

**POLICY DISCUSSION PAPER - 7/2012**

## Effectively Engaging Experts in Nepal's Policy Making:

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### Lessons from the Failure of State Restructuring

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**Alliance for Social Dialogue  
Policy Research Fellowship Program 2012  
December 2012  
[www.asd.org.np](http://www.asd.org.np)**



## **ACKNOWLEDGEMENTS**

I would like to express my sincere gratitude to the respondents of this study, for their valuable time and insights, which form the basis of this paper. Thanks to Mr. Tanka Raj Aryal and Mr. Keshuv Koirala for their valuable thoughts, Mr. Ganga Datta Awasthi for his valuable insights as a retired bureaucrat, expert and a consultant, Dr. Gopal Krishna Siwakoti “Chintan” for sharing his experiences as a campaigner and an expert, Dr. Bihari Krishna Shrestha for his thought-provoking insights as a former bureaucrat, expert and a consultant, Dr. Dileep K. Adhikary for sharing his wonderful ideas as policy maker and finally Dr. Madan Pariyar for his experiences as a coordinator while at State Restructuring Commission.

I express my sincere appreciation to Alliance for Social Dialogue (ASD) for providing me the fellowship and financial support that helped me pursue research in an entirely new topic. Many thanks to my mentor, Dr. Hemant Raj Ojha, for his valuable inputs throughout the research period. And finally, I would like to thank my supervisor, Dr. Hari Dhungana and the entire team at Southasia Institute of Advanced Studies (SIAS) for their cooperation.

Gunjan Dhakal

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## **ABSTRACT**

Experts are technically sound individuals who can articulate fellow citizens' need and are capable of providing evidence and analyzing policy options. Their ability to comprehend the issue comes from their strong theoretical base and the considerable amount of time they spend in gathering experience and knowledge. But there is no single universally accepted way for experts to engage in the democratic process. Finding out how experts can play an effective role in policy making can be a challenge to decision makers as well as researchers. Their capacity and commitment to properly understand the seriousness and far-reaching implication of issues in question shape the reliability and authenticity of their expert knowledge. However, this does not happen most of the time because there are several other factors that shape their expert opinion. Understanding why it does not happen the way it should and what makes their role significant in policy process are explored in this paper. Having a democratic institutional arrangement that provides a different sphere for experts are also important considerations to be made. Thus, the paper explores how proper positioning of experts can enhance their interactive role in the policy process.

*This paper is a product of the Alliance for Social Dialogue Policy Research Fellowship Program 2012. Policy Research Discussion Papers are also posted on [www.asd.org.np](http://www.asd.org.np). The author may be contacted at [gunjandhakal@gmail.com](mailto:gunjandhakal@gmail.com). Findings and Conclusions expressed in this paper are those of the author and do not necessarily represent the views of ASD.*

# Introduction

## Contextual Background

The involvement of experts in policy process is not new in Nepal. Experts have been engaged in a myriad of ways for the past several decades. Though the criteria and considerations for selecting individuals as “experts” have not been clear in most cases, they have been engaged in several ways for the purpose of constitution writing, sectoral policy making, or any other critical decision makings over the years. Engaging them as commissioners and experts through the formation of commissions (truth and reconciliation commission, state restructuring commission, land commissions, constitution commissions, etc.) and panels has been a common trend all these years. If the individuals chosen for designated roles are not committed to their assignments, the entire exercise is likely to become a failure and not just the waste of time and resources but also the waste of credibility of the selection committee. While some countries practice the public nomination of commissioners allowing people to be directly involved in the selection process, many others make it a closed process, keeping people out of loop. The process and people are equally important in policy making for transparent and representative decisions, which are likely to facilitate public ownership of the decisions made.

Though experts have been engaged in decision making for decades now, controversy around their involvement is frequently encountered in Nepal. State Restructuring has been one of those highly contentious issues on which experts were given the role of recommending the number of provinces that is ideal for a federally structured “New Nepal”. While people in the Far Western Nepal stood for Akhanda Sudur Paschim (undivided Far West), groups in the Eastern Nepal demonstrated to have their own province based on identity. The chaotic political environment added fuel to the never-ending debate on how the country is to be structured, and under what basis. State Restructuring Commission was formed during November 2011 to provide recommendations to the Constituent Assembly on the best possible federal model based on *pahichan* (identity) and *samarthya* (capability). The formation of commission was regarded as a milestone for the constitution writing process along with a significant breakthrough in the peace process, ending the long political turmoil.

Contrary to the expected “expert” role, the commission came up with two recommendations, parallel, highly opposed to each other in significant manners. The members of commission were nominated through the political process dividing the member quotas among three major political parties—UCPN-Maoist<sup>1</sup>, NC<sup>2</sup> and CPN-UML<sup>3</sup>, and the UDMF<sup>4</sup>. The nomination and the subsequent recommendations not only questioned the legitimacy of commission and the report, but also the reliability and authenticity of experts and their expert knowledge. Engagement of external development partners, bureaucrats and politicians in the policy making process is

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<sup>1</sup>UCPN-Maoist: Unified Communist Party of Nepal (Maoist)

<sup>2</sup>NC: Nepali Congress

<sup>3</sup>CPN-UML: Communist Party of Nepal (Unified Marxist-Leninist)

<sup>4</sup>UDMF: United Democratic Madhesi Front

common in Nepal, but positioning experts and their role in this process is an area that needs to be explored. State Restructuring is the basis of this paper that led to pertinent questions regarding the expert's role in important decision-making in democratic society.

Experts are expected to be technically sound individuals who can articulate fellow citizens' needs and are capable of providing evidence and analyzing policy options. But there is no single universally accepted way experts engage in democratic process. Finding out how experts can play effective roles in policy making can be a challenge to political decision makers as well as for researchers. While experts try to empirically identify basic social needs and problems, citizens set democratic agendas, thus both the actors play a complementary role in policy making. The interests and processes of the different actors can be brought together through consultations.<sup>5</sup> But this does not happen most of the time, especially where there is democratic deficit as in Nepal. Thus, finding out why it does not happen the way it should and what makes the experts' role significant in policy making are the areas to be explored in this study.

