



Nepal: An Update

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Since the political crisis of April 2006, when the autocratic rule of King Gyanendra was brought to an end, Nepal has taken hesitant steps towards re-establishing peace and democracy. Under a Comprehensive Peace Agreement signed in November 2006, the Maoist insurgency came to an end and there was agreement that its fighters would be demobilised and reintegrated. A Constituent Assembly was given the task of agreeing a new Constitutional dispensation for the country, which has already been declared a Republic. Its mandate, which was supposed to have been accomplished in May 2010, has had to be renewed on several occasions, with the latest deadline being 30 November. Among the issues which have held up progress is the crucial one of what federalism in Nepal should mean in practice.

A Maoist-led Government was formed in August 2008 following elections in which it emerged as by far the largest party. However, in May 2009 the Maoists withdrew from government after a decision to sack the Chief of Staff of the Nepali Army was rescinded by the President. The Maoists then campaigned and protested against the coalition government that was formed following their withdrawal, headed by Prime Minister, Madhav Kumar Nepal, from the Communist Party of Nepal (Unified Marxist Leninist), known as the UML. Madhav Kumar Nepal resigned in June 2010. Another period of turbulence and stalemate followed until a 17th attempt to elect a new Prime Minister in February 2011 finally bore fruit, when the Maoists abandoned their obstructionist tactics and allowed Jhalanath Khanal, also of the UML, to be elected, in return for control over a number of government ministries. There was hope that this could pave the way for progress in the peace process, including on the demobilisation and reintegration of Maoist fighters, which had become another major point of contention.

Jhalanath Khanal resigned on 14 August 2011 with little to show for his tenure. Khanal's replacement was senior Maoist leader Baburam Bhattarai. To the surprise of many commentators, on 1 November he was able to secure agreement with the other main political parties on the reintegration of Maoist fighters and a range of other outstanding issues. However, there are growing divisions amongst the Maoists, leaving it unclear whether the deal will hold, let alone be implemented. While there is once again a glimmer of hope, Nepal's peace process still has some way to go.

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1 Background

The International Crisis Group (ICG) has provided this useful background to the political crisis which erupted in Nepal in April 2006:¹

...Nepal has been ruled by hereditary prime ministers from the Rana clan or monarchs from the Shah family since the 18th century. A multiparty interlude from 1959-1960 ended when King Mahendra, father of Gyanendra, suspended the constitution following the election victory of the Nepali Congress Party. From then until 1990 a variety of constitutional formats emerged – none of which allowed for genuinely free political parties. Coming under increasing internal and external pressure, Nepal re-established multiparty democracy within the framework of a constitutional monarchy in 1990.

However, democracy failed to quell Nepal's chronic political instability in the 1990s. Maoist rebels began a violent insurgency campaign against the government in rural areas from 1996, attempting to establish a People's Republic. As the pattern of strikes and later bombings intensified through 2001 and 2002, Nepal's constitutional and political order seemed under threat of disintegration. On 22 July 2001 Prime Minister Sher Bahadur Deuba announced a unilateral ceasefire against the Maoists, which they immediately reciprocated. But the Maoists broke the ceasefire in November 2001, launching coordinated attacks on army and police posts. The conflict intensified over the following year and drew in the full participation of the Royal Nepalese Army. In October 2002, King Gyanendra, facing a growing debate over potential plans to extend the state of emergency as a means to combat the Maoist insurgency, dismissed the government, assumed executive power and assured the public elections would be held in a timely fashion. However, the insurgency made the holding of elections impossible, and parliament remained disbanded. A January 2003 ceasefire between government and Maoist insurgents collapsed in August that year, sparking a catastrophic return to mass violence: over 1,000 died in the following four months alone. Although the reappointment of Sher Bahadur Deuba as prime minister in June 2004 marked an attempt to heal the rift between the palace and political parties, this ended with the royal coup on 1 February 2005.

Rhoderick Chalmers of the ICG wrote the following commentary on the strategy of King Gyanendra following the February 2005 coup:

When Nepal's King Gyanendra seized power in February 2005 he breathed new life into Marx's dictum about history repeating itself. Thirty years of royal rule from 1960 to 1990 had been tragic enough for most Nepalis. Economic stagnation and stunted political evolution compounded ethnic, regional, caste and economic inequality, creating the perfect conditions for a Maoist insurgency. The idea that Nepal could be returned to the 1960s — resurrecting King Mahendra's model of a palace-guided Panchayat democracy "suited to Nepal's soil" — smacked more of farce. Attacking graft while his own cabinet was tainted by corruption set the tone. But the king's coterie of Panchayat-era advisors blinded themselves to the transformation of Nepali society over the last decades and pressed on with their plan to turn the clock back.²

King Gyanendra faced an unlikely and unstable opposition coalition, established in November 2005, between seven of the 'constitutional' parties then shut out of politics and the Maoist rebels. This coalition reached a 12-point agreement on a common programme for re-establishing democracy in the country. Some previously mainstream politicians began to question whether the King himself could be part of any solution; indeed, as indicated by the Chalmers piece above, there were independent analysts who increasingly wondered whether the Monarchy itself might ultimately be a casualty of the crisis. This was certainly what the

¹ Extracts from the ICG's Home Page on Nepal
Available at: <http://www.crisisgroup.org/home/index.cfm?id=2929&l=1>
² "Is history repeating itself in Nepal?", *Indian Express*, 23 January 2006

Maoists wished for. However, the end of the monarchy was not part of what became known as the Seven-Party Alliance-Maoist agreement.

The security situation became highly dangerous in many parts of the country by the end of 2005. The Maoists ended a three-month unilateral ceasefire in January 2005. Although they claimed that they controlled up to 90 per cent of the country, the figure was probably nearer to one-third. However, they were able to conduct operations in most of the rest of the country, including areas close to the capital, Kathmandu. The Royal Government arrested hundreds of political opponents and clamped down on the media. Its security forces were accused of being behind many 'disappearances', extra-judicial killings and cases of torture of political opponents. The Maoists also committed gross human rights violations in the course of their armed insurgency.

2 Events between February and April 2006

Despite widespread domestic and international opposition to his plans, the King announced that municipal elections would be held on 8 February 2006 as the first stage in a 'transition to democracy'. Fears about the credibility of the municipal elections were borne out by events. Turn-out was extremely low (latest estimated at 22 per cent) and the day was marked by protests against the Royal Government in many parts of the country:

The elections triggered a full-blown political crisis. The Seven-Party Alliance and the Maoists announced that they would impose a blockade on the capital, Kathmandu, and launch an indefinite general strike in early April 2006. As the crisis deepened, the bulk of the international community appeared to lose patience with the King. The US was the most reluctant to criticise him, but even it began to acknowledge that his actions had deepened the crisis.

The general strike began on 5 April 2006. After 19 days of escalating protests, on 24 April King Gyanendra announced that he would reinstate Nepal's dissolved Parliament and hand over power to the Seven-Party Alliance. A previous offer on 21 April to appoint a new government (he disbanded the previous one in February 2005 in a 'royal coup') was rejected by the popular movement mobilised against him, despite considerable pressure on it from most of the diplomatic community to accept the offer. The 24 April announcement was a clear victory for the Seven-Party Alliance and Maoists. The Maoists were quick to claim credit for the fact that the social base of the popular movement included the poor, ethnic minorities, *dalits* and other marginalised groups in society. In capitulating, the King also implicitly accepted the November 2005 12-point agreement which had been the basis for the cooperation between the SPA and the Maoists. This opened the way to the election of a Constituent Assembly to revise the 1990 Constitution and for peace talks with the Maoists. The Maoists hoped that the Constituent Assembly would ultimately lead to the establishment of a Republic.

