case of the journalist Dekendra Thapa. Thapa was allegedly buried²²³ alive by the Maoist insurgents in 2004. The other case is the arrest (January 2013) of an incumbent Nepal Army Colonel Kumar Lama in St. Leonard on Sea in the UK. The UK Metropolitan police arrested Lama under the universal jurisdiction in charge with torture during the insurgency in 2005 in Western Nepal.²²⁴

The journalist's case triggered a huge row. The Maoists defended themselves by claiming it to be a conspiracy meant to "derail the peace process," whereas their opponents blamed the Maoists for intervening in the judiciary. Similarly, the Colonel's case was understood or taken by the Maoists and the Nepal Army as a "mistake" of the UK government. They claimed that the UK attacked the sovereignty of Nepal. Human rights groups and other opponents welcomed the arrest and charged the government and the Army with being indifferent towards human rights, hence paying the price for their past deeds. Even though the ordinance was further amended, and there were some important incidents²²⁵ and changes in the politics, the issue of the TRC remained unresolved.

7.1 Maoist Conflict

The Maoist rebels (Communist Party of Nepal, Maoist/ CPN Maoist, now Unified CPN Maoist) waged a decade-long war since 1996 that left more than 13,000 people dead, 13,000 missing and 100,000 people displaced according to the UN figures. Both the state side and the rebel side were responsible for several cases of violation of human rights and humanitarian law during the

political rivalry and agitation. Second, the increasingly assertive right activists, encouraged by the UK arrest of the Col. Lama, exerted tremendous pressure on the BRB government.

²²³ In fact, one of the suspects, Lacchiram Gharti "admitted that the scribe was buried alive," according to a report at ekantipur.com, 07 January 2013. This is the website of the leading national daily of Nepal called Kantipur.

²²⁴ The Metropolitan Police-UK arrested Col. Lama on 5 January 2013 under the section 134 of the Criminal Justice Act which defines torture as a universal jurisdiction crime. Lama was being posted as a military observer in the UN Mission in South Sudan, and was on holidays in the UK where his family was living.

²²⁵ The BRB government and the major opponents United Marxist and Leninist (UML) and Nepali Congress (NC) included the amended version of the ordinance in their "package deal" before the PM BRB would step down and pave the way for an election government under the chairmanship of the Chief Justice Khil Raj Regmi. However, the ordinance was still short of living up to the international standards. The president promulgated the ordinance although earlier he had promised that he would not enact any ordinance that did not comply with the international standards.

conflict years.²²⁶ The “people’s war” was fundamentally a communist insurgency, which in the course of the war began to be understood as a combination of a campaign against the monarchy, an ethnic identity assertion and a socio-economic movement. The communist movement in Nepal has a long history, which roughly started from the 1950s, and underwent several splits. Beside sporadic skirmishes at times, no communist movement had reached the level of the Maoist insurgency.

Conspiracy theories are also rife that it was the royal palace all along who fuelled communist movements in order to undermine liberal democratic forces. In this way, presumably, the monarchy would continue to hold its supremacy over Nepal’s polity. However, many experts claim that this time (the Maoist insurgency in particular) it was basically India who mobilized the Maoists from behind to throw the monarchy out. India supposedly had the conviction that the monarchy was an invariable obstruction to India’s geo-political interests vis-à-vis China. Such theory stems from the relation between Nepal and India which has always been understood as both good and evil. Despite very close socio-cultural, historical relations, India is taken as a villain figure as far as Nepal’s socio-economic development, sovereignty, and territorial integrity are concerned. India, on its part, seems to deal with Nepal with a big brother’s patronage towards a little one and perennially denies such blame or speculations.

Mostly during the Panchayat era led by the palace (1960-90), the Nepalese nationalism was basically understood as being anti-Indian, and thus the democratic party Nepali Congress (NC) was considered pro-Indian unlike the palace and communist parties. However, in recent days, the dramatic change of the Maoists’ stance towards India posed a critical question: is the Nepalese understanding of India as an expansionist power a reality or simply a political construction? Have the erstwhile violent nationalist insurgents turned into collaborators? Conspiracy theories put aside, there is also a widespread belief that the conflict was a natural societal explosion due to the past regimes’ disinterest towards a long-standing poverty and social discrimination in the Nepalese society.

²²⁶ The Royal Nepal Army is blamed to have caused more killings than the Maoists, thus, inflicting most human rights violations during the insurgency. Under the king Gyanendra’s direct rule, reports claim that the Army was responsible for excesses of human rights violations, disappearances and killings. However, Maoists had not played fair either, some cases of torture-killings exposed Maoists’ extreme brutality.

7.2 Peace Process

After a couple of failed negotiations and ceasefires between the Maoists and the government under the king Gyanendra's active involvement in 2001 and 2003, the Maoist leadership approached the political leaders as the king was indifferent to their (Maoists') demands. For their part, political parties were growingly disenchanted with the king's political role. Since the discourse that the Maoist conflict did not have military solutions (by 2005) had already taken prominence, some sort of reconciliation and trade-offs became inevitable. Therefore, with India apparently devising the whole development, New Delhi became the negotiating venue in 2005 whereby the Maoist leadership and the SPA found a common ground. They agreed to form an alliance to launch a protest against the monarchy and restore the democracy which Nepal had just lost to the king. The Maoists agreed to join mainstream politics.

Many claim that the octogenarian political leader Girija Prasad Koirala (Nepali Congress), who led the SPA, agreed to shake hands with the Maoists as they had secretly floated to him the prospect of being the first president of the republic on condition that he would collaborate with them (Maoists) to overthrow the monarchy.²²⁷ Now, after several years of the peace process and other developments, the agreement is increasingly understood as the Maoists' ill-tactic to grab power and impose an absolutist regime.²²⁸ Similarly, for its part, the SPA had apparently intended to cajole the Maoists to give up their armed struggle at that moment, and if that achieved, they would gradually turn their back on the Maoists' agenda. There was a widespread belief that in a democratic competition the violent Maoists would certainly incur heavy defeat. However, the belief turned out to be the opposite as the Maoists became the winning party of the 2008 CA elections. The Maoists' victory in the elections cast doubts from the beginning among many commentators on the conduct of elections. Many doubted that the people's verdict was free of the Maoists' menace.

²²⁷ Even some Nepali Congress leaders like Ram Sharan Mahat and Shekhar Koirala did not deny that Koirala had that sort of offer from the Maoists. Besides, Shekhar Koirala was present during the Prachanda-Girija meeting in New Delhi while inking the 12-point Understanding.

²²⁸ However, these explanations are not free from criticism. Those who strongly advocate structural changes in the socio-polity in Nepal blame the NC and the UML, tagging them as "status quoists," for undermining the peace-process for the sake of holding on to power eternally.

7.3 TRC Bill and its flaws

TRC Bill being enacted through political ordinance: The CA was the responsible and authorized platform to conduct wide consultations among stakeholders while preparing a TRC bill; most importantly involving those victims of injustices. However, in the absence of the CA, the government of the PM BRB drafted a political ordinance and forwarded it to the president. The process of drafting was being clearly subordinated to the discretion of the four major political parties.

TRC and legal obligations: Even though the amended version of the ordinance had removed the earlier provision that granted discretionary powers to the to-be-formed Commission to grant blanket amnesties, according to judicial experts and activists at national and international level, the use of vague terms would still give the Commission enough room to grant amnesties at its discretion. For instance, as cited by human rights activists, clause 23 of the ordinance vaguely uses wordings such as, “if deemed reasonable²²⁹ for granting amnesty,” but the meaning of the word “reasonable” is not clearly defined. Similarly, section 25 contains the terms “sufficient ground and reason” to grant amnesty, but the meaning of the word “sufficient” is not clear either.

Thus, commentators have argued that the ordinance still does not comply with the spirits of the Interim Constitution as it denied justice to victims: Article 12 (1), 13 (1), 24 (9) of the Constitution.²³⁰ Similarly, since Nepal is signatory party to several international conventions, such as the Convention Against Torture (CAT), the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol, it is violating international laws, argued experts. Besides, the ordinance also disregards the court ruling of 2007 to form a separate commission for disappearance cases.

²²⁹ Experts argue that although the amended version contains a provision that explicitly says that no rape cases will be granted amnesties, vague wording without definition like “reasonable” would still allow the Commission to grant amnesty even to rape case perpetrators. They argue that the new version is just a trick to fool the people.

²³⁰ See The Himalayan Times. 2013. “TRC Ordinance challenged in Supreme Court.” Available at: <http://www.thehimalayantimes.com/fullNews.php?headline=TRC+Ordinance+challenged+in+Supreme+Court&NewsID=370571>

TRC formation and its political dependence: As regards the selection of the members of the to-be Commission, it is envisaged that a selection committee be formed under the chairmanship of a retired Supreme Court Chief Justice. However, the ordinance also stipulates that the committee has to consult with the political parties before making recommendations. This disregards the independence of the Commission from political influence.²³¹

TRC against the spirit of Transitional Justice: Human rights activists strongly criticized the ordinance for disregarding the spirit of the transitional mechanisms by favoring reconciliation without the consent of victims and perpetrators; hence denying truth, reparations, and justice. They argue that the peace process will not be completed until victims are given justice and that denying justice might bring back the conflict.

7.4 TRC and politics

Even though the Maoists and other political parties had expressed their commitment towards human rights and rule and law, and thus agreed right from the beginning of the political process upon establishing transitional justice mechanisms, the envisaged TRC as well as Commission of Inquiry into Disappearances (DC)²³² have still not materialized. Having said this, the rather tumultuous peace process hardly saw any realization of many such commitments and promises. Maoist combatants' integration and rehabilitation that had heavily dominated the political process occurred in rather unexpected circumstances²³³. However, the expiry of the CA without

²³¹ Extracted from the human rights expert Govinda Bandi's interview. Available at: <http://www.inseconline.org/index.php?type=interview&lang=en&id=18> accessed May 10, 2013.

²³² Despite the fact that these two Commissions were mandated by the Interim Constitution, the government was planning to include the investigation on disappearance also into the TRC bill. However, widespread objection from national and international actors, most importantly the Supreme Court's ruling in June 2007 prompted the government to discuss the formation of separate commissions through two different bills. However, as the CA and the Legislative Assembly expired, the BRB government merged two separate bills in a single ordinance and forwarded it to the president.

²³³ The Special Committee for Supervision, Integration and Rehabilitation of the Maoist combatants chaired by the Maoist PM BRB decided (in 2012) to hand over its combatants and arms eventually to Nepal Army after 6 years of intransigence. However, this abrupt decision was prompted by particular incidents: in some cantonments some commanders fought with each other and fled and sought protection of state security forces. The Maoists feared a possible flare of chaos and violence within their own rank-and-file owing to a long-simmering resentment among

endorsing any constitution gave the most serious blow to the entire political development, putting in jeopardy all the agreements and achievements accomplished until that moment.

Strong partisan politics plagued the consensual decision-making from the outset resulting in violating the terms of the peace agreement, let alone the willingness to address impunity or reparations of victims through transitional mechanism as promised earlier. Rather, killings continued, characteristically from the Maoists side²³⁴. Given this character of the peace process and the domination of several other agendas over human rights, it is not surprising that the issue of the the TRC and the DC formation could not make it to the list of political leaders' major agenda. Hence, the TRC merely remained the concern of interest groups and activists speaking for victims and for their own agendas, principles and interests.

The TRC bill, which was supposed to be prepared through the participation of victims and wide discussions and consultations in the Constituent/Legislative Assembly, was paradoxically issued as a political ordinance in the absence of the legislative body. Furthermore, the government has apparently bypassed its obligations despite the fact that national and international right groups have insisted from the outset on Nepal's obligation to comply with international law that Nepal is party to. They had asked the government to comply with the terms of the CPA and the Interim Constitution and had strongly objected to the discretionary powers of the Commission which could grant amnesty even in cases of serious human rights and humanitarian law violations. The Maoists, in particular, being the most concerned party for their deeds in the past, have adamantly defended their position by saying that the international standards do not fit the reality of Nepal, and would only put the peace process in jeopardy. Responding to the criticism from the United Nations High Commissioner for Human Rights Navi Pillay²³⁵ over the non-compliance of the ordinance with international norms and standards, a Maoist leader and a close aide of BRB, Mr. Devendra Poudel, said:

the combatants languishing in cantonments. The combatants were extremely dissatisfied with their leadership as regards their physical conditions, the party's internal feuds and speculations about financial misappropriation.

²³⁴ Just to mention one example of the unruly behavior of the Maoists after joining the mainstream politics is the reactivation of the politico-military wing called the Young Communist League-YCL in 2006. The YCL engaged itself in several incidents of extra-judicial activities following the CPA. In recent times, YCL seemed to be inactive following wide criticism of the Maoists from other parties and stakeholders.

²³⁵ UN High Commissioner for Human Rights Navi Pillay issued a statement urging the four major political parties to amend the ordinance citing that the ordinance not only violated international law but also impeded a lasting peace in Nepal by denying thousands of victims their right to truth and justice.

[...]since we are a member of the UN, we respect its concerns, we take it seriously what they are trying to make happen here...but within the UN there are contradicting school-of-thoughts...their demand is right from their side, but in Nepal we ourselves have to find out our standards of human rights[....]²³⁶

This argument might have made sense if Nepalese people had had their share in the decision-making,²³⁷ but the fact of the matter is that the ordinance had become hostage primarily to the Maoists and then the three other parties²³⁸. Besides, Mr. Poudel further argued that the incidents that took place during the war, which were political in nature, could not be tried on an individual basis even though those incidents involve major human rights violations. In his opinion, the TRC should be formed primarily to separate political cases or the insurgency related cases from those which are criminal or apolitical. This argument implies that those political cases would simply be granted amnesty, regardless of the seriousness of the violations of rights. Moreover, by doing so, the TRC would be legitimizing those amnesties or reconciliations.

Therefore, the following question arises: if it was so from the beginning, why did the Maoists keep on denying that they did not want blanket amnesty and tried to convince the international community that they would follow the prescribed process? The best explanation is that this attitude of the Maoists was due to the independent power of norms of human rights more than anything else, because it would give them dividends both in terms of legitimacy and money in the name of transitional justice and reparations. This, at the same time, reinforces the fact that the Maoists had reconstituted their identity by claiming their respect for human rights. In any event, owing to the Maoists' behavior, it would be relevant to raise the following questions that beg some answers.

²³⁶ Devendra Poudel talking at a program on 23 March 2013, on BBC Nepali radio service, podcast.

²³⁷ UN Human Rights advisor Rory Mungoven, talking with Al Jazeera television, reveals that the UN had some considerations given the complexities and sensitivities of the peace process in Nepal. He further expressed that the peace process had come a long way and that the parties deserved some praise and some more time. However, in the later days it became clear that there was no political will for the TRC and that people had been left out from the process, which concerned the UN. <<http://www.aljazeera.com/programmes/insidestory/2013/05/201351423296261662.html>> , accessed May 25, 2013.

²³⁸ The 4 major parties were leading the political process in the absence of CA and enjoying total control of all the outstanding issues despite wide criticism of their undemocratic behavior. These parties are UCPN-Maoist, NC, UML and the Madhesi Front. They oversaw the preparation of the ordinance and forwarded it to the president. The major concern of the right groups was the way these parties handled the TRC ordinance. They argued that excluding people's participation made the ordinance totally against the spirit of the transitional justice mechanisms.

Was this understanding prevailing when they agreed for the first time to follow such practice or did they change their stances later on? If the latter is the case, what are the reasons? Was it a functionalist approach to give consent to international normative practices for the purpose of helping legitimize their (Maoists') safe-landing? Was it for the assurance of their own existence vis-à-vis the Nepal Army that they fought against? Was accepting the human rights and rule of law and, by extension, the formation of the TRC the price Maoists had to pay for having invited international parties to monitor the peace process?

Had Maoists underestimated the power of international norms and transnational advocacy? Did they fail to envisage that the seemingly less important issues could eventually upset the international community to such an extent that their top leaders should fear arrest and prosecution in foreign countries?²³⁹ Studies on the peace process of Nepal still have not convincingly provided answers to these puzzles. In the following, the hypotheses of this study will be tested, which can answer some of the above queries.

7.5 Norms vs. Self-help

When the Maoists agreed to the documents such as the CPA 2006 and the Interim Constitution-2007 that obliged them to cooperate in forming the TRC and the DC, it would not be unreasonable to argue that they did accept the prescribed norms of the peace process in order to somehow address and redress the excesses of human rights violations during the insurgency. Why did they do so? First, in the violations of human rights not only were the rebels involved, but also was the state army. In fact, several unofficial figures show that more violations were committed by the army as opposed to the Maoists. Second, the wide international practice of bringing rebels into peaceful politics is built upon the normative thinking that: the peace must prevail, people's lives must be saved, and rebels must be given voice so that the genuine grievances are addressed properly. All these are believed to be elements required for a lasting solution to civil wars. Hence, negotiated settlements that occur between insurgents and governments or other political entities around the world are themselves the products of norms acceptance.

²³⁹ Referring to the arrest of the Col. Lama in the UK.

NORMS OF HUMAN RIGHTS VS. PEACE PROCESS: TRC AGENDA

The Maoists agreed to transform themselves from the armed insurgents fighting for a communist regime into a party that respects multi-party democracy, human rights and rule of law. For its part, the SPA reciprocated with an agreement to pave the way for a CA which was one of the principal demands of the Maoists. Regardless of whether the Maoists did so as a cost-benefit analysis or as a true redefinition of their identity, they have, apparently, turned towards respecting the norms. In the absence of norms compliance, there would not be any negotiated settlement. The norms-compliance discourse has given them the much-needed legitimacy and incentives in the political process. Perhaps this conforming behavior of erstwhile rebels won the peace process international praise. However, the praise did not last long and eventually converted into criticism.

As the process entered the implementation phase in which those broader agreed frameworks were to be worked out in detail through wider consultations and consensus, the Maoists reconsidered their normative obligations and their implications vis-à-vis their existence. Since the CPA did neither provide any specific model of truth commissions nor specify formation procedures, despite the continuous effort from the National Commission of Human Rights, United Nations Office of the High Commissioner for Human Rights (UNOHCHR), and other stakeholders to pursue the government to form the commissions as per the international standards (Martin 2010), in 2008, eventually, the government planned to draft the bill bypassing the concerns of the right groups and victims.

While the government continued to defend that the TRC was extensively discussed in the Constituent Assembly, human rights activists claim that the government had been dealing with the issue in a secretive manner all along. Commentators speculate that due to the entrenched culture of impunity in Nepal, since the verdicts of past commissions were never implemented (for instance, Rayamajhi Commission²⁴⁰), the Nepal Army and the Maoists presumably had some secret understandings about being unsupportive, fearing huge consequences. They feared that a truth commission formed as per the international standards would jeopardize their organizations

²⁴⁰ Rayamajhi Commission was formed under the chairmanship of former Supreme Court Justice Krishna Jung Rayamajhi to probe into the atrocities committed by the erstwhile royal regime during the April uprising of 2006. The Commission recommended actions against army personnel to police, to civil servants, to politicians, but ended up being subordinated to political parties' discretion. Speaking at a BBC Nepali Service Sajha Sawal radio program on 03 February 2013, he said that the-then Home Minister and Congress Leader Krishna Sitaula conveyed to him that the parties could only reach consensus on his chairmanship and insisted to take up the job. However, the government formed a separate committee to take final decisions on whether to take any action on the Commission's recommendations.

significantly. The Army, an isolationist sort of institution which was invariably seen as the king's army until the end of the monarchy, was mostly refusing to cooperate with civil laws and transitional justice mechanisms. These facts led to the marginalization and subordination of the TRC to political bargaining, not to mention the complex character of the peace process laden with a plethora of agendas.

In addition, the strategic framework (12-point-Understanding) agreement between the original signatories started to become irrelevant as the new regional forces like Madhesi (from the lowland Terai region) emerged and other Pahadi (Hill) ethnic fronts grew strongly assertive. The agenda of Nepal's federalization, which was not a part of the agreement in the 12-point-understanding or the CPA, became established as a major component of the peace process. The changing equation caused the negotiating parties to reconsider their own past commitments vis-à-vis their present and future, causing increased lack of trust among stakeholders. By the time the TRC agenda took firm ground and parties could not turn back from their earlier promises, the relevance of the earlier agreement and the peace process itself had already had a 180 degree turn.

Likewise, the question of the contested universality of the TRC became the Achilles Heel of the national and international human rights advocates where the Maoists and the Army hit. Since there are varying models of transitional mechanisms, many argue that the government intended to copy the South African model which favors reconciliation and pardon. Therefore, many deny that the ordinance violates international law and norms. They argue that, given the gravity of the existing peace process, Nepal has the right to devise its own model of human rights. Prof. Krishna Khanal (TU, Nepal) said, talking with the BBC Nepali Service radio program, that the spirit of the initial agreement on the TRC was basically based on the South African model although it was not an ideal case of transitional mechanism.²⁴¹ He adds that, given the extreme partisan politics and discouraging prospects of the peace process, the parties are backtracking from their previous understandings.

The Maoists have continued to argue that the war-era conflict should be exempted from conventional trials and that the TRC should be used to separate the political and non-political cases during the war. For instance, although the Supreme Court in 2008 had ordered to file case

²⁴¹ Talking to Al Jazeera TV, Howard Varney, an adviser at the International Centre for Transitional Justice, said that "(M)ost people have this view that the South African transition was all about the TRC and that it was a peaceful one, but that wasn't the case ... transitions are not easy so I am not surprised that Nepal is grappling with a plan for an effective transition." <<http://www.aljazeera.com/programmes/insidestory/2013/05/201351423296261662.html>>, accessed May 25, 2013.

against the Maoist leaders Agni Sapkota and Surya Man Dong on murder charges, the government withdrew the charges. Both leaders have already served as ministers after this incident. These incidents reinforce the fact that the erstwhile warring factions are determined to grant amnesties as per their interests rather than norms. The paradigm of government centrality vs. liberal individual supremacy basically dominated the conflict in this phase.

The third phase of the peace process, when actors have either redefined their image or backtracked, triggers a confrontation between self-help actors and norms. As scholars of norms have argued that the power of international norms, through the transnational advocacy (TNA), produce strong coordination between actors with varied self-interests, which would otherwise in realist perspective be hard to achieve, the arrest of the Col. Lama in the UK (while on holidays) even when he was serving in the UN Observer Mission in South Sudan at that time, sent a chill down the spine of the Maoists and the Nepal Army back home.

The Maoist supporters and the Army declared the arrest of Col. Lama as an attack on Nepal's sovereignty, and argued that human rights represent an ideological agenda of the "Western hegemons" with which they themselves do not fully comply. For their part, national and international human rights defenders welcomed the arrest. Responding to the PM BRB's letter to the UN, General Secretary Ban Ki Moon denied diplomatic immunity to Col. Lama citing that the charged crime did not happen during his tenure in the UN Mission. Likewise, the letter the government of BRB sent to the British PM David Cameron yielded nothing more than Lama's bail out on condition that he would remain in the UK throughout the legal proceedings, although it is not sure that this effect was produced by the letter.

It would be worth noting here that the letter sent by the government demonstrated its strong commitment towards human rights and transitional justice. It expressed its commitment in forming the TRC and requested the international community to cooperate for the sake of the peace process. Concerned about a joint statement by the EU Mission together with Norway and Switzerland expressing serious concern over the human rights issue and the peace process, the Maoist PM BRB and the Maoist Supreme Prachanda defended their position by saying that their party never wanted a blanket amnesty provision, that the ordinance was consented by all political

parties and that they are open to amendment to meet the international standards. However, according to reports, they failed to impress the diplomatic community.²⁴²

Meanwhile, the Nepal Army seemed to have reconstituted its image and interest by expressing its willingness to cooperate with the TRC formation. The Army feared that resisting collaboration in this respect would prove counterproductive to its contribution to the UN missions abroad. In fact, the soldiers who were being charged of human rights violations earlier had already been denied visas to go abroad for training purposes. The Army's redefined interests were reflected in a General's statement at the Army Headquarter: "...it is in our best interest to cooperate with the formation of the TRC and resolve longstanding cases as soon as possible."²⁴³ There were reports that some junior rank-and-file in both the Army and the Maoists were hoping that their respective organizations would observe the international standards in TRC formation and act on outstanding cases rather than remain uncertain and expose the rank-and-file to the risk of being caught during trips abroad.