This paper revolves around the idea that the interaction among citizens, experts and leaders is very critical to the democratic process. For any democratic institution to perform, space for open discussion and deliberation are of utmost importance. Such spaces can be facilitated or constrained by experts. Having a democratic institutional arrangement that provides different sphere for experts that can be legitimized among larger people's domain is an important consideration. The paper will explore patterns of expert's engagement, the factors that shape their opinion and the possible ways to enhance their interactive role. The lesson from this study is expected to provide a politically astute basis for engagement of leaders, experts and citizens in policy making. While fully articulating expert's functions, their capacity and commitment to properly understand the seriousness and far-reaching implication in the policy process looks ambitious, this paper can open up discussion on how experts can be placed in policy cycle for effective policies in democratic society.

## **Policy Problems**

Politicians as elected representatives are often regarded as experts in some countries,<sup>6</sup> who are considered accountable to democracy and "loyal" to their office (the legislation). Their expertise in guiding the political process and decision-making is something more than what an ordinary citizen possess. While many argue that politicians are typical "utility maximizers" who misuse authority and power for their self-interest, idea that there is a difference between common knowledge and an expert knowledge in the society is still assumed in this understanding. The argument that the politician is an expert however looks idealistic in case of Nepal where a debate can be spurred—that the country would not be under political transition for so long had they been real experts in democratic societies. If it was true, politicians would find a way for political

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<sup>5</sup> Dewey 1927

<sup>6</sup> Schudson 2006

discourse to come to consensus, ending the turmoil that has been frustrating ordinary citizens. But this has not happened yet. What drives politicians to stand beside their oath, and use their knowledge and decision-making ability for the benefit of people is always a big question. While some political practitioners are more concerned about public needs and problems, they cannot decide on behalf of people until others in the political fraternity agree. Thus, democracy is driven by a group of individuals through consensus, and to expect “neutral knowledge” or “scientific knowledge” from them might not be practical in our case.

As a country develops, societies grow and become more complex over the time. Any ordinary citizen, who is busy running errands fulfilling daily needs finds it difficult to interpret what is happening at the higher level. Simultaneously, there are citizenry needs that the government is obliged to fulfill. In such case, experts can become conduit linking citizen’s need to the higher authority and then providing their expert knowledge to address the same. Schudson<sup>7</sup> mentions that a good “democracy does not seek to minimize the role of expertise” and further suspects that “a democracy without experts will fail to get things done or fail to get things done well enough to satisfy citizens.” Whether society is complex or not, democracy should always “encourage experts to be expert, can and should protect their autonomy, can and should make good use of expertise in policy.”

While engaging experts in policymaking looks like an important step towards unfolding the complexities, providing autonomy for decision-making and using their expert knowledge is a challenge. Whether experts represent the voice of politicians, bureaucrats or any other groups, and not their expertise, and what might be the best possible ways to give them autonomy over decision-making are the questions that need to be explained well in this paper. Likewise, whether experts represent ordinary people’s voice and if they can be made accountable for their input is another important aspect to think about for improved and better-versioned decision making. Thus, how experts can be engaged for the optimal use of their expert knowledge and under what institutional conditions they can contribute better to public discourse and decision making are prominent policy questions. In the same line, in understanding and exploring the opportunities for more effective contribution of experts in democratic process, it is important in this study to address the broad question on who represents experts, what are their roles and functions, whether they make decisions independently or under the pressure of other partisan groups/individuals, whether they represent real needs of people or just the claims of political parties, whether or not their input is legitimized, and more importantly who are they accountable to.

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<sup>7</sup> Ibid

## Theoretical Concepts

The role of experts in democratic society is highly debated in the academic world. While many political scientists argue that the values of expert knowledge can add-on to the functions of democracy, some argue that the idea of “experts” itself creates a stratum that is different from democratic value of having “equal citizens”. In this paper, I address the issue as to why experts are important in democratic deficit country, like Nepal, which has been undergoing political transition and political impasse for quite a few years. Whether or not experts are required in every policy-making decisions? And what might be their possible role in making it widely acceptable on behalf of “public” will be explored and explained in this paper.

The initial work on expert’s role on decision-making comes from Lippmann<sup>8</sup> who argues that ordinary people can only comprehend what is going on in their immediate environment but cannot unfold the higher-level information. They normally comprehend higher-level information through some other medium like press, which in itself is guided by interest, market, political intrusion, and so forth. Thus, in Lippmann’s view, it is essential to establish think tanks, which he calls “political observatories,” to save democracy, not by running the government but by being available with “expert knowledge” when the elected officials in the government call on them.

Dewey<sup>9</sup>, in the later years, put forth his idea that experts are important in public decision making, as ordinary people do not have higher understanding of political matters. But if the communication between public and experts is not encouraged, it will be ceded by the personal interest of experts rather than what has long been debated “the public interest”. Unless public is given the chance to express their needs, experts are no different than any other elites or rulers who forward their agenda to be widely accepted among people. Thus, he accepts that experts can provide neutrality in their expertise provided there is deliberation on what actually people need. Wide debates spurred in the later years arguing that there is no such knowledge as neutral knowledge, and people maximize their rational choice in any case whether it is an ordinary citizen, an expert, a ruler or any politician.

Foucault<sup>10</sup> came up with explanation on “power and knowledge” that are intertwined so that they cannot exist independently. The argument behind this was again the neutrality of experts—when experts are looked upon to provide their expertise, there already is a hierarchy where experts are induced by power. Likewise, Turner<sup>11</sup> argued that the idea of experts and their role in democracy is contradictory—the idea of democracy to have equal citizens is not real if experts have role in policy decisions, and even if experts exist, the voice of ordinary citizens is dominated by the expert knowledge; and that expert knowledge is not necessarily neutral as argued by Dewey.

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<sup>8</sup> Lippmann 1922, Lippmann 1925

<sup>9</sup> Dewey 1927

<sup>10</sup> Foucault 1980

<sup>11</sup> Turner 2003



Shapiro<sup>12</sup> argues in similar line with Turner that even if technical knowledge exists, the political values and preferences (or self-interest) cannot be separated from technical/expert knowledge. However, Shapiro's main line of argument was about the problem of equality and not the problem of neutrality.<sup>13</sup>

Since the early 1990s, there has been a shift in democratic theories from rational choice to discussion oriented more towards deliberative democracy theory. The concept of common interest, shared beliefs and well-informed opinion hardly had significance in rational theories that focused more into individual attempts to fulfill their self-interests. Later, deliberative democratic theory explained the importance of people's participation in "producing reasonable, well-informed opinion" where they can openly discuss on the matter, defend their claims and offer reasons, and revise preferences.<sup>14</sup> While authoritarian democracy has top-down decision making giving less importance to people's voice and opinion, deliberative decision-making is "likely to be more legitimate, more reasonable, more informed, more effective, and more politically viable".<sup>15</sup> This theory links to the explanation of participatory approach in decision making where people are considered the active and informed participants who have ability to materialize their needs when placed in driver's seat.