3 Events between April 2006 and January 2007³

The new Government established on 30 April 2006, led by Nepali Congress veteran Girija Prasad Koirala, took a number of rapid steps towards creating a new democratic order in Nepal. With the endorsement of Parliament, the King was ordered to pay tax on income and property. He was stripped of his status as a divine ruler and lost his immunity from

³ This section draws extensively on the ICG's report, *Nepal's Peace Agreement: Making it Work*, Asia Report No. 126, 15 December 2006

prosecution. The Government also took upon itself powers to appoint (or not) his successor. The 'Royal' in the title of the Nepalese Army was removed and the King's authority over it taken away. The Government is no longer 'His Majesty's Government'. There were moves to end media censorship, including in the crucial sphere of broadcasting. The practice of untouchability was declared a 'social crime' and legislation was announced to punish it and promote the wider upliftment of the *Dalit* community in Nepal. There was particular controversy over the decision to end Nepal's unique status as a Hindu nation by declaring it a secular state.

The new Government also declared the deeply flawed February 2006 municipal elections invalid and granted compensation to the families of all those killed by the security forces in the course of the April protests. Investigations into such killings and other abuses were initiated. All political appointments made by the King since the King's October 2002 seizure of power were also revoked by the Government. In addition, it undertook a review of judicial and civil service appointments since that date. Royal expenditure also came under close scrutiny, including military procurement deals. The Supreme Court also ordered the release of three members of King Gyanendra's cabinet who had been detained when the new Government took power.

Perhaps surprisingly, many of these moves were met with a mixture of ambivalence and hostility on the part of the Maoists, who argued that major constitutional changes should only be made by the elected Constituent Assembly provided for in the 12-point agreement of November 2005. Nonetheless, the Maoists declared themselves ready to take part in substantive peace talks with the new Government. They declared a three-month ceasefire on 26 April. The new Government reciprocated. Renewed peace negotiations (the first since 2003) began on 26 May. At those talks, a 25-point code of conduct was agreed, designed to end violence and intimidation, while negotiations proceeded. A second round of talks took place in June 2006. The parties signed an 8-point agreement at the talks, which provided for (amongst other things) the dissolution of Parliament, the formation of a broader-based Interim Government and Interim Legislature, both of which would include the Maoists, and the participation of the UN in monitoring a future disarmament process. An interim Constitutional drafting committee was also established. In July tensions arose between the Seven-Party Alliance and the Maoists. Elements within the former were unhappy about the proposal to dissolve Parliament, while there was unease on the Maoist side about the terms of disarmament. However, the ceasefire held and discussions continued. Koirala and the Maoist leader Prachanda, often became directly involved.⁴ By September 2006, following an impressive show of strength in the form of a short nationwide shutdown, the peace talks got back on track. In October 2006, the parties agreed that a Constituent Assembly would be elected in June 2007.

With the UN Secretary-General's Personal Representative, Ian Martin, playing an important brokering role, negotiations advanced throughout November 2006. On 21 November the Government and the Maoists signed a Comprehensive Peace Agreement (CPA), in which an end to the war was formally declared and the contours of a transition agreed. On 28 November the parties also signed an Agreement on the Monitoring of the Management of Arms and Armies (AMMA). It was witnessed by Ian Martin on behalf of the UN. The Maoists had strongly resisted pressure to disarm at this stage of the peace process, fearing a trap.

⁴ Prachanda is a nom de guerre meaning 'fierce one'. His real name is Pushpa Kamal Dahal.

While the CPA and the AMMA were a massive step towards peace and the restoration of democracy in Nepal, many pitfalls remained along the way. The first deadlines for forming an Interim Legislature and Government were missed. However, the Interim Legislature met for the first time on 15 January 2007. The composition of the 83-strong Maoist delegation is strongly biased towards previously excluded groups.⁵ The old Parliament was dissolved simultaneously. An Interim Government was established on the following day. Although the Maoists did not join in it immediately, negotiations continued to facilitate their participation. An Interim Constitution was also endorsed by the first meeting of the Interim Legislature and came into force. Concerns were expressed as to whether free and fair elections to a Constituent Assembly would be possible by June 2007, as scheduled.

The deployment of UN arms monitors also got under way. Seven main cantonment sites for Maoist forces were agreed in AMMA, where fighters were to be assembled and arms and ammunition locked in secure stores. Both would be registered by the UN, but the Maoists would keep the keys to the stores as part of the deal. The plan was for the Nepalese Army to put a similar number of weapons under supervision. In early January 2007 an advance team of 35 UN arms monitors began making inspection visits to the cantonments. The process of locking up and registering weapons and personnel formally began on 15 January 2007, triggered by the convening of the Interim Legislature.

The Maoists continued to allow instances of intimidation, extortion and abductions by their cadres to go unpunished, although there were indications that such abuses had declined in recent months. Many rural areas remained effectively under the control of Maoist cadres and militias. The militias are distinct from the People's Liberation Army and were not covered by AMMA. The Maoist 'people's governments' were due to dissolve with the establishment of an Interim Government.

The army and King, while now formally powerless, reluctantly acquiesced in the changes introduced following the political crisis in April 2006. The report of an investigation into abuses of state power and funds since the royal coup of 2005 recommended that action should be taken against 202 people, including Gyanendra.

Western donors kept a distance from the peace process, while declaring their broad support for it, leaving India and the UN to take the lead. However, they remained nervous about the intentions of the Maoists.

4 Events between January and September 2007

The process of placing Maoist forces and arms under UN supervision took place relatively smoothly, although registration and verification issues remained partly unresolved for a while. Following protracted negotiations, the Maoists finally joined the Interim Government in April 2007.

In the months immediately following its establishment, the Interim Government appeared to work relatively well. The Maoists were awarded five cabinet ministries, which although not the most powerful, nonetheless had strategic value: the Information and Communications Ministry, which oversees the state-owned media, Local Development, Forestry, Housing and Planning and the Voluntary Sector.⁶ There was also some co-operation with the other parties in the Interim Government on policy issues. For example, the Maoists backed parliamentary

⁵ "Nepal's Maoists promote weaker sections", *Hindustan Times*, 12 January 2007

⁶ There have been reports of harassment of the private media by Maoist cadres. "Maoists gag media, shut two dailies", *Hindustan Times*, 13 August 2007

amendments to the Interim Constitution to introduce a federal structure for Nepal and several revisions to the electoral system.⁷ The Maoists had increased dealings with representatives of Western and regional governments after joining the Interim Government, although levels of mutual mistrust remained considerable.⁸ A 1,000 strong UN mission in Nepal (UNMIN), headed by the Special Representative, Ian Martin, was established during the first few months of 2007, following the passage of UN Security Council Resolution 1740 on 23 January 2007. Established at the request of the Interim Government, its mandate was to support the peace process.⁹

In July 2007 the Interim Government announced that it was dramatically cutting the annual royal household allowance and nationalising up to ten palaces and properties, including the King's residence. In August, royal pictures and slogans finally began to be taken down in army barracks around the country.¹⁰

However, in July 2007 the Maoists began to call for the establishment of a Republic *prior* to the holding of elections to the Constituent Assembly, which were due to be held on 22 November 2007. In August the Maoists presented a list of 22 demands which they said had to be filled before the elections were held. On 18 September, having failed to secure the agreement of the rest of the Interim Government to these demands, the Maoists announced that they were withdrawing from it and would do everything they could to discredit the electoral process through mass protests. The two reasons given were their determination to see an immediate move to a Republic and the refusal of other parties in the Interim Government to accept a full system of proportional representation for the elections to the Constituent Assembly, instead of the mixed proportional and first-past-the-post system that is currently proposed under the Interim Constitution. However, the Maoists ruled out any return to armed conflict.