Many commentators speculated that the BRB's clinging on to the post of Prime Minister reflected the secret understanding between the Army and the Maoists, as well as the Maoists and the Madhesi Front²⁴⁴ to undermine the rule of law. The former two were complicit in the impunity, and the latter seemed complacent being in power. Similarly, it is argued that given the strategic interests and intentions, India had propped up BRB as its man to fulfill its (India's) interests in Nepalese polity. However, seemingly all that equation suddenly succumbed to the growing heat of the TRC formation issue. This incident of international normative agenda gaining steam seemed to have upset India which has always been skeptical about international involvement in Nepal's conflict. Consequently, the outraged BRB did not hesitate to brand the rights activists as "dollar farmers."²⁴⁵ However, these were the same dollar farmers who were criticized for their "allegiance" to the Maoists during the insurgency while both sides were against king Gyanendra's repression.

²⁴² The meeting took place at the Hotel Shangri-La in Kathmandu with the European, American, Japanese and Australian ambassadors on January 17, 2013.

²⁴³ Dahal, Phanindra. 2013. "Nepal Army to help set up TRC." Available at: <<http://www.ekantipur.com/2013/03/04/top-story/nepal-army-to-help-set-up-trc/367908.html>>, accessed May 20, 2013.

²⁴⁴ The Madhesi Front was blamed for its strategic support to the Maoist government for the sake of being in power, thus providing support to the unaccountable behavior of the Maoists and fomenting impunity.

²⁴⁵ In Nepal, the NGOs working with the economic support from INGOs or other international aid agencies are time to time referred to as "dollar farmers". This derogatory term refers to the fact that the NGOs do so to please their donors by promoting the donors' agendas.

Responding to his own party's pressure to resign and pave the way for a new government at the party's plenum in February 2013, BRB had tried to justify his position by saying that "had I not been in the government, they would have dragged us up to The Hague." He said so although he was fully aware of the fact that Nepal was not party to the Rome Statute which excluded the possibility of being tried by the International Criminal Court in The Hague. Having run out of any other reasons and tricks, succumbing to the pressure, the Maoist leader had no choice but to resign.

Meanwhile, due to a wide recognition of the fact that the new elections were the last resort to end the contentious transition, a formula of forming a government under the chairmanship of the incumbent Chief Justice came to the fore amid lot of speculation that the idea was imported from Europe. Some argued that it was the Maoists' ill-intention to undermine the judiciary. In the end, BRB arguably traded his resignation between the NC and the United Marxist and Leninist (UML) with the ordinance of the TRC. The Supreme Court eventually blocked the implementation of the TRC bill ordinance endorsed by the president. The second Constituent Assembly is expected to follow up on the issue.

7.6 Findings

Many questions about the Maoists' position on the TRC, and, by extension, on the peace process, have been left unanswered. However, it could be argued that, as regards the TRC in particular, wordings like "High-Level Truth and Reconciliation Commission...as per mutual consensus" in the CPA reflect the initial understanding that full compliance with the international standards had not been the case. As the peace process evolved, political polarization grew and the disregard for the agreed terms became more apparent.

In the meantime, national human rights activists' and organizations' capacities had picked up steam whereby the TRC advocates came up as more assertive. For their part, singling out the TRC issue from the broad concern of the peace process caught the concerned political parties off-guard. Besides, the questions of paradigms such as centrality of government/political parties vis-à-vis non-state actors, absolute sovereignty vs. liberal values of human rights and individual supremacy, norms vs. self-help strategists were playing their part amidst the political uncertainty.

The main hypothesis seems to hold since the Maoists initially accepted the normative prescription, but in the end tried to resort to anything to bypass norms due to their implications for the party and its leadership. Likewise, the hypothesis 2 is also tested positive as the Maoists defend their position by arguing that not accepting the blueprint of norms prescription does not make it against any laws or norms given different models of truth commissions and controversy surrounding human rights among big powers.

Similarly, the last hypothesis also holds true because had there not been coordination among national and international actors, as seen in the arrest case of the Colonel, the concerned parties would still have disregarded the TRC. On the whole, the capacity building of domestic institutions and raising awareness regarding the human rights and transitional justice as well as the Western states' endorsement of norms and their pressure on the Maoists clearly had a critical impact on the peace process.

7.7 Implications

The concerned parties' commitment to democracy and human rights expressed in the initial accords largely emerged from the consensus among the signatory parties rather than from any coercive measures of the norm-diffusing states or organizations. Human rights organizations played a far more considerate role, reinforced by the good will of the strong civil society and judiciary of Nepal, letting the leading parties of the peace process grapple with the complex settings of post-conflict transition. However, on the one hand, the growing partisan politics and faltering consensual decision-making processes, and, on the other, the sensible balance of approach by human rights actors encouraged unaccountable behavior of the political parties, the rebels' behavior in particular.

Hence, leaders disregarded the urgency of addressing impunity and injustice. Perhaps some degree of forceful enforcement or coercive actions earlier would have spread the message that the non-conforming behavior towards norms would be tantamount to loss of legitimacy and subject to appropriate legal actions. This would not have let the ex-rebellion party be under the misapprehension that human rights could be easily subordinated to their political interests and that such acts of impunity would go unpunished. Moreover, such an approach could, to a large extent, rein in the partisan interests so that they would not turn their back on the peace

NORMS OF HUMAN RIGHTS VS. PEACE PROCESS: TRC AGENDA

agreement. The national and international link of norms and the coordinated actions of norms promoters have proven instrumental in upholding the universal value of human rights.

8. United States, Norms of Human Rights and Democracy, and Nepalese Conflict

The anarchic structure²⁴⁶ of civil war reinforces realist and strategic explanations to the extent that the society tends to overlook the existence of the rule-based or normative behavior of actors. This phenomenon hits hard the international actors involved as they are perceived as the self-help actors pursuing their interests at the expense of the conflict. The US, unsurprisingly, has not been spared from the realist attack as it is being perceived in Nepal as allying with India to undermine China and was also charged of supporting the autocratic monarchy of Nepal. These explanations have proven rather detrimental to the Nepalese peace transition as they have antagonized foreign partners.

National actors apparently have made foreigners scapegoats to cover deficiencies in themselves. This study argues that the assumptions of realist explanations are misleading and that the US role needs to be put into perspective. Applying the theory of constructivism, norms in particular, what the US did in the conflict and the post-conflict Nepal showed consistency to a rather normative behavior than a self-help strategy. US has pursued its policy under the supremacy of the norms of human rights and democracy more than material interests.

8.1 Overview of the US position in Nepalese Maoist Conflict

The US has characteristically advocated democracy and human rights in Nepal as it has done globally. However, critics in Nepal and outside rejected this explanation citing several other instances across the world where the US has apparently done the opposite or at least they dismiss the supremacy of human rights by arguing that this is US' ideological tool to promote its hegemony. When the Communist Party of Nepal-Maoist (CPN-Maoist) waged an armed movement and committed violations of human rights and humanitarian law in pursuit of taking over the state with arms, the US reinforced its military cooperation with the king Gyanendra's regime to counter the insurgency.

Since the Secretary of State Collin Powell's visit to Nepal came in the aftermath of the 9/11 and the global war on terror, a general understanding emerged that the US support to king Gyanendra

²⁴⁶ "Civil wars show that domestic politics can include anarchy" (Gourevitch, 2010).

to defeat the insurgents came as a part of the US global campaign. It declared the Maoists as terrorists in the aftermath of the Maoist attack on the US embassy guards, following suit to the Nepalese government which had declared them terrorists over a year earlier.²⁴⁷

Political leaders and the Maoists came closer to a deal in New Delhi due to the increasing isolation of the king from the disenchanted political parties and the democratic set-up as well as the exhausted Maoists' desire to give up arms and join mainstream politics (due to the Royal Nepal Army's (RNA) might). The US vehemently opposed and lobbied in Kathmandu and in New Delhi to stop any potential agreement between them. The then-US Ambassador J. F. Moriarty, who publicly expressed his position, strongly resisted the Maoists' safe landing given their violent character and speculations about their intention of power grabbing.

US was putting pressure on the king to reconcile with political parties. As a deal happened in New Delhi anyway, it (US) endorsed the "12-point understanding" between mainstream parties and the Maoists. Meanwhile, the king, further strengthened by the leverage of US military aid, did not seem interested to restore democracy, but rather staged a coup to take the executive power and continued the violation of human rights, the US stopped its military cooperation.

US, however, continued its developmental aid and got involved in political engagement with the Maoists to put pressure on them in view of a definite end to violence and the "logical end"²⁴⁸ of the peace process. When the Maoists, surprisingly, won the Constituent Assembly (CA) elections in 2008, the US welcomed the result. However, the CA was dissolved in 2012 without endorsing any constitution after having been extended twice. Similarly, regarding the integration and rehabilitation of the Maoist combatants, although the Maoists were very reluctant to cooperate with the government and the United Nations, the integration process was eventually completed in 2012 in some extraordinary circumstances. The cadres in cantonments started to fight against each other and sought state protection. Immediately after the completion of the process, the US delisted the then UCPN-Maoists from its terrorist list.

While all the crucial events of conflict and the presumed policy shift of US, if any, took place during the Bush administration, the delisting of the Maoists happened during the Obama

²⁴⁷ Listing of the **Maoists** in Specially Designated Global Terrorist entity under Executive Order 13224, and as a "**terrorist organization**" from the Terrorist Exclusion List (TEL) under the Immigration and Nationality Act (INA) in 2003.

²⁴⁸ The term "logical end" which has been excessively used in the post-agreement period, but the exact meaning of it has remained ambiguous.

administration. The US, along with other foreign partners, including India and China, endorsed the second CA elections to be held in November 2013 amidst much controversy. The election was seen as the best way out for the prolonged political impasse of Nepal, despite the defiance by a splintered Maoist faction. Meanwhile, realist commentators continued to talk about the “India-US nexus” against China, and the US’ submission of its policy to New Delhi, and its soft approach to the Maoists as its opportunistic policy shift.

8.2 Analysis of the US role under Constructivism vs. Structuralism

In Nepal, realists typically characterize the US presence and its role as a part of a plan to encircle China, and the presumed India-US nexus operating in Nepalese fluid politics to undermine China. This understanding is essentially based on the realist premise that the reason for which the US established its diplomatic relations with Nepal as far back as in 1940s was its interest of fuelling the Tibetan movement from the Nepalese territory to undermine the Chinese hold in the region.²⁴⁹

Commentators, still after more than six decades of diplomatic relationship between the two countries, argue that the presence of the US in Nepal basically shows US’ interest of spying on China and fuelling anti-Chinese activities vis-à-vis the global aspect of Chinese growing prowess and US’s Asia “pivot”. According to similar assumptions, the long-standing cold relationship between India and the US, owing to the US-Pakistan alliance vis-à-vis the India-USSR alliance has been understood to have shifted towards US-India alliance under the “global partnership” and “war against terrorism” as well as an alliance against Chinese power.²⁵⁰ Therefore, they claim that the US Nepal policy is guided by Indian interests.

Putting these self-help explanations into perspective, they ignore the fact that, in the international community, states maintain their community identity without any apparent interests. It cannot be denied that, in a community or a society, some relations start with a particular interest or rather self-help or self-interest, but the evolution thereafter transforms the original interests into an established regular relationship. Constructivism assumes that the actors

²⁴⁹ The Tibetan Khampa revolutionaries waged an armed struggle against Chinese presence in Tibet from the northern territory of Nepal in Mustang region in the 1970s, which were being supplied by the Americans.

²⁵⁰ This apparently comes from the Bush administration’s “transformation of relationship” and “close coordination” with India.

change the social reality by interaction and practice and points towards the changing character of the reality (Adler, 2010; Wendt, 1992).

Furthermore, the US cannot be expected to establish diplomatic relations with tiny states around the world only when it has some particular interests. In other words, it also does that for its status as a global power but without any particular economic or military interest. One could argue that to try and maintain its powerful status is also interest, however, it is more of a social interest than material interest. Constructivists take social factors such as status, image, and reputation as social interest.

Career diplomats of Nepal mostly see the base of Nepal's relations with other states essentially based on its economic interests: trade promotion, development aid, economic development etc. Usually, no political analysts or diplomats are heard referring to other perspectives apart from the material ones, mainly economic ones. It is not unusual for a state of a very low socio-economic condition to maintain that attitude, but it should be noted that the international community, particularly the Western partners have invariably understood Nepal as a member of the "good guys club"²⁵¹ - a regime that upholds liberal democracy and free market economy. This democratic character has become the main identity of Nepal in the international community. By contrast, the policy formation of the global power US differs to Nepal's in that, apart from the economic or security interest, US assumes the responsibility to promote or uphold the liberal democracy and human rights. US has already internalized these norms or values.

The main argument of realists refer to the US cooperation with the palace-led non-party regime called Panchayat (1960-1990) even though the king Mahendra had imposed an autocratic system. According to a realist explanation, this position dramatically changed at the end of the Maoist insurgency as a consequence of US' submission of its Nepal policy to India. But it should be noted that the same royal regime with which the US cooperated had essentially a reputation of being closer to or at least desiring to be closer to China, and being rather anti-Indian. There is hard evidence which showed that the royal regime clearly tried to free itself from the Indian "suzerainty"²⁵² - the king Birendra's proposal of Zone of Peace in 1976 endorsed by several member states of the UN speaks for itself. Many commentators have argued that Nepal had

²⁵¹ US ambassador Michael Malinowski (2001-2004) had said so on a Nepalese TV interview.

²⁵² The term is used by Neville Maxwell's India's China war as regards, Nepal's status vis-à-vis India and China. Anyway, in this paper the term should not mean as a legal claim, rather an informal political domination.

succeeded to significantly mobilize itself independently in the international community despite India's grudge against Nepal's diplomatic ambition (Subedi, 2004).

These explanations assume that the US collaboration with the king's regime earlier reflect US's and India's mutual resignation to each other, and as that changed into Indo-US alliance, US abandoned king Gyanendra as India wanted so. But this argument clearly contradicts the self-evident fact that until the "understanding" between the parties and the Maoists was inked, US had strongly opposed it, and continued to call upon the parties and the king to reconcile.

The king Gyanendra increasingly ignored US's plea to reconcile with the parties, to stop human rights violations and to find some political solution to the problem to the extent to which the US ambassador J F Moriarty was denied the meeting with the under-house-arrest leader GP Koirala. The fact that the king himself was significantly, if not solely, responsible for ending his reign has not been denied by realist commentators either.²⁵³ Many speculate that the king disregarded democracy and human rights because India encouraged him to do so from behind as its plan to jeopardize the monarchy. In any case, these events do not discount the fact that US has acted under the supremacy of human rights and democracy.

Similarly, on the recent issues of forming a government under the Chief Justice and the declaration of second CA elections, India, US and China equally endorsed these developments. This puzzled many realists since this event clearly contradicted the assumption of "Indo-US axis to encircle China". Some typically closed the chapter by arguing that given their strategic and security interest, the presumably inherent enemies consented to these particular issues.²⁵⁴

The presumption of any hidden Indo-US agenda represents an abstract idea because, interestingly, whatever hidden agendas could there be, they (the agendas) have not altered the way the US has pursued its policy in Nepal.²⁵⁵ Its behavior in reality has not diverted from a general expected behavior or the "logic of appropriateness". It should be noted however, that the constructivists' explanation of norm following behavior is not tantamount to idealism. In a community of states, they (states) have to interact with each other regardless of the character of regimes.

²⁵³ From an expert interview.

²⁵⁴ For instance, an expert, Mr. Gopal Khanal, writes so in the leading daily vernacular Kantipur.

²⁵⁵ Ingebritsen has argued in the case of Scandanavia that assuming the realist or security interest lies behind the normative behaviour of these Nordic countries, in reality that has not changed the way they have pursued their policies.

States' behavior can be judged when they react to a particular situation. For instance, as discussed above, the US had been collaborating with the non-party Panchayat regime for 30 years, but whenever domestic political changes occurred, US did not take any position that contradicted its normative behavior of siding with democracy and human rights. Just like in other cases in the world, for instance, in the case of Apartheid in South Africa, the US had important economic and strategic interests with South Africa, but eventually it sanctioned the South African regime on the basis of upholding the internationally institutionalized norms of racial equality (Klotz, 1995), owing to the influence of transnational advocacy (TNA) (for TNA, see Risse, 2002).

8.3 Test of Hypotheses

With the above-discussed perspective, one could still point out to a plenty of anomalies in realist explanations, a typical constructivist methodology, with regard to the US policy in Nepal.²⁵⁶ US is a major international actor in Nepalese politics which also is a representative case for other involved norm promoting actors (small states) like: the Scandinavian countries²⁵⁷, UK²⁵⁸ and Switzerland²⁵⁹, whose roles are also hugely misunderstood due to the dominant realist explanations.²⁶⁰ The US role is further examined under constructivism by proving some realist-hypotheses (null-hypotheses) wrong in the following.

²⁵⁶ For instance, Tanewald, 1999; Klotz, 1995, Risse, 2010. Ian Hurd calls it a “downstream flow” method of the constructivist (Hurd, 2008).

²⁵⁷ Norwegian ambassador Mr. Kjell Tormod Pettersen said on the BBC Nepali Radio Service, while asked about the controversial role of the foreigners in Nepali conflict, that such claims are made to make outsiders scapegoat to hide one's own mistake.

²⁵⁸ Senior journalist of Nepal Mr Bijaya Kumar asked, with the assumption that UK contributed negatively to the constitution making which failed, the British ambassador that why the UK is so determined to have Nepal write a new constitution while the UK itself does not have one?

²⁵⁹ Swiss engagement, particularly, in the agenda of ethnic federalism in Nepal, whereby several CA members had been invited several times to Switzerland to have courses on the matter, among others, had been seen by others as fuelling ethnic divide rather than resolution.

²⁶⁰ Ex Foreign Minister Ramesh Nath Pandey, talking on Kantipur TV-Dishanirdesh Program, said that these small states are “broker states” who give their services to the US. When they accomplish their part of the duty, they will hand over the issue to the US, as Norway did in the case of Israel-Palestine Oslo talk, and it also tried the same in the case of Sri-Lanka.

Hypothesis I

The US Policy towards the Maoists Insurgency (1996-2006) and Peace Process (2006-2012) in Nepal is guided by the Red Scare like conditions.

Communist parties of Nepal found their origins not in China but in India. Ideologically Nepalese communists debated about Chinese or Russian communism, but in practical terms these parties remained close to Indian communist parties. In fact, the Indian Marxist parties in the ruling coalition of India are said to have been instrumental in pursuing the political spectrum (in India) to bring the Maoists in Nepal into the national politics. Thus, the break-through agreement between the Maoists and the political parties happened with the aid of Indian interlocutors in New Delhi.

In this context, arguing that the violent insurgency in the mid 1990s and 2000s is another episode of the global communist expansion does not convincingly give the whole picture. Like in India where the moderate communist forces have been a part of the opposition or the government coalition since long time, the erstwhile Nepalese largest communist party, the United Marxist and Leninist (UML), has been in the mainstream politics after the parliamentary system that was resumed after 1990 movement. Therefore, beside the erstwhile biggest party Nepali Congress's (NC) rhetoric that the UML would repel Western partners, in practice foreigners have taken the communist party in the same breath as the Nepali Congress.²⁶¹

Despite the fact that the US might have looked at the Maoists or other communists through ideological lenses, apparently this did not have significant effect on the US cooperation with Nepal. As far as the Maoist party is concerned, the Chinese themselves expressed their reservations about the Nepalese communist party using the term Maoist. The question that why only the US was worried about communist expansion could be asked. It is to be noted that the US did fear Maoist take over, as it was publicly expressed, or some Wikileaks cables revealed, but this positions came as a response to the Maoists' violence more than anything else. It was not only the US, as a matter of fact there was hardly any other political force in Nepal and in India

²⁶¹ Nepali Congress is the pioneer party, who led the first struggle for democracy against the Rana-regime in 1940s and 50s, and then achieved to form the first democratic government in 1959. The communist parties also played crucial role to bring democracy, but always remained dominated by the Nepali Congress. NC has always been the most dominant political party, which follows the Western liberal democracy and open-market economy as its basic principle, until it was defeated by the Maoist (Communist Party of Nepal-Maoist) in the 2008 CA elections.

who had not feared Maoists, let alone the Nepalese citizens who were bearing most of the brunt. The criticism of US's earlier position has been overblown for it had sided with the losing King, and also has been the target of "progressive" commentators who were sympathetic towards the Maoists.

With regard to the US support to the king's regime, particularly the military support to the army to fight the insurgents represented the Nepalese government policy to crackdown on the violent force seeking to take over the state through force. Earlier, parliamentary governments had set up some task forces to start negotiations with the insurgents, but in vain. The octogenarian Nepali Congress president, the Prime Minister GP Koirala, had strongly argued in favor of stamping out the violent movement through force but he could not get the follow-up from the RNA. The question of why the deployment of the RNA did not happen until after the royal palace massacre took place in 2001 was entirely a matter between domestic actors, particularly the political parties and the palace. After king Birendra was killed, his brother Gyanendra ascended to the throne, and oversaw the deployment of the army which allegedly came as his wish to be politically more engaged than his predecessor king Birendra.

As a result, when the US reinforced its support to the RNA, the king as the supreme of the army, and practically an executive head by then, the cooperation was inflated by the leftists, radicals, and the pro-movement advocates alike as a plan to thwart the "people's revolution". It is not clear, hence, why the commentators only relate the US stepping-up of the military support to Nepal to reasons other than domestic events. There are several aspects of the critics of the US support to king's regime. India never liked Westerns being influential in Nepal (Muni, 2012). The parliamentary parties saw it as a threat for democracy if the king defeated the Maoist with US support. The "ethnic entrepreneurs" in particular, who were sympathetic towards the Maoists, logically did not like the support as it would take away their chances to consolidate the ethnic movement.

The Maoist insurgency had started with two guns, one of which was not working when it fired first shots at a mountain in the Western Nepal. The then government of the nascent parliamentary system dealt with it as a law and order situation deploying the poorly equipped police force (Whitefield, 2012). The insurgency gradually took such a shape that not only it could not be resisted by the police force anymore but fuelled already simmering political feuds in Kathmandu. Due to the inability of the government to find consensus and to tackle the

insurgency, parties ended up losing the power to the king. Under king Gyanendra's regime, the RNA supported by US was deployed, but then it (army) was exposed. To the king's dismay, RNA could not produce expected results, although it was said that the Maoists' strength had been significantly damaged by the RNA's deployment.

Meanwhile, the insurgency started to be understood not simply as a communist insurgency, but as a combination of a violent expression of people's grievances due to long-standing "ethnic discrimination" and "failed development" (Panday, 2012), struggle against an "autocratic monarchy" and "exclusionary state".²⁶² This newly framed movement caused sympathy among several of those actors who had been intolerant towards the Maoists earlier. Europeans were increasingly more sympathetic towards the war under the perspective that Nepal needed an overall re-structuring of the "discriminatory state", "redefining itself as a nation".²⁶³ This generated the discourse that this war did not have a military solution, thus only a negotiated settlement between the government and the rebels would solve the problem.

The alliance between Maoists and mainstream parties happened mostly due to the dramatic policy shift by India, which caught the US off-guard. US apparently tried to stop it given the suspicious circumstances - India's suspicious involvement to bring the Maoists into national politics and to undermine the institution of monarchy against its long-standing "twin pillar policy".²⁶⁴ It was not only exclusively US's position to block it as it was claimed; even within the biggest political party Nepali Congress, many leaders apparently criticized their own leader GP Koirala's decision to ink a deal with the Maoists. The US did endorse the outcome of the alliance, and the subsequent movement of the king to abdicate, including several historic declarations by the alliance on the basis of CPA as it had continually stated that it would easily accept what Nepalese people would decide and, apparently, it did so.

