

# NEPAL'S FUTURE: IN WHOSE HANDS?

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## NEPAL'S FUTURE: IN WHOSE HANDS?

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Nepal's peace process is in danger of collapse. The fall of the Maoist-led government, a mess largely of the Maoists' own making, was a symptom of the deeper malaise underlying the political settlement. Consensus has steadily given way to a polarisation which has fed the more militaristic elements on both sides. While all moderate politicians still publicly insist that there is no alternative to pursuing the process, private talk of a return to war – led by generals of the Nepalese Army who have never reconciled themselves to peace – has grown louder. Outright resumption of hostilities remains unlikely in the short term but only concerted efforts to re-establish a minimal working consensus and a national unity government including the Maoists can avert the likelihood of a more dangerous erosion of trust. Strong international backing, with India eschewing short-term interference in favour of longer-term guardianship of the process it itself initiated, will be essential.

The immediate cause of the Maoists' departure from government on 4 May 2009 was their bungled attempt to dismiss the army chief. As the consent for action that they had secured from coalition partners unravelled under external pressure, they pushed ahead unilaterally. Their legally dubious sacking order prompted an even more contentious intervention by the ceremonial president to countermand it. Maoist leader Prachanda quit on grounds of principle; the question of the balance of power between prime minister and president remains in dispute.

The Maoist resignation made the formation of a new administration an urgent necessity and, by Nepal's standards, the transition was relatively prompt and smooth. However, the new government, led by the centrist Communist Party of Nepal (Unified Marxist-Leninist), UML, is inherently unstable and incapable of addressing the most pressing challenges. Backed by 22 parties, it is yet to take full form and its major constituents are internally riven. Many UML leaders are openly sceptical of the new government, while the Madhesi Janadhikar Forum (MJF) is now formally split. Between them, they have achieved the unlikely feat of making the Nepali Congress (NC) look the most cohesive and internally democratic of the non-Maoist parties.

The Maoists had not proved as effective in power as many had hoped. Moreover, they alienated two important constituencies: India (both by appearing to make overtures towards China and by refusing to become a pliant, moderate force) and the Kathmandu upper middle classes (by making them pay taxes and failing to deliver basic services, in particular electricity). Yet their main problem is their own refusal to give clear and credible assurances on their commitment to political pluralism and non-violence. Prominent ideologues within the party have given added credence to the argument that they will never alter their strategic goal of state capture and de facto totalitarian rule. In response, the leadership's insistence that the party has embraced multiparty democracy has been less than fully convincing.

On the other side, the army has adopted a more overt, assertive political role. It is encouraged and supported by many who see it as the only credible opposition to the Maoists. It not only survived the republican transition but has thrived. Helped by timorous parties, it has successfully pushed for a substantial budgetary increase, protected its de facto autonomy, retained its full strength and pressed for new lethal arms imports – in breach of the ceasefire.

Behind much of the recent instability lies an Indian change of course. New Delhi framed the peace deal and acted as its de facto guarantor, pressing all parties to comply with its terms. Never able to digest the Maoist victory and uncomfortable with popular demands for change, it has pursued increasingly interventionist tactics through proxies in Nepali political parties while continuing its policy of ring-fencing the army as the most reliable bastion against Maoist takeover or anarchy. Its resolute opposition to all but token People's Liberation Army (PLA) integration has unbalanced the peace equation without offering any alternative.

The background against which Kathmandu's incestuous intrigues are played out is neither stable nor unchanging. Public security remains weak, alarmingly so in several areas. Local governance remains patchy at best and non-existent in places. Peace committees bringing

together parties and civil society representatives are functional in some districts but lack a coherent agenda. Identity-based and other newer political movements are impatient with a constitutional process that, while not stalled, looks less and less likely to deliver a broadly acceptable new constitution on schedule. Civil society, a crucial force in the early stages of the peace process, is divided and demoralised.