Negotiations quickly got under way to bring the Maoists back into the fold. International reaction to their withdrawal was relatively muted. India sought to mediate behind the scenes. A series of bomb blasts in Kathmandu heightened the atmosphere of tension in the capital.¹¹

Analysts saw the withdrawal as part of a 'strategy of tension' designed to ensure that the Maoist goal of a Republic could not be frustrated. According to the ICG, the Maoists' expectation had always been that the monarchy was unlikely to be removed without further confrontation.¹² Some claimed that fall-back plans had been drawn up by the Maoists to revert to mass protest if events did not proceed on a basis acceptable to them. The raw materials certainly still existed for them to do so. While the Maoists' 'people's governments' at local level had been officially dissolved following the establishment of the Interim Government, the deployment of other parallel structures – in particular, semi-underground Young Communist League (YCL) committees – to those of the state meant that their control over many parts of the countryside remained largely unchallenged. These structures also had an urban presence. The YCL had been associated with numerous acts of violence. The PLA could quickly be reactivated and, under the arrangements for the storage of arms, it

⁷ ICG, *Nepal's Maoists: Purists or Pragmatists?*, Asia Report No. 132, 18 May 2007, pp. 17-18

⁸ *Ibid.*, p. 18

⁹ For the text of the Resolution and the Secretary-General's reports to the Security Council on the establishment of UNMIN, see: <http://www.un.org.np/unmin.php>

¹⁰ "Political temperatures soar prior to acrimonious election", *Irish Times*, 31 August 2007

¹¹ "Nepal parties hold crisis talks", *BBC News Online*, 18 September 2007

¹² ICG, *Nepal's Peace Agreement: Making it Work*, p. 19

would be easy for the Maoists to regain access to their weaponry if the peace process fell apart.

There was also evidence of growing discontent amongst the Maoist rank-and-file, many of whom were languishing in poor conditions in their cantonments, and of growing suspicion of the UN, which was supposed to be facilitating a process of merger between the PLA and the Army. Even more seriously, there appeared to be fears that the Maoists might not perform strongly in the Constituent Assembly elections and that those who are happy with the idea of a constitutional monarchy could consequently hold the whip hand in the Constituent Assembly.¹³ There had long been tensions within the ranks of the Maoist leadership over strategy and tactics. These differences came to the surface during 2007 as those sceptical of the compromises ('rightist deviation') involved in taking part in the Interim Government appear have regained some ascendancy.¹⁴ According to some reports, over a thousand fighters had left their cantonments and joined other armed factions.¹⁵

The Interim Government as a whole faced a serious challenge to its authority during 2007 in the plains of Tarai Region, which runs along the long border with India, to their authority and legitimacy. The bulk of the population in Tarai calls itself Madhesi. Meaning 'people of the middle country', the Madhesi cross caste, linguistic and religious lines. Madhesi make up one-third of Nepal's total population. Discrimination against them takes many forms, according to analysts. For example, perceived as Indians by the mainly hill-dwelling Nepali Hindu elite, many have found it hard to gain citizenship and establish title to their land-holdings. Violent protest erupted there in January-February 2007, following the promulgation of the Interim Constitution, triggered by the Madhesi' belief that they had been excluded from the peace process that followed the April 2006 crisis. The most prominent Madhesi organisation to emerge was the Madhesi Janadhikar Forum (MJF). Much of the violence was against Maoist cadres. As long-term supporters of a federal Nepal, in the past the Maoists had felt confident that they represented the interests of those regions that felt marginalised. However, this confidence was challenged in Tarai. The Maoist calls for a system of proportional representation partly reflected a concern to recover lost ground in Tarai.¹⁶

Talks got under way to try and stabilise the situation in Tarai in June 2007. While the Interim Government expressed its openness to taking steps to remedy the marginalisation of the people of Tarai, its hands were to a significant extent tied by the fact that many of these issues should in principle wait until the Constituent Assembly, in which Madhesi groups were calling for at least 30 per cent representation. An agreement was reached with Madhesi groups in late August that the elections should take place on the basis of a mixed system of proportional representation and first-past-the-post. The Interim Government also launched a commission of inquiry into the violence of January-February 2007, declared all those who died 'martyrs' and offered compensation to their families.¹⁷ But it was clear that the Tarai region could easily flare up into violence once again should militants there again feel that Madhesi interests were going to be short-changed by the peace process. In addition, the assertion of Madhesi interests had produced the first signs of a political awakening by those minorities in the Tarai which viewed themselves as 'non-Madhesi' and resented being lumped in with them.

¹³ Under the CPA, the King's property is to be brought under a government-controlled trust

¹⁴ ICG, *Nepal's Maoists: Purists or Pragmatists?*, Executive Summary and pp. 19-20

¹⁵ "Prachanda under fire from his men", *Hindustan Times*, 5 August 2007

¹⁶ This discussion draws on the ICG report, *Nepal's Troubled Tarai Region*, Asia Report No. 136, 9 July 2007

¹⁷ Ibid

5 Events between October 2007 and May 2008

Negotiations with the Maoists appeared to be making little progress until suddenly a 23-point agreement was reached on 23 December 2007. This agreement gave the Maoists most of what they had been seeking. For example, it was agreed that the Constituent Assembly would declare Nepal a federal democratic republic as soon as it convened and that a larger number of seats to the Assembly would be elected by proportional representation. It was also stated in the agreement that the King would have no powers from that day onwards. The Maoists rejoined the Interim Government and the elections to the Constituent Assembly, which had had to be postponed, were moved to 10 April 2008.¹⁸

Events in Tarai continued to threaten the viability of the peace process. A loose alliance of radical Madhesi groups, called the United Democratic Madhesi Front (UDMF), declared itself dissatisfied with the level of representation promised in the Constituent Assembly and launched a new wave of protests during January-February 2008. However, a deal was done that in the end persuaded the Madhesi parties to file nominations for the elections. During March 2008, Nepal's political parties launched their Constituent Assembly campaigns. Inevitably, many eyes were on the Maoists. Their manifesto, while implacable on the question of a republic and the need for a federal structure in the country, showed a considerable degree of pragmatism on economic and social policy that surprised outside observers. Their argument, broadly speaking, was that in order to reach socialism, the further development of capitalism is required. In their view, land reform and the revival of agriculture would be crucial components of this "transitional economy." In terms of foreign policy, the Maoists pledged equidistance between India and China, although they wanted to renegotiate aspects of the 1950 Indo-Nepal Treaty of Peace and Friendship. As for the Madhesis, the UDMF quickly split into most of its component parts, suggesting that their influence might be diluted in the Constituent Assembly. None of the other left-wing parties made common cause with the Maoists through an electoral alliance.¹⁹

While there were outbreaks of violence during the campaign period, overall all parties were able to operate relatively freely. The UN set up an independent Electoral Expert Monitoring Team, which reported directly to the Secretary General. Aside from up to 1000 international observers from the EU, Asian Network for Free Elections and Carter Centre, an estimated 90,000 national observers from 148 organisations also monitored the polls.²⁰ There were concerns beforehand that the complex voting system and rigging might diminish the credibility of the poll. Indeed, following the elections, results did take a long time to come out. However, there were few allegations about the process itself. This was the case despite the fact that the outcome was unexpected.

