



JANUARY 2010

COUNTRY SUMMARY

Nepal

The Comprehensive Peace Agreement (CPA), hammered out to end the 10-year fighting between the Maoists and government forces that claimed more than 13,000 lives, was thrown into jeopardy in May 2009 when the Maoists withdrew from the government. The precipitating event was the president's refusal to back the Maoists' demand to sack the army chief, Gen. Rookmangud Katawal. Maoist Prime Minister Pushpa Kumar Dahal (alias Prachanda) and the Maoists went into opposition, leading to the formation of a 22-party governing coalition led by the United Marxist Leninist party (CPN-UML). The Maoists then boycotted the Constituent Assembly, voted in to draft a new constitution.

The result was political instability, a weak government, and failure to make progress on crucial issues of economic development and the framing of a new constitution. The Maoists demanded a parliamentary debate to censure the president. With the ruling parties reluctant, at this writing the Maoists are preventing the Constituent Assembly from meeting.

Meanwhile, no member of the security forces or the Maoists has ever been held criminally responsible for grave human rights abuses committed during the conflict. Addressing impunity to ensure that abusive officers and soldiers are removed from the ranks of the army and Maoists is crucial, particularly due to fears that the peace process may break down. Laws to forbid enforced disappearances and create a Truth and Reconciliation Commission were also delayed.

Accountability for Past Abuses

Accountability for human rights abuses continued to be promised by political parties but was again not a priority in 2009. The army continued to make unsupported claims that it dealt with abusers in its ranks, yet promoted officers identified as alleged perpetrators of human rights violations, including enforced disappearances and extrajudicial executions. Particularly controversial was the appointment of Maj. Gen. Toran Bahadur Singh as acting army chief. As head of the 10th Division, Singh was accused of involvement in cases of enforced disappearances in Maharajgunj in 2003. At this writing the prime minister is blocking his promotion to lieutenant general, but the army is insisting that it go ahead.

The police report that the army continues to refuse to cooperate in investigations into army abuses: the army refuses to allow the police onto army bases, and the police have come under pressure and threats not to open investigations or recommend prosecutions against the army. The government claimed that it was too weak to initiate prosecutions against the army.

The Maoists have also refused to hold their own personnel accountable for human rights abuses. Among the members of the Maoists elected to the Constituent Assembly were known perpetrators of human rights abuses. In October 2008 the Maoist-led government decided to withdraw 349 cases against Maoists pending in court, claiming that they were “political” in nature and had been filed simply because the accused were Maoists.

After the Maoist-led government in August 2008 announced that it would compensate “victims of conflict,” families of victims have in some cases suspended their pursuit of criminal investigations, fearing they may negatively influence their applications for compensation.

Ongoing Abuses and Impunity

The failure to hold people accountable for serious human rights abuses has provided an impetus to ongoing abuses and impunity by political groups. Groups like the Young Communist League (YCL, the Maoists’ youth wing), the Youth Force (the youth wing of the CPN-UML), and the youth wing of the Nepali Congress, committed serious abuses in 2009. The YCL was particularly abusive, though attacks by all the youth groups decreased in the second half of the year.

The police remained largely above the law, with torture and mistreatment in custody widespread. The perpetrators continue to escape justice. Instead, cases against them are withdrawn, and the victims are offered token amounts of compensation.

Integration of Maoist Combatants

At the crux of the political stalemate is the question of the integration and rehabilitation of 19,602 Maoist combatants verified by the United Nations Mission in Nepal (UNMIN), who have been held in cantonment sites around the country for nearly three years. The army and many politicians from the older mainstream parties maintain that former Maoist combatants should be integrated into society. The Maoists insist on the integration of Maoist combatants into the security forces. The 2006 Comprehensive Peace Agreement states that

the interim cabinet “shall form a special committee to carry out monitoring, integration and rehabilitation of the Maoist combatants.”