The event of the agreement gave the US lot of critics labeling it as a "face saving" gesture, but now in hindsight hardly anybody disagrees in Nepal that the decision was made in haste which did not necessarily have Nepalese people's consent. It all became much clearer as the whole process practically failed and there have been several revelations about the behind-the-

²⁶² These terms have been under quotes as they are exclusively used by ethnic advocates which others, civic advocates, deny.

²⁶³ From the UK's ambassador to Nepal Mr Andrew Sparkes's statement. Though it is a statement made in on his appointment in 2013, it is put here to reflect the approach and understanding of the UK with regard to Nepalese conflict.

²⁶⁴ This policy refers to multiparty system and constitutional monarchy.

scene deals between GP Koirala and the Maoists, and between the Maoists and India. The large part of the population who had only grudgingly accepted the Maoists given their menace is becoming more assertive after the collapse of the first CA.

In the post-conflict period, the US constructively engaged with the Maoists and continued its usual aid program even when the Maoists formed its government, as it had always expressed the view that the aid would not be for the Maoists, but for the people of Nepal. Many had speculated that the US would stop its development aid if the Maoists came to power, as it had suspended its development programs and even ended one of the biggest Peace Corps programs around the world because of the Maoists' violence, it gave peace a chance by accepting the Maoists' peaceful transition positively.

As far as the peace process is concerned, the major issue of combatant management was finally concluded after a tumultuous journey all the way, but the constitution writing failed, so essentially the peace process or the transition was derailed. Other political parties resented the undemocratic intentions of Maoists. Thus, a huge deficit of trust dominated the atmosphere. Amidst all this, US delisted (September 2012) the Maoists from the terrorist list, granting recognition to the Maoists' transforming outfit, although that was not convincing for many; especially when the radical faction broke away from the mother party and was resuming typical communist agendas and threats.

These foregoing points clearly signal that the US behavior is mostly based on appropriate behavior (norms) rather than totally on a self-help strategy or any Red Scare paranoid for that matter.

Hypothesis II

US's Nepal policy is "outsourced" to India. In other words, US follows what India wants in Nepal, because of the followings; global agenda of terrorism after 9/11, US war on terror in the region, India US Nuclear Partnership, India joining hands with US to pressure Pakistan, US India alliance against China.

It is said that India always gets “neuralgia” whenever any foreign actor engages in its backyard, particularly in Nepal (Whitfield, 2012). Many analysts trace India’s antipathy towards the West back to the unsupportive policies with regard to the case of Kashmir, fair-weather friendship with regard to the India-China war of 1962, criticism of India’s moves in Bangladesh and Sri Lanka, and the US-Pakistan alliance. It is worth recalling when India had justified its invasion of Bangladesh on humanitarian grounds, US, among others, strongly opposed it, and India consequently changed its “justification” from “humanitarian intervention” to “self-defense” (Finnemore, 1996). In the same fashion, its long-standing paranoid stemming from Pakistan and China, and, on top of that, Nepal not “cooperating”²⁶⁵ in the way India would want to, have added to that neuralgia.

The US had established its relations with Nepal as far back as in 1947 in New Delhi when the Rana-dictatorship in Nepal was coming to an end, and the country was going to be opened to the world for the first time. Since the beginning, “the globally institutionalized norms of sovereignty, democracy, human rights, equality etc. have guided the US behavior”, although the democracy in Nepal in its trajectory took different characters on different occasions (Sigdel, 2012).

The US has had its own policy on Nepal, collaborating with the stakeholders in Nepal - the RNA or the kings, multi-party governments - mostly emphasizing the promotion of democracy and economic development. Thus, regardless of the variation in the regime, it has continued its development aid programs. The fact that the US does not submit its concern to others can easily be seen in its vocal position towards the protection of Tibetan refugees in Nepal.

Despite the speculations that India was sympathetic towards the Maoists, US had maintained its firm stance against the insurgents, and continued to support the RNA to help defeat the Maoists. While India sought to save land the Maoists, either to resolve the conflict or to undermine the monarchy, US strongly opposed it, and for good reasons. The leading daily Kantipur reports (based on Wikileaks) that the US ambassador Michael E. Malinowski had asked for clarification in 2003 about Indian Intelligence, RAW, being “possibly deviating from official India policy” given the speculations that some Nepalese Maoists were being trained in

²⁶⁵ India Nepal security cooperation has been the matter of controversy for quite long as India claims that Nepal does not cooperate, whereas Nepal claims that India ask something that would breach Nepal’s sovereignty.

Dehradun, India, to the Indian ambassador Shyam Saran.²⁶⁶ The ambassador Moriarty was also quoted as saying in many papers, taken from Wikileaks cables, that New Delhi “might have created a Frankenstein’s monster”.²⁶⁷

With regard to the political parties who in a way succumbed to India’s and the Maoists’ call to join hand; the ambassador Moriarty had responded by saying that they would repent. As of 2013, as the Maoist top brass Prachanda and Baburam were apparently at their lowest in their above-the-ground political journey, not many would disagree with Moriarty’s calculations of some years back. Given the current plight of the peace process, which basically is a result of the Maoists’ and the SPA (seven party alliance), some commentators have even started praising the diplomatic acumen and vision of Moriarty as he had cogently claimed that the “12 point understanding” was not that the Maoists would come into politics, but the political parties would fall into Maoists’ fold.²⁶⁸

With regard to the US policy outsourcing, the argument apparently originated from the “new US-India relationship” under Bush administration.²⁶⁹ In realist perspective, the dominant explanation in Nepal that the US has submitted to India’s interest in Nepal contradicts the understanding that it is not India, rather the US that dominates India. Pakistan’s PM Nawaz Sheriff has recently been quoted as saying in Washington, “with its growing influence in India, the US now has the capacity to do more to help the two sides resolve their core disputes, including Kashmir, and in promoting a culture of cooperation”²⁷⁰ Furthermore, these arguments have not only ignored the fact that the global power US could not put its credibility at stake by outsourcing its policy, but also underestimate US’ identity dimension of not only being military power but the bulwark of human rights and democracy. US Assistant Secretary for South and Central Asian Affairs, Richard A. Boucher, responded to the outsourcing issue,

²⁶⁶ Parajuli. 2011. Kantipur National Daily. Available at: < <http://www.ekantipur.com/the-kathmandu-post/2011/03/15/top-story/dances-in-the-dark-us-had-tried-to-spike-maoist-romp-to-power/219453.html>> accessed 25 October 2013

²⁶⁷ Parajuli. 2011.

²⁶⁸ Telegraph Nepal. 2011. India’s Frankenstein Monster: Nepal Parties-Maoist Alliance, US Embassy cable. Available at: <<http://www.telegraphnepal.com/headline/2011-03-15/indias-frankensteins-monster:-nepal-parties-maoist-alliance-us-embassy-cable>>, Accessed 27 October 2013

²⁶⁹ Christina Rocca, Assistant Secretary for South Asian Affairs, speaking in New Delhi on “The United States and India: Moving Forward in Global Partnership” in September 11, 2003. Source: State Department Website

²⁷⁰ Press Trust of India. 2013. Pakistan Prime Minister Nawaz Sharif again seeks US mediation on Kashmir issue. Available at NDTV.com Accessed 20 October 2013

[...] outsourcing is somewhat controversial in the United States but normally we defend it as an economic principle. But I have to say there's no such thing here. We have our own unique relationship with the Nepali people that's been built up over many decades...So I think there are many things here that we do that are somewhat unique to the United States and play our own role. We have our own views. We also discuss those views with other governments, including the government of India. I think I've benefited from hearing the Indian government explain their views and I hope they've benefited from hearing the United States explain their views of the situation. *But we do have slightly different approaches; we've different views because we are different nations.* And I think we each can play our own role here in helping Nepali people achieve what they want.²⁷¹ (emphasis added)

Prof. SD Muni, a Nepal expert from India, also acknowledges these differences, particularly, in the assessment of the Maoist insurgents, the “military presence of the West” and the “role of the international organizations in Nepal”²⁷² (Muni, 2012:325). Beside these differences, Muni claims that since 1947 for the first time India’s and the West’s policies of Nepal were “broadly in harmony” (Muni, 2012:325) Under realist perspective, precisely this very point has been interpreted as West’s submission to India, or India’s growing clout and US-India nexus vis-à-vis China. Whatever it may be, what caused this “harmony” was the norms of human rights and democracy as the US stopped supporting the monarchy that they had for long supported precisely because the king did not care about human rights violation committed by the RNA and did not seem interested at all to negotiate with the political parties.

Another anomaly in the explanation is, while other events are defined as exclusive cases of coordination between states, US-India case has been understood as a structural change of policy. This interpretation represents rather the analysts’ convenience than reality. For instance, as regards the CA elections in November 2013, not only India and US, but China also endorsed it as mentioned before, but it would be not reasonable to claim that China’s and India’s Nepal policy are in harmony, or one has submitted to another. This fact again points to the power of

²⁷¹ Asst. Secretary Boucher speaking at a press conference in Kathmandu, Nepal in May 3, 2006. Source: US Department of State: Archive. Available at: <<http://2001-2009.state.gov/p/sca/rls/rm/2006/65751.htm>>, accessed 26 October 2013

²⁷² The United Nations Mission to Nepal’s (UNMIN’s) presence in Nepal, which the US had positively taken, India always felt rather uncomfortable though it was only a political mission. Eventually UNMIN’s mandate came to an end before achieving its major mandate, which was to complete the integration and rehabilitation of the Maoist combatants. Even the US was not quite satisfied in the end with UNMIN’s performance.

norms in coordinating opposing actors; while the understanding emerged that to resolve Nepal's prolonged impasse new elections would be the best option, the international community endorsed it.

Similarly, Nepal government tagged the Maoists as terrorist groups when the initial talks failed in 2001, India follow suit by using the term "terrorist" but never did so officially. When the Maoists stepped-up their attack during that period, and even attacked US embassy guards, the US finally enlisted the then CPN-Maoists as terrorist. Although few stances and actions might have coincided in few occasions and the US politicians or the Indians gave their views on this line, the practical behavior speaks otherwise.

US has independently on the basis of its own identity and interests led its own policies in Nepal. The royalists on the one hand, and India's wish of being a growing regional power on the other, seemed to have overblown the US-India coordination as US being led by India in Nepal.

Hypothesis III

Explanations that change of administration in Washington have implications for Nepal, for instance, Bush administration giving M-16 rifles to Nepali Army for the first time, while Obama's priority developmental aid policy.

Analysts have also relied on an individual scrutiny of the concerned US officials to Nepal to study the pattern of the US policy like they always do so in the case of Indian ambassadors as well. Although on the surface things might seem different by personal behavior, how much in essence the individual nuance has changed the state's policy is a different question. In the aftermath of the 9/11 in particular when Bush administration appointed Christina Rocca, with the CIA background, as the Assistant Secretary to South Asia, the timing coincided with the King Gyanendra being actively engaged in the politics vis-à-vis the growing Maoist menace.

Against this changing backdrop and the outspoken US ambassador J F Moriarty's strong anti-Maoist stance as well as Washington's military support to the king under the global fight against terror under Rocca's policy, whereby RNA got the M-16 rifles, pro-Maoist commentators saw the US policy in the light of thwarting the movement given the perceived communist threat.

Given the extraordinary developments at the end of the insurgency where the Maoists secured the general acceptance to join the politics, and the arrival of “sober” Nancy Powell²⁷³ reinforced the argument that the US saved its face by endorsing the Maoists, and softened its policy. But these explanations overlooked the fact that it was the Republican majority House of Representative who put condition of human rights for any further military aid to Nepal.

When the RNA's (now Nepal Army), under king Gyanendra, confrontation with the Maoists came to full swing, and with it, the large cases of human rights violations and disappearances were reported at the United Nations, according to the New York Times (Aug 9, 2005), before Bush administration prepared to flow new military aid to Nepal, the US congress put condition that it must be convinced that the king guarantee human rights. The newspaper further said although Bush could “override” the congress decisions putting it as security issue, but in the end the aid was stopped as the king would not follow; the rule of law and civil liberties continued to deteriorate.

²⁷³ Taken from Jha, 2012.

US Administration and Chiefs of Mission to Nepal (2001-2013)²⁷⁴

President	Tenure	Assistant Secretaries of State to South Asia	Ambassadors to Nepal	Senate Majority	House of Representative Majority
Bush (Rep.)	2001-05	Christina Rocca (2001-2006)	Michael Malinowski (2001-04),	<u>2001-03:</u> Dem. & Rep.	Rep.
			J. F. Moriarty (2004-07)	<u>2003-05</u> Rep.	Rep.
Bush	2005-09	Richard Boucher (2006-2009)	J. F. Moriarty,	<u>2005-07</u> Rep.	Rep.
			Nancy Powell (2007-10)	<u>2007-09</u> Dem.	Dem.
Obama (Dem.)	2009-2013	Robert Blake (2009-2013)	Nancy Powell,	<u>2009-11</u> Dem.	Dem.
			Scott Delisi (2010-12) Peter Bodde (2012-present)	<u>2011-13</u> Dem	Rep.
Obama	2013-	Nisha Desai Biswal (Dem.)	Peter Bodde	<u>2013-15</u> Dem.	Rep.

²⁷⁴ Available at <http://www.senate.gov/pagelayout/history/one_item_and_teasers/partydiv.htm> accessed 26 October 2013;

Available at <<http://history.house.gov/Institution/Party-Divisions/Party-Divisions/>> accessed 26 October 2013.

Providing M-16 to the army was more of demand or necessity of Nepal than Americans encouraging the regime to terminate the Maoists, as the dominating discourse was to stamp out the insurgency and even Nepalese people had given a benefit of the doubt to the king Gyanendra. The narrative shifted as the situation worsened, and the king apparently had no plans. Therefore, there is no pattern that suggests the partisan policy of Republicans and Democrats. After seven years of the understanding and more than one year of the Constituent Assembly demise, there was apparently a growing sense in the public that letting the monarchy go that quickly was a grave mistake. In hindsight one could argue that the US anti-Maoist policy was not on the “wrong side of the history” (Jha, 2012), but others did not dare to speak given the Maoist menace more than anything else.

This argument is reinforced by the US policy of continuation of the traditional aid programs in both the administrations. When US delisted the Maoists in September 2012 under Obama administration, the Republicans had the majority in the House of Representative. In the same fashion, the scandal about Americans’ “covert” dealings with Tibetan Refugees in Nepal, resented by the Nepali government and civil society, happened recently in Obama administration. A long-standing bone of contention in US-Nepal relations has been the Tibetan refugee issue because Nepal has failed to see the matter in the humanitarian lens (allegedly owing to Chinese pressure).

Situation in Nepal itself is the causal factor of US behavior as being tough or soft rather than change in the US administration. Washington clearly shows a pattern, with bipartisan support, in upholding the supremacy of the norms of human rights and democracy.

Hypothesis IV

US backed or ignored the illegitimate moves by the king and put extreme effort to thwart any alliance between the rebels and the mainstream political parties. And when the alliance happened anyway, US cautiously endorsed the agreement between them as a “face saving” gesture.

The New York Times, August 4, 2003, reported that although the US, along with the UK and India, poured the King’s regime with military aid, it (US) feared that they would end up

backing someone whose “democratic credentials” are “in doubt”. The foreigners feared the potential instability in the region, which the king instrumentalized to turn the tide for him and to corner the political parties. When US, including the UK and others, put condition to the king before any kind of cooperation, the king resorted to the classic “China card”. He succeeded getting arms from China at least once. When the political deadlock and his ambition reached its peak, China turned down his request, which came after the US ambassador (to Nepal) J F Moriarty’s visit to Beijing.

According to the Wikileaks cable, published in The Guardian’s website, the king’s Foreign Minister Ramesh Nath Pandey tried hard to woo the US ambassador Moriarty by saying Nepal would respond to US’s concern over the “small issues” of Tibetan and Bhutanese refugees, and that “Nepal’s long-term interest was in the relationship with the US, not China or India”.²⁷⁵ The tactics did not work owing to the democratic deficit of the regime because the US was already very worried about the King’s drift from his earlier commitment to remain constitutional and reconciling with political parties.

According to several commentators, the event of the signing of an alliance between the political parties and the Maoists marked a watershed moment in the US behavior in the Nepalese conflict. The situation reflects a total confusion in the international community on how to approach Nepal. The ambassador Moriarty was quoted as saying in the Wikileaks that the “Europeans are all over the map”, “World Bank executive has converted into launch pal of the Maoist supreme”, “India playing a dual role” and so on. These evidences, arguably, hold the overarching hypothesis of this study true that when actors find themselves at a crossroads that any more acceptances of norms would have huge implications for their identity, they tend to backtrack. The US had fear of engaging with the communist force, which inherently is opposite to their identity.

Taking into account several revelations about India’s covert nexus with the Maoists, which the US ambassador had doubted already, in hindsight one could also argue that the US resented the change as it apparently was not the decision of Nepalese people. Besides, it is not that the commentators have not recognized the fact the “US evolved from a rabidly anti-Maoist posture...to a more restrained and supportive attitude” (Jha, 2012), and that the US had to stop

²⁷⁵ Parajuli (2011) “Wikileaks let cat out of the bag.” Ekantipur. Available at: < <http://www.ekantipur.com/the-kathmandu-post/2011/01/14/top-story/wikileaks-lets-cat-out-of-the-bag/217232/>>, accessed on 27 October 2013.

its support to the King and RNA on the ground of human rights violations and authoritarianism, but the normative aspect of the US behavior has not been acknowledged so far.

The above-mentioned discussion clearly showed that the US support to the king was not unconditional, thus the Maoist leader Baburam Bhattarai's claim that the "US always backed the illegitimate king as legitimate one, as it did with Pinochet, Suharto, Marcus and so on" is just politically overcharged than anything else. It is worth noting that the Maoist Supremo Prachanda, in an interview with the The Hindu, an English daily of India, claimed that the US did not want democracy therefore it was calling upon the political parties and the king to open talks to corner the Maoists. But the fact that Prachanda and the second-man Baburam themselves had offered an alliance with the king to corner the parties²⁷⁶ speak of the Maoists' inappropriate behavior.

US was clearly of the view that the king should not undermine the political parties, and clearly denied the proposal of having soft approach towards the king while he would go on sidelining the political parties. Even though the US was seeking the king's cooperation on Tibetan refugees issue, it permanently stopped its military support to the king given his ambition of terminating the democracy.

Hypothesis V

The main reason the constitution writing failed, as cited by leaders, was because parties could not make consensus on federalism, owing to ethnic identity issue. international community, including US, is being charged of fuelling ethnic issues with ill-intentions. (Conspiracy theorists speculate that the West is doing this to set precedent of ethnic autonomy in the region to have repercussions on China)²⁷⁷

'The structural theories of strategy and interest clearly fall short of explaining the behavioral pattern of foreigners with regard to the Hindu monarchy vis-à-vis the ethnic movement. In the aftermath of the Parties-Maoists alliance as their coordinated campaign against the king culminated in a huge people's movement when millions of people took to the street to

²⁷⁶ This fact was revealed on Nepal's Setopati website by the royalist party RPP leader Kamal Thapa who was present in the meeting with the Maoists. Maoist leader Baburam's response to the claim was positive.

²⁷⁷ The following lines are from the earlier version of my published article "No Consensus Blame: Theories of Interests and Ideas" at Telegraphnepal.com. See Sigdel, 2012.

protest the king Gyanendra, responding to the pressure both from the street and from the diplomatic envoys, the King relented in to give power back to the political parties and asked them to form a new government (his first speech of 21st April 2006). ‘ (Sigdel, 2012)

‘Following the king’s call, the envoys of the US, UK, Sweden, Finland, Germany and France, in favor of the king’s move, asked PM Girija Prasad Koirala to reciprocate, so reported the press. The envoys were of the view that the declaration could provide a common ground under the “twin pillar policy”-constitutional monarchy and multi-party democracy (Upreti, 2010). The foreign envoys’ soft corner towards the king fuelled the already heated-up issue of “foreign interventionism or imperialism” (Upreti, 2010).’ (Sigdel, 2012)

‘However, when the king was compelled to pronounce the second speech (22nd April 2006) owing to the opposition from the political parties (allegedly the engagement of India’s envoy behind the scene helped bring down the royal regime), subsequently the foreign partners did endorse the whole new political development in Nepal’s history. A huge anomaly in the realist explanation that foreigners fuelled the ethnic movement to destabilize the nation-state for their interest is the following. The international community, who had maintained the policy of backing the constitutional monarchy, now face the charges of fuelling ethnic mobilization in objectionable ways, whereas the fact is that Nepal’s ethnic movement discourse has invariably convicted the erstwhile Hindu Monarchy as its archenemy.’ (Sigdel, 2012) First being “imperialist” while supporting the status-quo, and then being “war profiteers” while supporting the ethnic grievances, shows that the normative behavior of the foreigners have been distorted for partisan interest.

‘The most plausible explanation would be that the outstanding character of the Seven Party Alliance (SPA) and Maoists Alliance, and consequently the overwhelmingly successful people’s movement made the foreigners accept the straightaway ousting of the monarchy. This supports the logic of legitimate behavior because any other policies in that case would have been considered against popular wish and thus, illegitimate. US has continuously publicly stated that any decision made by the people is more than acceptable for the US. The conspiracy theory behind the success of the movement; India’s alleged covert role to design the movement, Maoist’s ploy to terminate the monarchy to grab power with the aid of India, the party leader Koirala’s ambition of becoming the president and so on, which were revealed in the recent days

remains as a different question. But at the spur of the moment hardly any one could deny that the supremacy of people's wish made stakeholders to change their policies.' (Sigdel, 2012)

'Similarly, it is equally reasonable to contend that the successful national and transnational mobilization of ethnic politics advocacy gained salience to that extent that the identity based restructuring has made up an essential component of democratic norms in Nepalese case, and subsequently has won the support from the international community. The growing scholarly contribution of the Nepalese scholars to global ethnic discourse and global to national; perhaps the domination of anthropological arguments over the diffusion of norms rather than civic or economic arguments (as generally heard in the press), dynamics of the relations between the Maoists and the ethnic fronts, and many more motives have added up to the salience of the issue, so much so that the foreign partners could not but act in the favor of the ethnic movement; which is not hard to comprehend because as the constructivist theory assumes, the globally institutionalized norms constitute actors' interests.' (Sigdel, 2012)

'As in South Africa's case, the strong transnational advocacy of anti-apartheid campaign achieved prominence in the national discourse of the US, so much so that eventually the congress supported the sanctions on SA against the wishes of President Reagan (Klotz, 1995).' (Sigdel, 2012)

Furthermore, as the US ambassador Peter Bodde has been rather vocal about the significance of the second CA elections in 2013 and has actively been engaged in the elections related activities, realist commentators labeled it as a "breach of Nepal's sovereignty", "undue interference of the US in Nepal's domestic affairs" and so on. The labeling of international community's actions as "intervention" is faulty. History has shown that the sovereignty changed over time (Hurd, 2008); it means for instance when it comes to gross human rights violation, after the Second World War the interventions are legally justified (Hurd, 2008).

'In the same way, democratic norms go beyond the physical border of a state and become international responsibility. The autonomy of national rulers debilitates whereas the "external interveners" invigorates (Hurd, 2008). The ten-year long violent insurgency that took more than fifteen thousand lives, and thousands seriously affected on way or the other, national leaders' inability to resolve the domestic conflict themselves democratically, seemingly endless political transition with potential repercussion on the region and so on, the international community

logically assumes the responsibility to act. Understanding outsiders' role exclusively as intervention rather than mediation has exacerbated the matter in Nepal.' (Sigdel, 2012)

US's behavior is in line of norms more than any self-help strategies.