The majority expectation prior to the elections was that the Maoists might not do well and could then be tempted to return to war. In fact, they performed strongly, much better perhaps than even they had dared to hope, winning 30 per cent of the vote and ending up as by far the largest party in the Constituent Assembly.²¹ The final tallies were announced by the Election Commission on 25 April 2008. The Maoists won 220 of the 601 seats in the Constituent Assembly, well ahead of the Nepali Congress and the Communist Party of Nepal – Unified Marxist Leninist (CP-UML), which won 110 and 103 seats respectively. A host of

¹⁸ ICG, *Nepal's Election and Beyond*, Asia Report No. 149, 2 April 2008, pp. 2

¹⁹ Ibid

²⁰ Ibid., pp. 14-15

²¹ "From lotus flower to the fierce one: the story of the Maoist who took power in Nepal", *The Independent*, 15 April 2008

other political parties won a small number of seats. Pro-monarchy parties constitute only a tiny rump in the Constituent Assembly.²²

There was plenty of speculation about why the Maoists did so well. A widespread view was that they were the beneficiaries of a massive popular repudiation of the 'traditional politicians' – the high caste Hindu elites in and around the Nepali Congress. Others pointed to the fact that they were the only party that not only talked about including marginalised and excluded social groups in the democratic process but also did so. They received the vast majority of Dalit votes in the elections. Dalits constitute 14 per cent of the population.

The Maoists were quick to announce that they would now seek to play a more dominant role in the Interim Government.²³ The priority of the Maoists appeared to be to establish a strong Presidency once the monarchy has been abolished. Their leader, Prachanda, said that he would be a candidate for the post. Aside from this, the Maoists' priorities were to push forward with the abolition of the monarchy and the successful integration of its fighters, who were becoming increasingly fractious in their cantonments, either into the army or back into society.

The Maoists' strong performance revived anxieties in the UK that they might seek to end the British Army's recruitment of Gurkhas. While there were statements by senior figures within their ranks during the election campaign that they would push for this, there was no official statement to this effect after the results were announced.²⁴ Indeed, after the election, Prachanda talked about turning Nepal into the "Switzerland of Asia".²⁵

The elections to the Constituent Assembly sealed King Gyanendra's fate. Although a royalist 'last stand', in alliance with elements within the army, could be ruled out, it appeared unlikely. Senior army figures stated that they would work with any democratically elected government.²⁶

On 1 May 2008 Maoist chairman Prachanda met with the US Ambassador to Nepal, signalling that the US would be willing to give the Maoists the benefit of the doubt while it behaved in a manner compatible with the promotion of peace and democracy in the country. The US indicated that it would continue to provide humanitarian and development assistance to Nepal. On 12 May the Interim Government announced that the Constituent Assembly would meet for the first time on 28 May and that its first business would be to declare Nepal a Republic.

6 Events between June 2008 and May 2009

6.1 The Maoist-led Government struggles to perform

Nepal was duly declared a Republic when the Constituent Assembly met for the first time on 28 May 2008. However, the process of forming a new government proved tortuously slow and it was not until August, following an agreement amongst the parties reached in June, that one was established. Maoist leader Prachanda (Pushpa Kamal Dahal) had to abandon

²² "Maoists victorious, but short of majority", *Times of India*, 27 April 2008

²³ "Maoists seeking to lead coalition government", *San Jose Mercury News*, 25 April 2008

²⁴ "Does Maoist win spell end for Gurkhas?", *The Scotsman*, 25 April 2008

²⁵ "From lotus flower to the fierce one: the story of the Maoist who took power in Nepal", *The Independent*, 15 April 2008

²⁶ "Nepal army ready to obey a Maoist govt", *The Times of India*, 16 April 2008

his attempt to become President, settling instead for the post of Prime Minister.²⁷ The new government's credibility and effectiveness was compromised by the absence from its ranks of the Nepali Congress (NC), the second largest party in the April elections, with 19 per cent of the seats. The process of finding a President was also fraught, although in the end Ram Baran Yadav, a NC leader, was elected to the position. From the outset, the Maoist-led Government failed to function well.

Relations between the Maoists and their main coalition partner, the Communist Party of Nepal (Unified Marxist-Leninist, known as UML, with 18 per cent of the seats in the Constituent Assembly), which was experiencing a bitter internal power struggle, were difficult. While most of the print media was hostile to the Maoists, they made little effort to make friends or persuade sceptics; indeed, they were behind several attacks on journalists and media houses. There were also accusations of nepotism, with Prachanda's own family members allegedly being particular beneficiaries. While the Maoists, by now renamed the Unified Communist Party of Nepal (Maoist) following a merger with a smaller left-wing group, took some steps to turn themselves into a 'normal' political party, there remained a long way to go. Some of its leaders and cadres continued to talk about the need for violent revolution, despite the fact that the 2006 Comprehensive Peace Agreement (CPA) specified a very different political outcome. There was fierce internal debate over policy and longer-term objectives. Some of the party's 'parallel structures' remained in place and its pledge to return property seized during the conflict was largely not honoured. Other parties established 'youth militias' to counter the Maoists' own youth wing, although the level of activity of the latter did overall reduce following a promise to rein it in as part of the June 2008 agreement which made the formation of the government possible. Nonetheless, there continued to be clashes between the parties, often involving their youth wings, at local level.²⁸

The ICG wrote of the Maoists in February 2009:

For outsiders, the state and direction of Maoist strategy is of great importance: Are they truly committed to democracy and non-violence? Will more radical elements settle for nothing less than a one-party state and force a return to conflict? For Maoist footsoldiers, the big question is simpler: Is this it? Is this what we spent ten years fighting for?²⁹

Outside the Government, there remained major divisions within the NC, with sceptics about the terms of Nepal's transition increasingly assertive. However, for the first six months of its existence there appeared little appetite for bringing the Government down. The International Crisis Group argued that:

The end of the monarchy has in many respects benefited the interests it used to serve: the scapegoating of former king Gyanendra, much as he was responsible for his own woes, has freed the Kathmandu elite to regroup and rebrand themselves [...] many people do not want a "new Nepal". The goal of radical transformation, which inevitably implies some uncomfortable upheavals, is not universally shared. Such fears are not confined to those at the top of the pile. Social inclusion is not a zero-sum game but in the short term affirmative action of any sort does create losers and a sense of reverse discrimination. Many of those who feel threatened belong to upper caste groups but

²⁷ "Agreement between the political parties to amend the Constitution and take forward the peace process", 25 June 2008. Unofficial English translation at www.un.org.np

²⁸ OCHA Nepal situation overview, No. 43, 1-15 March 2009, p 2. Available at: <http://www.un.org.np/situation/situation.php>

²⁹ ICG, *Nepal's faltering peace process*, Asia Report No. 153, 19 February 2009, p 7. Available at: http://www.crisisgroup.org/library/documents/asia/south_asia/163_nepal_s_faltering_peace_process_web.doc

are not “elite” in other terms. As India’s experience since its introduction of quotas and job reservations for marginalised groups illustrates, organised resistance from those who had come to depend upon privileges is only to be expected.³⁰

Traditionalist forces within the NC rallied around opposition to proposals within the Constituent Assembly for a federal Nepal. The party’s participation in the Constituent Assembly was limited until recent months. There were also few signs that the NC was moving towards greater internal democracy. G.P Koirala, its longstanding leader, remained the dominant figure within the party and appeared content to arbitrate between warring factions within the party, rather than resolve differences.³¹

Former King Gyanendra kept a low profile. The Government announced that it was reopening the investigation into the 2001 ‘palace massacre’, in which his predecessor, Birendra, was amongst those murdered by Crown Prince Dipendra.³²

6.2 Fall of the Maoist-led Government

The vital process of integrating an estimated 19,000 Maoist cadres from the People’s Liberation Army into the Nepali Army barely got started under the Maoist-led Government. It was this issue which ultimately brought it down. At the time the government was formed, Maoist combatants had been in their cantonments for two years and were still there, although military discipline within their ranks appeared to remain intact. The Army Integration Special Committee established to address the issue met for the first time only in January 2009. There remained conflicting interpretations of what has been agreed, although the most widely held position was that some Maoist combatants, but not all, will be integrated. That left plenty of room for argument over who and how many exactly and on what terms, including whether they should be integrated *en bloc* or broken up in the process.