India's perceived partisanship has not helped international cohesion. From being the leader of the pack, successfully lining up other international players behind its strategy, it has become something of a lone wolf. It continues to criticise the UN mission, whose credibility was dented by a videotape showing Maoist leader Prachanda boasting that he had duped them into accepting vastly inflated PLA numbers. The UN would like to claim success and get out but cannot refuse requests to monitor arms as long as the situation – over which it has no direct influence – remains unresolved. In the meantime its role in preserving a fragile peace and affording Nepal some shelter from total Indian domination is under-appreciated.

Donors are keen to return to normal development activities and have been willing to fund the peace process. But their patience is wearing thin, conditions for business as usual are yet to materialise and international funding is subsidising a bloated and unaffordable security sector. The army alone far outnumbers the national civil service; it, cantoned PLA combatants and the paramilitary armed police are of no use in addressing the basic need for law and order.

It is true that all parties are still talking and there is a tradition of last-minute deals to stave off disaster. The same could happen again. But that should not obscure the fact that the rifts between the major players have grown wider and the grounds for compromise narrower. Averting a slide back to conflict will require a clear-sighted recognition of the dangers, genuine cooperation between Nepal's parties to address them and much more solid international backing for the process, starting with a decisive lead from India.

## **RECOMMENDATIONS**

### **To All Political Actors Party to the Peace and Constitutional Processes:**

1. Recognising that political consensus and a broad-based government are essential to the peace process,
  - a) work without delay to form a national unity government, acknowledging that the democratic mandate to lead it still rests with the Maoists;
  - b) give shape to the proposed high-level political coordination committee for purely peace process-related issues, ensuring it has a clear agenda, regular meetings and the necessary support to monitor and implement decisions;
  - c) prioritise cooperation at the local level, in particular by working together to make local peace committees effective bodies for dispute resolution and pursuit of reconciliation;
  - d) work urgently towards a deal on the long overdue re-establishment of local government bodies or all-party mechanisms alongside formation of a national government; and
  - e) put in place an overall peace process monitoring mechanism.
2. Build confidence by:
  - a) adhering to the principle of consultation and consensus, focusing on practical measures to monitor and implement existing agreements;
  - b) recognising that unfulfilled commitments on all sides have contributed to a loss of trust and agreeing that reciprocity will be needed to move forward;
  - c) addressing the serious and substantive concerns over the president's role by agreeing a clarification of his powers and ensuring his ceremonial office does not become a competing political power centre;
  - d) dealing with critical areas unaddressed by past agreements, in particular by developing plans for broader demilitarisation of armed groups, criminal mafias and party youth militias, not just the PLA; and
  - e) keeping the constitutional process on track and minimising the knock-on effects of delays that have already occurred.
3. Support the Army Integration Special Committee (AISC) in its task of determining options for the integration and rehabilitation of Maoist combatants by:
  - a) cooperating in reconstituting the AISC, recognising the need to offer balanced representation to major parties and to move promptly to substantive discussion of the major sticking points;
  - b) encouraging the technical subcommittee to continue its work while recognising that it is not in a position to resolve major political questions;
  - c) clarifying requests for international support to the AISC and its technical subcommittee, in particular by fully exploiting the capacity of the United

