



January 2008

country summary

Nepal

Implementation of the November 2006 Comprehensive Peace Agreement (CPA) to end the 1996-2006 civil war progressed with the promulgation of an interim constitution, and establishment of an interim parliament in January 2007, but withdrawal of the Communist Party of Nepal–Maoists (CPN-M) from government in September was a blow to plans for elections to a constituent assembly. There was considerable progress on the human rights situation, though concerns remain about a lack of political will to address accountability for past and ongoing human rights abuses. The CPN-M also continues to stall the verification process of cantoned combatants, which means that an unknown number of child soldiers remain in their ranks.

Unresolved grievances and issues of representation make the Terai region in the southern plains—home to almost half of Nepal’s population—the most critical area for continuing instability. The security situation is steadily worsening in the Terai, as strikes and protests disrupt daily life, and abductions, killings, and other violence by armed groups sharply increases.

Implementing the Comprehensive Peace Agreement

The interim parliament’s 330 members comprise representatives from the CPN-M, from political parties elected in 1999 to the previous parliament, and civil society nominees. On April 1, 2007, the Seven Party Alliance (SPA) and CPN-M formed an interim government under Prime Minister Girija Prasad Koirala, in which the CPN-M held five out of 22 cabinet positions. However, the CPN-M withdrew from the government on September 18, a month after announcing 22 preconditions for its continuing participation. These included the demand to immediately declare a republic, establish a commission on enforced disappearances, release all detained Maoist cadres, and begin security sector reform.

The withdrawal led the SPA on October 5 to declare planned constituent assembly elections suspended. In early November intense negotiations by the CPN-M led to a special session of parliament adopting two non-binding motions calling on the government "to make arrangements to turn Nepal into a federal democratic republic," and to adopt a system of fully proportional representation for constituent assembly elections, two main demands being put forward by the Maoists to participate in elections. However, at this writing the elections remain postponed indefinitely.

"People's courts" and other parallel government structures have been mostly dismantled. A number of individuals who had been "sentenced" to long periods of forced labor or captivity by "people's courts" were released or handed over to the police. However, cadres of the Young Communist League (YCL), the CPN-M youth wing, have not been fully reined in since the CPA came into force, and were responsible in 2007 for extortion, threats, intimidation, physical assault, ill-treatment sometimes amounting to torture, forced labor, disruption of rallies and meetings, and destruction of property.

Some prospective improvements were made in securing better political representation for women. The Constituent Assembly Members' Election Act (2007) allots women half the seats in the proportional representation system and a third of candidates across the board.

Truth and Justice

Security sector reform, which would strike at the heart of the problem of impunity, has been resisted by the army and neglected by the political establishment.

The International Committee of the Red Cross estimates there are 1,042 cases of enforced disappearances attributable either to the Nepalese Army or CPN-M forces. There has been almost no progress on resolving these. The CPA committed the government and Maoists to make public the whereabouts of "disappeared" people within 60 days of its signing, a deadline that came and went with little action. On June 1 the Supreme Court called for setting up a commission of inquiry to investigate enforced disappearances, and commissioners were appointed by October, but at this writing the commission has yet to start work.

In June a draft Truth and Reconciliation Commission bill was tabled. It proposes establishing a commission with a mandate to investigate gross violations of human rights and crimes against humanity committed during the civil war. More than 12,000 people were killed in the conflict, many of them civilians.

In the draft bill, amnesties can be granted even for gross human rights violations if these acts had a political motivation, if the perpetrator made an application indicating regret, or if victims and perpetrators agree to a reconciliation process. Such a mechanism could result in protection from criminal prosecution for even the gravest of crimes. Thus the draft bill fails to reflect international standards as established by the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights, adopted in 2005. These standards draw together international legal obligations, including specific treaties Nepal has ratified. The government's consultation with Nepalese civil society and victims has been insufficient on all issues relating to the commission.

Violence in the Terai

Denial of citizenship prior to November 2006 and state monolingualism contributed substantially to the marginalization and under-representation of the Madhesi community, an ethnic group that makes up nearly 40 per cent of Nepal's population of 27 million. Madhesis occupy less than 12 percent of posts in the judiciary, executive, legislature, political parties, industry, and civil society. Madhesis are also poorer and have lower education and health indicators than hill communities. Madhesis argue they are systematically under-represented in the electoral system, since the number of parliamentary seats for the Terai does not reflect its population.