Many within the higher ranks of the Nepali Army remained highly sceptical about the prospect of integration on any terms, as do other political parties.³³ There were also disputes over how to deal with under-age combatants, of which there were a significant number. The Maoist-led Government also had limited success in terms of promoting the ‘democratisation’ of the Army, including accountability for alleged crimes against humanity under the ‘old dispensation’. There had been a few steps towards broadening its recruitment base so that it was more representative of the Nepali population as a whole. Importantly, the Nepali Army, along with other law enforcement and security agencies, was to be covered by a February 2009 ordinance that sets quotas for recruitment to government services. 45 per cent of positions will be reserved for *janajatis*, Madhesis, women, Dalits and candidates from ‘backward regions’.³⁴ To complicate matters further, analysts were arguing that the Nepali Army needed to be reduced in both size and cost if development objectives in health or education were realistically to be achievable. However, it was acknowledged that considerable risks to stability were inherent in demobilising soldiers with few alternative prospects of making a decent living.

One commentator claimed:

³⁰ ICG, *Nepal’s faltering peace process*, Asia Briefing No. ,19 February 2009, p 5. Available at: http://www.crisisgroup.org/library/documents/asia/south_asia/163_nepal_s_faltering_peace_process_web.doc

³¹ Ibid., p 11 (Crisis Group interviews, New Delhi, Washington DC and London, November 2008-January 2009.)

³² “Nepal to start new probe into palace massacre”, *Times of India*, 1 March 2009

³³ ICG, *Nepal’s faltering peace process*, pp 13-16

³⁴ Ibid., p 18

The challenge of reforming the Nepalese Army will probably be even more complex than rehabilitating Maoist combatants. Despite its aggressive denials, the army is composed of even more politically indoctrinated members than the Maoists [...] The reform of an institution as ossified as the Nepalese Army will be long-drawn. More inclusive recruitment policies, better orientation of soldiers and socialisation of officers will take time. The smooth transition of the military from a Gorkhali Army to the modern force of a new federal Nepal must underpin Nepal's democratic future.³⁵

According to the ICG, on the question of democratic control:

Gentle nudges from sympathetic donors have been brushed off; the UK's efforts to support capacity building in the ministry of defence have been quietly but systematically thwarted. "There is currently no sign of any political will to grip the generals, or to build the capacity to make civilian control of the military a reality – both essential foundations for a democratic state", warned a retired British general. "The rarity of meaningful discussion on the subject is just one measure of the size of the task and of the moral courage required to champion its urgency and importance".³⁶

Both the Maoists and the Nepali Army continued to recruit new soldiers, despite rulings by the Supreme Court that they should cease to do so.³⁷

In mid March 2009 the Government controversially ordered eight Generals in the Nepali Army to retire, despite their stated desire to stay on.³⁸ This proved to be the trigger for a renewed political crisis that ultimately brought down the Government. The Generals refused to go and the Nepalese Supreme Court ruled that their retirements should be put on hold. In April Prime Minister Prachanda sacked the Army Chief of Staff, General Rookmangud Katawal, on the grounds that he was obstructing the integration of Maoist cadres into the army. Katawal defended himself by saying that most of these cadres remained indoctrinated and therefore unsuitable for integration. There was surprise amongst analysts that Prachanda had decided to pick this fight now, given that Katawal was due to retire in August in any case. Some suggested that the Maoists had decided that heading the government was producing diminishing returns and had sought a pretext for a return to opposition, a role they are much more comfortable with.

Prachanda found himself isolated as key opposition parties, including the NC, and several parties within the governing coalition rallied in support of the Army Chief of Staff. Two parties eventually withdrew, leaving the Government facing a vote of no confidence with a very small majority.³⁹ When President Ram Baran Yadav came out on the side of the Army Chief of Staff, declaring that his sacking was unconstitutional and reinstating him, Prachanda decided that his position had become untenable. On 4 May he resigned, accusing the President of himself acting unconstitutionally. President Yadav accepted Prachanda's resignation, although he notionally stayed on in a caretaker role until his successor was in post.

6.3 The Tarai and other issues

While overall levels of unrest in the Tarai, the lowland region adjoining India, were reduced during much of this period, it remained highly unstable and ungoverned and there were moments of renewed turbulence. The main political force to emerge from the unrest in late

³⁵ C.K. Lal, "The proletariat and the Praetorian Guard", *Nepali Times*, 28 March 2008.

³⁶ ICG, *Nepal's faltering peace process*, p 20

³⁷ OCHA Nepal situation overview, No. 43, 1-15 March 2009, p 1. Available at: <http://www.un.org.np/situation/situation.php>

³⁸ "Nepalese generals made to retire", *BBC News Online*, 18 March 2009

³⁹ "Nepal PM quits in army chief row", *BBC News Online*, 4 May 2009

2007/early 2008, the Madhesi Janadhikar Forum (MJF) experienced its own internal divisions and faced increased competition for Madhesi support from other parties, including the Tarai Madhes Democratic Party. Other minorities in the region continued to express dissatisfaction about the tendency of the Centre to treat them all as 'Madhesi'. New political groups, some of them armed, continued to emerge; sometimes they were splinter groups from the Maoists. For example, at the beginning of March the Tharuhat Joint Struggle Committee (TJSC) and its affiliates launched a strike (*Bandh*) against the definition of the Tharu as Madhesi. Talks with the Government initially made little progress and the strike was declared an indefinite one. The strike had a major impact across the entire region and there were instances of violence and damage to property. Other indigenous nationalities, as well as Muslims, joined the strike in solidarity. On 14 March the seven major political parties in the Constituent Assembly and the Prime Minister reached a six-point deal with the TJSC and its allies, who called off the strike. The strikers succeeded in achieving most of their demands. For example, the interim Constitution was now to be amended in such a way as to recognise the rights and identities of non-Madhesi minorities. Analysts argued that not doing so in the first place had turned out to be a costly mistake in terms of the country's stability.⁴⁰ The mobilisation of Muslims also gathered pace during this period with the creation of the United Muslim National Struggle Committee, which called a series of strikes between now and the end of March 2009 as part of their struggle for greater recognition.⁴¹ From mid March developments in the Tarai were overshadowed by the wider political crisis in Nepal (see above).

The Constituent Assembly, which also acts as a Legislature, met for the first time in late May 2008. It was scheduled to complete a new Constitution by the end of May 2010. However, progress was slow. For example, public consultation in the rural areas only began in earnest in late February 2009. In some districts, local people affiliated to non-Maoist parties refused to take part.⁴² On other fronts, the Public Service Commission was reconstituted and there were signs by February 2009 that parties were close to consensus on creating local peace committees and local government bodies. Most of the Committees and Commissions due to be established under the 2006 CPA had still not yet been set up.

The global economic downturn had an impact on ordinary people's livelihoods and government revenues, although the government reportedly had made progress in terms of the efficiency of revenue collection.⁴³ A national literacy campaign and the introduction of free maternal health services were among the declared achievements of the Maoist-led Government. However, overall development expenditure declined.⁴⁴ Power supplies were down to 8 hours a day in many parts of the country during the winter of 2008/09. In July and August 2008 there were major floods in several areas of Nepal, leaving tens of thousands of people displaced. The Government, with the support of donors, struggled to resettle those affected.