However, there are also arguments that as a theory, deliberative democracy is not practical in real world and is more abstract where power and politics is influential. It is argued that the theory is unrealistic contrary to what deliberative theorists have been emphasizing, primarily because people are not willing to take part in discussions that might affect their self-interest; there is always a debate on protection of self-interest versus common interest.<sup>16</sup> For deliberative decision-making, people should have equal space for contribution; they should be free of constraints; there should be reason to each deliberative outcome; and "final consensus should be geared to common good".<sup>17</sup> The theory is more idealistic because people are bound in social norms and values, and they cannot make decisions in isolation. Thus the legitimacy of such theory is often questionable.<sup>18</sup>

Whether citizen's role in deliberative democracy is prominent was a question initially by Lippmann (1925) and Dewey (1927), where Dewey pointed out the importance of experts and citizens in policy decision-making. Dewey argued that the experts' knowledge on problem identification and citizen's knowledge on identification of democratic agenda is brought together through consultations.<sup>19</sup> Thus, the need of professionals as "experts" and their role was

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<sup>12</sup> Shapiro 1990, Shapiro 1994

<sup>13</sup> Schudson 2006

<sup>14</sup> Chambers 2003, 309

<sup>15</sup> Warren 2007, 272

<sup>16</sup> Bessette 1994, 144

<sup>17</sup> Habermas 2006

<sup>18</sup> Cohen 1996

<sup>19</sup> Fischer 2004

envisioned.<sup>20</sup> In between the lines of citizens and policy makers, an intermediary role of expert was identified. Experts were posited as individuals who could act as the linkage between the two. Experts are thus regarded as the technically sound individuals who can identify basic social needs and problems and are capable of providing evidence and analyzing policy options. The involvement of experts in decision-making helps counting on the prominent agenda, while avoiding the confused situation where a large population fights for consensus. What is questionable is the basis of expert identification, the roles played by them under diverse situation, their function as well as capacity and commitment to understand the issue.

While Dewey argued for more cooperative role between experts and citizens, Fischer discussed the dialogical and deliberative paradigm that can play critical role in policy decision-making. Involving experts in decision-making is however not a panacea for all state and the society ailments because of interplay between power and politics to appropriate decisions in any individual's behalf. Whether or not the allegiance and political inclination play roles in expert's knowledge discourse, and what are all the factors that shape their opinion, it is important to explore. In democratic system, the ultimate decision-making must always belong to the political process, which will work best when experts are given autonomy.<sup>21</sup> Schudson further explains why democracies need experts and what services experts can provide in three points: a) experts can speak truth to power; b) experts can clarify the grounds of public debate for effective democratic decision-making; and c) experts can diagnose opportunity and injustice. Thus, if experts are ideally chosen based on their expertise, experience and capacity, they can act as the conduits between the state and citizens. Their commitment to understanding the issue as experts might contribute to effective decision-making, without much exercise in legitimizing their inputs.

Experts' involvement in policy process is not a new concept in Nepal. Though there is no clear definition of experts and their possible roles, they have been engaged in constitution writing, sectorial policy making as well as other critical decision making over the years. What looks like a trend is the engagement of expert on "as and when required" basis. Commissions and panels are formed when there is need of expert recommendations on larger issues, with a brief TOR (Terms of Reference). How experts are selected, under what basis, and what are the factors that shape experts' opinions are some of the prominent questions that need to be explored in this paper. Policy development is usually a closed process in Nepal with not much of public participation and deliberation. Likewise they are not tested in real grounds. These are some of the likely reasons why policies in Nepal cannot be implemented properly.

On the other hand, there are several instances where experts from international aid agencies have had direct influence in Nepali policies from early on. The conditions put forth by aid agencies have had major impact on national level policies, often explained as "hidden agendas" by

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<sup>20</sup> Lasswell 1951

<sup>21</sup> Schudson 2006

campaigners. Even though many policies are said to complement conditions set by external development partners, there are examples where national level experts have stood against the decision. One of the widely discussed cases that involved experts was the campaign against Arun III hydropower project funded by the World Bank during early 1990s. While the World Bank explained Arun III project as one of the best in the world, the national campaigners challenged the same on economic, environmental and development aspects. They put forth the idea that localization of development is the right of people, so asked for the cost reduction of project by using local expert, local resources and local labor. After series of campaigns and discussion for a couple of years, Arun III project was cancelled by the World Bank, and instead funded other small-scale viable hydropower projects. This was considered as a breakthrough in Nepal's history where local experts challenged the donor agencies, which were then regarded as the world's powerful institutions. Positioning experts in critical decision making and exploring their roles in public policies is a challenge that needs to be explained for effective participation in policy process.

## Research Problem and Research Questions

Growth and development in society is inevitable, so are the complexities that emerge through this process. Not everyone can interpret what is going on in their society, especially at the higher level. This creates a gap between the service provider and the receiver in simple terms, creating more complexities that eventually widen gap between two parties. This is where experts and their knowledge are highly regarded in democratic society. Drawing upon the differences between common knowledge and expert knowledge, the research will be focused on why experts are important and what their possible roles are in the policy making. The paper will explain how experts can be effectively engaged in Nepal, considering the fact that the instability in government and tug-of-war among political parties has created a hazy sphere for expert's involvement in policy making. Who are experts, what makes them experts, how they are identified among a number of claimants, what are the factors that shape their opinion, whether or not the input from experts are legitimized, the reliability and authenticity of their "expert knowledge" are some of the questions to be explored in this paper. The key research questions of this research paper are as below:

Key Research Questions	Explanation and What is Expected from this Paper?
1. <i>Do every public policy decisions need experts?</i>	The very first argument of this paper starts with the need of experts in policy making in Nepal. Experts are regarded as the symbolic capital in the society, having the ability to stand for people and decide on their behalf. In a democratic society where each issue is contested and widely debated, whether or not experts mediate each and every policy making is a question that will be explored in this paper.
2. <i>What are the existing ways that experts engage themselves in public policy making in Nepal?</i>	An expert does not necessarily have knowledge of every important matter—an expert might have a superior knowledge in one subject while a common knowledge on the other. Some common modes of their engagement as seen in Nepal are as Consultants, Activists, Political Nominee, Experts as in expert panel, etc. In addition to their modes of engagement, how each has been facilitating the policy process will be explored in this paper.
3. <i>Where are the disjuncture between experts' knowledge and their engagement in policy making? Under what institutional conditions experts can contribute better to public discourse and policy making?</i>	The main hypothesis of this study is: <i>expert knowledge is a superior knowledge</i> . Whether it holds true or not, it is important to understand why there are disjuncture in the process and delivery. Ideally, experts should be given autonomy to utilize their expertise in decision making to have it widely accepted and legitimized. How such functions are carried out in practice and what can be done for their effective contribution needs to be explained.
4. <i>How can experts' engagement be made effective in Nepal? What are the opportunities for more effective contributions of experts in the democratic process?</i>	The overall argument of the paper is expected to reflect how experts can be realigned in policy process. Who takes decision on people's behalf and whose knowledge is superior is the ongoing debate that needs to be explained. What opportunities are provided to experts for their effective engagement and what can be done to engage them in regular dialogue is important to know.

## **Approach and Method**

A number of methods were employed in this study to make it a robust evidence-based policy research. The research is qualitative and started with secondary data collection and literature review, followed by primary data collection. Primary data was collected through in-depth interviews with selected individuals who have had experience of either working as an expert or have closely watched the engagement of experts in policy making. The data gathered was analyzed to form the main body of this paper, with concrete findings and actionable recommendations on how experts can be better involved in policy process and how their inputs can be legitimized.

### **Secondary Data Collection & Literature Review**

The very first step of this paper started with secondary data collection and available literature review. Although experts' engagement in policy process sounds like a new topic to be explored in Nepal, there are quite a number of journals and articles revolving around experts' role in democracy and policymaking. The basis of this study was the issues around state restructuring of Nepal for which media archives was analyzed and information on what led to the formation of State Restructuring Committee and then the Commission was taken into account. Much debated report of State Restructuring Commission was then reviewed to identify gaps between the report with two significantly different provinces and the roles that have been played by different experts in the process.

Based on the information from State Restructuring, a number of articles, journals, policy papers, discussion papers and other documents were reviewed. However, not much of policy documents, acts and regulations, guidelines and manuals on expert's involvement in policy making in Nepal were found. Their engagement seems to be identified as and when required, with possible terms of reference developed during the process. To have more insights, several documents of Nepal demonstrating the involvement of experts and the exhibition of their expert knowledge were also reviewed—which was also one of the bases for respondent identification.

### **Primary Data Collection**

For primary data collection, the list of questionnaire was developed through interactive communications with the designated mentor. The questionnaire was developed after the first round of secondary data was reviewed to ensure that important ideas are not missed during the conversation. It was then tested with a couple of colleagues to make sure which key question is expected to be answered through the developed list of questionnaire.

Once the questionnaire was completed, respondents were identified based on their engagement in policy making in Nepal—either through direct involvement as an expert or as a watchdog looking closely into the policy process. The respondents for this study were the member of State Restructuring Commission, policy makers, experts and consultants who have worked under different themes, activists, journalist as well as an advocate. Altogether seven in-depth

interviews were conducted during a period of two months, followed by data entry and remaining secondary data review in parallel.

### **Data Entry & Analysis**

Data collection and entry was done in parallel considering the limited time offered for this research. Once the data was entered, significant time was allotted for analysis. During the entire process, mentor was kept in loop on progress of the paper with significant comments from time to time. Enough time was given for analysis and findings, which made it easy to provide actionable recommendations at the end. The paper will be validated by sharing the finding and recommendations to mentor, ASD advisors, the respondents as well as other individuals involved in the policy process before circulating it among wider audience. Finally, a policy brief is expected as an important output of this research paper.

## Analysis of Findings

### State Restructuring: Success or a Failure?

With the Comprehensive Peace Agreement in 2006 between Seven-Party Alliance and the Unified Maoist party, the agreement to restructure the country was taken forward. Accordingly this was included in the Interim Constitution of Nepal (2007) where Article 138 mentions the provision of progressive and democratic federal system for which “*a High Level Commission shall be constituted to make recommendations for the restructuring of the State.... The composition, function, duty, power and terms of service of such Commission shall be as determined by the Government of Nepal.*” Based on this provision, an eight-member commission was formed by the major parties in November 2011 to provide recommendation to the Constituent Assembly on the best possible federal model of the country. Recommendation on *identity and capability* was the main basis for the commission. The matter being highly controversial, the formation of commission was regarded as a significant breakthrough for the constitution writing process. The formation of this commission was also important because it was one of those significant steps in the peace process that could bring political consensus and help to overcome the constitutional and political deadlock.

The eight-member commission constituted of Malla K. Sundar and Stella Tamang from UCPN-Maoist, Dr. Ramesh Dhungel and Dr. Sabitra Thapa Gurung from NC, Dr. Bhogendra Jha and Dr. Sarbaraj Khadka from CPN-UML and Krishna Hachhethu and Surendra Mahato from UDMF. As the major parties could not come to any consensus on who is to chair the commission, it was decided to rotate the position of coordinator among its members based on alphabetical order of their names. The commission was yet criticized for not having any Dalit representative despite Dalit community having major population share. Thus Dr. Madan Pariyar, a prominent Dalit intellectual and right activist, was nominated making it a nine-member commission. Expert panel versus commission was the debate that continued for significant time, which was later brought down through the formation of commission.

Although members were experts, their political nomination questioned the legitimacy of their expert knowledge and capacity. It also spurred debates on having independent experts from different sectors rather than political nominees, who are likely to have political biases. What was more controversial was the group-ism within the commission, which led to the submission of two different recommendations by two groups. The majority group of 6 members was led by Dr. Madan Pariyar, which had both members from UCPN-Maoist and UDMF, and Dr. Bhogendra Jha from CPN-UML; and it recommended 11 provinces—10 provinces and 1 non-geographical Dalit province. On the other hand, the minority group had remaining 3 members led by Dr. Ramesh Dhungel that recommended 6 provinces. The number of provinces recommended by two different groups differed significantly which not only questioned the integrity of the commission but also added further complexities to the whole federal restructuring issue.