- Nations Mission in Nepal (UNMIN) to channel technical assistance; and
- d) tackling the most contentious questions, in particular by discussing the numbers of combatants that could be integrated into the Nepalese Army or other forces, seriously considering benchmarks and timetables for substantive progress and being realistic about the near impossibility of meeting the latest six-month deadline.
4. Make the most of international assistance, bearing in mind the risks of fading patience, by:
    - a) making full use of the UN and other international actors' good offices as well as facilitating the work of UNMIN and ensuring it can complete its role in Nepal as soon as possible;
    - b) setting and adhering to benchmarks to achieve this, offering international backers evidence of progress and more solid indications that remaining elements of the peace deal are moving towards implementation; and
    - c) demonstrating in practice that unity across parties is the best way of preventing external intervention and prolonged, potentially intrusive, political engagement.
  5. Cooperate in boosting the legitimacy of the state and political parties by:
    - a) increasing internal democracy, building on successful examples such as the internal elections carried out by the UML's general convention and the Nepali Congress's parliamentary party;
    - b) bringing an end to party youth wings' illegal activities, developing local mechanisms to ensure inter-party disputes do not lead to violent clashes and denouncing the use of violence for political ends;
    - c) without barring constructive debate, using party disciplinary measures to rein in senior leaders who make destabilising public comments that undermine the peace process; and
    - d) putting repeated commitments to greater inclusiveness and socio-economic transformation into practice, paying particular attention to the prospects for establishing new standards for implementing the goals of UN Security Council resolution 1325 on women's participation in peacebuilding.
- the major parties, including those not in government.
7. Address public security concerns by recognising that political consensus is essential to restoring law and order and using all appropriate mechanisms, national and local, to build all-party support for effective policing and ending of political interference in operational matters.
  8. Address critical questions of justice and impunity by pursuing investigations and prosecutions, responding substantively to the most serious documented allegations of war crimes and basing new legislation on disappearances and the truth and reconciliation commission on wide consultation and international standards.
  9. Demonstrate commitment to establishing effective democratic control over the Nepalese Army (NA) and respecting the provisions of the November 2006 Comprehensive Peace Agreement (CPA) and Interim Constitution (IC) by:
    - a) bringing the NA under meaningful democratic control, including establishing parliamentary oversight, fully auditing expenditure and developing the constitutionally mandated work plan for democratisation and right-sizing of the army;
    - b) respecting the unambiguous ceasefire commitment to refrain from recruitment and weapons purchases;
    - c) carefully considering the conflict and development risks of increasing security budgets and focusing instead on fulfilling the constitutional commitment to determining the appropriate size of the NA and devising a sensible plan for reaching it;
    - d) issuing and enforcing clear orders to the NA to advise on national security policy when requested but refrain from expressing opinions on broader constitutional and political issues; and
    - e) making a first step towards full human rights vetting by refusing promotion to those accused of grave violations unless and until credible independent investigations have been carried out.

#### **To the Unified Communist Party of Nepal (Maoist):**

10. Recognise that concerns over Maoist strategic intent are genuine and well founded and can only be addressed by concrete steps such as:
  - a) giving more solid guarantees of commitment to political pluralism both in theory (for example by reconsidering the proposal to ban political

#### **To the Government of Nepal:**

6. Abide by the constitutional requirement to take important decisions on the basis of consensus among

- parties accused of supporting feudalism and imperialism) and in practice (for example by taking stern action against cadres who threaten, assault or obstruct members of other parties);
- b) clarifying the specific questions raised by the Shaktikhor video, which appeared to substantiate charges of deception over combatant numbers and plans to use “democratisation” to politicise the national army; and
  - c) reaffirming the ceasefire and CPA conditions on ceasing all political violence, in word and deed.
11. Convince other parties and the people at large of genuine intent to abide by the peace process, for example by:
- a) ending the militarised structure and paramilitary activities of the Young Communist League (YCL), including its occupation of public buildings as de facto barracks;
  - b) promptly discharging ineligible personnel in the cantonments in line with repeated public promises, cooperating with government and international efforts to design and successfully deliver appropriate rehabilitation packages;
  - c) implementing other unfulfilled past commitments such as the return of seized property; and
  - d) cooperating with investigations and prosecutions of crimes committed during the conflict and ceasefire periods.