⁴⁰ OCHA Nepal situation overview, No. 43, 1-15 March 2009, p 1. Available at: <http://www.un.org.np/situation/situation.php>

⁴¹ "Muslims on warpath in Nepal", *Times of India*, 14 March 2009

⁴² OCHA Nepal situation overview, No. 42, 16-28 February 2009, p 1. Available at: <http://www.un.org.np/situation/situation.php>

⁴³ The first four months of the 2008-2009 fiscal year reportedly saw revenue mobilisation grow by 35.4 per cent to reach Rs.33 billion (approx. \$425 million). "Revenue collection soars to Rs 33 billion", www.nepalnews.com, 1 January 2009.

⁴⁴ "Development expenditure tumbles by 23 pc", www.nepalnews.com, 20 January 2009

6.4 International relations

The Special Representative of the UN Secretary-General in Nepal, Ian Martin, expressed regret that the international community had not provided broader support for implementing commitments made by all parties to the 2006 CPA and subsequent agreements. However, the parties, backed by neighbouring India, were reluctant to endorse such a role for outsiders.⁴⁵ In late January 2009 Ian Martin was replaced as Special Representative by Karin Landgren, his deputy.⁴⁶

There were reports that, while he was Prime Minister, Prachanda had been seeking to agree a 'Friendship Treaty' with China, partly in order to dilute the influence of India in Nepalese affairs. The army and the NC, both of whom have close ties with India, were said to be strongly opposed to this development. The Maoists view Nepal's 1950 treaty with India as an unequal one and wish to renegotiate it.⁴⁷ India itself appeared during this period to lose confidence in the good faith of the Maoists and was seen by many as having encouraged efforts to bring down the government that it was leading.

7 Events between May 2009 and May 2010

7.1 A new Government amidst crisis and stalemate

The year following the fall of the Maoist-led Government was one of crisis and stalemate. More than 20 parties met in Kathmandu on 5 May 2009 to try and form a new coalition government, with the UML and NC taking the lead. The Maoists did not attend, although both the UML and NC initially said that they hoped that they would. However, efforts to quickly agree a 'government of consensus' foundered, with the Maoists insisting that the reinstatement of the Army Chief of Staff be rescinded before it would consider joining a new government. President Yadav eventually instructed the UML and NC instead to agree a 'government of the majority', led by veteran UML leader Madhav Kumar Nepal as Prime Minister.

After several weeks of Maoist-led protest on the streets and obstruction within parliament, a 22-party coalition government was finally formed on 23 May. The Madhesi Janadhikar Forum joined the coalition. However, it quickly proved a weak and fractious administration, able to achieve little. Throughout the rest of 2009, the Maoists regularly challenged its legitimacy, campaigning for what it called "civilian supremacy" over the army, showing in doing so their continuing ability to mobilise on the streets. They laid siege to the CA between June and December, effectively preventing it from sitting. A major round of protests began in November 2009. In December they unilaterally announced the creation of 13 autonomous ethnic and regional states across Nepal and held a three-day countrywide general strike.⁴⁸ Opponents condemned the largely symbolic announcements on statehood as a violation of the CPA.

The constitution-making process, which was supposed to be completed by 28 May 2010, remained well behind schedule and the deadline passed unmet. A basis for resolving the two key outstanding issues, which are whether to have a parliamentary or presidential system of government and what type of federalism to introduce, continued to elude the parties to the

⁴⁵ Ibid, p 27

⁴⁶ http://www.un.org.np/pressreleases/UNMIN/2009/2009-01-28-UNMIN-new_Head_appointed-Karin_LandgrenENG.pdf

⁴⁷ "Nepal on the boil again", *The Hindu*, 14 May 2009

⁴⁸ "Nepal and Bhutan in 2009", *Asian Survey*, January/February 2010, pp. 171

process. Minority groups remained suspicious that the larger parties, including the Maoists, might agree a watered-down version of federalism.⁴⁹

28 May 2010 was also the deadline under the CPA for completing the integration of Maoist fighters into the country's security forces. There was also no progress on the issue by the deadline. Opponents of the Maoists continued to call for fresh screening of its cadres, on the grounds that previous programmes, led by UNMIN, were inadequate.⁵⁰ This helped to sustain political mistrust.

There was a glimmer of hope in January 2010 when the leaders of the UML, NC and Maoists agreed to establish a 'high-level political mechanism' (HLP) to try and speed up the peace process and the constitution-making process.⁵¹ It comprised the Prime Minister, GP Koirala and Prachanda. Following representations from the HLP, the Maoists agreed to call off an indefinite "people's revolt" due to begin in that month and stated that they favour a "national government".⁵² Some argued that the aim should be to agree what was called a 'concise' constitution by 28 May 2010, with a complete one to follow within a year. The Maoists opposed this idea and returned to street protests.⁵³ However, in the end, they were prevailed upon to compromise, reaching agreement with the Government to extend the time-frame for the peace process by a further year, with a new deadline of 28 May 2011 for the completion of all outstanding tasks, including agreeing a new Constitution.

Large-scale protest was avoided in the Tarai under the current Government, but overall the security situation remained extremely fragile, particularly beyond Kathmandu. There were still a plethora of rival paramilitary forces. In July 2009, the Government had announced a Special Security Plan. However, in the absence of political progress, the plan made little positive difference on the ground.⁵⁴

7.2 International relations

UNMIN, which was established in 2007 to support the peace process, has been viewed with mistrust by virtually all the parties in Nepal at some point or another during the peace process.⁵⁵ During this period, it monitored the release of 3,000 child soldiers by the Maoists, with a view to subsequently overseeing the rehabilitation of the former child soldiers.⁵⁶ However, by May 2010 it found itself almost completely without friends amongst Nepal's main political parties.

Neighbouring India had also become sceptical about UNMIN, suspecting it of becoming too sympathetic to the Maoists. The Indian Government tried to mediate directly between the Maoists and the Government during this period, but the Maoists remained highly wary of its intentions. Ties with China continued to grow. In December 2009, the two countries signed an economic and technology agreement under which the level of Chinese aid is likely to increase markedly.⁵⁷ In February 2010 India offered Nepal US\$250 million in credit.

⁴⁹ "Nepal and Bhutan in 2009", *Asian Survey*, January/February 2010, pp. 168-69

⁵⁰ "No, UN under fire in Nepal", *Times of India*, 12 May 2009

⁵¹ "Panel to push Nepal peace process", *The Hindu*, 9 January 2010

⁵² "Nepal Maoists to give peace a chance", *Hindustan Times*, 6 February 2010

⁵³ "Nepal's new constitution turning into a mirage", *Times of India*, 2 March 2010

⁵⁴ "Nepal and Bhutan in 2009", *Asian Survey*, January/February 2010, pp. 170

⁵⁵ See UNMIN's webpage at: <http://www.unmin.org.np/>

⁵⁶ "UNMIN's continuous stay in Nepal vital for peace", www.nepalnews.com, 7 March 2010

⁵⁷ "Nepal signs deal with China", *China Daily*, 30 December 2009

8 Events between May 2010 and August 2011

8.1 The crisis and stalemate continue

Under immense pressure from the Maoists, Madhav Kumar Nepal resigned on 30 June 2010. 16 subsequent attempts by the Constituent Assembly to elect a successor failed. On each occasion a vote was required after negotiations to agree a consensus candidate had collapsed. On the one hand, the prospect of another Maoist-led government was unacceptable to the other main parties, the NC and the UML; on the other, the Maoists were unwilling to contemplate a new Government that is not led by them.