On May 5, 2009, local media leaked a video recording of a speech that Prachanda had made in January 2008 at a cantonment site in Chitwan, during which he said that the Maoists had inflated the number of their combatants presented for registration and verification. He also said that some money allocated for the cantonments would be used to “prepare for a revolt.” Despite later attempts by Prachanda to explain the context of the statement, it drew wide public condemnation and raised serious doubts about the Maoists’ commitment to the peace process and accountability for human rights abuses.

In mid-2009 there was some progress with the discharge and rehabilitation process for 4,008 Maoist combatants, including 2,973 former child combatants. A special committee was established as recommended under the CPA. However, the political stalemate has stalled the committee’s work and the rehabilitation and integration process.

Dalits

In a positive development, in September 2009 Nepal announced its support for the draft United Nations principles and guidelines to eliminate caste discrimination, which were contained in the final report on discrimination based on work and descent (the UN terminology for caste discrimination) published by the Human Rights Council in May 2009. This is an important step, particularly because it sets a precedent for other countries, particularly India, that have resisted UN intervention in addressing rampant caste-based discrimination.

Sexual Orientation and Gender Identity

Despite the 2007 Supreme Court directive to the government to repeal laws that discriminate against lesbian, gay, bisexual, and transgender people, and to institute protections, there has been at least one instance of arbitrary detention of gay men. Police raided a private party in Kathmandu in early June 2009, and detained the participants for 12 hours before releasing them without charge.

In September 2009 the government authorized and provided a budget for a seven-member committee tasked with studying same-sex marriage laws in other countries and making recommendations for passing the same in Nepal.

Terai

Ethnic tensions persist over the rights of Madheshi communities in the southern Terai region (the southern plains bordering India), who want greater autonomy and proportionate representation in government jobs. In February 2008 an eight-point agreement was signed conceding the demand for an autonomous Terai region in a federal system, but was subject to approval by the then-proposed Constituent Assembly; that approval is still lacking.

Some Madheshi groups contested elections and are now members of the Assembly. After Prachanda's resignation, some of these Madheshi representatives entered the intense negotiations over the allocation of portfolios in the new government, and the main Madheshi party, the Madheshi People's Rights Forum, split as a result. Other Madheshi groups have continued their armed resistance to press their demands.

Tibetan Refugees

The Maoists demonstrated their friendship with China by increasing pressure and engaging in a harsh crackdown on Tibetan refugees. In an effort to appease China, since 2008 Nepali authorities have effectively sealed the border to prevent the arrival of Tibetan refugees.

Key International Actors

While Nepal, as an aid-dependent country, was susceptible to external pressure to ensure protection of rights during the conflict, international attention has now shifted to other countries in the region, leaving the Nepali authorities and political parties relatively free to ignore the urgent need for accountability and to address current human rights problems. Traditional donors such as Japan, the United States, the United Kingdom, and the European Union have the ability, however, to have significant influence in Nepal, including on human rights.

Nepal has to maintain a balance of relations between its two powerful neighbors India and China. While traditionally Nepal has closer ties to India because of social, cultural, and economic ties (including its dependence on India for access to sea trade), the Maoist-led government attempted to strengthen ties with China, which invested substantial sums in reconstruction after the conflict, and played an increasingly important role in Nepal.

Another key international actor is the United Nations peacekeeping department, as the Nepal army continues to be a key troop contributor and depends on funds and prestige from participation in peacekeeping operations globally. Army assurances that personnel

responsible for human rights violations would be excluded from United Nations peacekeeping duties appeared hollow given the absence of investigations, and neither the UN nor foreign embassies committed the resources to undertake proper vetting, relying on anecdotal reports instead.

The UN Office of the High Commissioner for Human Rights (OHCHR) in Nepal continued to play a key role in promoting and protecting rights and, in particular, working for accountability and establishing institutions that can provide better protections in the future. The National Human Rights Commission still faced enormous challenges, including limited resources and an unresponsive government that failed to implement most of its recommendations. The OHCHR's mandate to provide assistance and training to create a stronger national human rights institution with a strengthened capacity in monitoring, investigating, promoting, and reporting on the human rights situation remained highly relevant in 2009.