

PEACEBUILDING AND GOVERNANCE AT LOCAL LEVEL DURING THE TRANSITION PERIOD IN NEPAL

A draft report and concept paperⁱ

17 October 2006

Background

Following the decision by Cabinet to establish Local Peace Councils, the Peace Secretariat and the Nepal Transition to Peace (NTTP) Initiative requested an assessment of the particular challenges associated with the implementation of these councils. The assessment was required by members to assist the Peace Secretariat in securing the Peace Process at the district and local level. This draft concept paper documents the initial findings of the assessment. It is submitted to the Peace Committee of Government and the Dialogue Support Committee of the CPN-Maoists for consideration.

1. The initial assessment is based on relevant literature study, interviews with national experts on peacebuilding and local governance in Nepal, discussions at three meetings of the Nepal Transition to Peace Initiative, and field visits to four districts, namely Dolakha, Pokhara, Baglung and Dangadhi. In the districts discussions were conducted with the local leadership of political parties; the local leadership of the CPN-Maoists; representatives of civil society such as Human Rights organisations; other NGOs involved in service delivery and advocacy regarding marginalised groups; local offices of OHCHR, the Bar Association, and journalists. In two districts, Baglung and Dangadhi, joint meetings were conducted with the parties and CPN-Maoists. CDOs of districts were also interviewed, and in one district the Police officer in charge was interviewed.
2. The text of the Cabinet decision regarding the establishment of Local Peace Councils (“Local Peace Council and related work process – 2006”) is used as the point of departure of this concept paper. By entering into a discussion of the Cabinet decision, the work done by creating such a framework is acknowledged. The purpose here is to strengthen the framework by raising particular issues that may need further thought.

National Consensus

3. The Cabinet decision requires that “(t) his work process ... be implemented with immediate effect (1.3)”. While the urgency of the matter is appreciated, it has nonetheless become clear that successful implementation will depend on national consensus regarding the matter. More specifically, local CPN-Maoist cadres were quite emphatic that they require national directives in this respect. They view a national political settlement as a precondition for their full participation in local structures. Given the fact that the peace process at local level is primarily between CPN-Maoists and those sections of the community that support other political parties, the implementation of LPCs without active CPN-Maoist participation is not recommended.
4. The Cabinet decision places LPCs under the jurisdiction of the Peace Committee through the Peace Secretariat (7.1, 7.2). The fact that the Peace Committee is currently not inclusive is a

stumbling block in implementing the framework. The emerging consensus between the Peace Committee and CPN-Maoists to form an inclusive National Peace Committee (or Commission) to oversee the peace process in Nepal and to whom the Peace Secretariat and the LPCs will be accountable, is therefore encouraging. The establishment of such a joint national structure is a necessary precondition to the implementation of LPCs.

National Justice and Restitution Policy

5. One of the objectives for LPCs stated by the Cabinet decision is: “To include all sides in the peace process to provide relief to the displaced people, ensure the return of the properties; look into resettlement issues and to promote cooperation to the reconstruction of the damaged infrastructures (2.3)”. It is encouraging that these matters are viewed as a priority in local peacemaking. However, the guiding principles to deal with conflict-related grievances, including the return of properties and compensation for loss, have to be determined by a national policy on Justice and Restitution. It cannot be left solely to the discretion of local players. Furthermore, it has to be clarified what resources would be available for such activities and how LPCs could access these resource.

LPCs and Interim Local Governance

6. The reference to the provision of humanitarian relief and the reconstruction of the damaged infrastructure (2.3) raises the question regarding the relationship between LPCs and interim local governance. These matters will require political decisions and, again, resources to implement. Coupled herewith, but not specifically mentioned by the Cabinet framework, is the issue of decision-making on development issues. Local actors have expressed their concern that development activities would favour selected political interests. Since no clear decision has yet been taken on the nature of interim local governance, an opportunity exists to consider the potential role of LPCs in this respect or to clarify the relationship of LPCs with such interim local government structures. It seems as if there are at least three options to be considered:

Option 1:

- The LPC will be the *de facto* local authority during the transition phase. The LPC should therefore receive formal authority to make binding decisions regarding all matters that have to do with local government service delivery, development and reconstruction.
- The LPC will effectively fill the political vacuum at district level, until a new local government council has been elected in terms of the new constitution.
- Such an arrangement will prevent the establishment of a confusing number of interim local bodies.
- This arrangement will simplify logistical matters, because the local administration and venues will be at the service of LPCs.
- It will reduce costs because no new offices will have to be established.
- The disadvantage of this arrangement is that it puts the LPC squarely in the political domain. It may thus be prevented from playing its fundamental role, namely to secure peace, because it may be manipulated for political purposes.
- Two preconditions should apply to deal with the possible disadvantage: (1) that careful attention should be given to the composition and inclusive nature of the LPC (see below); and (2) that the operation of the LPC should be guided by clear guidelines regarding its priority focus, namely to secure peace and promote

development and reconstruction in a manner that will promote inclusion and address the fundamental root causes of the conflict. Very specific Terms of Reference and Operational Guidelines should therefore be developed.

Option 2:

- The LPC will exist parallel to interim local government councils, but with the authority of an “upper chamber” to review local government council decisions and refer them back to the interim local government in case they do not meet the key requirement that they serve the local peace process.
- The LPC will have the authority to intervene in case of disputes that threaten the peace process.
- The advantage of this arrangement is that it allows the LPC to focus on peacebuilding matters without being tied up in governance.
- The option has the further advantage that the impartiality of the LPC is better secured.
- The major disadvantage is that it sets up a new body with higher cost implications.
- It will introduce a fairly complex new political mechanism at local level that may require substantial local 'education and training' to ensure its efficiency.

Option 3:

- The LPC is a purely consultative forum with the task to facilitate consensus and peacebuilding, but with no formal relation to governance institutions.
- The LPC mediates conflict on the basis of stakeholders' voluntary participation in such processes.
- It provides advice to all stakeholders regarding peacebuilding measures, but with no binding authority.
- The advantage is that it is impartial and operates from a non-threatening platform.
- The fact that it will not be implicated by local political and development decisions that are made, gives it greater leeway to mediate in disputes and play informal peacebuilding roles.
- The fact that it has no formal authority means that those with authority may ignore or disregard the role of LPCs, making them obsolete.

Composition of LPCs

7. The structure of the LPC, as proposed, is basically sound. The following considerations may however add value to its composition:
8. Political inclusion and consensus seeking:
 - The inclusion of all political formations (i.e. including CPN-Maoists) is clearly a priority.
 - Including all political formations on a basis of equality, regardless of the strength of their respective support bases, obviously places great demands on the ability of the LPC to seek and forge consensus. While the appeal to “co-existence, goodwill, mutual understanding and full respect to social sentiments” (5.1) is certainly important, the ability of the LPC to function on a basis of consensus cannot depend solely on moral exhortations.
 - It is to be expected that political tensions will at times run high, especially as

elections approach.

- A key ingredient of successful consensus-seeking processes is the ability and skill of the chairperson or coordinator to manage such processes.
- It is therefore suggested that *coordinators* should be appointed on basis of their proven ability to facilitate complicated consensus-seeking processes (see 3.6).
- Coordinators should receive further training and support from the Peace Secretariat to operate in the required manner.
- The Peace Secretariat may also consider appointing a national panel of accredited mediators who could be deployed to specific districts when necessary to assist in dealing with deadlocks.

9. Social inclusion:

- Since patterns of social exclusion are widely seen as one of the root causes of the insurgency, it is important that excluded groups are *sufficiently* and *authentically* represented on the LPC.
- These groups are reportedly internally divided, supporting different political formations. Put differently, the various Janajati, Dalit, Madeshi and Women organisations that exist are widely seen as having specific and divergent political affiliations.