**To the International Community, in particular India, China, the U.S., EU, UN and Donors:**

12. Publicly support the peace process and underline international expectations for its successful conclusion by:
- a) emphasising the need for all parties to adhere to all aspects of the CPA, IC and other agreements;
  - b) supporting effective governance, while recognising that this will only be possible under a broad-based national government and urging all parties to make the compromises necessary to achieve this;
  - c) underlining that significant development and budgetary assistance is at risk should stable governance not be established;
  - d) pressuring all parties to use only non-violent methods to pursue protests and to avoid excessively disruptive tactics such as blocking the functioning of the CA; and
- e) continuing to urge investigations into the worst alleged conflict abuses and offering technical support as appropriate.
13. Strengthen international consensus and coordination by:
- a) addressing the rift between India, which appears to have revised its interpretation of the peace deal, and other major players, who still support the agreements initiated and endorsed by New Delhi;
  - b) dispelling impressions of waste and confusion by getting a grip on the multiple, overlapping programs supporting critical areas like the constitutional process and security sector reform; and
  - c) maintaining a common strong emphasis on human rights, political pluralism and conflict resolution at the heart of all policies, including development aid and military cooperation.
14. Recognising that delay in reforming the security sector is continuing to compromise all development efforts by draining resources and undermining political progress:
- a) seek unambiguous assurances that affordability and accountability will be key criteria in any consideration of security sector budgets and policy, and that development funds will not be used in effect to subsidise an unsustainably large army;
  - b) push for democratic control of the security sector and discuss detailed plans for appropriate assistance;
  - c) urge prompt measures to address the pressing need for improved public security and offer support to such steps; and
  - d) explore ways to help train integrated NA and other security forces, in particular by offering conversion training for former PLA combatants, including at officer level if requested, and joint training to integrated units on working under democratic control, respect for human rights, etc.

**To the Government of India:**

15. Given the enduring tradition of intimate Indo-Nepal links, use the special relationship constructively to secure both Nepal and India's core interests without attempting to dictate, for example by:
- a) making a clear, public recommitment to the fundamentals of the peace process;

- b) offering public endorsement of the principle of PLA integration into the NA and other security forces, if agreed by Nepal's parties and in the manner of their choosing;
- c) building on India's leading example of successful civilian control of the military and unique army to army links to offer support in areas such as building a functional defence ministry and training army officers and civil servants to work effectively alongside one another;
- d) sending firm messages to the Indian army to support government policy on Nepal and communicate appropriate messages to counterparts in the NA;
- e) considering positive steps to support security sector reform, including training for former Maoist combatants joining the security forces and assistance in reshaping policing to meet the needs of federalism and improved public accountability; and
- f) supporting the UN's role and using Indian influence constructively to assist in creating the conditions for the winding up Security Council-mandated operations.

### **To Members of the United Nations Security Council:**

16. The Security Council should underline its commitment to supporting the peace process but also its concern about weakening consensus and delays in addressing key steps by:
  - a) considering a Security Council visit to Nepal to understand the complex situation and hear directly from the main political actors how they propose to address challenges;
  - b) encouraging member states represented in Kathmandu to scrutinise progress, offer support as necessary and report publicly on progress or concerns;
  - c) making stronger public messages of support for UNMIN's mission and for Nepal's parties in taking prompt steps to conclude the peace process and restructure UN involvement to reflect the longer term needs of a successful post-conflict transition; and
  - d) engaging more closely with India to narrow differences in perspective and build more solid common ground on outside support for the peace process.

**Kathmandu/Brussels, 13 August 2009**

## NEPAL'S FUTURE: IN WHOSE HANDS?

### I. INTRODUCTION: THE FRAYING PROCESS

Nepal's peace process rests on a cleverly constructed settlement crafted through difficult negotiations.<sup>1</sup> But the deal was predicated on a fragile consensus; it depended on interlocking commitments which neither side entered into wholeheartedly. The parties to the talks were not the same as the parties to the conflict. The mainstream seven-party alliance that represented the state had already allied with the Maoists to topple King Gyanendra who, with absolute control of the army, had formed the third point of a triangular conflict.<sup>2</sup>

The November 2006 Comprehensive Peace Agreement (CPA) was not as comprehensive as its name implied.<sup>3</sup> It was vague on the future of the two armies and, just as damaging, silent on the question of militias and demilitarisation.<sup>4</sup> Meanwhile, there was little in the way of sustained process. Inter-party committees met only sporadically; there were no effective mechanisms to monitor the many commitments that held the deal together.