During this prolonged stalemate, Madhav Kumar Nepal has stayed on as caretaker Prime Minister. An agreement was reached by all the parties to the peace process in September 2010 to complete all remaining tasks of the peace process by 14 January 2011. However, this deadline also passed without result due to the prevailing political stalemate. While the committees working in the CA continued to work on fleshing out what a federal future for Nepal might look like, consensus remained elusive.⁵⁸ The revised deadline for agreeing a new Constitution was itself missed. In addition, there was no significant movement towards the reintegration of Maoist cadres into the National Army. The Maoists periodically talked about resuming a “people’s revolt”. Meanwhile, the security situation in the Tarai remained precarious. It was estimated at the beginning of 2011 that the largely ‘ungoverned’ south and west of the country contained over 100 separate armed groups.⁵⁹

A 17th attempt to elect a new Prime Minister on 3 February 2011 finally bore fruit, when Prachanda, the Maoist leader, was prevailed upon to withdraw his own candidacy in favour of Jhala Nath Khanal of the UML. Since then Prachanda has not put himself forward for political office. In March, the Maoists entered a power-sharing government, receiving 11 ministries. But progress on other issues remained extremely slow. In May, all the political parties agreed yet another extension of the Constituent Assembly, this time one of three months, to 28 August. But the Maoists insisted that the deal should include the resignation of Jhala Nath Khanal by that deadline and the establishment of a ‘consensus government’. It was clear that they were determined that this new government would have one of their own as Prime Minister. However, divisions amongst the Maoists were also deepening over the issue of integrating their former combatants into the National Army, with one faction keen to make progress.

Writing about the impasse, the ICG wrote:

The major elements of the peace process [...] have been reduced to bargaining chips in the struggle for the immediate benefits of power-sharing and longer-term realignments between and within parties.⁶⁰

According to *Time* magazine:

All the while, Nepal’s economy lurches in the doldrums, propped up by aid handouts from increasingly exasperated foreign donors. Power and fuel shortages routinely grip Kathmandu, bringing daily life to a halt. Nepal’s growth rate remains middling, while countless Nepalese are forced to abandon their country for jobs in the Gulf states,

⁵⁸ ICG, *Identity politics and federalism*, Asia Report No. 199, 13 January 2011

⁵⁹ S. Bogati, “Trouble ahead in Nepal”, *opendemocracy.net*, 17 January 2011

⁶⁰ ICG, *Nepal’s fitful peace process*, Asia Briefing No. 120, 7 April 2011, p. 19

India, and further afield in Southeast Asia. In 2010, over a fifth of Nepal's GDP came from remittances sent back home by hundreds of thousands toiling abroad.⁶¹

During this period, there remained a culture of impunity in Nepal.⁶² For example, army major, Nirajan Basnet, was taken into military custody in late 2009, following his return from UN duties in Chad in December, in connection with the death of a 15-year old Maoist combatant in 2004. However, he was subsequently subjected to a purely internal military investigation and in June 2010 declared "innocent".⁶³ Bills to establish an investigatory commission into 'disappearances' between 1996 and 2007 and to create a Truth and Reconciliation Commission remained unpassed by the Constituent Assembly, much to the concern of human rights groups.

The US Government continued to keep the Maoists, despite their regular requests to be taken off it, on its list of terrorist organisations, on the grounds that they had not yet completely demobilised and integrated their military forces.⁶⁴

There were no indications during this period that Nepal will end or change the arrangements for the recruitment of Gurkhas by the British Army.

8.2 UNMIN departs

The only part of the September 2010 agreement that was rapidly implemented was the decision that UNMIN's mandate to support the peace process should be extended for four further months but then come to an end on 15 January 2011.⁶⁵ A last-minute deal was signed between the Maoists and the caretaker government on 14 January 2011 in which UNMIN's responsibilities in relation to the Maoist combatants would pass to a Special Committee for their supervision, integration and rehabilitation, headed by the Prime Minister. Concerns were expressed at the time that UNMIN's departure could damage the prospects for peace. Others argued that UNMIN had lost credibility and that the responsibility for the success or failure of this largely home-grown peace process was back where it belonged: with Nepalis themselves.⁶⁶ Karin Lundgren, the UN Secretary-General's Special Representative, remained in post.

9 Developments since August 2011: breakthrough at last?

9.1 Another Maoist takes up the position of Prime Minister

Khanal eventually resigned on 14 August 2011 with little to show for his tenure, apart from a further extension of the Constituent Assembly's life to 30 November.

Khanal's replacement was senior Maoist leader Baburam Bhattarai. However, the 'consensus government' spoken of in May did not materialise. The new Maoist-led Government involved a bloc of Madhesi parties, called the United Democratic Madhesi Front, but did not include the two other largest parties, the NC or the UML, both of which decided to

⁶¹ "No end in sight for Nepal's political dysfunction", *Time*, 17 August 2011

⁶² For a full analysis of this issue, see the ICG's January 2010 report, *Nepal: Peace and Justice*, Asia Report No. 184. See also Human Rights Watch reports on Nepal at: <http://www.hrw.org/asia/nepal>

⁶³ Human Rights Watch, [Joint Letter to Nepal's Political Parties for Support in Civilian Criminal Proceedings against Major Basnet](#), 16 July 2010

⁶⁴ "UCPN(M) urges US to de-list it from terror watch list", www.nepalnews.com, 19 January 2010

⁶⁵ *Report of the Secretary-General on the request of Nepal for UN assistance in support of its peace process*, S/2010/658, 23 December 2010

⁶⁶ S. Bogati, "Trouble ahead in Nepal", www.opendemocracy.net, 17 January 2011

remain in opposition. However, they continued to take part in negotiations to push ahead with Nepal's by now highly protracted peace process.

On 16 September Bhattarai made his first public address to the nation, saying that it had "one last chance for peace". He announced a 45-day deadline for reaching agreement on the reintegration of Maoist cadres into the National Army. Bhattarai made a four-day visit to India in October. The visit marked a thaw in relations between the Indian Government and the Maoists in Nepal and several bilateral agreements, including one on investment, were signed.⁶⁷

This thaw may have helped to create the conditions for an apparent breakthrough between the main political parties in their negotiations. On 1 November they agreed a deal on the "fundamental tasks of the peace process" which appeared at last to resolve the issue of the reintegration (or 'regrouping', as it is now being called) of Maoist cadres into the National Army and several other issues. The deal has been endorsed by Prachanda, but has provoked strong condemnation from harder-line Maoists. The source of their opposition is the proposal that the 6,500 (out of over 19,000) fighters that will be absorbed into the army will be given non-combatant roles. The rest will be demobilised. The process is due to be completed by 23 November, an extremely rapid – and based on past experience, quite possibly unrealistic – timetable. At the head of the Maoist internal revolt is Prachanda's deputy, Mohan Baidya, known as Kiran, who has called the deal a "betrayal". The deal also commits the parties to agree a first draft of the Constitution by the end of November and the Government, by the same date, to establish the Truth and Reconciliation Commission and Commission on Disappearances provided for under the CPA back in 2006.

Below is an unofficial translation of the full text of the 1 November deal:⁶⁸

Political Parties' Agreement on the Issues including Peace Process

National consensus is essential to carry out the duties of concluding peace process and constitution writing. With this in context, it is very clear that the national politics should be steered ahead by reaching the peace process to the logical conclusion and writing constitution. Therefore, we, by adhering to the Comprehensive Peace Accord, interim Constitution of Nepal 2063 and various other agreements reached among the political parties, reached the following agreement in order to move ahead national consensus politics with constitution writing and settling of the remaining tasks of the peace process:

1. Integration of the Maoist combatants

The details about the Maoist combatants lodged at various cantonments will be updated. The number of the combatants to for the integration shall be maximum 6,500. They shall be integrated into the general directorate under the Nepal Army where there will be 65 percent from the security bodies while 35 from the Maoist combatants. The function of the general directorate shall be in the sector of development works, forest and industrial security and disaster management.