The nominations based on political appointment created space for speculation that the members were morally bound to meet political mandates of the parties they represented. The clear travesty of expert and expert knowledge led to the group-ism based on ideological and political inclination. The confusion was further added by different recommendation on disputed number of provinces. Also, not much was explained on how the boundary delineation would be done between and among provinces. “Experts” failed to give options on how ethnicity could have been captured in the new constitution. Likewise, the majority group of commission having Dalit representative recommended a non-territorial Dalit province but the same could not explain why other ethnic minorities and marginalized communities that are diversely located could not have a separate non-territorial province. More importantly, how cultural aspects will be taken care of, how the distribution of population and natural resource will be done, and how country’s diversity will be kept intact, was not addressed by the commission.

What was missing throughout the activity of State Restructuring Commission was the involvement of people. The commission seriously lagged behind bringing people’s voice forward and representing what the majority of the population wanted. Experts should have the ability to convince people and have social acceptability of their actions. They need to engage in regular dialogues with people serving as the linkage between the leaders and people. They should provide deliberative space throughout the process by establishing “a participatory or collaborative relationship with citizen/client”.<sup>22</sup> Formulation of people’s need is the ultimate aim of democratic policymaking process, which remains incomplete until people are included in policy making system. On the contrary note the time limitation of two months might have led the important aspects untouched. Nevertheless, it is clear that formation of State Restructuring Commission had problems in the virtue of design itself. What remains unanswered is whether experts represented real need or the ideology of political parties. What looks even interesting is what led to the ideological fraction between the two members of UML within the same commission. There are many claimants of expert and expert knowledge but placing the right expert in right issue is always a challenge.

People keep close watch on debatable issues so it is important that the selection of members and panel is credible enough to justify their action. In the name of consensus, two extreme recommendations were bound together through the involvement of experts to endorse the political agenda set forth by different power centers. It is unfortunate that the power play among political forces was an evidence of how experts have been used in the system and how their opinions have been influenced. The report has neither been accepted nor been legitimized, or in other words the input from State Restructuring Commission has been disowned till date. The use of experts in state restructuring is a failure as the political parties could not respect the sanctity of experts’ engagement by giving it a political color. Once the decisions are politically driven, it goes under political setting with political biases as the determinant of decisions made. Decisions made this way are neither credible nor can they perform in a long run.

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<sup>22</sup> Healey 1997



## Identification of Experts in Nepal and their Patterns of Engagement

Defining who experts are and what makes them experts is a challenge when there are not much of government documents talking about the involvement of experts in the policy process. Although their involvement is not something new in our policy and decision making systems, the mandate for their engagement is seen on need basis where the terms of reference defines who is eligible and under what basis. Based on different literatures and the inputs from identified respondents, below are some of the definitions of experts with their possible roles:

*Definition 1: Expert is someone who is analytical, critical and solution-oriented, who can offer practicable options for the given problem.*

*Definition 2: Expert is someone who has in-depth knowledge of an issue, who can identify problem and can provide practical solution within the limited resources.*

*Definition 3: Expert is someone who has professional integrity, sound knowledge of the issue and who can ensure social acceptability.*

*Definition 4: Expert is apolitical and absolutely neutral- while at work, expert does not have name, age, gender, affiliation, political ideology or even nationality.*

*Definition 5: Expert is someone who is theoretically equipped, who has invested considerable amount of time to gather experience and who has gathered knowledge to justify his actions.*

Although several definitions of expert can be derived, some of the important key words explaining the traits of experts are analytical, solution-oriented, social-capital, neutral, integrity, etc. An expert is a conduit between people and the higher-level authority. Therefore, an expert is someone who represents people for whom the decisions are being made. The selection of experts in the process might not however be based on above definitions. The trend of engaging an agricultural scientist as conflict expert or a political activist as a state restructuring expert is common in Nepal. What is however lacking is their selection based on their expertise developed over the years through knowledge gathering, their contribution to the community and their research. There is an expert vacuum in Nepal meaning there is countable number of people who go through the process of contribution-research-knowledge gathering to be identified as an expert.

Keeping aside the definition and possible roles of the expert, it is interesting to see different patterns of expert engagement in the policy making process. While engagement as a **Consultant Expert** as in expert panel & commission, **Political Nominee** and **Professor** are common. Involvement of **Academician** from research groups and emerging think tanks is an addition. Similarly, many consider **Activist** and **Campaigner** as experts too. Although these groups of people address the demand side without looking at the supply side (the government's

perspective), their knowledge base on a particular issue is so strong that they can justify their actions and at the same time offer practical solutions. Likewise, **Bureaucrat** and **Technocrat** are also considered as experts by many based on their experience and theoretical knowledge and skills. In contrast, many argue that bureaucrats are non-partisan professionals who are ultimately the decision-making authorities, so their role might be better without being experts. It is however difficult to place their engagements in hierarchy as the selection of expert is usually made to legitimize the agendas and execute the policies as seen in practice.

### **Expert Identification-- Do every public policy decisions need experts?**

There are many self-proclaimed experts and claimants of expert knowledge in society, but their liability and credibility are not tested. What makes them experts is their ability to look at different perspective over the issue that represents a common larger interest that is practical. It is, however, a challenge to identify who the experts are and whether or not they meet the need. Based on the knowledge and skills, the use of technocrats in public policies and other decision-making is commonly seen in Nepal. As they have the ability to structurally and procedurally deal with the issue, they are seen successful in drafting constitutions, laws and policies. But experts are not the decision makers—they are moderators and facilitators of the process who offer best possible solutions to the given problem. And their identification has to be based on their contribution and experience over the issue.