The process may be unique but its travails are not. Holding parties to commitments is a tough task in any post-conflict transition, especially as they perceive the balance of power altering in the course of a lengthy

process. As a leading expert cautions, "An important and frequent reason why civil war negotiations fail is because it is almost impossible for the combatants themselves to arrange credible guarantees on the terms of the settlement".<sup>5</sup> While adversaries can reach compromises and find mutually acceptable solutions, combatants "cannot credibly promise to abide by terms that create numerous opportunities for exploitation after the treaty is signed and implementation begins".<sup>6</sup>

The most dramatic shift in Nepal's power equations came with the elections. All parties had assumed the Maoists would perform poorly. Instead, their strong showing significantly changed the political landscape.<sup>7</sup> The combination of the Maoists' de facto power on the ground with de jure authority increased their opponents' fears. At the same time, the Nepalese Army (NA) kept itself at full strength while confidently – if privately – predicting that People's Liberation Army (PLA) capacity would be rapidly degraded by desertions and lack of new recruitment. This critical equation lies at the heart of the dispute over NA recruitment, just as raw power calculations have encouraged otherwise unmilitaristic individuals to look to the NA as the only credible opposition to the Maoists.

The Maoists still feel they are the single force that delivered the republic, the constituent assembly (CA), the prospect of federalism and other dramatic changes. To them, the idea that Nepal would move ahead more easily without them in the lead seems ridiculous. Other parties have yet to offer evidence to controvert this view. For its part, the United Communist Party of Nepal (Maoist), UCPN(M), has offered too little proof it will genuinely forgo armed revolution in favour of accepting the rules of a politically pluralist game. Mutual recriminations and heightened suspicions have prompted further reconsideration of the assumptions that underlay the CPA.

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<sup>1</sup> On the process so far see past Crisis Group reporting: on the CA election, Crisis Group Asia Report N°149, *Nepal's Election and Beyond*, 2 April 2008 and the companion post-election Asia Reports N°155, *Nepal's Election: A Peaceful Revolution?* and N°156, *Nepal's New Political Landscape*, 3 July 2008; on the strains following the Maoists' first six months in government Asia Report N°163, *Nepal's Faltering Peace Process*, 19 February 2009. Full Nepali translations of all reports and briefings from 2007 onwards are available at [www.crisisgroup.org/nepali](http://www.crisisgroup.org/nepali).

<sup>2</sup> See Crisis Group Asia Report N°106, *Nepal's New Alliance: The Mainstream Parties and the Maoists*, 28 November 2005.

<sup>3</sup> See Crisis Group Asia Report N°126, *Nepal's Peace Agreement: Making it Work*, 15 December 2006.

<sup>4</sup> See in particular Crisis Group Report, *Nepal's Peace Agreement*, op. cit., pp. 25-27: "From Arms Management to Demilitarisation".

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<sup>5</sup> Barbara F. Walter, *Committing to Peace* (Princeton, 2001), p. 5.

<sup>6</sup> Ibid.

<sup>7</sup> See Crisis Group Report, *Nepal's New Political Landscape*, op. cit.



Meanwhile, both sides are talking past each other. There is too little communication on policy issues. Despite vibrant discussions in the media and occasionally in the CA, Nepal's public sphere continues to give the impression of being two parallel worlds. This is largely due to both sides' deliberate behaviour. The erstwhile "mainstream" parties are still backed by broadly conservative power-players concerned to protect the status quo – the army, press magnates, India, some donors and other gatekeepers. The Maoists have also haughtily refused opportunities to explain themselves, engage in neutral forums, show understanding of others' concerns and work towards a common language – and behaviour – that could allay fears about their long-term intent.

All parties are neglecting the foundations of the people's movement that they themselves had framed in November 2005: a "peaceful movement launched on the basis of these understandings centred on democracy, peace, prosperity, forward-looking social change and the country's independence, sovereignty, and pride".<sup>8</sup>

## II. THE COLLAPSE OF CONSENSUS

The fall of the Maoist government came abruptly and dramatically. Backed into a corner by their own rigidity and outmanoeuvred by wily rivals, the former rebels pre-empted a protracted campaign to oust them by resigning from office on principle. The immediate cause was a struggle over control of the army and the collapse of cabinet unity. Isolated once again, the Maoists jumped before they were pushed.