Promulgation of the interim constitution sparked 21 days of protests by the Madhesis in January-February 2007. On January 16 leaders from the political party Madhesi Janadhikar Forum (MJF) were arrested in Kathmandu for burning copies of the constitution. Three days later MJF activists protesting the arrests in Lahan, Siraha district, clashed with Maoists, who shot dead Ramesh Kumar Mahato, a young MJF activist. Mahato's killing sparked prolonged agitation; Madhesi activists called for a

general strike in the Terai and organized widespread protests, to which the government responded with curfews and an increased police presence. On January 25 the MJF announced it would continue the protests indefinitely until the interim constitution was amended. Activists looted government offices, police posts, banks, mainstream parties' district offices, and media organizations. The state response was harsh: police shot dead more than 30 demonstrators and wounded 800 in the following days.

On August 31 the government signed a 22-point agreement with the Madhesi People's Rights Forum (MPRF). Despite this, sporadic violent incidents continue to occur. The September 16 killing of Mohit Khan, leader of the Democratic Madhesi Front, by an unknown group in Kapilvastu sparked riots against hill people. Three simultaneous bomb explosions in Kathmandu on September 2 killed several people and injured others. These bomb attacks were the first in the capital and the most serious anywhere in the country since the end of the civil war.

Child Soldiers

The CPA includes provisions committing the parties not to use or enlist children in any military force and to "immediately rescue and rehabilitate" such children.

Children continued to be actively recruited by the CPN-M after the April 2006 ceasefire. The United Nations documented 154 children forcibly recruited from May to September 2006, of whom 72 were recruited into the People's Liberation Army (PLA) and 82 into other CPN-M-affiliated organizations, including militias. Reports since December 2006 indicate the enrolment of children into the YCL after the signing of the CPA. At the end of February the UN's Monitoring and Reporting Mechanism Task Force, set up within the framework of Security Council Resolution 1612, documented 1,995 children then serving with the CPN-M and its affiliates.

In January 2007 a newly established United Nations Mission in Nepal (UNMIN) with the assistance of other UN agencies started a programme of registration and verification of Maoist army combatants. Progress in identifying children was delayed due to disagreement between the UN and the CPN-M about the interpretation of the findings.

Refugees and Internally Displaced

A United States offer to resettle 60,000 or more Bhutanese refugees gave hope to many of the 106,000 refugees living in Nepal since the early 1990s. But some refugees see the resettlement offer as undercutting the prospects for repatriation and have increasingly resorted to threats and violence to prevent other refugees from advocating for solutions other than return to Bhutan. In May 2007 Nepalese police shot and killed a Bhutanese refugee involved in a violent clash between refugees living in the camps. The Police killed a second refugee during a demonstration for repatriation to Bhutan.

Fear of Maoist action continues to prevent many internally displaced persons (IDPs) from returning to their homes particularly in northwestern Nepal. Often only those who support or have close affiliation with the Maoists have been able to return to their properties, while a large number of IDPs, particularly in the midwestern region, are unable to repossess their farms, livestock, and houses that were seized by the Maoists.

Human Rights Defenders

Human rights defenders, particularly women, continue to face attacks. In the Terai region in particular, where most of the recent violence in the country has occurred, there have been at least a dozen incidents where those defending the rights of women—including documenting violence against women—and the rights of Dalits were attacked and on occasion beaten. In August members of a Dalit community group, the Badi Women Human Rights Defenders, were beaten and arrested by the Nepal police in Kathmandu.

Key International Actors

India, the United Kingdom, the United States, and the European Union remain strongly committed to assisting the peace process and are keen to ensure that constituent assembly elections get back on track.

The presence of the UN Office of the High Commissioner for Human Rights (OHCHR) has contributed vastly to improving the human rights situation in Nepal. Enforced disappearances by the security forces came to a halt, and the CPN-M released a number of people it had taken hostage. The OHCHR presence encourages space for public debate and helps to create a climate for a political solution to the conflict. The OHCHR has responded to the Madhesi violence by addressing social exclusion.

UN Secretary-General Ban Ki-moon has reiterated the need for an inclusive peace process. In his December 2006 report to the Security Council, he recommended that the government invite the special representative for children and armed conflict to undertake a mission to Nepal in the near future. The visit was scheduled to take place in August 2007 but has been postponed by the UN.