*“People say I am an expert in hydropower and environment but I am never invited to any open discussions on any of these issues..... You should belong to someone or be able to provide privilege to become an expert in Nepal.”*

*-- Dr. Gopal Krishna Siwakoti “Chintan”*

It is evident that different interest groups based on their linkage and networks endorse experts. Thus, the conduit through which experts enter the decision-making process is through networks rather than through their ability to analyze the situation and on their expertise on the issue. This not only tags the expert based on their connections, but also questions the legitimacy and credibility of expertise. In Nepal politically tainted experts are common. In other words, each party has their own intellect panel with so called “experts” who are taken into account during political debates and other important decisions making. It is always wise to have political awareness but as an expert, the tilt towards any political ideology should not be brought forward. Political parties have their own agenda and have certain motive, so experts should rise above specific targets and look into wider perspective.

What looks interesting is the idea of experts versus politicians wherein politicians often feel threatened by the knowledge and ideas of experts. As the latter has the ability to stand as a social capital, they are more likely to guide politicians. Politicians on the other hand are likely to perceive their guidance as a threat because of which they want someone who is not really an

expert for the role of an expert. This is one of the reasons why expert engagement is just a formality, mostly based on face value to legitimize decisions.

While many developed countries take expert advice and opinion in most issues, this has not been developed in Nepal yet. Although there are emerging think tanks and research institutes, not much role has been given or sought so far. Not every public policy decision needs an expert but when there are different views and contradictions, experts can play vital role in balancing the problem in question. For instance, technocrat can be used for common issues but in order to identify which one is good for all, the use of expert is vital. Unfortunately, the selection of expert is determinant of recommendation offered—thus identification of experts is a critical step that binds the whole process. The lack of independence in making autonomous decision is one of the important factors that define the gap between expert knowledge and what they deliver. While some argue that experts are accountable to the state, some others argue that they can be made liable but not accountable to the state because their major role is in offering the options and not making decisions.

### **Common Knowledge vs. Expert Knowledge**

Let's start with an example: Is it logical to invite doctors looking after different departments in order to draft a health related policy? May be, but there is possibility that each of the departments have their own agendas to put forth. It is likely that the main goal of drafting health policy, which is common to everyone, is shifted from a more generic to something specific. In this case, calling an expert who has had experience with health related work and who has the capability of understanding the issue can be of great help. This stimulates the idea of common knowledge and expert knowledge, and the possible difference between the two. Some interesting differences between the two were encountered during the research, some of which are listed below.

<b>Common Knowledge</b>	<b>Expert Knowledge</b>
States what is obvious and understands it in obvious way.	Explains the obviousness and is well equipped to justify their explanation.
Understands WHAT the subject matter is.	Understands WHY the subject matter is.
Who can state the problem but not necessarily offer solutions.	Who can justify action through cause and effect analysis.
Collective knowledge with quality experience, but it cannot scientifically analyze the problem.	The theoretical knowledge equips them well to analyze the implications.
Common expertise knowledge that requires someone to scientifically synthesize.	Common Knowledge is scientifically synthesized using Expert Knowledge.

While depth of knowledge defines common knowledge or expert knowledge, it is difficult to come up with an interpretation as to whether expert knowledge is a superior knowledge or vice

versa. But in-depth knowledge of the issue in question and the ability to scientifically and analytically analyze the situation is considered valuable by everyone because it is easier to convince people by offering rational options through such knowledge. Common knowledge includes the life experiences and knowledge tested in real grounds but is incapable of synthesizing their inputs scientifically. This is where expert knowledge comes into action by collating common knowledge and experiences and putting it together analytically for a common larger interest.

### **Unfolding the Biases for Expert's Engagement**

- a. Biased TOR:** The very first bias that comes out of expert's involvement in policy process is the terms of reference (TOR) which is likely to make their engagement inclined from the very beginning. So it is important to know who prepares the TOR and for what purpose, whether or not it has complete details, who is the beneficiary of the final input, etc. In some cases, the TOR is designed to address the hidden interest of a particular group with pre-assigned experts. The recruitment of experts this way will certainly deprive the real experts in the process, making it rather a closed system where things are predefined.
- b. Political Back-up & Nomination vs. Autonomy over Decision Making:** The trend of engaging experts based on political inclination is commonly seen in Nepal. Although being apolitical and neutral are two important traits of an expert, political interference acts as a barrier to the expert's independence over decision-making. Unless political backing is restricted, use of experts to endorse political agenda will continue forever. Political color is likely to shape the opinion of experts making the decisions politically driven.
- c. Credibility of Experts:** Experts are to be chosen based on their knowledge, experience and the contribution to society. They are often regarded as the symbolic capital who have the capacity to represent people's voice and speak on their behalf; and who can ensure social acceptability. People often are keen on controversial issues that require moderation and facilitation from experts. So their selection is an important determinant of how people perceive them. In case of State Restructuring Commission, credibility of experts was questioned because of the political nomination, which not only questioned the apolitical nature of experts' engagement but also the factors that shaped their recommendation. It is unfortunate that power play among different forces in controversial issues is inevitable in Nepal's policy process.
- d. Legitimacy of Expert's Input:** What happens to the expert input once the task is completed is an important topic to be explored. The legitimacy of such input depends on the above-mentioned points on how the TOR was designed. Whether it was political or apolitical, how were the experts chosen out of the pool and under what basis, whether or not the experts have in-depth knowledge of the issue in question, etc., are questions that need to be addressed to think of the legitimacy of the experts in question. As many of such

engagements in Nepal are as “rituals”, it is less likely that the inputs are taken into account for further action. Most of such recommendations are neither owned nor disowned by the decision makers, making the entire process worthless. This not only disappoints experts who have been engaged but also disregards the resources that have been spent throughout the process.