The end of their short-lived administration was neither entirely unexpected nor unforetold. Nepali Congress (NC) president G.P. Koirala had long predicted that the government would fall "like a ripe mango"; it would not even need to be plucked. The Maoist leadership had sown many of the seeds of their own destruction. They were careless in cultivating allies, surprisingly inept at working the machinery of state and alternately supine and reckless in pursuit of policies that they had failed to sell to their partners. At the same time, they gave no shortage of ammunition to those who suspected their revolutionary strategy was intact not only on paper but in practice.

But before the Maoists jumped they had been pushed to the edge. From the start they faced dogged opposition. Spearheaded by the army and backed by powerful elites, the coalition of opponents was fronted by confrontational media commentators and second-rung leaders in the other major parties.<sup>9</sup> India, never reconciled to the election results but initially willing to give the Maoists the benefit of the doubt, started to swing decisively behind the anti-Maoist campaign. Before

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<sup>8</sup>Twelve-Point Agreement, November 2005, Art. 11. See Crisis Group Report, *Nepal's New Alliance*, op. cit., p. 30.

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<sup>9</sup>The election result significantly affected attitudes towards the army. Influential outlets such as *Himal Khabarpatrika*, which had been deeply suspicious of Katawal and publicly critical of army politicisation, changed course once the Maoists started leading the government. (Before the CA election, this publication had challenged the army's growing political clout: Kiran Nepal and J.B. Pun Magar, "Prabhav badhaundai sena", *Himal Khabarpatrika*, 1 August 2007.) *Himal Khabarpatrika*'s role in setting the scene for confrontation was particularly noteworthy, including an editorial on "military sensitivity" using pejorative language to dismiss the Maoist forces as "gangs of fighters" (*ladaku jattha*) unworthy of being called an army ("Sainik samvedanshilata", 29 January 2009) and the emotive but not entirely plausible story of General Katawal cowering in fear of his life because of threatening calls from supposed Maoist activists telling him to resign or face "physical action" (J.B. Pun Magar, "Arko utpatangko avasan", 12 February 2009). It interpreted the Maoist-led government's refusal to extend the term of eight brigadier-generals as an effort to reduce the top brass to "slaves". J.B. Pun Magar, "Das banaune khel", *Himal Khabarpatrika*, 29 March 2009.

the Maoists even decided to challenge the army chief, New Delhi had decided it had had enough of the experiment and wanted them out. The Maoists' choice of a confrontational path only helped their opponents achieve their aim.

## A. RIDING FOR A FALL

It is not clear why the Maoists pushed the crisis over the Chief of Army Staff (COAS) to a head at the point they did. Tensions with the army, not unnatural given the brutal war they had been waging until 2006, had been building steadily long before the defence minister sent COAS Katawal a letter on 18 April 2009 demanding clarification of alleged acts of insubordination.

Compared to the lows of December-January, when relations within the governing coalition were almost as strained as those with opposition parties, the Maoist-led administration appeared to have gained some stability. The ordinance on inclusive recruitment to the civil service and police issued in January had given the Madhesi Janadhikar Forum (MJF) a policy achievement it was happy to embrace and claim credit for; the Communist Party of Nepal (Unified Marxist-Leninist) (UML) general convention's election of Jhalanath Khanal had endorsed the leader most determined to pursue constructive cooperation with the UCPN(M). The forthcoming budget was going to offer Finance Minister Baburam Bhattarai an opportunity to answer criticisms that he had been good at raising revenue but hopeless at delivering real improvements. The signs were that he and his team had learned from their mistakes and were prepared to introduce more effective pro-poor initiatives.