8.4 Conclusion

The findings reject the null-hypotheses proposed above, thus successfully proving those realist-anomalies wrong. The US policy on the Nepalese conflict showed positive correlations with the norms of human rights and democracy. The realist-anomalies that dominated the discourse stem basically from two main reasons; first, the dominating realist paradigm of the society, even more so due to the civil war, typically overshadowed the power of social norms in actors' behavior by taking them as epiphenomenal to interests. Put other way, the Nepalese realist commentators basically understand that the US brings the matter of human rights when it strategically needs it. In reality, it was the other way around. Even when US did use human rights strategically, that would be further empowering the human rights. As some realists argued that the US over-emphasized on human rights and democracy to set precedent in the Chinese neighborhood, but that again reinforced the argument that US policy in Nepal is driven by norms.

Second, the partisan interest made the US policy a scapegoat; national stakeholders, "status-quoists" vis-à-vis "progressives" in particular, tended to use the US to turn the tide for them. Domestic political fissure, particularly the long-standing liberalism vs. communism, went overboard in targeting the US causing some misleading interpretations. It has been argued that the US supported the illegitimate king, submitted its policy to India, fuelled ethnic fissure etc. Realists mostly understand that the US needs to destabilize Nepal to be able to fuel activities to undermine China. In that case, the US should have provided more support to the king and the RNA to fight the Maoists, but not to endorse their safe-landing. The US, given its military capabilities, insisted in stopping the alliance and tried to militarily defeat the Maoists; whereas European states had made their mind to bring the rebels into the politics according to their own capabilities and understandings. In any event, the appropriate behavior has dominated the policies of the foreigners rather than their military capabilities and strategic interests.

9. Norms Universality vs. Norms Internalization: Ethnic Federalism Debate in Nepal

A violent uprising in Nepal established the norm of federalism against the long-standing unitary state which had failed to satisfy the diverse ethnic, linguistic, cultural and regional groups regarding their rights and identities. As a civil war-torn Nepal opted to inscribe in the Interim Constitution 2007 the election of a Constituent Assembly (CA) tasked to restructure the state, myriads of stakeholders, both national and international, individuals and civil society, extensively participated in the process. The initial understanding on the federalization of the state increasingly separated into two different camps: ethnic federalism against capability or capacity-based (economic and geographic) federalism. The former demands federalization along ethnic lines with each federal entity dominated socially, politically and culturally by one single ethnicity, while the latter favors a multi-ethnic character of governance for each of the would-be-federal entities.

The disagreement over the issue became one of the major motives for the demise of the CA. The ethnic camp, convinced of the wide acceptance of its agenda, continued the strategy of demonizing the status-quoist group. However, contrary to the ethnic advocates' expectations, people voted against the ethnic agenda in the second election for the CA. Despite the long coordinated effort of the norm entrepreneurs, the ethnicity-based-federalism clearly failed to internalize, owing in particular to the lack of quality or the non-universality of the norm. This study brings up Nepal's debate on the ethnic federalism issue in the context of norms universality vs. norms internalization.

Martha Finnemore and Kathryn Sikkink (1998) explain in their "norms life cycle" about several dynamics why some norms fail and some internalize. The quality of the norm in question or factors such as universality and prominence represent some of the causes for norms internalization or norms disappearance (Finnemore and Sikkink, 1998). A brief explanation of the life cycle follows.

The authors explain the life cycle in 3 stages: emergence, cascade and internalization. Between the first two stages, lies the threshold of "tipping point" which refers to the wide acceptance of norms by actors (states). At the first stage, norm entrepreneurs persuade the "critical mass" of actors to accept new norms. At the second stage, these actors promote new norms by trying to socialize other actors. In the final phase, norms become taken-for-granted, for

instance, nobody questions today the women's rights to vote. The authors have, by process tracing method, shown how the history of women's suffrage norm fits into the norms life cycle. The authors argue, however, that all emerging norms not necessarily make all the way through.

The process from the emergence to the internalization of the norm of federalization in Nepal however, does not have a clear-cut a distinction to claim whether it reached the norm cascade or, in fact, never reached the tipping point. The reason is that federalism in a broad sense has come to be internalized, but the debate over models of federalism, whether ethnicity-based or capability/capacity-based federalism has been the crux of the matter. Therefore, for this study I start with the assumption that the norm reached the tipping point but failed to get through because the "critical mass" did not accept the norm; therefore, instead of reaching the cascade, the norm met resistance.²⁷⁸ This also leads to the hypothesis of this study that if norms have huge implications for original identity or become an existential threat, then norms meet resistance from actors or from mass population.

9.1 Emergence of Federalism

On the one hand, the Maoists' strategic use of the moribund ethnic movement to give their insurgency momentum opened a Pandora box, on the other hand, however, it won the sympathy of the ethnic populations. The Maoists promised ethnic individuals their "ethnic homeland states" and succeeded in recruiting them to their "people's army". The Maoists were heavily criticized by other Nepalese Marxist parties for going against the ideology by incorporating caste or ethnic politics in their war. Meanwhile, international scholars and practitioners, in coordination with domestic ethnic organizations, took the ethnic grievances as a major causal factor of the civil war.²⁷⁹ They could apparently relate to this particular cause better than to several other causal factors of the war. This international lens translated the long-standing social

²⁷⁸ Finnemore and Sikkink explain that at the second stage, norm leaders try to socialize others. Exactly at this phase, the ethnic federalism has been unable to do that. Whereas the federalism, the civic one, got to the next phase, that is, the internalization of federalism. Since the case in point is ethnic federalism, analytically this study assumes that the norm did not reach the cascade.

²⁷⁹ Most papers published by NGOs, INGOs, scholars during and in the post-conflict period have pointed out the ethnic factor, the high caste Brahmin's political domination over other ethnic groups, as the major cause of Nepal's political turmoil. Almost every concerned foreigner had the understanding that some kind of radical ethnic restructuring to counter the majority group domination was essential.

discrimination and the bad governance of Nepal into the hegemony of a “Hindu exclusionary state” which undermined the ethnic, cultural, linguistic and religious diversity of Nepal.²⁸⁰

By the time the civil war ended and the Maoists accepted the multi-party democracy, the ethnic agenda had already gained salience to the extent to which the peace agreement stipulated a “re-structuring” of the socio-polity of Nepal. The parliamentary parties only grudgingly agreed to restructuring given their understanding that the emphasis on ethnicity might provoke caste/ethnic conflict. It should be noted however, that the word “federalism” was not used in the peace agreement, let alone the “ethnic/identity federalism”. By then the signatory parties had only settled with the term “forward-looking re-structuring”.

Beside the Maoists’ war-time agenda of returning to ethnic homelands, the term “federalism” came to the fore when the regional ethnic uprising in the southern region of Nepal (called Madhes, close to India) compelled the major protagonists of the peace process to incorporate the ethnic agenda in the Interim Constitution 2007. The term federalism was apparently mentioned in a vague sense because since then the regional or ethnic groups started claiming an ethnic federalism, whereas the dominant groups always argued for geographic/economic capability federalism.

The national and international actors concerned with the conflict resolution of Nepal affirmed their commitment to the identity federalism given the fact that the coordinated transnational advocacy had exerted significant pressure and the ethnic restructuring dominated the discourse over civic restructuring (Sigdel, 2012). The federalization of Nepal on the basis of ethnic identity as an instrument to resolve the conflict constituted a norm to the extent that the international community redefined their policy and endorsed the agenda in the context of democratic equality (Sigdel, 2012). The group of small states, the Nordics, the UK and Switzerland (normative powers) pursued the policy of ethnic federalism employing their resources and expertise to empower the ethnic organizations of Nepal since, in their words, Nepal was trying to “redefine itself as a nation”.²⁸¹

²⁸⁰ The literature regarding this issue has been discussed in the chapter “Introduction to Nepalese Conflict: Causal Factors of the civil war”.

²⁸¹ Statements in quotes are taken from the incumbent British Ambassador’s inaugural speech.

The norms of ethnic federalization to address the social political inequalities emerged and gained prominence basically through violence and politics of obstructionism.²⁸² This has had tremendous implications for the internalization process because the dominant groups never accepted it as the people's mandate but merely as the political interest of some groups. Besides, although the agenda was constitutionally inscribed, several other agendas of the day dominated the four-year term of the Constituent Assembly. Leaders, including the UNMIN, mostly remained preoccupied with the integration and rehabilitation of the Maoist combatants. The OHCHR and the national human rights organizations focused on the violation of human rights during the war and the formation of a truth commission to provide justice to the victims. Political parties mostly consumed the entire period fighting over who would lead the government.

The discourse on the re-structuring of Nepal on the basis of identity, therefore, mostly remained as a non-governmental organizations' (national and international) agenda. The mainstream press gave enough space for the ethnic vs. civic restructuring agenda; however, the press remained rather skeptical about the ethnic argument. The same political parties, civil society and individuals who accepted the ousting of the monarchy in one voice became increasingly divided over the ethnic federalism issue in Nepal. Despite the fact that both the ethnic discrimination issue which had provided a life-support for the Maoist insurgency and the Constituent Assembly which was the Maoists' principal agenda, failed to write a new "representative" constitution precisely due to the disagreements over the ethnic federalism.

9.2 Mandate against Federalism

A major part of the political spectrum, press, and the parts of the society resisted such "progressive" restructuring to the extent that the ethnic advocates and supporters adapted the strategies of demonizing the "other" groups as status-quoist dominant groups of "enemies". However, the second CA elections jolted all and sundry when the people voted against any such ethnic model. Contrary to the claims of the transnational advocates about people's grievances

²⁸² As the norms scholars have argued that some appropriate norms or behavior are achieved through inappropriate actions (Finnemore, 1998), in Nepal precisely the Maoists established some new norms through violent conflict, and the agenda of ethnic federalism in particular was established because of a violent uprising in the southern Nepal by the regional ethnic group called Madhesi. The Maoists' obstructionism in the parliament compelled other parties to endorse their (Maoist's) agendas.

due to the social political exclusion, or due to the “exclusionary state”, the people from the excluded groups themselves did not favor the argument.

In the second CA elections-2013, people overwhelmingly voted against the parties who carried progressive agendas. Therefore, despite the prominence of the matter, it clearly failed to internalize. Table 9.1 of the CA elections 2013 result shows a huge fall of the Maoists who led the ethnic agenda whereas the NC and the UML who stood against it unexpectedly became the first and the second party. Similarly, the traditionalist party, who argued for the status-quo, won significant number of seats, whereas the newly formed ethnic party, FSP, and the regional Madhesi parties fared very badly.

Table 9.1

Comparison between the results of the CA elections 2008 and 2013

Elections	2008		2013	
	FPTP	PR	FPTP	PR
Maoists	120	100	26	54
Liberals				
NC	37	73	105	91
UML	33	70	91	84
Regional Ethnic Federalist MJF-N	30	22	2	8
MJF-L			4	10
		Total	6	18
Ethnic Federalist FSP-N (UML splinter)	Not Formed	Not Formed	0	5
Status Quoist RPP-N	0	8	0	23
RPP	-	-	3	10
		Total	3	33

Source: Election Commission of Nepal

The underperformance of the progressive parties explains to some extent the reluctance of some other parties who did not participate in the elections. They doubted the power of their agenda which had emerged from and largely relied on the guerilla-turned-politicos Maoist leaders. The strategy which the Maoists and the others followed was to ensure that their agenda would be endorsed as if it were now or never. For instance, republicanism was endorsed rather quickly fearing resistance from the monarchist quarter.

The population accepted the verdict although many repented soon after. However, the republicanism has been internalized to the extent to which, except for the traditionalist royalist party, the matter has been basically forgotten in the public. The royalist party RPP, who performed unexpectedly well in the second CA elections through the manifesto of reviving the Hindu identity and the monarchy, quickly changed its stance by signaling compromise with other parties. With regard to the relevance of the ethnic agenda, nonetheless, ethnic advocates argue that the parties with identity agendas altogether have in fact garnered more votes than in the past elections, but due to several splits and lack of a unified election front, they could not get the seats that corresponded to their total votes.

Furthermore, despite huge loss in the elections, some parties have still denied that their agendas were over. Since they have apparently lost people's support, their intransigence merely show their bargaining intentions. Besides, the sudden but enormous swift in the people's verdict took by surprise most of the national and international stakeholders who had dedicated their resources and expertise to the ethnic agenda. Consequently, concerns grew with regard to the institutionalization of those unfinished tasks the former CA had embarked upon: republicanism, secularism, ILO 169 ratification, federalism and so on, the agendas which are still short of being institutionalized constitutionally.²⁸³

Since the thorny issue of ethnic federalism characteristically dominated the discourse, which turned into increasing hostility between groups, and at times seemed to be on the verge of violent outbreak, the dominant group had enough time to counter-argue and create an anti-ethnic opinion. People had enough time to reflect on the issue. All in all, the population on both sides of

²⁸³ In the aftermath of the elections, the European envoys called on the winning NC and the UML leaders and expressed their concerns about the road ahead.

the camps ended up unconvinced. There was a growing confusion regarding the future structure of the ethnic federalism, its implications for the society and the individuals. People had a general understanding that such restructuring would lead to confrontation.

The arguments of the opposing camps, their merits and flaws are discussed below.

9.3 Pro-ethnic arguments:

Historical hegemony: Nepal had several principalities and kingdoms until the late eighteenth century which were diplomatically and forcefully persuaded to submit to the one rule by the Shah dynasty, founded by the king PN Shah in 1768, who imposed a unitary state system centered in the capital, Kathmandu.

Caste system: The social stratification on the basis of the caste system was legally coded and, although it was abolished in the 1960s, the deeply rooted caste and ethnic prejudices remained.

State language: The state imposed its language Nepali as the lingua franca over dozens of other languages. The language became a major barrier for the social mobilization of those with different mother tongues because the schools only used the national language Nepali.

Nationalities: The unitary governance system hugely undermined the “nationalities” residing within the territory of Nepal, who had always longed for their home-rule.

One culture domination: The Shah dynasty imposed its Hindu religion and culture. The state promoted one particular cultural value, the culture of the Hindu rulers; Hindu lifestyle, dress, norms etc. The dominating cultural occasions were declared national holidays while others were not given equal recognition.

NORMS UNIVERSALITY VS. NORMS INTERNALIZATION

Holy Cow and the law: The cow being the holy animal in Hindu culture became the national animal in Nepal. Despite the fact that there have always been cow eating groups, people have been jailed for killing cows.

Representation in state bureaucracy: The high caste population had very high representation in governance, judiciary and the public sphere more generally compared to ethnic groups and marginalized communities.

Assimilation: Migration of the upper cast group from India to hills of Nepal at some point in history and the state's assimilating policies destroyed the indigenous values and lifestyle.

9.4 Counter-ethnic arguments:

Confrontation: In the name of de-institutionalizing the Hindu state-level culture and religion by advocating Mono-ethnic state will promote more discrimination and hostilities (Gautam, 2013).

Emotional Claims: There are no convincing arguments or plans of governance that would guarantee the rights and opportunities of all individuals; the ethnic camp rather indulges in emotional and vengeance type restructuring (Gautam, 2013).

Unfavorable Geopolitics: Nepal has a sensitive geopolitical position, hence the cut-down on the center's power risks the disintegration or secession owing to possible squabble among federations.

Impracticality: Single-ethnic federalism will add to the plight of the population who has been suffering hugely because of the acute lack of infrastructure and mountainous terrain. Such restructuring will inversely affect the internal mobilization of the population. It may provoke violence because of scarce resources. It will hamper the economic opportunities,

and in the first place it is not known how all these federations will be financially sustained. All in all, the agenda is totally impractical from an economic point of view.²⁸⁴

Mixed Population: While in the demanded ethno-territorial state the so-called autochthonous people themselves are in minority compared to the total of other ethnic and non-ethnic populations. Every possible new state entails a mixed population which poses serious questions to the motives and consequences of the mono-ethnic governance.

Special Rights Problematic: Special election rights for one ethnic group that are meant to ensure its domination in government even though it is a minority in the region will almost certainly lead to violence.²⁸⁵

9.5 Anomalies of the agenda

First, the crux of the matter originates from the fact that the civil war waged by the Maoists ended up in a stalemate and thus the guerrillas transformed their interest to pursue their objectives through politics. The agreement between the political parties and the Maoists is a negotiated deal but not a victor's term. Subsequently, although the Maoists became the largest party of the first Constituent Assembly, they did not get the absolute majority. Against this backdrop, the Maoists were obliged to move forward through consensus with other forces rather than making the state hostage to their own revolutionary agendas.

Second, although the matter has been understood as a principle of democracy and equality, the envisaged re-structuring entails several details which apparently do not follow the principle of democracy either. Having said that, however, it should be noted that the agenda of restructuring, although not fully democratic, represents an essential part of the conflict transformation and the peace process. Stakeholders agreed to the peace process in order to get their subsequent share of power. In any event, plenty of anomalies associated with the ethnic agenda complicated the political transition.

²⁸⁴ Prof. Pitambar Sharma, TU, Nepal, so argues in an interview with the newspaper Republica, Nepal.

²⁸⁵ The Nepali Congress leader and the party's vice president Ram Chandra Paudel has been heard saying so in many occasions.

9.6. Pro-ethnic anomalies

The ethnic camp continues to put undue emphasis on historical injustices committed by the hereditary rulers of the time to demonize the current liberal forces ignoring the fact that the historic changes in the recent past have already given the country a democratic constitution and a republican order. The bad governance of the past and the socio-economic problems have been turned into an ethnic problem only. While the dominant group's representation in the state machinery is higher, so is the Mongoloid²⁸⁶ ethnic population in the British Army. Similarly, the Madhesis (regional group) have fared well in technical jobs. While some indigenous group enjoys higher status in HDI, the far-western region with the dominant group population remains much lower in the rank. All in all, these facts show that the problem is larger than merely ethnic; it is a socio-economic and regional problem more than anything else.

The ethnic advocates strongly promote the mono-ethnic, biological aspect of the population, with group rights, which in itself is not a universal model of democracy vis-à-vis the liberal democracy with individual rights (Gautam, 2012). While the Nepalese government recognizes 59 Indigenous population group (IP), and dozens of other ethnic groups, languages and culture, demanding only around one dozen of ethnic federations clearly shows the undemocratic wish of the ethnic nationalities. Besides, the definition of nationalities and indigenous population has been hugely contested in the context of Nepal.

While the ethnic discourse understands the existing state as “exclusionary” (See Lawoti, 2012, Thapa, 2012) , the ethnic activists at the same time demand another exclusionary federation to seek mono-ethnic domination over others and deliberate exclusion of the population belonging to the dominant group. The ethnic entrepreneurs' excessive focus on self-determination, special rights, homeland, centrifugal tendencies have caused fear of possible confrontation among many. Beside blaming the “other” groups, there are practically no talks about how the new structures would uproot ethnic and caste discrimination as well as discrimination against women; since such malpractices are said to be starker in other ethnicity and regions (Gautam, 2013).

²⁸⁶ The so-called dominant group basically means the population of Indo-Aryan features, or Indian features, whereas the Mongoloid group entails the hill ethnic populations of Asian features (a simplistic definition, just to make a clear distinction between the two groups for those readers who are unfamiliar with Nepal).

The dominant groups have been caught in a trap. They are, on one hand, blamed of dominating others; on the other hand, the radical re-structuring has put an existential threat to their population. It should be noted that the proposal of federalism put forward by the CA's State Restructuring Committee (proposed first) which had proposed 14 federal provinces, and the High Level State Restructuring Commission, which proposed 11 states (second), envisaged re-mapping of the regions in a way that would maximize the newly dominant ethnic nationalities populations and minimize the dominant groups.

This envisaged configuration triggered tremendous fears on side of the dominant group populations given the possible exodus from their ancestors' home and potential effects of unleashing humanitarian and economic disaster. In this respect, the ethnic camp itself seems to be divided and contradictory: while some argue for accommodating other ethnicities in a new socio-polity, others argue for pure ethnic homelands envisaging the exodus of others.²⁸⁷ Meanwhile, there are some extremist groups who are demanding secession as well; nonetheless, these movements have been largely ineffective.

The anti-ethnic camp strongly argues in favor of the existing population structure in the name of multiple-identity federalism. Therefore, even though, in principle, the country is federalized, in essence, the structure will remain the same and will fail to make a difference with regard to the social malpractices and the concentration of power. Furthermore, with regard to the national level Hindu culture, one language- Nepali and one dress-Daura Suruwal, which the majority population defines and defends as pragmatic and practical, will not pave the way for other cultures and languages to be nationally recognized in the context of democratic equality.

9.7 Nepalese Social Structure

The ethnic advocates' main argument for claiming ethnicity-based federalism in Nepal is rooted in the claim of historic ethnic and caste discrimination in Nepal. The caste-based discrimination still largely exists in the society despite the fact that equal rights for all regardless of ethnic and social origin are enshrined in the law and guaranteed by state mechanisms. It was back in the Rana dictatorship when the social stratification was codified as law. However, the code was

²⁸⁷ In an academic discussion, where this scribe was present, a foreign scholar expressed his inquisitiveness with the ethnic advocates about the possible arrangements made for those groups of populations who presumably should be leaving their homes.

NORMS UNIVERSALITY VS. NORMS INTERNALIZATION

abolished in the early 1960s under King Mahendra's rule. During that era, high caste citizens and those close to the ruling class benefited significantly at the expense of other communities; particularly those who were considered "untouchable" (now called Dalits) were discriminated against.

The dominant group does not deny the historical injustices and their consequences, but at the same time strongly believe in the liberal economic-democratic transformation of the society with decentralized governance on the basis of capacity, geography and multiple identities. On their part, ethnic campaigners see the solution only in the radical one-identity re-structuring to get away from the entrenched social stigma. However, given that the caste and ethnic discrimination exists within the different castes and ethnic groups also, there is every reason to doubt that a mere isolation from the current structure will totally uproot such social malpractices.

Table 9.2: Regimes and Socio-Political Structures of Nepal

Regime Name	Regime Type	Period	Socio-Political Structure	Remarks
Shah Dynasty Rule	Absolute Monarchy	1768-1850	Specific Task assigned to specific ethnicity	Small principalities come under one rule
Rana Oligarchy	Dictatorship	1850-1954	Civil Code stratified Caste Hierarchy	Hindu Culture institutionalized
Democratic Transition	Power Sharing: Nepali Congress, Rana and King	1955-60	--	King Mahendra's Coup to end the democratic rule of the Nepali Congress
Panchayat Rule	Absolute Rule One party rule	1960-90	New Civil Code- Caste Hierarchy Abolished	Limited Freedom
Parliamentary liberal Democracy	Multi-Party with Constitutional Monarchy	1990-2003 Maoist Insurgency (1996-2006)	Freedom of Expression, Freedom for Religion Constitutionally Hindu Kingdom	-Significant improvement in socio-economic indicators. -Insurgency starts, 1996-2006 -Unstable Governments
King Gyanendra	Executive King	2003-2006	--	
Political Transition	Republic Order Maoist in Politics	2006-onwards	Interim Constitution: Secularism, Federalism, Republicanism, "Complete Democracy"	Comprehensive Peace Agreement

9.8 Social Psychological “We” and “Other”

Even though the ethnic camp circumscribes its arguments to democratic equality, its contentions are more of an ideological nature. The ethnic movement basically demanded a re-mapping of provinces whereby the existing majority population would turn into a minority, and the most assertive groups of the provinces would become majority possibly with some prerogative rights or group rights. The extent of such restructuring, however, has not been clear; for instance, is the request for prerogative rights merely a bargaining approach to achieve more than the status quo or are the ethnic advocates actually bent on achieving what they are asking for? It is noteworthy in any case that such newly re-structured provinces with the domination of one assertive ethnic group would still incorporate several other minorities in the region. Since Nepal has ethnically mixed population across the country, the opposing voices of other ethnic groups who cannot or have not demanded a province for their own domination has been a serious setback for the movement.