## Overall findings

- a. Issues with Experts in State Restructuring Commission:** The selection of experts in State Restructuring Commission drew wide criticism against their expertise. Even though the members were the experts in different field, the political nature of their appointment triggered debate on their credibility. The selection bias was obvious as the mandates of political parties were ones that experts were seen to endorse. Even then, the nine-member commission could not come to a common consensus on the number of provinces and other issues, which eventually led to the group-ism among members dividing it into two groups. One of the groups had 6 members who recommended 11 provinces and the other with 3 members recommended 6 provinces. The significantly different recommendations from two different groups within the commission not only questioned the legitimacy of report but also their expert-knowledge, which was said to be influenced from the very beginning of the entire process.
- b. Several Forms of Expert Engagement:** There are different patterns of expert engagement in Nepal’s policy process. Consultant, political nominee, professor and expert in expert panels are some common forms of engagement; whereas involvement through research groups and think tanks as academician is also seen. Although campaigner and activist look after the demand side perspective, because of their strong knowledge base on particular issues, many also regard them as experts. Likewise, technocrats with sound knowledge and skills have always been regarded as experts in Nepal who continue to play important role in decision-making. Though they play more roles in specific issues, they are important part of expert group. Bureaucrats are also considered as experts for their long experience and strong theoretical knowledge. While many argue they are decision makers and should therefore be different from those who moderate and facilitate the policy making, they continue to engage as experts.
- c. Institutional Setup for Experts’ Engagement:** There are several barriers to establishing institutional setup for effectively engaging experts in democratic policy making. No autonomy over decision making, continuous political interference, question over legitimacy of input, etc. add to the list of barriers that separate expert from their expertise. The pattern of engaging “grey-haired” meaning experienced people who have spent decades in government decision-making is commonly seen. As these people have past affiliation as decision makers, they are considered to have power to endorse policies. Thus, in addition to

their quality experience and in-depth knowledge, their face value is a determinant to being an expert. Providing a different sphere for experts might however be an important step in restricting unnecessary affiliation to groups and political parties.

- d. **Rare Opportunity for Continuous Engagement:** In many countries, the government engages retired officers and experts to retain the institutional memory and use it for important decision-making. Their role is continually expanded increasing the capacity of experts in one hand and the state gaining from the investment on these personnel over the years, on the other hand. But no such opportunities are offered to experts in Nepal—the common way of their self-engagement is by working as consultant to external development partners. The government should create a platform to retain experience and institutional memory for better decisions. Likewise, it is noticeable that people with good linkage with politicians, media or civil society groups are recognized as “experts” in Nepal though they might not have enough experience and knowledge in the particular field. Thus having a guideline that explains experts’ engagement and their selection might help in the inclusion of real experts in policy making for a longer period of time.
- e. **Decision Making Process does not Involve General Public:** Decisions are made for people but unfortunately they are missed out in the whole process in Nepal. In many countries, general public are made an integral part of decision making from being a part of consultation, nominating the experts, reviewing and commenting on the nominations that are publicly disclosed as well as questioning them during public hearing. Public engagement in different forms is expected to facilitate the entire process making it representative, transparent and more importantly keeping it closer to people. These practices are however not common in Nepal as the policies and decisions are made in closed box, keeping it out of people’s reach. This has not only questioned the legitimacy of the selecting panel and the selection process, but also the reliability and authenticity of the reports produced.

## Conclusion

This study has examined the role of experts in democratic policy making in Nepal to explain ways to effectively engage experts in policy process. For this purpose, the case of state restructuring was considered as the main point of entry, looking for the issues that led to the failure of State Restructuring Commission formed to recommend the number of provinces ideal for a federally structured Nepal. The study explored four main questions: (a) whether or not every policy decisions need experts; (b) the existing ways of experts' engagement in policy making process; (c) the disjuncture between experts' knowledge and their engagement in policy making, and under what institutional conditions experts can contribute better to public discourse and policy making; and (d) how can experts' engagement be made effective in Nepal? What are the opportunities for more effective contributions of experts in the democratic process? Through these questions, the study tested the idea that experts can contribute to democratic policy making.

The study found out that there are several ways of experts' engagement—as consultant, expert as in expert panel, professor/academician, bureaucrat, technocrat, political nominee, etc. It was interesting to find out that campaigner and activist are also considered as experts, who look mostly after the demand side of policy making. The pattern of engaging experienced retired bureaucrats is also commonly seen in Nepal; they usually expected to have power to endorse policies because of their strong background and linkages. While voices to establish institutional setup for effectively engaging experts in democratic policy making is occasionally heard, there are several barriers experienced in the past cases. Continuous political interference, the process of expert selection, the question over independence and autonomy in decision making shapes the credibility of expert and the legitimacy of their input.

Although there is a huge potential for using the expert knowledge for critical decision-making, study revealed that expert engagement in Nepal's policy making is seen as problematic and ineffective. Even when the policy makers consider the involvement of an expert essential, it is often strategically framed to legitimize the ideologies and interests of the political elites. Selection biases and external interference from external actors undermine expert's engagement, which eventually determines the credibility and legitimacy of their expert knowledge. Likewise, the lack of independence for experts seems to have created disjuncture between their expert knowledge and the delivery of policy options. While some argue that experts are accountable to the state for representing fellow citizen's voice, many other argue that they are only liable to the state and not accountable because of their role in offering solutions and not making decisions.

The study also found out that the government does not offer much opportunity to experts, who often engage themselves as “high profile” consultants to external development partners. Nothing much has been done to retain the knowledge, experience and capacity of highly experienced experts, who have played vital role in critical decision making. In contrast, people with less

experience and capacity but good linkage with politicians, media and active civil society groups are often seen considered for experts' role. One important fact that came out of this study is the isolation of policy making from general public. Policymaking is usually a closed process in Nepal, with limited or no space for public participation and deliberation. Considering the fact that public policies are meant for people, it is unfortunate that the main actors are missed out in the entire process. Creating deliberative platforms and space for open discussions on policy debates would not only facilitate the policymaking but also legitimize the process and the outputs.

There are three important implications of this finding. First, experts should reflect back on their own capacity to independently engage in policy making. Because they are regarded as symbolic capital representing people's voices and choices, their unbiased and apolitical moderation is what is expected out of them. Second, the policy system and culture need to promote critical and autonomous research in policy process by isolating the core layer of decision making from political interference. The use of experts to endorse political agendas will continue forever until the political backing is restricted. Finally, engaging general public can make policy making participatory. Their engagement in different phases might facilitate the entire process- making it more representative, transparent and keeping it closer to people.

## **Policy Recommendation**

### **a. A proper set of guideline for expert's engagement is important:**

Although experts have been widely involved in Nepal's decision-making process, nothing much can be found in written that explain how experts should function in general. The use of an expert is usually on "as and when required" basis, and in many cases lacks a proper terms of reference (TOR). A proper guideline or manual that explains ethics, the general principles for nomination to high offices (like Supreme Court, CIAA, etc.), the minimum criteria to be considered as experts, as well as the conflict of interest would largely help, supported by a detailed terms of reference that describes functions of experts, their qualifications and experience, as well as the expected deliverables. Having a guideline would establish a base for expert's selection while the detailed TOR would give proper directions to the process.