Against this backdrop, insisting on sacking the COAS at the cost of ending their government appears perverse. General Katawal had given them many reasons to doubt his loyalty and commitment to peace (see below). But he was due to retire in September and his private fulminations, however ill concealed, were unlikely to translate into a threat to the government. While much attention centred on the Maoists' cultivation of his deputy, Lt.-Gen. Kul Bahadur Khadka, levering him into leadership would not have delivered the immediate benefits some commentators imagined.<sup>10</sup>

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<sup>10</sup> Khadka had clearly been in discussion with the UCPN(M) over steps he could take to assist them. Many commentators allege he was willing to integrate all of the Maoists' UN-verified combatants and also to appoint former PLA commanders to senior positions. Such claims may be true but while Khadka could have reduced NA opposition to Maoist

Khadka's own desire to become chief may have been keen but he was no Maoist. In 2006 he had devoted similar effort to cultivating the Koiralas in the hope of leapfrogging Katawal. In any case, he alone could not have offered mass PLA integration or brought Maoist officers into command positions.

Pressure within the wider Maoist movement to take action against Katawal had been growing. His firm stance against integration and overt political manoeuvring had angered PLA commanders and party leaders: for once, the frequently clashing peace process architect Baburam Bhattarai and dissident faction leader Mohan Baidya joined forces in the push to read him the riot act. Apart from the three cases cited in the demand for clarification,<sup>11</sup> Katawal's cultivation of the non-Maoist members of the Army Integration Special Committee's (AISC) technical committee, which came to light immediately before the confrontation, added to Maoist frustrations.<sup>12</sup> In the words of one senior leader:

When the crisis had come to a head with the recruitment issue we'd shown patience and tried to compromise to keep a working relationship. But [General Katawal] refused to play along in similar style and instead became more and more provocative. We had to take action or the spectre of the army flexing its political muscles over our and future governments would never have gone away.<sup>13</sup>

If Katawal had responded in conciliatory fashion to the clarification demand, compromise might have been possible.<sup>14</sup> It is strange that almost no commentators have questioned whether the NA should also be morally bound by the effort to seek consensus – let alone to work in line with the letter and spirit of the peace

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policies, decisions on integration still rested with the multi-party AISC and officer posts were not in his gift.

<sup>11</sup> The three cases were the NA's refusal to halt a major recruitment drive, Katawal's instruction to eight brigadier-generals to continue work despite the government's decision not to extend their terms and the NA's withdrawal from the National Games in protest at the PLA's participation.

<sup>12</sup> Some close observers argued that the NA's efforts to influence AISC technical committee members behind the Maoists' backs may have been the last straw that led to Prachanda summoning Katawal to demand an explanation and suggest he resign. Crisis Group interviews, Kathmandu, April-May 2009.

<sup>13</sup> Crisis Group interview, Kathmandu, 29 April 2009.

<sup>14</sup> Katawal's combative response, in which he rejected all of the allegations and resorted to detailed legal arguments to defend his actions and question the government's right to challenge him, was published in full as "Pradhansenapatiko spashitikaran", *Deshantar Saptahik*, 26 April 2009.

process. Senior leader and former PLA deputy commander Barshaman Pun "Ananta" said: "We had thought that the clarification would be "soft" and that we would easily be able to find a resolution acceptable to all. But the clarification displayed such deep insubordination, and the Army chief, instead of trying to resolve the issue with the government, went to get the help of various political parties and diplomatic missions. This we felt was the incorrect thing to do".<sup>15</sup>

The effort to clip the army chief's wings marked a risky break from the softly-softly strategy that Prachanda had previously adopted. Relations between Maoist Defence Minister Ram Bahadur Thapa and the army had been frosty at best.<sup>16</sup> Neither side exerted itself to bridge mutual suspicions; Thapa won no trust despite privately lobbying internationalists to maintain military assistance to the NA. Moreover, he signally failed to develop and implement plans for the army "democratisation" that the Maoists argued was so essential.<sup>17</sup> Despite this dysfunctional relationship, Prachanda had built slightly more conciliatory working ties with Katawal. Whatever the combination of internal pressures and external compulsions that forced his hand, Prachanda might well have preferred to let Katawal see out his term and retire quietly. As it was, he soon found out that he had bitten off more than he could chew.