There are three options to ensure authentic representations of these groups:

Option 1:

- The excluded groups can be requested to find consensus among themselves to appoint one or two representatives.
- E.g., the Dalit community in a given district can be given one or two seats on the LPC, thereby compelling the different local Dalit organisations to find consensus amongst themselves on the two most appropriate candidates.
- The same would apply to Janajati, Madeshi, Women and other social formations that merit specific inclusion.
- The approach may result in strengthening internal cohesion if managed well. It may, however, further polarise internal relationships if the selection is conducted in a confrontational and competitive manner. The Peace Secretariat may therefore have to offer support to these groups to ensure a constructive selection process.

Option 2:

- Political formations may be required to prove social inclusion in the manner their representatives are appointed.
- Such an approach will have the advantage that it strengthens the role of excluded groups within the political formations.
- A disadvantage is that it will result in allowing political formations fairly large representative teams, thus making the LPC a bit unwieldy.

Option 3:

- The Peace Secretariat may conduct an independent assessment in each district to determine which social organisations merit inclusion on the LPC and which groups are being neglected or excluded.
- The dynamics of each district should therefore determine the composition of the LPC.
- The advantage is the recognition of local dynamics over against a blanket imposition

from the top.

- The disadvantage is that substantial fieldwork will be required, with logistical and financial implications.

10. Inclusion of civil society

- The inclusion of NGOs on the LPC , whether Human Rights organisations or specific advocacy groups, is problematic. On the one hand they may have no proven public support and may in fact not represent anyone else than their own and their funders' interests. On the other hand specific NGOs have played very important roles in facilitating peacebuilding and dialogue efforts, promoting a human rights culture and providing essential services to excluded communities.
- A blanket ruling on NGO representation is therefore not advised.
- An *option* would be to give LPCs, once formed, the prerogative to co-opt a number of widely respected individuals or organisations on the LPC as advisers or observers.

11. Ex officio representation:

- It is suggested that the CDO's office and the Police should attend LPC meeting in an *ex officio* capacity.
- Their attendance will ensure that they, as persons responsible for the implementation of governance and security, are well informed not only of the letter of agreements, but also of the underlying motivation for and spirit of such agreements.
- It will also ensure accountability, as these officials should provide feedback to the LPC regarding implementation.
- Their representation is recommended regardless of the mandate that the LPCs are given (as per pt. 7 above).

Monitoring and peacebuilding

12. The Cabinet decision establishes a strong link between the LPC and local monitoring of the ceasefire agreement (see 4.8 and 11). This link is very important since the LPC will have to deal with the local consequences of any violation of the ceasefire agreement and any other serious human rights violations. The LPC is responsible for peacebuilding and must therefore ensure that the damage done by violations is contained, that local restitution takes place and that reconciliation is encouraged.
13. It is therefore important that all monitoring organisations, not only the National Monitoring Committee of the Ceasefire Code of Conduct, but also national and international human rights monitors, establish a working relationship with the LPC.
14. Such a working relationship should entail that the findings of monitors be discussed with LPCs and that they collectively look at preventative measures to prevent further violations.

The VDC level

15. An aspect that is not covered by the Cabinet framework is how to secure the peace process at VDC level. The LPC operates at district level. It is suggested that the LPCs encourage the

formation of VDC-level peace councils under its supervision.

16. VDC-level peace councils should follow the same Terms of Reference and guidelines as for the LPC. Direct lines of communication and support should be established between the VDC-LPCs and the District LPCs.

Process recommendation:

In order to ensure national consensus on the above and other outstanding issues and finalise preparation for the implementation of LPCs, it is recommended that the Peace Secretariat facilitates the establishment of a working group comprising of representatives of all national political formations (including CPN-Maoists) and a small number of national experts on local governance. Such a working group should finalise proposals, which should then be submitted to the negotiation teams of the Government and CPN-Maoists as part of the negotiation of a wider peace agreement.

i The document was drafted by Andries Odendaal, Conflict Transformation Consultant, at the joint request of the NTTP and the Peace Secretariat at a meeting on 16 October 2006 .