Therefore, there have been several efforts to reshuffle the population dynamics so that the existing Nepali domination would decrease: the attempt to group together the so-called “indigenous nationalities” as a counter-balance to the Nepali population and the movement against the Nepali language. The issue of who are indigenous nationalities and who are not has also been surrounded by controversy.²⁸⁸ The already heated matter ended up by including the dominant group as yet another indigenous nationality because the State Restructuring Committee in the Constituent Assembly had previously categorized this group simply as “others”, a move that had given rise to huge protests. Even though the dominant groups have succeeded in securing their rights by opposing their categorization as miscellaneous, in a way, their move eventually served the ethnic campaigners because this institutionalized the argument that one “ethnic” group “Khas-Arya” (Hindu Group) had dominated others and, at the same time, reinforced the one-ethnicity based re-structuring argument.

²⁸⁸ UML Leader Shanker Pokhrel argues in a political meeting that Nepalese groups are merely caste groups, but not “nationalities” as such as it is understood internationally. Another UML leader Pradip Nepal strongly criticized the joint-term “indigenous nationalities”. He argues each terms should be different or joint with an “and” because such deliberate distortion of meaning would be big injustice for the real indigenous population, he argues.

Table 9.3

Population Structure (Cultural)

Population Group	Percentage	Overlapping	Remarks
Majority Group in Religious line	80	Madhesi and Dalits	
Linguistic line	38	Hill Dalits	
Hill Nationalism vs. Southern Region Madhes	65	Hill Ethnicities and Dalits	
Indigenous ²⁸⁹	36	Madhesi	
Dalit	15	Madhesi	
Regional Madhesi	17	Indigenous	
Majority or Dominant Group	31		Only High Hill Caste
Indigenous or Ethnic Groups	23		Excluding Newar and Terai and Inner Terai
Madhes	22		

Source: Battachan, 2008 cited in Lawoti, 2012.

Table 9.4 shows that the Indigenous groups lie on the higher HDI side along with the dominant group. In fact, the regional caste group is atop the chart. On the lower side, the Muslims remain the worst group lagging behind even the Dalits. The Dalits, having internalized the high caste religion, culture and language, in many contexts do not share the plight of other

²⁸⁹ The population of Indigenous Population (IP) fell to 35% in the 2011 Census from 37.5% in 2001, while they claim themselves to represent 50% of the total population of Nepal. The government has recognized 50 IP in Nepal so far. (Source: myrepublica.com)

cultural groups (Lawoti, 2012). It is noteworthy that in some studies the same source is put in a different way to show that the indigenous group lies on the lower side of HDI. This is done by separating the Newar group from it, whereas the same Newar group is put under indigenous population to make the indigenous population the biggest population groups vis-à-vis the majority dominant group (see Thapa, 2012; Lawoti, 2012). If the HDI examination is to be done regionally, the high caste group in the Far-Western region of Nepal will lie on the lower side. On the whole, the Table reveals that the facts do not convincingly justify the need for a separate ethnic state.

Table 9.4

Human Development Index (HDI)

Higher than National Average	Lower than National Average
Regional Madhesi High Caste	Regional Madhesi castes and ethnicities
Dominant Group	Dalits
Indigenous and ethnicities	Muslims

Source: Nepal Human Development Report, 2009. p.44 (cited in Thapai, 2012)

9.9 Constituent Assembly and Federalism

The Constituent Assembly, a dormant agenda for a long time, provided a platform to write a representative constitution that would address the wishes of all sections of the Nepalese society. Even though such Assembly had been discussed six decades earlier at the advent of democracy, it soon disappeared and ended up in the one-party rule of the king Mahendra. The Maoist

insurgency resuscitated this moribund agenda and, although many resisted the idea, it eventually happened as part of the peace process that brought the guerrillas into mainstream national politics.

However, since its inception until its demise, it has become a paradox. Although the Assembly had 601 members in charge of participating and drafting a new constitution, the Assembly was basically led by the top brass leaders of 3 to 4 parties. Consequently, the expected extensive popular participation in a wide range of issues never took place. Despite the fact that several thematic committees present in the former CA had conducted significant amount of their work, practically every decision depended on the top leaders. The ethnic camp claims that the old party NC never cooperated in taking the ethnic federalism proposal to the Assembly for discussions and democratically deciding on the issue.

The Interim Constitution of 2007 stipulates that Nepal would be federalized on the basis of identity and economic capability. The Assembly's State Restructuring Committee initially proposed a 14 federal province model; however, it was strongly resisted and criticized by the majority group given that the proposal was basically an ethnic model, a single-ethnic federalism, and practically economically incapable. The proposal had several anomalies. The major points of concerns were, on the identity side, that the proposal articulated a single-identity-based federalism with rights of self-determination and special rights.

Prof. Pitambar Sharma argues that, on the economic side, some proposed states, for instance Jadan in the North-west is hardly viable economically given that it takes days of trekking to reach there only in the summer and has a population of only 50, 000 (Sharma, 2011).²⁹⁰ Similarly, argues Sharma, the single identity of ethnic Bhotas, which is the basis of that state formation, constitutes only 1.2 percent of the total population of Nepal and merely 3.1 percent of the ethnic Bhotas live in Jadan (Sharma, 2011). The proposed Sherpa province has 80 percent of non-Sherpa population. At the same time, according to Sharma, the same principle has not been applied to the southern Terai Madhes region because the states were being carved out covering several ethnic enclaves (Sharma, 2011).

In order to find common ground, a high-level commission, called State Restructuring Commission, was formed with the representatives of the four biggest parties: UCPN-Maoist, NC, UML and SLMM. This Commission was supposed to be formed before the CA Committee

²⁹⁰ Prof. Pitambar Sharma's Interview on Republica, 10 March, 2011. See Sharma, 2011.

submitted its report since the Commission's work was to provide expertise. The Commission itself ended up being divided over the issue, therefore it submitted its proposal to PM Bhattarai (called the "majority report"), and the dissenting Commission members (NC's representatives) submitted their own version known as the "minority report". The former proposed a 11 state model plus one non-territorial state for the Dalits, and removed the earlier states of Jadan and Sherpa: the latter continued its 6 provinces North-South model. Beside the anomalies of the proposals, basically the bone of contention remains the same: single-identity vs. multiple-identity (the status-quo type). The former re-maps the regions to maximize the ethnic population, whereas the latter does so to maintain the status quo, i.e., maintain the majority of the dominant groups.

Meanwhile, the CA with the original mandate of only two years which later extended up to another two-year²⁹¹, approached the end, the Supreme Court under the Chief Justice K R Regmi this time decided not to extend it anymore citing that it would be unconstitutional according to the Interim Constitution 2007. Similarly, the groups from both minority and majority and other furious groups declared strikes across the country. The Maoist Chairman Prachanda gave a provoking discourse by asking the ethnic campaigners to agitate to pressurize the "others". In the meantime, the dominant group took to the street as well to defend their existing provinces. On their part, the regional Madhesis were furious for not having their All-Madhes-One-Province demand fulfilled. The whole country seemed to be at the verge of the outbreak of violence. Leaders decided to end the Assembly without endorsing any constitution.

²⁹¹ It was extended three times: six months each in first two extensions, and a year in the final extension. In total the CA existed for four years.

9.10 Quality of the norm of ethnic federalization and Implications

First, the federalism itself has not passed through the norm cascade at the international level and has thus failed to be internalized as only less than 30 states in the world have adopted the system so far. Second, unlike what the ethnic camp argues, namely that such a model would be best suited for the ethnically diverse Nepal, many states in Africa with similar population characteristics have not applied the model (Gautam, 2013). Third, re-mapping Nepal in between 10 to 14 federal entities on the basis of identity would do justice only to few ethnicities but injustice to many others. Given the mixed population of the regions, in any case one particular ethnicity would dominate others.

This has been the crux of the matter: single ethnic federation vs. multi-ethnic federation. While the dominant group favors a multi-ethnic model, which is basically a socio-economic and geographical model covering ethnically-mixed population within one federation, the ethnic camp demands an identity model emphasizing one major ethnicity in each region and ignores the geographical aspect of the federation.

The ethnic model would still have other ethnicities, but does not convincingly explain the equality measures for others. The ethnic camp's main argument has been that although the model cannot ideally fulfill the rights of all, at least it would diversify the unitary domination of the Hindu or Brahmin culture and language. This argument reveals that the new model would not be any different from the existing one apart from the ethnic wishes and prerogative rights of few. The existing model, the unitary Brahman culture at state level does not bar the rest from its cultural independence, which is the case for many other states/nation-states. Many states across the world have adopted one culture at the state level.

In the meantime, while the ethnic entrepreneurs still claim the relevance of the ethnic-federalism agenda to the constitution writing process, several foreigner partners who were claimed to have supported the ethnic camp endorse the new election result and seem very optimistic in having a new constitution within a year time. The Carter Center closes its Nepal chapter as they cited that their presence is not needed anymore, the EU increases its aid to Nepal three times and this time substantially on infra-structure development, such as, hydropower, unlike the conflict resolution (constitutional) agendas earlier.

Chapter 10: Conclusion of the Study

This dissertation has the following objectives: a) an analysis of the existing knowledge on civil wars and its relevance to recent cases; b) a study of civil war resolution under normative (constructivist) perspectives of IR; c) a test of the different hypotheses regarding the effect of norms, norms diffusion, and their internalization or institutionalization. With respect to the first objective, this study reviews the state-of-the-art of civil war literature on quantitative studies with a focus on termination types, negotiated settlements in particular. This study finds that these studies have produced varied results which perhaps cannot prescribe clear policies and strategies for practitioners. For instance, while some studies see more chances in negotiated settlements to get a stable peace, others find that victory cases lead to stability. This study finds that negotiated settlement in the post-Cold War era is a better choice than victory in terms of both stability of the post-conflict peace and the post-conflict governance.

A new set of post-Cold War data has been prepared, and the analysis of the data shows that negotiated settlements have never been broken by the rebels who signed a peace deal, but settlements have been broken by splinter groups or new groups. In terms of conditions relevant to stability, the analysis produces an important result in showing that a negotiated settlement is more likely to break down in the regimes with better “rule of law” than in those with poorer record of rule of law. Put differently, negotiated settlements in democracies have more possibility to breakdown compared to authoritarian regimes (in order to simplify the observation, the study interprets a good record of rule of law as democracy and a bad record as an authoritarian regime). This finding contradicts the existing theory that democracies hold post-conflict peace longer. However, given the small size of the population sample, the conclusion must be taken with caution.

As far as the second objective is concerned, the main research question of this dissertation is how international norms are present and play their part in national and international actors’ behavior and decision making in the context of civil wars, as well as how norms affect conflicts and peace processes in the end. The reason for including normative variables is that the analysis of civil war studies clearly showed a need for more studies in terms of the role of norms in intra-state conflict resolution.

CONCLUSION OF THE STUDY

The analysis confirms a significant effect of norms in conflict resolution in the following way. Starting with the assumption that norms can replace realist or rationalist factors like security guarantees or coercive enforcement in bringing the rebels into mainstream politics, comparing such dynamics which occurred in El Salvador and Guatemala with Nepal, the result reaffirms that fact that the Nepalese Maoists redefined their interests and adapted to a democratic set-up. Realism would assume that the Maoists did so because the conditions for continuing the war had changed and they would have met total defeat had they gone back to war, but the fact that the splintered group of Maoists resumed violent attacks and exerted significant threats all around speaks otherwise. This conclusion reinforces the fact that had the Maoists not redefined their interests and identity by themselves, conditions would have still remained favorable to waging the war.

The study, similarly, analyzes normative perspectives by a) operationalizing *international norms* (such as human rights and democracy) and checking how actors have gone about using these norms and what overall results have come out, and b) examining how *international actors* behaved vis-à-vis norms and how they used them in the context of civil war.

With respect to the realist assumptions that actors only act according to their economic and military interests and power, the United States' withdrawal of military aid for the Nepalese king Gyanendra's regime in the context of human rights violations (despite the fact that the US was strongly against the Maoists' violent behavior) clearly contradicted realist arguments. Besides, the US decision to stop aiding the king's regime proved so crucial that it left the king with no other option but to succumb to the agitating political parties' and the Maoists' demand, which soon ended the monarchy itself. This upholds the supremacy of the human rights norm and its power to end a civil war.

It can be inferred that this has contributed positively to the post-conflict process as the former rebels remained rather conscious about the sensitivity of violating norms and antagonizing the international community and its possible repercussions. Incidentally, the US behavior in the Nepalese conflict has therefore contributed to the literature that argues that international norms have redefined US policies. In other words, the US interest not only corresponds to its military and economic power but also to its normative understanding.

In pursuit of the third objective, this study applies the theoretical assumption (constructivism) that norms transform actors' interests and identities to empirical studies. It

examines why some norms are internalized and others are not. The ethnic federalism issue in Nepal represents a good case for analyzing the argument of the universality of norms against the internalization of norms argument. The study reinforces the arguments that the quality of norms or the universality of norms correlate with their internalization. In Nepal, despite a strong ethnic federalism campaign by national and international actors and its prominence in the discourse, some of the same stakeholders who strongly raised the issue of ethnicity started to backtrack or to make changes in their definition of ethnic federalism (for instance, the Maoists themselves) and the political parties who carried the ethnic agenda underperformed in the second Constituent Assembly elections.

All in all, in an unexpected manner, the ethnic agenda lost its legitimacy and relevance. The same population who had almost in one voice endorsed Nepal's transformation into a republic remained divided, and eventually the majority of the population voted against the ethnic federalism. This clearly shows that the value or idea of state-restructuring on ethnic basis was not universal and has thus failed to be internalized.

Similarly, the agenda of the formation of a truth commission and the implementation of its reports in the post-conflict period, further advances the understanding of norms internalization process and its limitations. The analysis of the Commissions of El Salvador, Guatemala and Nepal positively verifies the main hypothesis of this study that norms continuously redefine actors' interests, or that actors continuously internalize new norms. However, at a point where further internalization may have significant implications for their own identity and existence, actors start resisting those norms.

Although the militaries and the governments in El Salvador and Guatemala complied with binding and non-binding international norms, from power-sharing with the rebels to cutting down the size of the military and accepting several other mechanisms recommended by international institutions, including the setting up of Truth and Reconciliation Commission and Historical Commission, they defied full acceptance of the Commissions' report since the military officers themselves would have been very adversely implicated. Nepal, which also accepted the practice of forming a TRC by including it in the peace documents, in the end tried to covertly approve a mechanism that would grant a blanket amnesty.

Applying this hypothesis to the Nepalese ethnic federalism issue, it could also be inferred that the population from different communities, including those from the ethnic groups

themselves, seemed to fear the consequences of such a remodeling of the state, which significantly blocked the internalization process of the new norm. The national level political parties and the majority population, who feared for their existence in the new set-up, continued to resist such norm to the extent that they antagonized some members of the international community who had invested huge resources and expertise into the ethnic equality issue.

A further analysis of the TRC in Nepal finds that norm internalization correlates with the strength of norm entrepreneurs. This is not as much a question of norms universality as in the ethnic federalism case because the TRC is basically about upholding the supremacy of human rights. Many argued in favor of giving blanket amnesty and some compensation measures for the victims and their families in the light of the past revolution or for the sake of success of the peace process. Even though pro-amnesty advocates cited different available models, the human rights activists stood firmly against any amnesty. The international understanding prevailed that an independent and full implementation of such a transitional mechanism helps save societies to a large extent from reverting to violence or at least avoid serious crimes in the name of revolution.

The prosecution of perpetrators through conventional judicial processes in the absence of a truth commission for the crimes committed during the civil war in Nepal after huge pressure domestically and internationally has been a glaring example in this respect. The Maoist leaders, trying to protect their cadres in every possible way and gone to make harsh statements, hugely prejudiced their legitimacy, but did not prevail on this issue. It should be noted that the human rights advocates' campaign was significantly invigorated when a Nepalese army officer was arrested by the UK Metropolitan Police while he was visiting the UK for the crimes committed during the insurgency in Nepal.

With respect to the overall effect of norms on conflict resolution in Nepal, the study concludes that norms have had a mixed effect. On the one hand, norms have transformed the conflict and arguably have remained a deterrent of the recurrence of war. On the other hand, the struggle for the internalization of norms and the issue of some norms being internalized and some not has contributed to the prolonged turmoil. In any case, in theoretical terms, norms do not seem to be secondary to realist interests, but are embedded in the conflict transformation process in such a way that they are equally important as realist power or material factors, if not more.

10.1 Recommendations

- With regard to practitioners, this analysis recommends that the international community should focus on strategies which might not necessarily satisfy the wide political spectrum but maintain peace in the short and long-term. In order to avoid being carried away by spoilers and extremists, the international community should support democratic regimes in stabilizing the situation first and then gradually push to address other concerns. Any radical measures should be avoided during the peace process (in the short-term). On their part, domestic actors should be aware of the breadth of the international actors' role. Such awareness will reduce misunderstandings between them: policies come not only from material interests but from norms also.
- Human rights norms act as deterrence against reverting to violence, which definitely demands a proactive role and timely actions of the international community. However, international actors should be aware of the quality of norms and their potential institutionalization or disappearance before pursuing any coordinated policies regarding particular norms or supporting norm entrepreneurs.
- With respect to the theory that states take international norms as a source of their policies, the phenomenon does not happen by itself. Even though states in internal conflict invite international ideas to build peace institutions or to empower peace institutions, a proactive role of international normative actors becomes all the more necessary to continue to empower such institutions. Moreover, the national-international normative link appears to be closely interrelated and functions both ways rather than only from international to national or vice versa, which enables norm entrepreneurs to act in a coordinated manner.

References

- Adler, Emanuel (2002) “Constructivism and International Relations”, in W. Carlsnaes, T. Risse and B.A. Simmons (eds.) (2002) *Handbook of International Relations*, London: Sage: 95-118
- Biersteker, Thomas J. (2002) “State, Sovereignty and Territory”, in W. Carlsnaes, T. Risse and B.A. Simmons (eds.) (2002) *Handbook of International Relations*, London: Sage: 157-176
- Bose, Sumantra (2002) “Flawed Mediation, Chaotic Implementation”, in S.J. Stedman, D. S. Rotchild, E.M. Cousens (eds.) (2002) *Ending Civil Wars: The Implementation of Peace Agreements*, Colorado: Lynne Rienner Publishers:631-659
- Buzan, Barry and Little, Richard (2000) *International Systems in World History: Remaking the Study of International Relations*. Oxford: Oxford University Press
- Call, Charles T. (2002) “Assessing El Salvador’s Transition from Civil War to Peace”, in S.J. Stedman, D. S. Rotchild, E.M. Cousens (eds.) (2002) *Ending Civil Wars: The Implementation of Peace Agreements*, Colorado: Lynne Rienner Publishers:383-420
- Chalmers, Rhoderisk (2012) “State Power and Security Sector: Ideologies and Interests”, in S.V. Einsiedel, D.M. Malone, and S.Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:58-80
- Checkel, Jeffrey T. (1997) “International Norms and Domestic Politics: Bridging the Rationalist-Constructivists Divide”, *European Journal of International Relations*, Vol. 3, No. 4: 473-495, available at: <<http://ejt.sagepub.com/content/3/4/473>> , accessed 08 March 2012
- Cortell, Andrew P. and Davis, James W. Jr. (2000) “Understanding the domestic impact of International Norms”, *International Studies Review*, Vol. 2, No. 1: 65-87

REFERENCES

- Dixit, Kanak M. (2009) *Dekheko Muluk (the country that I saw)*. Patan (Kathmandu): Jagadamba Press
- Doyle, Michael W. and Sambanis, Nicholas(2000) “International Peacebuilding: A theoretical and Quantitative Analysis”, *American Political Science Review*, Vol. 94, No. 4:779-801
- Downes, Alexander B.(2004) “The Problem with Negotiated Settlements to Ethnic Civil Wars”, *Security Studies*, Vol. 13, No 4: 230-279
- Downs, G and Stedman, Stephen J (2002) “Evaluation Issues in Peace Implementation” in S.J. Stedman, D.S. Rotchild, E.M. Cousens (eds.) (2002) *Ending Civil Wars: The Implementation of Peace Agreements*, Colorado: Lynne Rienner Publishers:43-69
- Einsiedel, Sebastian V., Malone, David M., Pradhan, S. (eds.) (2012) *Nepal in Transition. From People's War to Fragile Peace*, New York: Cambridge University Press
- Fearon, James D. (2004) “Why Do Some Civil Wars Last So Much Longer than Others?”, *Journal of Peace Research*, Vol. 41. No.3: 275-301
- Fearon, James D. and Wendt, A. (2002) “Rationalism v. Rationalism: A Skeptical View”, in W. Carlsnaes, T. Risse and B.A. Simmons (eds.) *Handbook of International Relations*, London: Sage:52-72
- Finnemore, Martha (1993) “International organization as teachers of norms: the United Nations Educational, Scientific, and Cultural Organization and science policy”, *International Organization*, Vol 47. No. 4: 565-597
- Finnemore, Martha (1996) “Constrcuting Norms of Humanitarian Assistance” in Katzenstein, Peter J. (ed.) (1996) *The Culture of National Security*, New York: Columbia University Press:153-185

REFERENCES

- Finnemore, Martha and Sikkink, Kathryn (1998) “International Norm Dynamics and Political Change”, *International Organization*, Vol.52. No. 4: 887-917
- Gärtner, Heinz (2001). *Small States and Alliances Part II: Crisis Management Engagement and Humanitarian Intervention*. Working Paper. Vienna University Library.
- Gellner, David N., Pfaff-Czarnecka, J. and Whepton, J. (eds.) (2008) *Nationalism and Ethnicity in Nepal*. Kathmandu: Vajra Books
- Gourevitch, Peter (2002) “Domestic Politics and International Relations”, in W. Carlsnaes, T. Risse, and B.A. Simmons (eds.) (2002) *Handbook of International Relations*, London: Sage:309-328
- Gurr, Robert T. (1994) “Peoples against states: Ethnopolitical conflict and the changing world system”, *International Studies Quarterly*, Vol. 38, No. 3:347-378.
- Hartzell, C., Hoddie, M., Rotchild, D. (2001) “Stabilizing the Peace After Civil War: An Investigation of Some key Variables”, *International Organization*, Vol. 55, No. 1 : 183-208
- Hartzell, Caroline A. (1999) “Explaining the Stability of Negotiated Settlements to Intrastate Wars”, *The Journal of Conflict Resolution*, Vol 43, No. 1: 3-22.
- Hawking, Darren G., (1997) “Domestic Response to International Pressure: Human Rights in Authoritarian Chile”, *European Journal of International Relations*. Vol.3, No.4: 403-434
- Herrmann, Richard K. (2002) “ Linking Theory to Evidence in International Relations”, in W. Carlsnaes, T. Risse and B.A. Simmons (eds.) (2002) *Handbook of International Relations*, London: Sage:119-136
- Hurd, Ian (2008) “Constructivism” , in C. Reus-Smit and D. Snidal (eds.) (2008) *The Oxford Handbook of International Relations*, Oxford: Oxford University Press: 298-316

REFERENCES

- Ingebritsen, Christine (2002) “Norm Entrepreneurs: Scandinavia’s Role in World Politics”, *Cooperation and Conflict*, Vol 37, No. 1: 11–23
- Jackson, Robert H. and Sorensen, Georg (2003) *Introduction to International Relations: Theories and Approaches*. New York: Oxford University Press
- Jha, Prashant (2012) “A Nepali Perspective on International Involvement in Nepal”, in S.V. Einsiedel, D.M. Malone, and S. Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:332-358
- Johnston, Alastair I. (1996) “Cultural Realism and Strategy in Maoist China”, in P.J. Katzenstein (ed.) (1996) *The Culture of National Security*, New York: Columbia University Press:216-268
- Katzenstein, Peter J., Keohane, Robert O., and Krasner, Stephen D.(1998) “International Organization and Study of World Politics”, *International Organization*, Vol. 52, No. 4: 645-685
- Klotz, Audie (1995) *Norms in International Relations: The Struggle against Apartheid*. Ithaca and London: Cornell University Press
- Kreutz, Joakim (2010) “How and When Armed Conflicts End: Introducing the UCDP Conflict Termination Dataset”, *Journal of Peace Research*, Vol. 47, No. 2: 243-250.
- Kupchan, Charles. A. (2010) *How Enemies Become Friends*. New Jersey:Princeton University Press
- Lawoti, Mahendra and Pahari, Anup. K. (eds.) (2010) *The Maoist Insurgency in Nepal: Revolution in the twenty-first century*. Oxon:Routledge