The Maoist combatants willing integration need to personally fulfill the standard of the concerned security bodies. However, the rule on age, education and marital status of the combatants shall be flexible. The rule on the educational status shall be made

⁶⁷ "Nepal PM under fire in Parliament over India pact", *Times of India*, 25 October 25 October 2011

⁶⁸ "Political parties reach seven-point historic deal on peace process", Nepal Election Channel, 2 November 2011. Available via this [link](#)

flexible for one more status while the age up to three years from the post designated to the combatants when they were recruited in the Maoist.

The post/rank of the fighters to be integrated shall be determined as per the standard of the concerned security body. While integrating into the post of officer and others in the security body, the post shall be determined in a way that shall not render negative impact on existing system of the security body, current officer and the career development of the others from other post.

After completing the bridge course and training, the combatants shall be assigned the responsibilities of fixed level/post of security body. The bridge course and training shall be provided by the concerned security bodies.

All weapons in the cantonments shall automatically come under Nepal government's control after the initiation of the integration process.

2. Rehabilitation of the Maoist Combatants

(a) The Maoist combatants opting for the integration shall be provided an alternative package with education, training and professional opportunities. The package as per its nature and time shall worth Rs 600,000 to 900000.

(b) Those who want to go for voluntary retirement by taking cash instead of the package would be categorized into different groups comprising the highest group and three levels below that by considering their responsibilities at different levels. An amount of Rs. 800,000 would be provided to the combatants of the highest level and Rs. 700,000, Rs. 600,000 and Rs. 500,000 to combatants in successive levels in that order. The amount would be made available in two installments in two fiscal years. A due decision would be made within two days regarding this topic by a meeting of the special committee.

3. Regrouping

Decisions on procedural matters regarding those combatants who want to be included under the integration and rehabilitation shall be taken in seven days by a meeting of the special committee and the task of regrouping the combatants shall be started. The work of regrouping shall be completed by November 23, 2011.

4. Constitution of commissions as per the agreement

a) The Bill pertaining to the Truth and Reconciliation Commission and the Commission on the Disappeared in accordance with the Comprehensive Peace Accord shall be passed from the Legislature-Parliament as per the spirit of the reconciliation. These commissions shall be established within one month on the basis of agreement.

b) Cases from the conflict period shall be dealt with as per the letter and spirit of the Comprehensive Peace Accord and the Interim Constitution of Nepal, 2007.

5. Relief assistance to conflict victims

Relief assistance shall be provided to the families of the people killed due to the conflict during the time of the armed conflict, to people rendered disabled and to those maimed, to the families of the disappeared, to displaced people and families and to families that have lost property without any discrimination in a reasonable manner. The relief to be provided thus after the Comprehensive Peace Accord shall be made available on the basis of equality and without discrimination against anybody.

6. Implementation of the past agreements and creation of environment of trust

- a) The Unified CPN (Maoist) shall take an institutional decision regarding returning the private and public houses and land under the control of the UCPN (Maoist) in course of the armed conflict to the individuals and institutions concerned for their use and these properties shall be handed over to the individuals and the institutions concerned within November 23, 2011. The individuals concerned shall be provided appropriate compensation by way of the income from the land for the period it was seized.
- b) The rights of the peasants shall be protected as per the letter and spirit of the Comprehensive Peace Accord, the Interim Constitution of Nepal, 2007 and scientific land reforms.
- c) The para-military structure of the Young Communist League of the Unified Communist Party of Nepal (Maoist) shall be dismantled and its activities terminated while all the private, public and government property under its control shall be vacated and returned to the rightful owners by November 23, 2011.
- d) The vehicles which are registered at the Department of Transport Management and are in use by the Unified Communist Party of Nepal (Maoist) shall be regularized by November 23, 2011 as per the past agreement. Those unregulated vehicles shall be seized by the government. Vehicles in the cantonments shall be brought under the control of the Nepal Government.
- e) The local administration shall be authorized for carrying out the monitoring of the enforcement status of the agreement on returning the seized property to the owners. It would be the responsibility of the local administration to get the agreement enforced in case it is not enforced. The political parties shall cooperate and assist the local administration in this task.

7. Constitution drafting and the government of national consensus

- a) Talks and negotiations among the political parties shall be continued to take the peace process and constitution drafting process to a positive conclusion. A high-level political mechanism shall be formed for this.
- b) The task of drafting the constitution shall be accelerated. A team of experts shall be formed on the basis of consensus to give suggestions to the Constituent Assembly to this effect and the task of making the draft of the new constitution shall be initiated within the next one month.
- c) The process of the formation of the national consensus government shall be initiated simultaneously with the peace process and the constitution drafting process.

Signatories

Pushpa Kamal Dahal, Chairman, Unified Communist Party of Nepal (Marxist)

Sushil Koirala, President of the Nepali Congress

Jhalanath Khanal, President of the Communist Party of Nepal (Unified Marxist Leninist)

and Bijay Kumar Gachchhadar on behalf of the United Democratic Madhesi Front

Source: National News Agency (RSS)

Although it is not stated in the deal, it is widely expected that the Constituent Assembly will have its mandate extended once again, this time to 30 May 2012.⁶⁹ In another confidence-building measure, the Maoists have reportedly indicated that they will accept the leader of the NC, Sushil Koirala, as the next Prime Minister. He would take office once the new Constitution has been promulgated.⁷⁰

9.2 Looking ahead

The UN Secretary-General, Ban ki-Moon, said in his December 2010 report to the Security Council: “Nepal’s peace process is at a crossroads”⁷¹ Many would argue that it had been stuck at the same crossroads for quite some time. The ICG argued in early 2009:⁷²

It is time to face up to some inconvenient truths. The peace process has rested uncomfortably, and at times precariously, on several mutually convenient fictions [...] Most peace process deadlines, voluntarily set by the parties, have been unrealistic, such as the Maoist promise to return all property within fifteen days. Taking part in one election and leading a government has not in itself democratised the Maoists, nor can the rhetoric of “new Nepal” disguise the unreconstructed weaknesses of their political opponents. More seriously, the consensus at the heart of the process has been at least overstated, and at times close to imaginary. In reality, very different interests and positions remain to be bridged – a task that is possible but that cannot be wished away with overoptimistic language.⁷³

That prognosis remains relevant today. It is certainly too early to declare that the logjam has been broken, notwithstanding the 1 November deal.

Equally, excessive pessimism would also be a mistake. A 2010 Crisis Group report argued that there is considerable “order in chaos” in contemporary Nepal:

Nepal’s transition from war to peace appears chaotic. Many commentators warn of coming anarchy; the establishment fears a collapse of the social order and the fragmentation of the nation. But such fears are misguided. Nepal is not in chaos; its transitions may be messy and confusing but they are not anarchic. There is an order within the political change, albeit one that can be mysterious and unappealing to outsiders; the resilience of Nepal’s political processes acts against fundamental transformations.⁷⁴

⁶⁹ “Maoists fight Maoists as Nepal signs new peace pact”, *Times of India*, 3 November 2011

⁷⁰ “An opening with Nepal”, *Hindu*, 25 October 2011

⁷¹ *Report of the Secretary-General on the request of Nepal for UN assistance in support of its peace process*, S/2010/658, 23 December 2010, para. 34

⁷³ ICG, *Nepal’s faltering peace process*, Asia Report No. 153, 19 February 2009, p 22

⁷⁴ ICG, *Nepal’s political rites of passage*, Asia Report No. 194, 29 September 2010