### **b. Identify experts and maintain a repository based on their contribution:**

There are many claimants of expert-knowledge in the society. Placing the real and right expert against the problem is always a challenge to decision makers. Although experts only moderate and facilitate the policy making process by giving policy options based on their knowledge, experience and contribution, their identification and selection is the determinant of how the policy options will be deliberated. Creating a proper space for experts and allowing them to work autonomously is a challenge in Nepal, where different political forces intervene the process to influence it towards their behalf. Thus, having a repository of experts based on their experience



and knowledge, rather than their linkage and connections to certain groups, might maintain the credibility of experts and the decisions thus made.

**c. Provide options to maintain the sanctity of experts:**

What is seen in practice is the endorsement of expert based on their ability to influence the policy more than their ability to analyze the situation through different perspective. Their linkages with different interest groups and networks also acts as another determinant of them being called as experts. This not only tags the expert as “colored” but also questions the legitimacy and credibility of their expert knowledge. One should have political awareness but being an expert, this should not be brought forward while making decisions. The lack of independence in making autonomous decisions is one of the important factors that define the gap between expert knowledge and what they deliver. Decision makers should ensure that experts are given independence to analyze the situation and offer policy options to make it credible, legitimate and more importantly to have it accepted by all.

**d. Assure experts of recognition:**

One of the important reasons for the disjuncture of experts’ expertise and their delivery is the lack of recognition, opportunity and the financial incentive that the government has to offer to retain experts. Good expertise is usually sold out to external development partners as consultants, who provide good money to meet financial needs but do not necessarily recognize their effort. If the government assures that the views and efforts of experts will be valid and recognized, there is possibility of their effective engagement irrespective of financial incentive. Thus government recognition is important not only to appreciate their long involvement in policymaking process but also to establish a trend in a “democratic deficit” country.

**e. Open deliberative platform to share experiences and ideas:**

Policy making in Nepal usually looks like a closed process that does not usually encourage public participation and deliberation. The interaction among citizens, experts and leaders is critical to the democratic process, especially during the time of transition. For any democratic institution to perform, it is of utmost importance to provide political space for open discussion and deliberation. The opening up of this political space can be facilitated or constrained by experts. While many experts are not identified by the state and have no platform to share their expertise because of their limited connection, opening a deliberative platform to share ideas and experiences can be a productive option to collect voice on important issues.

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## Annex 1: Research Questionnaire

1. In what all ways are “experts” engaged in Nepal? (Experts as in expert commission, as Consultants, as Political Nominees, as Activists....)
  - a. Is there any contrasting difference among these engagements? For e.g. how is a Consultant different than an Expert in expert panel or an Activist?
  - b. How about the hierarchy—who is highly regarded and who’s at the bottom of hierarchy?
  - c. What makes the engagement hierarchical?
2. Example of State Restructuring Commission,
  - a. How was the State Restructuring Commission formed?
  - b. What led do the formation of SRC?
  - c. How about the members—do you consider the members of SRC “experts”? Why?
  - d. The fraction within the commission that resulted to two different reports—any specific reasons you can come up with in relation to what led to the fraction among members?
  - e. If the members in SRC represented political ideology than the main claim, what makes the two member of CPN-UML split into two different groups—the political ideology in question?
  - f. As the two reports significantly differed—in terms of no. of provinces, where did the main problem lie?
  - g. Do you consider SRC a success/failure? WHY? What is the main issue of the whole process in SRC? What should have been done?
  - h. What happened to the reports? Why could not they be legitimized?
3. Any other cases of expert’s engagement- successful and failed ones?
4. Who is an “expert”?
5. Is there any difference between common knowledge and expert knowledge?
  - a. If YES, WHAT and WHY is the distinction important? Is expert knowledge a superior knowledge?
  - b. If NO, can each of us consider ourselves an expert? HOW and WHY?
6. Do every public policy decisions need experts?
  - a. Who decides the need of experts?
  - b. Who prepares the TOR?
  - c. How are they selected? Who selects them?
  - d. How do they engage themselves?
  - e. What is done with their inputs/reports?
  - f. Who checks/confirms if their input is “publicly” acceptable?

- g. How is their input legitimized?
  - h. Any significant difference between an Expert Panel and a Commission?
7. Can we consider “Politicians” as experts? (Note: Public needs and problems versus utility maximization—there are some literatures which mention that politicians as elected representatives are considered as experts (Schudson, 2006: The trouble with experts- and why democracies need them). Elected representatives are considered accountable to democracy and “loyal” to their offices, so their expertise in guiding the political process and decision making is something that not ordinary citizens possess.)
  8. What are the important qualities that an expert should possess and exhibit? (Eg: Neutral knowledge, who makes decisions independently, a symbolic capital to make people believe on public policy decisions, a conduit between citizens and politicians, .....)
  9. When we know what the qualities of an expert should be,
    - a. WHERE are the disjuncture between expert’s knowledge and their engagement in policy making?
    - b. Why is there a difference in process and delivery of their engagement?
  10. To perform the functions as an “expert”, how should the institution be set up i.e. under what institutional conditions can experts contribute better to public discourse and policy making?
  11. How can expert’s engagement be made effective in Nepal? What are the opportunities for more effective contributions of experts in the democratic process? (Why experts need to engage in regular dialogues can be found in literature but what is important to know is why it does not happen in Nepal’s context?)

## Annex 2: List of Respondents

<b>Name of Respondent</b>	<b>Interviewed as</b>	<b>Date of Interview</b>
Tanka Raj Aryal	Advocate; Campaigner	September 25, 2012
KeshuvKoirala	Journalist; Political Analyst	September 25, 2012
Ganga DuttaAwasthi	Former Bureaucrat; Consultant; Expert- Local Governance	September 25, 2012
Dr. Gopal Krishna Siwakoti “Chintan”	Campaigner; Expert- Water Resource, Environment	November 22, 2012
Bihari Krishna Shrestha	Former Bureaucrat; Consultant; Expert- Decentralization, Institutional Development	November 22, 2012
Dr. Dileep K. Adhikary	Bureaucrat & Expert- Governance	November 22, 2012
Dr. Madan Pariyar	Coordinator- State Restructuring Commission	November 23, 2012