REFERENCES

- Lawoti, Mahendra (2012) “Ethnic Politics and the Building of an Inclusive State”, in S.V. Einsiedel, D.M. Malone, and S. Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:129-152
- Levy, Jack S. (2002) “War and Peace”, in W. Carlsnaes, T. Risse, B.A. Simmons (eds.) (2002) *Handbook of International Relations*, London: Sage. 350-368
- Licklider, Roy (1995) “The Consequences of Negotiated Settlement in Civil Wars 1945-1993”, *American Political Science Review*, Vol. 89, No. 3: 681-690
- Luttwak, Edward N. (1999) “Give War a Chance”, *Foreign Affairs*, Vol.78, No.4:36-44
- Martin, Ian (2012) “The United Nations and Support to Nepal’s Peace Process. The Role of the UN Mission in Nepal”, in S.V. Einsiedel, D.M. Malone, and S.Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:201-231
- Martin, Ian (ed.) (2010) *Nepal’s Peace Process at the United Nations, Volume I*. Lalitpur: Himal Books
- Maxwell, Neville (1970) *India’s China War*. Bombay: Jaico Publishing House
- Mehler, Andreas (2012) “To engineer or not to engineer, that is the question: when does Constitutional engineering in divided societies occur?”, *Paper for the Annual Convention of the International Studies Association (and Preliminary Workshop)*, San Diego
- Mishra, Rabindra (2004) “India’s Role in Nepal’s Maoist Insurgency”, *Asian Survey*, Vol.44, No.5: 627-646

REFERENCES

- Muni, S.D. (2012) “Bringing the Maoists down from the Hills: India’s Role”, in S.V. Einsiedel, D.M. Malone and S. Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:313-331
- Panday, Devendra R. (2012). “The Legacy of Nepal’s Failed Development”, in S.V. Einsiedel, D.M. Malone and S. Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:81-99
- Paris, Roland (2004) *At War’s End: Building Peace After Civil Conflict*. New York: Cambridge University Press.
- Peceny, Mark and Stanley, William. (2001). “Liberal Social Reconstruction and the Resolution of Civil Wars in Central America”, *International Organization*, Vol.55, No.1: 149-182
- Rawski, Frederick and Sharma, Mandira. (2012) “A Comprehensive Peace? Lessons from Human Rights Monitoring in Nepal”, S.V. Einsiedel, D.M. Malone and S. Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:175-200
- Regan, Patrick M. (1996) “Conditions of Successful Third-Party Intervention in Intrastate Conflicts”, *The Journal of Conflict Resolution*, Vol. 40, No. 2 : 336-359
- Risse, Thomas (2002) “Transnational Actors and World Politics”, in W. Carlsnaes, T. Risse, B.A. Simmons (eds.) (2012) *Handbook of International Relations*, London: Sage:255-274
- Scherrer, Christian P. (2002) *Structural Prevention of Ethnic Violence*. Palgrave Macmillan:New York
- Stanley, William and Holiday, David (2002) “Broad Participation, Diffuse Responsibility: Peace Implementation in Guatemala”, in S. J. Stedman, D. Rotchild, E.M. Cousens (eds.) (2012)

REFERENCES

- Ending Civil Wars: The Implementation of Peace Agreements*, Lynne Rienner Publishers: Colorado:421-462
- Subedi, Surya P. (2004) *Dynamics of Foreign Policy and Law: A Study of Indo-Nepal Relations*, New Delhi: Oxford
- Tannenwald, Nina (1999) "The Nuclear Taboo:The United States and the Normative Basis of Nuclear Non-Use", *International Organization*, Vol.53, No.3: 433-468
- Thapa, Deepak (2012) "The Making of the Maoist Insurgency", in S.V. Einsiedel, D.V. Malone, and S. Pradhan (eds.) (2012) *Nepal in Transition. From People's War to Fragile Peace*, New York: Cambridge University Press:37-57
- Toft, Monica D. (2010)a "Securing the Peace: The durable settlements of civil war", *Data Appendix for Monica Duffy Toft*. Princeton University Press
- Toft, Monica D. (2010)b "Ending Civil Wars. A Case for Rebel Victory?", *International Security*, Vol. 34, No. 4: 7-36
- Upreti, Bishnu R. (2010) "External engagement in Nepal's armed conflict" in M. Lawoti and A.K. Pahari (eds.) *The Maoist Insurgency in Nepal. Revolution in the twenty-first century*, Oxon:Routledge: 219-237
- Wagner, Robert H. (1993) "The Causes of Peace", in R. Licklider (ed.) (1993) *In Stopping the Killing*, New York and London: New York University Press
- Walter, Barbara F. (1997) "The Critical Barrier to Civil War Settlement", *International Organization*, Vol. 51, No.3: 335-364
- Walter, Barbara F. (2004) "Does Conflict beget Conflict? Explaining Recurring Civil War", *Journal of Peace Research*, Vol.41, No.3:371-388

Waltz, Kenneth N. (1979) *Theory of International Politics*. Boston: Addison-Wesley

Wendt, Alexander(1992) “ Anarchy is what states make of it: The social construction of power politics”, *International Organization*, Vol. 46, No.2: 391-425

Whitfield, Teresa (2012) “Nepal’s Masala Peacemaking”, in S.V. Einsiedel, D.M. Malone and S. Pradhan (eds.) (2012) *Nepal in Transition. From People’s War to Fragile Peace*, New York: Cambridge University Press:155-174

Zartman, William I. (ed.) (2007) *Peacemaking in International Conflict: Methods and Techniques*. Washington DC: United States Institute of Peace

Websites

Acharya, Ram C. (2011) “State Restructuring: Acclaming Beam of Identity and Rainbow of Diversity”. Available at: <http://www.nepalnews.com/mobile/view_article.php?id=18626> , accessed 15 January 2013

BBC News Africa. Available at: <<http://www.bbc.co.uk/news/world-africa-14121119>> , accessed 25 January 2013.

Burundi Profile, BBC News Africa. Available at: <<http://www.bbc.co.uk/news/world-africa-13085064>> , accessed 25 February 2013

Burundi, UCDP Conflict Encyclopedia. Available at: <[http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=26UCDP Conflict Encyclopedia](http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=26UCDP%20Conflict%20Encyclopedia)>, accessed 25 February 2013

REFERENCES

Congo, UCDP Conflict Encyclopedia. Available at:

<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=37®ionSelect=2-Southern_Africa> ,
accessed 25 January 2013

Debbarma, K. (2005) “Interethnic Conflict in Tripura: Causes and Dimensions”. Available at:

<http://cdpsindia.org/tripura_insurgency.asp> , accessed 08 February 2013

Djibouti, UCDP Conflict Encyclopedia. Available at:

<<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=47>> , accessed 27 January 2013

Djibouti Profile, BBC News Africa. Available at: <<http://www.bbc.co.uk/news/world-africa-13231761>> , accessed 27 January 2013

CA Election 2013 Result, Election Commission, Nepal. Available at: <www.election.gov.np> ,
accessed 15 January 2014

First Chiapas, Now Guerrero: Mexico’s New Guerrillas. Available at:

< http://flag.blackened.net/revolt/mexico/other/new_guerrill_nov98.html> , accessed 16 January
2013

Gautam, Kul P. (2013) “ Right Issues, Wrong Solutions”. Republica daily, Nepal. Available at:
<www.myrepublica.com> , 15 November 2013

Högbladh, Stina (2011) “Peace agreements 1975-2011 - Updating the UCDP Peace Agreement
dataset”, in Pettersson Therése & Lotta Themnér (eds.), 2012, States in Armed Conflict 2011,
Uppsala University: Department of Peace and Conflict Research Report 99. Available at:
<www.ucdp.uu.se> , accessed 7 February 2013

Kennan, J., 2012, “Mali’s Tuareg Rebellion: What next?”, Al Jazeera. Available at:

<<http://www.aljazeera.com/indepth/opinion/2012/03/20123208133276463.html>> , 08 February
2013

Mexico, UCDP Conflict Encyclopedia. Available at:

<<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=107>> , accessed 16 January 2013

Niger, UCDP Conflict Encyclopedia. Available at:

<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=118®ionSelect=1-Northern_Africa> ,
accessed 4 February 2013

Prendergast, J. (1999) “Angola’s Deadly War: Dealing with Savimbi’s Hell on Earth”, United States Institute of Peace. Available at:

<<http://www.usip.org/publications/angolas-deadly-war-dealing-savimbis-hell-earth>> , accessed
27 February 2013

Prendergast, J, and Smock, D.(1999) “Post Genocidal Reconstruction: Building Peace in Rwanda and Burundi”, United States Institute of Peace. Available at:

<<http://www.usip.org/publications/post-genocidal-reconstruction-building-peace-rwanda-and-burundi>>, accessed 28 February 2013

Republic of Congo Profile, BBC News Africa. Available at:

<<http://www.bbc.co.uk/news/world-africa-14121191>> , accessed 25 January
2013

Sharma, Pitambar (2011). Available at: <www.myrepublica.com>, accessed 28 May 2012

Sigdel, Anil (2012). “No Consensus Blame: Theories of Interests and Ideas”. Available at: <
<http://www.telegraphnepal.com>>, accessed 20 November 2012

Sigdel, Anil (2013a) “Nepal, India and Sovereignty”. Published 24 April 2013. Available at:
<<http://www.telegraphnepal.com/views/2013-04-24/nepal-india-and-sovereignty>>, accessed 20
September 2013

REFERENCES

Sigdel, Anil (2013b) “Nepal, India and Sovereignty and Institutionalized Practices”. Published 29 June 2013. Available at: <<http://www.telegraphnepal.com/views/2013-06-29/nepal-india-and-sovereignty-and-institutionalized-practices>>, accessed 20 September 2013

Sigdel, Anil (2013c) “Nepal, India, World Order and Power Politics”. Published 09 August 2013. Available at: <<http://www.telegraphnepal.com/views/2013-08-11/nepal-india-world-order-and-power-politics>>, accessed 15 October 2013

Sigdel, Anil (2013d) “Neutrality is No Free Lunch: Switzerland vs. Nepal”. Published 03 September 2013. Available at: <<http://www.telegraphnepal.com/views/2013-09-05/neutrality-is-no-free-lunch:-switzerland-vs-nepal>>, accessed 17 January 2013

Tajikistan, UCDP Conflict Encyclopedia. Available at:
<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=152®ionSelect=6-Central_and_Southern_Asia>, accessed 2 February 2013

Tajikistan Profile, BBC News Asia. Available at: <www.bbc.co.uk/news/world-asia-16201032>, accessed 2 February 2013

Tajikistan Civil War, Global Security. Available at:
<<http://www.globalsecurity.org/military/world/war/tajikistan.htm>> , accessed 2 February 2013

Worldwide Governance Indicators (WGI), World Bank. Available at:
<<http://data.worldbank.org/data-catalog/worldwide-governance-indicators>> , accessed 14 January 2013.

Zakaria, Fareed (2013) “Global Poverty is falling, so what’s the problem?”, Fareed Zakaria GPS, CNN World. Available at:
<<http://globalpublicsquare.blogs.cnn.com/2013/05/01/global-poverty-is-falling-so-whats-the-problem/>>, accessed 20 March 2013

Appendices

Appendix for *Negotiated Settlement of Civil Wars and International Norms*

Appendix I

Coding of Negotiated Settlements and other Variables

Table 1.1

<i>Case</i>	<i>Duration Yrs</i>	<i>Socio- Political</i>	<i>Identity</i>	<i>Incomp. Gov.</i>	<i>Demo- Auto</i>	<i>Intensity</i>	<i>Enforce.</i>	<i>Auto. prov.</i>	<i>Recur</i>
Angola	4	1	0	1	3	4	0	0	0
Burundi	12	0	1	1	2	2	1	0	0
Central African Republic	1	0	1	1	3	1	1	0	0
Congo Brazzaville	2	0	1	1	3	5	0	0	1
Cote D'Ivoire	2	0	1	1	3	1	1	0	0
D R Congo Zaire	5	0	1	1	3	5	0	0	0
Djibouti I	3	0	1	1	2	1	0	0	1
Djibouti II	1	0	1	1	2	1	0	0	0
El Salvador	12	1	0	1	2	3	1	0	0
Georgia	1	0	1	0	3	4	1	1	0
Guatemala	30	1	0	1	3	1	1	0	0
India	1	0	1	0	1	1	0	0	1
Indonesia I	1	0	1	0	2	1	1	1	0
Indonesia II	6	0	1	0	2	1	1	1	0
Liberia I	1	1	0	1	4	1	0	0	0
Liberia II	3	1	0	1	3	2	1	0	0
Kosovo	1	0	1	0	3	5	1	1	0
Macedonia	1	0	1	1	2	1	1	0	0
Mali	1	0	1	0	2	1	1	0	1
Mexico	1	0	1	1	2	1	0	0	1
Mozambique	15	1	0	1	2	3	1	0	0
Nepal	10	1	0	1	2	2	1	0	0
Niger I	1	0	1	1	2	1	0	0	1
Niger II	1	0	1	0	3	1	0	0	0
Senegal	1	0	1	0	2	1	1	1	0
Sierra Leone	9	1	0	1	3	2	1	0	0
Somalia	10	0	1	1	4	4	0	0	1
Tajikistan	4	0	1	1	3	3	1	0	1

Note: Warring parties and start-end years continue on the next page.

Continued-

<i>Case</i>	<i>Conflict</i>	<i>Start Yr.</i>	<i>End Yr</i>
Angola	UNITA	1998	2002
Burundi	CNDD, Frolina, Palipehutu-FNL, CNDD-FDD	1994	2006
Central African Republic	UFDR	2006	2006
Congo Brazaville	Cobras, Cocoyes, Ninjas, Ntsiloulous	1997	1999
Cote D'Ivoire	MPCI, MPIGO, MJP, FN	2002	2004
D R Congo Zaire	AFDL, RCD, RCD-ML, MLC	1996	2001
Djibouti I	FRUD	1991	1994
Djibouti II	FRUD-AD	1999	1999
El Salvador	ERP FPL FMLN	1979	1991
Georgia	Abkhazia	1992	1993
Guatemala	FAR I, FAR II, EGP, ORPA, URNG	1965	1995
India	ATTF, NLFT, Tripura	1992	1993
Indonesia I	FRETILIN, East Timor	1997	1998
Indonesia II	GAM, Aceh	1999	2005
Liberia I	NPFL, INPFL	1989	1990
Liberia II	LURD, MODEL	2000	2003
Kosovo	UCK	1998	1999
Macedonia	UCK	2001	2001
Mali	MPA FIAA, Azawad	1990	1990
Mexico	EZLN, EPR	1994	1994
Mozambique	RENAMO	1977	1992
Nepal	CPN-M	1996	2006
Niger I	FLAA UFRA	1991	1992
Niger II	CRA, Air and Azawad	1994	1994
Senegal	MFDC, Casamance	2003	2003
Sierra Leone	RUF, AFRC, Kamajors, WSB	1991	2000
Somalia	SNM SPM USC SNA	1986	1996
Tajikistan	UTO, Movement for Peace in Tajikistan	1992	1996

Notes:

Coding: This coding is a compilation of various data sources: UCDP, Licklider's Appendix, Toft's Codebook, World Bank Indicators, Peace Research Institute (PRIO). The coding is binary: 1 if true, and 0 if not true. The variables of Intensity and Democracy levels are coded on a scale from 1 to 5, and 1 to 4 respectively.

Socio-Political or identity: The typology of the conflicts is based on Licklider's and Toft's data set. Those cases which are not covered by them are derived from the analytical summaries of wars of this study. The summaries are available in the Appendix III.

Incomp. Gov. / Incompatible Government or Territory: This means that the fight is about governance. It is coded as 1 if true. 0 will mean that the fight is over territorial issue.

Demo. Auto./ Democracy/Authoritarian level: This category follows a scale from 1 to 4, meaning 1 is democracy, 4 is authoritarian, 2 is semi-democracy and 3 is semi-authoritarian. This scale has been determined on the basis of the pattern of the data. This variable is derived from the Rule of Law Indicator of World Bank. The data on rule of law and calculations are provided in the Appendix IV-1.2. It is to be noted that it is definitely questionable whether the rule of law indicator can be used to measure democracy or autocracy, but in any event, this interpretation has been done for analytical convenience. One could choose to stay with the levels of rule of law and tally them with the success or failure of negotiated settlements.

Intensity: Intensity scale: 1 to 5: meaning, 1 is 0-1000 battle deaths, 2 is 1000-2000, 3 is 2000-3000, 4 is 3000-4000 and 5 is 4000 onwards. Battle deaths (in average) correspond to the casualties relevant to the period of those negotiated settlements listed in this study, which means that the casualties of the earlier periods during the war where there might have been other settlements are not included. The data on battle deaths and calculations are provided in the Appendix IV-1.2.

Enforce. /Enforcement: The role is taken as enforcement if a third-party continues to have a post-war role, such as, monitoring, verification, demobilization etc. Third-party's involvement only during the signing of peace deal or as a witness is not included. Therefore, it is not merely a third-party involvement in mediation or in bringing a peace agreement, but a post-agreement role as well. However, it does not necessarily mean a forceful enforcement. Most cases in the data set do not have peace enforcement or security guarantors from outside; *See* , Högladh, S., 2011.

Auto. Prov. /Autonomy provision: It is only about territorial cases, not others. The variable is coded 1 if an agreement contains autonomy provision, or at least keeps it as an agenda of further negotiations. If not, then it is coded 0. The case of Macedonia where ethnic groups are provided with equal rights is not coded.

Recur. /Recurrence. Not a single case has recurred if the same agreement parties are considered. Wars have recurred only because another group re-waged the wars. For instance, in Congo, the agreement was with Cobra, but Ntsiloulous re-broke the war. In Tripura in North-east India, the agreement was with the All Tripura Tiger Force-India (ATTF), and later the National Liberation Front of Tripura (NLFT) re-waged the war. Those cases are considered as recurred if, within 5 years after the negotiated settlement, there is another conflict in which basically the same issue (can be one or more issues) is at stake. Wars waged for different issues, although they take place within 5 years, are considered different wars, and denoted with the I, II suffix. For instance, Indonesia I, II stand for two different wars: East Timor and Aceh. The data table and the selection of cases as recurred (from UCDP) can be provided if required.

Conflict Name: Conflict parties mentioned here include parties related to the conflicts and the settlements concerned with this dataset; therefore, it does not necessarily cover all the warring parties of that particular state.

End Year: The conflict end year denotes the year when conflict ended. Sometime this coincides with peace agreement, but mostly peace agreements have taken place in the following year after the end date.

Appendix II

Definitions of Terms, Categories and Qualifications for Codings

Negotiated settlement- There is no clear win on any side. Combatants agree to leave armed insurgency (official ceasefire), state stops armed attack, both or all parties involved come to talks with their agenda and find common grounds to move forward in a peaceful manner towards an agreed objective. This means only ceasefire without peace agreement does not count.

Recurrence: When a war returns for the same cause, waged by the same or different parties, separately or together, but should be within a 5-year span after a settlement took place, then the case is taken as recurred. Violence related to war should satisfy the minimum battle death criteria to be qualified as a renewed war. Should another conflict waged within a 5-year span, but for a different cause from previous one, then it will not be considered recurred, but a new conflict.

Stalemate or Truce- Warring parties agree to stop an armed insurgency, but not followed by any peace agreement. Should a conflict from one point enters into “low activity or “no activity” conflict (refer to UCDP Database for the category), but without any official end, it is considered as the “stalemate” category.

Rebel Victory: Rebels’ win over state parties. Rebels will lead the post-conflict governance with or without previous governing parties.

State or Government Victory: State party defeats rebels. In the post-conflict situation, state party will continue to lead, including or not including rebels.

Third Party: Individual country, neighboring country or Organizations like the UN, EU, AU etc., UN Peacekeeping mission, political mission etc., involving to try to bring warring parties into terms through negotiations or military interventions, as well as playing a role of witnesses, observers, monitors, or guarantors in the pre- and post- conflict situation.

Conflict Resolution: Catch-all phrase meaning peace-making, peace-keeping, peace-building, conflict-management, conflict prevention, conflict transformation, conflict resolution.

Conflict Types

Identity or Ethnic or Inter-communal Conflict: Groups that identify themselves with different ethnic or cultural origin (Patrick, 1996). The conflict is about ethnic resurgence for regional autonomy or for central governance. Besides, causes of conflict might be the resources or any other factors, but a conflict is categorized as ethnic fight if fits into the above-mentioned definition.

Ideological Conflict: Fighting against the incumbent government in terms of ideology, and seek central governance. For instance, Communist Insurgency.

Religious Conflict: groups that are organized in defense of their religion (Patrick, 1996.)

Regional Autonomy: Fighting for more autonomy, cross-regional and independence.

Territorial: Fighting for territory.

Economic conflict: Fighting for resources. Several conflict types such as territorial or ethnic or regional conflicts may include resources as a cause of fight (economic conflict), however, if conflicts will be categorized according to the respective criteria. This means if a conflict involves warring sides identifying themselves with their ethnicity or ethnicity becomes the part of the conflict, then the conflict will be categorized as ethnic. Because, conflict, either ethnic or territorial, could be caused by several other reasons apart from resources. For instance, a neighboring state fuelling a civil war to cause instability on purpose.

People's Revolt: Armed revolt or peaceful manifestations to topple the incumbent regime.

First three types of conflicts mentioned above are derived from Regan Patrick (1996)' definitions.

The criteria for the conflicts to be qualified for this study

- a. Conflict should be internal, in the sense that it is among internal factions and within the boundary of a country.
- b. One of the combatants must be a government.
- c. I choose 25 battle related deaths (low activity conflict according to UPDC), instead of minimum 1000 deaths per year as others did because the same conflict is seemed to produce different levels of death in different years.
- d. Conflicts should be political, no gangwars, drug wars or apolitical conflicts are included because this study is about political dynamics.
- e. Successful secession conflicts are excluded, because new countries are emerged and that I consider different sets of data. It implies that in a post-conflict situation, erstwhile warring parties should be parts of the same polity of the country; for instance, Croatia, Slovenia, Bosnia Herzegovina they were not.

The first three criterion are based on Small and Singer (1982)'s classified intrastate conflict criteria.

Period of Conflict Termination: The conflict should be terminated between the periods of 1990 - 2006 in a negotiated settlement. The period after 2006 untill 2012 has been spared for the observation of any return of violence in a 5-year span. Similarly, the governance situation is also examined. The reason for taking post-1990 period is because it is the study on post-Cold War conflict terminations.

Conflict Type:

Incompatibility Concerning Government: Rebels are fighting against the government. Governments may change, but basically the same political system remains. Rebels could be more than one group of rebels, but are seeking changes or control in the same central or state (federal) government. For instance, power sharing or total control of power. Rebels may enter the power sharing immediately or may not.

Incompatibility Concerning Territory: Rebels are fighting for territorial independence or autonomy, but they are not seeking control over the central or federal government for governance matters. For instance, cases of ethnic resurgence for regional autonomy.

The above-mentioned two conflict types are based on the Uppsala database categories.

Appendix III

Analytical Summaries of Intra-State Conflict Cases:²⁹²

Nepal: Maoist rebels (Communist Party of Nepal, Maoist/ CPN Maoist, now UCPN Maoist) waged a decade-long war in 1996 causing “more than 12,000²⁹³ people dead and 100,000 people displaced according to UN figures”²⁹⁴ (BBC World). The “People’s War” was fundamentally a communist insurgency, which in the course of the war started to be understood as a combination of “campaign against the monarchy”²⁹⁵, ethnic identity assertion and socio-economic movement. The communist movement in Nepal has a long history, which roughly started from the 1950s, and underwent several split. Beside sporadic skirmishes at times, no communist movement reached the level as that of the Maoists movement.

Conspiracy theories are also rife that it was the royal palace all along who fuelled these forces against the liberal democratic forces for power balance; and this time it was basically India who mobilized the Maoists from behind to throw the monarchy out. Following the 12 point understanding between the Maoists and the parliamentary parties in 2005 in Delhi, the alliance became successful in abolishing the king on the basis of huge people’s movement against him, and in 2006 they signed a Comprehensive Peace Agreement in Kathmandu envisaging a peace process and a constitution writing process through an elected Constituent Assembly. The United Nations Missions to Nepal (UNMIN) stayed from 2007 to 2011.²⁹⁶ It went back without accomplishing its major mandate of combatant integration, which was eventually completed in 2011. Maoist had won the elections in 2008, but the constitution writing did not materialize. A radical faction split away from the mother party in 2012.

²⁹² The remaining cases which are not given in the chapter are given here.

²⁹³ This figure is not consistent with not only what I have from Uppsala in my dataset but also with figures in Nepali media. Most sources put this figure around 15000 deaths.

²⁹⁴ Nepal Profile, BBC World. Available at: <<http://www.bbc.co.uk/news/world-south-asia-12511455>>, 13 February 2013.

²⁹⁵ Nepal Profile, BBC World.

²⁹⁶ Nepal, United Nations Department of Political Affairs. Available at: <http://www.un.org/wcm/content/site/undpa/main/activities_by_region/asia/nepal> , accessed 27 February 2013.

El Salvador: El Salvador's 12-year-long civil war ended in 1992 with a peace accord signed between the right-wing Salvadoran government and the leftist Farabundo Marti National Liberation Front (FMLN). The negotiated settlement occurring in the immediate aftermath of the Cold War represents the "successful implementations" of the agreement and provisions stipulated in the peace agreement (Call, 2002). Salvadoran civil war was basically ideological, whereby the armed and unarmed opposition alliance of FMLN continued to wage war against the government; the root cause was the political economy of the state; some land owners or elites enjoyed undue control of the state together with a powerful military (Call, 2002). The alliance was composed of five guerilla outfits: ERP, FAL, FARN, FPL and PRTC.

Apart from the early struggles of different groups, the full-fledge civil war broke out from 1980 leaving around 75000 civilian deaths by the end of the war. The US engagement in the conflict was instrumental in strengthening the government to fight against the insurgents who were backed up by Cuba and Soviet Bloc. But the shift in the international structure, owing to the end of Cold War, prepared a ground for a settlement rather than the continuation of war. After signing the accord, the armed forces demobilized and transformed into political parties. In the democratic elections in the mid 1990s, the insurgents stood as the second biggest political party of El Salvador. The United Nations, particularly ONUSAL (1991-1995), remained crucial both during the negotiations and in post-conflict evolution.

Guatemala: The government of Guatemala resisted a civil war from 1965 to mid-1990s waged by the guerrilla groups: the Rebel Armed Forces (FAR), the Guerrilla Army of the Poor (EGP), Organization of the People in Arms and the Guatemalan Worker's Party (PGT); these outfits formed an alliance in 1982 known as the Guatemalan National Revolutionary Unity (URNG). The Guatemalan civil war is an ideological civil warfare with an objective to create a society of "equality"²⁹⁷; a fight against a regime that excluded the leftist parties from political competition (Stanley and Holiday, 2002); which left 150,000 people killed. Unlike El Salvador's case, where the warring parties met stalemate whereby no military victory was feasible for any side, in Guatemala, the guerrillas were practically defeated by the government at the time of signing a peace agreement.

²⁹⁷ Guatemala, UCDP Conflict Encyclopedia. Available at: <<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=66®ionSelect=4#>>, accessed 13 February 2013.

The government of Guatemala and the URNG inked the final accord at the end of 1996 following a series of early peace agreements. The demobilization and disarmament were timely completed. The guerrillas were transformed into political parties and competed in the elections in 1999. Countries like Norway, United States, Mexico, Venezuela, Spain and Colombia helped in negotiations, however, the support waned during the implementation. The United Nations played a very important role in bringing about the agreement and managing the post-conflict evolution. Given that the democratization made up a common ground for agreement, the UN Verification Mission in Guatemala, MINUGUA (Jan-May 1997), struggled to maintain the consensual politics between URNG and the government, owing to its limited mandate.

Sierra Leone: Sierra Leone's armed conflict²⁹⁸ which broke out in 1991 ended in 2000 with a final accord following the comprehensive Lome peace agreement signed in 1999. The civil war had broken out when the Revolutionary United Front (RUF), backed by Charles Taylor's National Patriotic Front for Liberia (NPFL), intervened Sierra Leone in order to topple the government. The RUF, together with the Armed Forces Revolutionary Council (AFRC), formed a rebel alliance, which took the government power in 1997 for a short while. The civil war continued till 2000. The Civil Defense Forces (CDF), mostly composed of the Kamajors ethnic militias, got involved in the war in support of the elect government against the rebel alliance RUF/AFRC in 1997-1998.

The Lome agreement had envisaged: the UNOMSIL monitoring of ceasefire, the formation of a new national army and power-sharing arrangements at all levels of the government. The final accord of ceasefire in 2000 came as a reaffirmation of Lome agreement as the RUF slipped back into battlefield owing to the activities of AFRC. The agreement includes the political transformation of RUF, an agreement to hold elections according to the constitution. The Lome agreement got inked under the mediation of multiple parties: ECOWAS, UN, Common wealth etc; who were also the signatories. The civil war in Sierra Leone was officially declared over in 2002 as the large UN mission could accomplish the mandates with a support of the British government.

²⁹⁸ Sierra Leone Country Profile, BBC. Available at: <<http://www.bbc.com/news/world-africa-14094194>>; Uppsala. Available at: <<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=136&value=>>, accessed 13 February 2013.

Mozambique: The FRELINO-RENAMO conflict²⁹⁹ over government that broke out in 1977 came to an end in 1992 with the Rome Peace agreement or General Peace agreement negotiated by the Community of Sant'Egidio and the UN. The Rome agreement represented the entirety of several previous protocols signed by these two warring parties finalizing the peace process. Basically, the civil war was instigated by the sponsors of Renamo: Rhodesia (now Zimbabwe) and South Africa. They did so owing particularly to the support the Mozambican government (Frelino) provided to the armed movement against the white minority governments in these two countries. The Marxist Leninist Frelino (Front for Mozambican Liberation), founded in 1962 led independence movement against Portugal; whereas Renamo (National Resistance Movement of Mozambique) was founded under the tutelage of these sponsors in 1976.

After the Nkomati Accord, seeking to reconcile with South Africa failed in 1984, the government and Renamo began the negotiations under the mediation of the Christian groups and then by the United Nations. In 1990, as Frelimo promulgated a new constitution paving the way for free elections, both parties signed the final Rome Peace Accords of 1992. The agreement stipulated forming a new army of 30 thousand men, whereby each party would contribute 50 per cent, and the disarmament and demobilization be conducted under the UN supervision. Frelimo won all elections; however, Renamo has followed the constitutional path.

Somalia: The internal politics characterized by rifts between clans- growing domination of President Siad Barre's Marehan clan over others-inflicted an armed resistance.³⁰⁰ Barre was overthrown in 1991 by mainly the United Somali Congress (USC) and since then there has not been any effective central government in Somalia. The country engulfed into various clan-based armed militias competing for government power. The USC appointed Ali Mahdi as the president, which General Aidid rejected, and waged war against the government through his faction of Somali National Alliance(SNM). The UN sent 3 missions in Somalia in the period 1992-95

²⁹⁹ Mozambique, UCDP Conflict Encyclopedia. Available at: <<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=111®ionSelect=2>>, accessed 14 February 2013; BBC World. Available at: <<http://www.bbc.co.uk/news/world-africa-13890416>>, accessed 14 February 2013.

³⁰⁰ Somali Peace Process, African Union Mission in Somalia. Available at: <<http://amisom-au.org/about-somalia/somali-peace-process>>; Somalia, UCDP Conflict Encyclopedia. Available at: <<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=141>>, accessed 15 February 2013.

while the fight between these two leaders continued: UNOSOM I, UNOSOM II, and UNITAF. Ali tMahdi cooperated with the international community while they (international community) fought against the brutality of General Aidid. The US forces had fought against Aidid militias in 1993; the operation is popularly known as Black Hawk Down.

There were several attempts of reconciliation between the warring factions: first international reconciliation meetings took place in Djibouti in June and July 1991; In 1993, fifteen parties to the Somali Civil War signed for a national reconciliation followed by the 1993 Addis Ababa Agreement; in 1997, National Salvation Council was formed in Sodere, Ethiopia, a 41-member National Salvation Council (NSC) charged with the responsibility of organizing a transitional government. After few other failed attempts, in the 1997 Cairo Peace Conference, 28 parties agreed, including both the antagonists Ali Mahdi (President of Somalia, USC, 1991-2000), and Hussein Farrah Aidid, on a ceasefire, together with several other provisions such as disarmament, constitution etc. From the change of the century, Somalia started facing additional threat from the resistance of Islamist undercurrents.

Central African Republic (CAR): CAR faced a harsh dictatorial rule in the post-independent days till the 1980s, and eventually started democratic reforms in early 1990s when an elected government took to power. However, the new government could not appease the interests of several ethnic groups, culminating to a civil war outbreak instigated by an attempted coup in 2001. Eventually the government (though supported by Libya and DR Congo's rebels) succumbed to Francois Bozize in 2003. Though Bozize took initiatives to reconcile with the conflicting groups, and subsequently won the elections in 2005 (declared free and fair by the international community), a new rebel group called the Union of Democratic Forces for Unity (UFDR) waged war against the government on the grounds of ethnic marginalization. The rebellion (known as Bush war) included several other rebel groups.

On April 13, 2007, a peace agreement between the government and the UFDR was signed in Birao. The agreement stipulated an amnesty for the UFDR, political recognition, and the army integration. The United Nations witnessed the agreement. Violence persisted in post-agreement years. Several other peace agreements were signed in subsequent years whereby gradually other rebels participated.

Cote D'Ivoire/Ivory Coast: Due to the seeds of xenophobia planted by its leaders to win governmental power for themselves and topple the others, Ivory Coast slipped into violence in 2000s.³⁰¹ The southern part of Ivory Coast is largely Christian, while the north is Muslim. A full-scale rebellion (by Patriotic Movement of Cote D'Ivoire or MPCl, a rebel group consisting mainly of mutinous northern soldiers) broke out in 2002 owing to the growing discontent of northern Muslims of being discriminated in Ivorian politics. The joining of two more western rebel movements, the Ivorian Popular Movement of the Great West (MPIGO) and the Movement for Justice and Peace (MJP), with MPCl followed soon. The alliance transformed into New Forces by 2004. Thousands were killed in the conflict splitting the nation in two.

The government and the rebels signed the Linas-Marcoussis and Accra II agreements in 2003, but violence resumed between the government and the New Forces. The Accra III agreement in 2004 reaffirmed these two agreements. The parties agreed to revive the Reconciliation Government (which was foreseen in 2003 agreement) with the objective to prevent the splitting of the country in two separate entities. Besides, they agreed on the demobilization, elections, and the formation of a National Human Rights Commission and a tripartite monitoring mechanism comprised of the ECOWAS, the African Union and the UN.

Democratic Republic of Congo or Zaire: In the DR Congo's war, referred to as the "Africa's world war", the government forces who were backed by the troops of Angola, Namibia and Zimbabwe fought for five years against the rebels who were supported by Uganda and Rwanda. The post-independence DR Congo faced a long political instability and rebellions. After two decades of unconcluded insurgency of the Congolese National Liberation Front (FNLC) in the late 1970s against President Mobutu, the Alliance of Democratic Forces for the Liberation of Congo (AFDL) succeeded to pull Mobutu down in 1997. However, the rebellion of the Congolese Rally for Democracy (RCD) and the Congolese Liberation Movement (MLC) against the new government left millions dead.³⁰²

³⁰¹ Ivory Coast Profile, BBC World. Available at: <<http://www.bbc.co.uk/news/world-africa-13287216>>; Ivory Coast, UCDP Conflict Encyclopedia. Available at: <<http://www.ucdp.uu.se/gpdatabase/gpcountry.php?id=40>>, accessed 13 February 2013.

³⁰² Democratic Republic of Congo Profile, BBC World. Available at: <<http://www.bbc.co.uk/news/world-africa-13283212>>, accessed 15 February 2013.

In 1999, soon after the Lusaka accord, MLC and RCD joined, which formed the Inter-Congolese Dialogue. The UN, and the OAU were the witness while 6 other warring countries signed the agreement. This was followed by the Declaration of Fundamental Principles for the Inter-Congolese dialogue in 2001. The agreement laid out several principles: national reconciliation and a new political order for peace and reconstruction of the DRC, the holding of elections after the transitional period, the formation of an integrated national army, among others. However, the rebellions were going to continue in DR Congo. Currently DR Congo faces the rebellion called M23.

Georgia- Abkhazia: Since the independence in 1991 after the USSR collapse, Georgia experienced civil wars and social political unrest as well as violent tensions over the issues of breakaway regions of Abkhazia and South Ossetia. Another episode of civil war broke out as Abkhazia declared its independence in July 1992. The conflict evicted 240 thousand ethnic Georgian out of Abkhazia leaving the ethnic Abkhaz as the majority group in the region. The war ended in 1993, and both parties agreed to partial solution for the territorial incompatibility. The Georgian government lost the de facto control of the region. Since Russia instigated the separatist movements in the region, Georgia's, including the US, relations with Russia further exacerbated making the region another arena of conflicting interests.

Several rounds of talks were held until 1994 from Geneva to New York to Moscow under the United Nations. OSCE and the Russian Federation participated in the talks. The warring parties requested a deployment of the UN peacekeeping force (UNOMIG) and an expansion of observers' mission, as well as agreed on the political autonomy of Abkhazia with its own constitution and legislation. Tensions between Georgia and Russia have seemingly never receded. Georgia would follow another armed conflict in South Ossetia, supported by Russian troops, 2008.

Kosovo: Kosovo was a scene of frequent animosity between the Serb and Albanian inhabitants. Kosovars waged a peaceful campaign in 1990s against the government of Yugoslavia but only ended with a unilateral declaration of independence in 1991. Few years later the Albanian guerrilla movement- Kosovo Liberation Army (UCK)- waged an armed violence against the Serb

targets instigating a major Yugoslav military crackdown. The conflict escalated and by 1998 took a shape of a full-fledge civil war.

Yugoslav President Slobodan Milosevic did not listen to the international solution for a resolution. Kosovo became a scene of the ethnic cleansing against Kosovar Albanians. While thousands of refugees fled to Albania, Macedonia and Montenegro and further, thousands died in the conflict. All this led to NATO air strikes against the targets in Kosovo and Serbia in March 1999 driving the Serbian forces out in the summer of 1999.

The government of Yugoslavia was forced to come to a settlement after the NATO bombing. The Kosovo peace agreement was implemented in 1999 after two warring parties signed two different agreements negotiated and presented by the international forces: mainly UN, NATO(KFOR), G8 and Contact Group(several countries). Subsequently, the agreement installed the NATO led mission in Kosovo, and further process of future status of the region would be followed. The UN took over the administration of the province.

Macedonia: Though Macedonia's independence from Yugoslavia did not have the violent fate as other Yugoslav republics did in the early 1990s, it encountered an armed resistance from the Albanian rebels in 2001. The demographic structure of Macedonia show: ethnic Macedonians (67% of the population) and ethnic Albanians (23% of the population). The National Liberation Army (UCK) waged an armed campaign demanding greater rights (in constitution) for the ethnic Albanian minority against the government. The violence occurred between January and August of 2001 and ended with a peace agreement containing constitutional revisions. A NATO-led peacekeeping force was installed. The agreement stipulates: cessation of hostilities, disarmament of armed groups, ethnic equality in the police forces, language autonomy where 20% of the population is Albanian, proportional representation in the judiciary, government and security forces, replacement of internally displaced, among others.

Liberia I: Master Sergeant Samuel Doe staged a coup against the President Tolbert's government of minority Americo-Liberians (American Slaves' descendants, 5 per cent of the population) in the 1980, executed Tolbert and several others, and took the executive power. He won the elections as the president in 1984. His rule was characterized by authoritarianism, ethnic politics and suffered a huge economic downturn. Consequently, the National Patriotic Front of

Liberia (NPFL) led by Charles Taylor waged an armed uprising against the Doe's government in 1989. Doe was killed by a splinter group of NPFL in 1990. NPFL troops were from the Gio and Mano ethnic groups of northern Liberia, who were persecuted by the Doe's government. Initially, Taylor got support from Libya, Côte d'Ivoire and Burkina Faso.

Three consecutive agreements were signed in 1990: Banjul III agreement in Gambia was signed by a breakaway group of NPFL, called INPFL (Independent National Patriotic Front of Liberia); Bamako Agreement or ECOWAS Peace Plan signed by the national army -the Armed Forces of Liberia (AFL)- NPFL and INPFL in Mali; Peace Process agreement, the Joint Statement of the warring parties of Liberia, were signed in Banjul, Gambia. The agreements took place under the observation of ECOWAS, and established an ECOWAS peacekeeping mission. The subsequent episodes of agreements in the following years are not included in the analysis as negotiated settlements as they are not in the lists of Uppsala either. The war eventually ended in 1997 after the elections taking Charles Taylor to power.

Liberia II: In the midst of accusations to Liberia from Ghana and Nigeria of supporting the Revolutionary United Front (RUF) rebels in Sierra Leone, Britain and the US threatening to sanction Liberia, two rebel groups, the Liberians United for Reconciliation and Democracy (LURD) and the Movement for Democracy in Liberia (MODEL) waged a war against the Taylor's regime in 2000. The LURD forces were drawn from Mandingo, mostly from the breakaway faction of ULIMO. They had Guinea, Sierra Leone as a back force, and had taken control of the western Liberia. MODEL, hailed from Krahn ULIMO faction, joined the war in 2003. MODEL fighters had the support of Ivorian President Gbagbo. In 2003, these groups took control of the capital Monrovia instigating a big humanitarian crisis. This combined with the international pressure (Taylor already had arms embargo from the United Nations Security Council (UNSC) in 2000 for trading weapons for diamonds in Sierra Leone); Taylor resigned and left for Nigeria in August 2003. Nigerian peacekeepers and US troops arrived in Liberia. Subsequently, Taylor's Government signed a Peace Process Agreement and a Full Peace Agreement (Comprehensive Peace Agreement) with LURD, MODEL, and with the civil society

representatives in Accra, Ghana.³⁰³ The United Nations deployed a large peacekeeping mission comprised of thousands of troops.

Senegal: The rebel group MFDC's (Movement of Democratic Forces of Casamance) armed campaign against the government of Senegal lasted several years as low-level conflict that broke out since 1982. There were speculations that MFDC were backed by the Guinea-Bissau army. The root cause of the conflict lies on the question of independence of Casamance region. The Wolofs are the largest population group (or ethnic group) among many ethnic groups in Senegal, where majority of population is Muslim; but the region of Casamance in the south has Christian minority known as Diola. The Christian minority has had resentment for the Wolof dominated polity of being discriminatory towards themselves, which was the major cause of armed uprising.

In 2004, MFDC and the government signed a five-point agreement ending the armed struggle. The International Red Cross and the African Assembly for the Defence of Human Rights (RADDHO) would supervise the disarmament of the rebels. The agreement envisaged further negotiations on the economic and political future of Casamance.

Indonesia-East Timor: In Post-Portugal East Timor, after a brief civil war, Fretilin (Revolutionary Front for an Independent East Timor) proclaimed independence of East Timor in 1975. Indonesia immediately invaded East Timor looking like a fight against communist forces. The Indonesian rule over the region was not legal as it was not recognized by the UN. After several skirmishes and violent crackdowns over the years, owing to international pressure, Indonesia held a referendum on East Timor's independence in 1999. During and after the referendum, pro-Indonesian militias, with support of Indonesian army, went on a rampage by destroying villages and killing people. Australian-led peacekeeping force helped to maintain order. The UN transitional administration (UNTAET) commissioned report revealed that at least 100,000 Timorese died in the conflict of Indonesia's 25-year occupation (BBC World).³⁰⁴ The conflict ended in 1999.

³⁰³ Liberia, Peacebuilding Data. Available at: <<http://www.peacebuildingdata.org/liberia/about-liberia/second-civil-war>>, accessed 18 February 2013.

³⁰⁴ East Timor profile. BBC News Asia. Available at: <www.bbc.com/news/world-asia-pacific-14919009>, accessed 18 February 2013.

Fretilin won the elections of constituent assembly in 2001. Security Council sent a UN Mission of Support in East Timor (UNMISET) in May 2002 to help East Timorese authorities and eventually in September 2002, East Timor becomes 191st member of UN.

Indonesia: Aceh : The GAM (Free Aceh Movement) was founded on 4 December 1976 by Hasan di Tiro. The rebel group grew from 150 rebels to 2-3,000 troops by 2002, though still vastly outnumbered by the Indonesian security forces. Gam waged wars for almost 30 years for Aceh's independence. Aceh used to be independent Sultanate before being annexed into Indonesia's domination in 1949, which the mainly-Muslim province always resented. The animosity grew owing to perceived abuses by the Indonesian military, economic marginalization of local population despite the rich natural resources. These resentments were being capitalized by the rebels against the Indonesian regime.

On 9 December 2002 the Indonesian government and the Free Aceh Movement (GAM) signed a peace accord in Geneva, Switzerland, which was considered as a big breakthrough in reducing the hostilities. But the violence continued as GAM attacked international monitors, apparently owing to dissatisfaction over mere autonomy provision in the agreement rather than full independence. Martial law was imposed by Indonesia.

In 2005, GAM and the Indonesian government signed an agreement that ended the long-standing conflict under Finnish mediation granting self-governance for Aceh. An Aceh Monitoring Mission was to monitor and verify the implementation of the peace agreement, and would consist of observers from EU and ASEAN countries. First direct elections were held in Aceh province in December 2006 which re- strengthened the 2005 peace agreement. Former rebel Irwandi Yusuf became elected as governor.

Appendix IV

1.1 Freedom Score of Negotiated Settlement Cases

Table 1.2

<i>Free</i>	<i>Partly Free</i>	<i>Not Free</i>
El Salvador	Burundi,	Angola,
Mali	Guatemala,	Congo,
Indonesia	Macedonia	Ivory
India	Mexico,	Coast,
	Liberia,	Djibouti,
	Mozambique,	Somalia
	Nepal, Niger,	Tajikistan
	Sierra Leone	DR Congo
	Senegal	
	Kosovo	
	CAR	
	Georgia	

Source: Freedom House

1.2 Dataset of Battle deaths and Rule of Law

Table 1.3

<i>Cases</i>	<i>Rule of Law Rank³⁰⁵</i>	<i>Battle- deaths</i>	<i>Battle-Deaths per year average³⁰⁶</i>
	-2.5 weak; 2.5 Strong		
Angola	-1.61	14585	3647
Burundi	-0.98	12889	1075
CAR³⁰⁷	-1.49		
Congo	-1.79		
Cote D'Ivoire	-1.42	1255	628
DR Congo	-1.95	20048	4010
Djibouti	-0.96	1149	383
Djibouti	-0.87	57	57
El Salvador	-0.93	5889	2945
Georgia	-1.45	3758	3758
Guatemala	-1.19	720	12
India	0.26	56	56
Indonesia	-0.72	112	112
Indonesia	-0.82	3564	594
Liberia	-2.23	458	458
Liberia	-1.69	3748	1250

Table is split onto the next page.

³⁰⁵ See Worldwide Governance Indicators (WGI), World Bank.

³⁰⁶ The average battle death does not correspond to the war period given. It is only counted from 1989, and then the total figure given is divided by the year counting from 1989.

³⁰⁷ Cases of CAR and Congo's battle death figure were not available in Uppsala or PRIO. So it is empty. However, on the main table of the datasets, I have filled the gap of war intensity variable by relying on several resources to determine the intensity.

Kosovo	-1.07		
		4290	4290
Macedonia	-0.66	250	250
Mali	-0.53		
		217	217
Mexico	-0.76		
		445	445
Mozambique	-0.84	8161	2721
Nepal	-0.63		
		10659	1066
Niger	-1.00		
		139	139
Niger		90	90
Senegal	-0.08		
		39	39
Sierra leone	-1.47	15330	1704
Somalia	-2.22	27461	3923
Somalia	-1.91		
		487	487
Tajikistan	-1.69	9136	2284

Note:

Although the ranking scale starts from -2.5 to 2.5, from the weakest to the strongest of rule of law, in the list, only one case is on the positive side, India with 0.26. Only two cases are over -2: Somalia and Liberia with -2.22 and -2.23, respectively. The rest is in the ranges of 0 to -1, and -1 to -2. Therefore, to make the comparisons more effective, I will further stratify further this scale. I take 0 to -1 as regime with rule of law to a good extent (presumably democratic/or semi-democratic regime), and -1 to -2 as regime with very weak rule of law (presumably authoritarian regime). India, being positive, obviously falls on the very good rule of law regime, and Somalia and Liberia, on extremely low rule of law regime. In this way, 13 cases fall on the range of -1 to -2, and 12 on 0 to -1. Then, I have transformed this data into 1 to 4 scale from Democracy and Semi-Democracy to Semi-Autocracy and Autocracy in the main data sets of the study.

1.3 Different Authors' datasets on Negotiated Settlement

Table 1.4

<i>Licklider Data, 1945-93</i>	<i>War period</i>	<i>Toft Data, 1940-07</i>	<i>War Period</i>	<i>Hartzell et al. data, 1945-98</i>	<i>War period</i>	<i>Walter Data</i>	<i>War Period</i>
Colombia A		Colombia I	1948-1958	Colombia	1948-57	Colombia	1948-1958
Sudan I	63/71	Sudan Ia	1955-1972	Sudan	63-72	Sudan	63-72
Lebanon I	58/58	Lebanon Ia	1958	Lebanon	1958-58	Lebanon	1958
Lebanon II	75/76	Laos	1959-1973	Laos	1959-73	Lebanon	75/76
Korea B	50/53	Guatemala	1960-1996	Guatemala	1963-1996		
Yemen			1961-1970			Yemen	1962/70
North B	62/70	Iraq IIIa	1965-1997	Lebanon	1975-89		
Chad	80/87	Chad		Iraq	1961-70		
Dominican Republic			1965-1966			Dominican Republica	1965
India AI (Partition)	46/48	Domin Republic	1966-1990	Yemen AR	62-70		
India AII (Kashmir)	65/65	Namibia	1972-1997	Chad	1989-96		
Zimbabwe B	83/84	Bangladesh	1972-1996	Chad	1979-79		
		<i>Philippines IIIa</i>	1972-1999	Domin. Republ.	1965-65	Rhodesia	1972-79
		Zimbabwe	1979	India	1946-49		
		Angola Iia	1975-1994	Phillipines	1972-1996		
		Indonesia VI	1975-1999	Zimbabwe	72-79		
		<i>Mozambique II</i>	1976-1992	Angola	1992-94		
		Cambodia Ib	1978-1991	Angola	1989-91		
		<i>Nicaragua</i>	1978-1990	Angola	1975-89		
		El Salvador	1979-1992	<i>Mozambique</i>	1982-92		
		South africa	1983-1994	<i>Cambodia</i>	1970-91		
		Yugoslavia I	1991-1995	<i>Nicaragua</i>	1981-89	Nicaragua	81-89
		Tajikistan	1992-1997	El Salvador	1979-92		
		Yugoslaiavall	1992-1995	South Africa	83-91		
		Zaire/Congoll	1996-2002	Croatia	1991-92		

Table is split onto to the next page.

Croatia	1995-95
Tajikistan	92-97
<i>Bosnia</i>	<i>1992-95</i>
Sierra Leone	92-96
Rwanda	1990-1993
Papua New Guinea	1989-98
Moldova	1992-92
Malaysia	1948-56
Liberia	1994-96
Liberia	1989-93
Guinea Bissau	1998-98
Georgia SO	1989-92
Georgia AB	1992-94
Chechnya	1994-96
Azerbaijan	1989-94

Cases before and after 1990

Table 1.5

	Before 1990	After 1990	Total
Licklider	14	-	14
Toft	7	16	23
Hartzell	14	24	38
Walter	8	-	8

1.4 Toft's Data of War Terminations from 1990 onwards

Table 1.6

States	Conflict Name	Start	End	Period in Yrs.	Term.	Recur
Afghanistan	Mujahedeen	1978	2001	23	RV	0
Angola	Angolan Civil war	1975	1994	19	NS	1
Angola	UNITA Warfare	1998	2002	4	SC	0
Azerbaijan	Nagorno-Karabakh	1988	1994	6	SC	0
Bangladesh	Chittagong Hill	1972	1997	27	NS	0
Brazzaville	Fractional Warfare	1997	1997	1	RV	0
Burma	Kachins	1960	1994	34	GV	0
Burundi	Hutu-Tutsi	1991	1991	1	GV	1
Cambodia	Vietnamese Intervention	1978	1991	13	NS	0
Chad	FROLINAT	1965	1997	32	NS	0
El Salvador	FMLN/FDR	1979	1992	13	NS	0
Ethiopia	Eritrea	1961	1993	32	RV	0
Ethiopia	Tigray	1975	1991	16	RV	0
Georgia	South Ossetia	1990	1992	2	SC	0
Georgia	Abkhazia	1992	1993	1	S/C	0
Guatemala	Guatemalan Civil War	1960	1996	36	NS	0
Guinea Bissau	Coup	1998	1999	1	RV	0
India	Naga Revolt	1956	1997	41	SC	0
India	Sikh Insurrection	1982	1993	11	GV	0
Indonesia	East Timor	1975	1999	24	NS	0
Iraq	Shiite insurrection	1991	1993	2	GV	0
Liberia	NPFL	1989	1997	8	RV	0
Moldova	Trans-Dniester Slavs	1991	1997	6	SC	0
Morocco	Western Sahara	1975	1991	16	S/C	0
Mozambique	RENAMO	1976	1992	16	NS	0
Namibia	War of Independence	1966	1990	24	NS	0
Phillippines	Moro Rebellion	1972	1996	24	NS	1
Peru	Shining Path	1980	1999	19	GV	0
Russia	First Chechen War	1994	1996	2	SC	1
Rwanda	Tutsi Invasion/Genocide	1990	1994	4	RV	0
Sierra Leone	RUF	1991	2002	11	GV	0
South Africa	Racial Violence	1983	1994	11	SC	0
Tajikistan	Tajik Civil War	1992	1997	5	NS	0
Yemen	Southern Revolt	1994	1994	1	GV	0
Yugoslavia	Croatian Secession	1991	1995	4	NS	0
Yugoslavia	Bosnian Civil War	1992	1995	3	NS	0
Yugoslavia	Kosovo	1998	1999	1	RV	0
Zaire/Congo	Post-Mobutu	1996	2002	6	NS	0

Notes:

This is Toft's dataset in disaggregated form, and listed in alphabetical order. The Roman letters following the state names in original data have been removed. War period is added here only.

Term: Terminations: NS, RV, GV, SC

NS=Negotiated Settlement

RV=Rebel Victory

GV=Government Victory

SC=Stalemate/Ceasefire

Recurrence: Binary Code. Coded 1 when recurred, 0 when did not.

1.5 Comparison of freedom score between victories and settlements of Toft's data.

Table 1.7

Victory	2002	2003	2004	2005	2006	2007
Rwanda	6.5	6	5.5	5.5	5.5	5.5
Liberia	5.5	6	6	4.5	4	3.5
Afganistan	7	6	6	5.5	5	5
Ethiopia	5	5	5	5	5	5
Yemen	6	5.5	5	5	5	5
Sierra Leone	4.5	4	3.5	3.5	3.5	3.5
Burundi	6	5.5	5	5	4	4.5
Peru	2	2.5	2.5	2.5	2.5	2.5
Iraq	7	7	6	6	5.5	6
Burma	7	7	7	7	7	7
India	2.5	2.5	2.5	2.5	2.5	2.5
<i>Total</i>	59	57	54	52	49.5	50
<i>Average</i>	5.363636	5.181818	4.909091	4.727273	4.5	4.545455
<i>Rounding</i>	5.4	5.2	4.9	4.7	4.5	4.5
NS						
El Salvador	2.5	2.5	2.5	2.5	2.5	2.5
Guatemala	3.5	4	4	4	4	3.5
Nicaragua	3	3	3	3	3	3
South Africa	1.5	1.5	1.5	1.5	1.5	2
Cambodia	5.5	5.5	5.5	5.5	5.5	5.5
Mozambique	3.5	3.5	3.5	3.5	3.5	3.5
Indonesia	3.5	3.5	3.5	3.5	2.5	2.5
Angloa	6	5.5	5.5	5.5	5.5	5.5
Philippines	2.5	2.5	2.5	2.5	3	3
Bangladesh	3.5	4	4	4	4	4
Namibia	2.5	2.5	2.5	2.5	2	2
Chad	5.5	5.5	5.5	5.5	5.5	6
<i>Total</i>	43	43.5	43.5	43.5	42.5	43
<i>Average</i>	3.583333	3.625	3.625	3.625	3.541667	3.583333
<i>Rounding</i>	3.6	3.6	3.6	3.6	3.5	3.6

Freedomhouse.org, February 24, 2013

The rest of the year table is split onto the next page.

2008

2009

2010

2011

2012

5.5	5.5	5.5	5.5	5.5
3.5	3.5	3.5	3.5	3.5
5	5.5	6	6	6
5	5	5	6	6
5	5	5.5	5.5	6
3	3	3	3	3
4.5	4.5	4.5	5	5
2.5	2.5	2.5	2.5	2.5
6	6	5.5	5.5	5.5
7	7	7	7	6.5
2.5	2.5	2.5	2.5	2.5
51.5	50	50.5	52	52
4.5	4.545455	4.590909	4.727273	4.727273
4.7	4.5	4.6	4.7	4.7
2.5	2.5	2.5	2.5	2.5
3.5	3.5	4	4	3.5
3	3.5	4	4	4.5
2	2	2	2	2
5.5	5.5	5.5	5.5	5.5
3	3	3.5	3.5	3.5
2.5	2.5	2.5	2.5	2.5
5.5	5.5	5.5	5.5	5.5
3.5	3.5	3.5	3	3
4.5	4	3.5	3.5	3.5
2	2	2	2	2
6.5	6.5	6.5	6.5	6.5
44	44	42.5	44	44.5
3.666667	3.666667	3.75	3.708333	3.708333
3.7	3.7	3.8	3.7	3.7

Notes:

i) The countries listed here correspond to the total cases shown in Table 3.6. The total of 41 cases of Table 3.6 includes more than one counting of one country which experienced different wars, that's why the on Table 2 the total country number is less.

ii) This test is limited to an aggregate result for making comparisons, but individually it is not justifiable. Because for instance, in case of India, who fought different wars in different regions and the agreements with rebels from these wars would not bring in significant changes in the central government's polity and structure; the question comes that how the status shown on this table speaks of any correlations between war and freedom. Similarly, regime like Burma, who is totally indifferent to any movement, what does such analysis tell us?

APPENDICES

iii) India is also appeared 2 times in Toft's termination data: for Naga Revolt and Sikh Insurrection. The former ends in a stalemate and the latter in a gov. victory. This means on this table it would be listed only on victory side, so I have included it.

Zusammenfassung

Studien über die Lösung innerstaatlicher Konflikte zeigen, wie schwierig es ist, die richtigen Vorgehensweisen für das Stiften von Frieden aufzuzeigen. Dies wird auch von Konfliktforschern so gesehen. Außerdem werden Studien über innerstaatliche Konflikte im Rahmen von theoretischen Debatten über internationale Beziehungen schon lange von (neo-)realistischen der rationalistischen Perspektiven beherrscht. Was konstruktivistisch orientierte Wissenschaftler betrifft, haben diese ihrerseits der Dynamik innerstaatlicher Konflikte wenig Aufmerksamkeit entgegengebracht, trotz der Tatsache, dass in letzter Zeit eine theoretische Tradition grundgelegt wurde, wonach internationale „Normen“ auch auf nationaler Ebene wirken. Davon ausgehend, stellt diese Studie den Versuch dar, eine Verbindung zwischen Konstruktivismus und innerstaatlicher Konfliktlösung herzustellen, und zwar dadurch, dass untersucht wird, wie internationale Normen die von den an Bürgerkriegen beteiligten Parteien gewählten Vorgehensweisen beeinflussen und welchen Einfluss Normen kurzfristig auf die innerstaatliche Konfliktlösung ausüben. Dabei stellt sich heraus, dass Normen bei der Beendigung von Konflikten und der Gestaltung von Friedensprozessen eine entscheidende Rolle spielen. Die Studie zeigt aber auch empirisch auf, warum manche Normen nicht universell werden; Normen, die keinen universellen Charakter haben, beeinflussen Friedensprozesse negativ, indem sie politische Übergänge verzögern. Gleichweise bestätigt die Untersuchung Hypothesen, wonach die Beteiligten sich nur in dem Maße an Normen halten, als ihre eigene Existenz nicht gefährdet wird; Gesellschaften, die sich im Konflikt befinden, sind in erster Linie mit dem Überleben beschäftigt und werden von realpolitischen Überlegungen beherrscht. Dies führt dazu, dass sie die Bedeutung der Menschenrechte außer Acht lassen und dass das Einhalten von Normen abhängig ist von der Stärke der von den die Normen Vertretenden gesetzten Handlungen. Die Studie verwendet zwei methodische Ansätze: zunächst wird eine quantitative Analyse unter Verwendung der *Uppsala Conflict Database* durchgeführt, dann werden Fallstudien qualitativ untersucht. Der Maoistenaufstand in Nepal stellt die wichtigste Fallstudie dar. Die Studie empfiehlt, dass die Internationale Gemeinschaft: (a) sich der (Nicht-)Universalität einer Norm bewusst sein sollte, bevor sie diese bestätigt und „Normenunternehmer“ / Normenpromoter unterstützt; (b) radikalen Maßnahmen durch nationale Akteure oder Normenunternehmer entgegensteuern und sich für schrittweise Veränderungen auf bestehende Institutionen verlassen sollte; (c) Maßnahmen zum kurz- und langfristigen Friedenserhalt setzen sollte, auch wenn dies möglicherweise nicht im Sinne der meisten beteiligten Parteien ist. Gleichweise wird den beteiligten Parteien auf nationaler Ebene empfohlen, die Bemühungen der Internationalen Gemeinschaft, internationale Normen zu wahren, nicht als von vorurteilsbehafteten verborgenen Motiven getragen misszuverstehen.

Abstract

Studies of intra-state conflict resolution have been struggling to provide the right prescriptions to peacemakers, claim conflict scholars themselves. Besides, in the context of theoretical debates in the International Relations, studies of intra-state conflict have for long been dominated by (neo-) realist and rationalist perspectives. Constructivist scholars, similarly, have paid little attention to the dynamics of intra-state conflict, despite the fact that in recent times they have established their theoretical tradition that norms matter from international to domestic level. Hence, this study is an attempt to connect constructivism with intra-state conflict resolution by examining how international norms alter actors' choices in the context of civil wars and what effect norms have on intra-state conflict resolution in the short-term. The study finds that norms have a decisive role in ending conflicts and guiding peace processes. However, it also reveals empirically why some norms do not become universal; norms that lack universal quality negatively affect peace processes by prolonging political transition. The research, similarly, tests positively the hypotheses according to which actors comply with norms only up to the extent that their own existence is not jeopardized; societies or actors in (post-) conflict tend to think strategically because of their concerned about survival, hence disregard for norms of human rights; and norms compliance is contingent upon the strength of norm promoters' action. The study applies a mixed method; first a quantitative analysis is conducted using the Uppsala conflict database, and then a qualitative analysis is applied to case studies. The Nepalese Maoist Conflict is the major case studied. The study recommends that the international community should: a) be aware of the (non-)universality of a norm before endorsing it and supporting "norm entrepreneurs" or promoters; b) discourage any radical measures by domestic actors or norm promoters and rely on existing institutions for a gradual change; c) take measures that maintain peace in the short and long-term even though that may not satisfy most stakeholders. Domestic stakeholders, similarly, are recommended not to misunderstand the international community's approach of upholding international norms as prejudicial hidden agendas.

Executive Summary

This dissertation basically addresses the question of how international norms affect civil war resolution. It is to be noted that the term ‘norms’ in the context of International Relations is not limited to ethics or moral values but refers to universal norms like human rights or humanitarian law, democracy, universal suffrage etc. It could also mean other norms that are not universal, such as federalism on the basis of ethnicity. In the theory of constructivism in International Relations, norms are neither byproduct of interests nor secondary to interests because actors’ interests themselves are affected by norms. The theory assumes that norms constitute actors’ interests and identities. Some other schools, such as liberalists, also say that interests can be transformed according to norms, but they differ from constructivism as liberalists take identities as constant. Therefore, in constructivism, norms cannot be easily separated from what is understood as interests. In his ground-breaking article *Anarchy is What States Make of It*, constructivist Alexander Wendt refutes neo-realist Kenneth Waltz’s theory by showing that is no such fixed structure like anarchy. Waltz had established a ‘scientific’ theory which assumed that states behave under a fixed ‘anarchic structure’ of the world system. Wendt showed that even that fixed structure is changed through identity constitution.

Even empirically testing the independent power of norms, for instance, human rights norms against strategic or economic interests, has shown that norms surpassed interests in guiding actors’ behavior. Therefore, this study also argues in the same line by applying to some case studies some particular norms like human rights and democracy, transitional justice mechanisms like truth commissions and federalization of state as a solution to resolve civil war. It shows how national and international stakeholders have constituted their policies vis-à-vis those norms and how their policies have affected peace processes.

The study applies a mixed methodology: both quantitative and qualitative. In the quantitative section, it works with numerical data on civil war cases and gives descriptions of the cases while testing some hypotheses. In the qualitative section, it works with text data and describes different events and debates in relation to the Nepalese peace process to test the hypotheses. The study operationalizes particular norms on cases according to their relevance for the hypotheses testing.

In some cases, the typical constructivist methodology of finding anomalies of realist explanations has been applied: for instance the US behavior in Nepalese conflict. Realist explanation means that decisions are taken according to actors' military and economic capabilities, while constructivists argue that actors' decision-making is determined by norms.

The study begins with a review of some quantitative studies about civil war terminations, negotiated settlement of civil wars in particular, and shows how realist or rationalist scholars are doing their research. Besides, this quantitative chapter has also been used to find out those negotiated settlement cases that did not have any security guarantees or peace enforcement by the international community but the negotiated settlement had not broken. This is because such cases would fit well for the analysis of norms aspect vis-à-vis strategic aspect. Among several cases which lie on the no-guarantee or no-enforcement side, three cases have been found to be in the same category of conflict: El Salvador, Guatemala and Nepal. These 3 cases, according to the definition of this study, fall into "ideological conflict" in which rebels fought against incumbent governments in terms of ideology (all 3 were communist insurgencies) and were seeking central governance. The Uppsala Conflict Database Program has been used for the data of civil war termination cases and the criteria for categorizing the cases.

These cases have been compared by applying the theory of Mark Peceny and William Stanley that the norms of "liberal social reconstruction" replaces security guarantees, therefore, peace settlements do not break. Similarly, Martha Finnemore's theory according to which states take international norms as sources of their domestic policies – and, therefore, states themselves like to adopt international conflict resolution formulas -has also been applied. While these theories hold in these cases, the hypothesis of this study which stipulates that norms are internalized by actors as long as their own existence is not jeopardized also holds true. The issue of truth commissions across these cases has been studied to measure that hypothesis.

While the dissertation examines briefly several case studies, it extensively analyzes the Nepalese peace process and tests several norms-related hypotheses. In addition, in order to provide a broad picture of the conflict, beside norms, some complimentary chapters are also included. These chapters discuss the structural or the causal factors of the conflict: geopolitical interests of India

and China in Nepal; Nepal's internal politics and social, political and historical problems. The dissertation entails three different dimensions or sections: a quantitative study of negotiated settlement of civil wars, structure of the conflict and the society in Nepal, effect of norms on Nepalese peace processes along with some other cases. However, for the logical sequence of chapters, these three sections are not necessarily organized separately.

The dissertation is distributed into 10 chapters; chapters 1 and 10 are introduction and conclusion, respectively. Chapter 2 comprises the quantitative study, chapters 4 and 6 are dedicated to the structure of the Nepalese conflict. Chapter 5 deals extensively with the theory of constructivism and norms in constructivism, chapters 3, 7, 8 and 9 are about norms hypotheses tests. Chapter 3 compares El Salvador, Guatemala and Nepal in relation to truth commission, 7 is about Nepal's Truth and Reconciliation Commission, and 9 is about the ethnic federalism debate in Nepal. In chapter 8, as a test for international actors, the US policy in the context of democracy and human rights is analyzed.

The main hypothesis that norms are internalized as long as actors' own existence is not jeopardized holds true not only for the political elites regarding their political future but also for the populace as they would not internalize any norm that will become threat for their own existence. Similarly, the following hypotheses were tested positively:

i) Given the anarchy of civil wars, domestic or intra-state actors opt for survival by adopting realist thinking and values; therefore, at those times, these actors ignore any supremacy of norms. ii) Norms internalization is contingent upon strength of norms entrepreneurs. iii) Norms that are not universal fail to internalize and merely contribute to lengthening the conflict.

The results allude to a mixed effect of norms: while some contribute to the peace process, others negatively affect it. Norm entrepreneurs and their sympathizers should consider any norm vis-à-vis its effect in short and long-term on fragile post-conflict peace. The study makes the following recommendations to the international community and the domestic stakeholders:

The international community should be aware of the (non-)universality of a norm before endorsing it and supporting norm entrepreneurs; b) discourage any radical measures by domestic actors or norm entrepreneurs and rely on existing institutions for a gradual change; c) take measures that maintain peace in the short and long-term even though that may not satisfy most stakeholders. Domestic stakeholders, similarly, are recommended not to misunderstand the Community's approach of upholding international norms as prejudicial hidden agendas.

Curriculum Vitae

ANIL SIGDEL

Doctoral Studies of Social Science, Institute of Political Science, University of Vienna, Austria (2010-2014)

University Education

Master of International Studies- Diplomatic School of Madrid, University of Complutense, Madrid, Spain. 2004-2005

Master of Business Studies, Univerisity of Tribhuvan, Nepal, 2001-2003

Dissertation

Negotiated Settlement of Civil Wars and International Norms.

Supervisor:

Univ.Prof. Dr. Heinz Gaertner, University of Vienna and,

Director of Austrian Institute of International Politics.

Publications

Peer-reviewed Article:

“Human Rights Norms v. Peace Process: The Agenda of Truth and Reconciliation Commission in Nepal”, in *The International Journal of Civic, Political and Community Studies*. Vol.11 (2014) (Forthcoming)

Other Research-based Articles:

“Nepal:No Consensus Blame:Theories of Interests and Ideas”. Telegraph Nepal, Published on 14 Sept. 2012

“Nepal: Will Maoists take up arms again?”. Telegraph Nepal. Published on 01 February 2013

“Nepal, India and Sovereignty”. Telegraph Nepal. Published on 24 April 2013

“Neutrality is No Free Lunch: Switzerland vs. Nepal”. Telegraph Nepal. Published on 03 September 2013

Affiliations

Associate Editor for The International Journal of Civil Political and Community Studies

Associate Editor for The International Journal for Literary Humanities

International Conferences

New Directions in Humanities, Budapest, June 2013

Scholarship awards

Merit Scholarship for Master of International Studies at the Diplomatic School of Madrid by the Spanish Agency of International Cooperation under the Ministry of Foreign Affairs, Spain.