## B. OUTFLANKED AND OUTGUNNED

Many commentators have blamed the Maoists for bringing down their own government through arrogant unilateralism. The charge is not without foundation: many of their most controversial, and least successful, decisions were taken with little consultation. But this was not the case here. They had cabinet approval to seek clarification with the clear understanding that an inadequate response could lead to Katawal's dismissal.<sup>18</sup>

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<sup>15</sup> Interview, *The Kathmandu Post*, 5 May 2009 (interview taken on 1 May).

<sup>16</sup> For a detailed analysis of the cool relations between the COAS and defence minister, see Mukul Humagain, "Asahaj sambandh", *Nepal*, 18 January 2009.

<sup>17</sup> The Maoists' basic position on the future of the national army has been both consistent and public. See Baburam Bhattarai, "Senako loktantrikaran ra punarsamrachanako prashna", *Janadesh*, 12 June 2007. It is reflected in the draft constitutional submissions the UCPN(M) has presented to the CA in 2009. The party, however, only introduced practical proposals five weeks before the fall of the government. Lekhnath Nyaupane, "Yasto chha nepali senalai loktantrikaran garne sarkari yojana", *Janadisha*, 30 March 2009.

<sup>18</sup> UML leader Jhalanath Khanal and MJF leader Upendra Yadav clarified in later press interviews that they had indeed consented to the proposed action. Even one senior In-

The unravelling of this consensus was due more to elementary political miscalculation than Maoist high-handedness.

What went wrong? First, the Maoists underestimated the strength of resistance that Katawal and his backers would put up. Second, they stalled on taking action and gave their opponents enough time to outmanoeuvre them. Both mistakes suggest the skills that had served them well during the conflict have dulled: they failed to respect their enemy and lacked decisiveness.<sup>19</sup> Once the clarification letter had been delivered to General Katawal, UML leader Jhalanath Khanal and MJF leader (and foreign minister) Upendra Yadav departed on overseas trips. In their absence, a concerted counterattack gathered momentum.

The first step was to slow the Maoists down and to sow doubt in public and within the parties. This was accomplished in style, albeit with perhaps excessive zeal. While the first media commentaries raised the stakes subtly,<sup>20</sup> a subsequent round of rumours was more melodramatic. Sacking Katawal, Nepalis were warned, could prompt an army takeover or a collapse of the state.<sup>21</sup> One unsubstantiated, sensationalist magazine cover story warned that the Maoists would launch their own coup to seize complete power under cover of a

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dian diplomat accepted that such consensus existed initially, while professing bafflement as to how it evaporated. Crisis Group interview, Kathmandu, June 2009.

<sup>19</sup> The initial demand for General Katawal to clarify his actions was met not only with relief in the Maoist ranks but with short-sighted hubris. "Army chief ambushed", ran the delighted front-page headline of the UCPN(M)'s mouthpiece. "Pradhansenapati dharapma", *Janadesh*, 21 April 2009. Even as the plan started unravelling and the Maoists should have been realising that they themselves were the ones being ambushed, the same mouthpiece gave the proposed action against Katawal an unqualified welcome. "Antatah katawal karvahima", *Janadesh*, 28 April 2009.

<sup>20</sup> One respected editor's front-page commentary on the problems the Maoists were inviting, for example, played on both their internal pressures and the external resistance they would likely encounter. Sudheer Sharma, "Maovadi kina pachhadi saryo?", *Kantipur*, 23 April 2009.

<sup>21</sup> The possibility of an army coup received prominent coverage, starting with a front-page exposé on the supposed "soft coup" plan and Lt.-Gen. Khadka's plotting to take over from Gen. Katawal (Sudheer Sharma, "Ke-ke bhayo senabhitra?", *Kantipur*, 24 April 2009) and continuing with further headline coverage of the "accident" that had been narrowly averted (Sudheer Sharma, "Jhandai durghatana", *Kantipur*, 25 April 2009). The question of a coup's plausibility and potential impact occupied one newspaper's entire Saturday feature edition. "Sainik 'ku' sambhav chha?", *Naya Patrika*, 25 April 2009.

May Day rally.<sup>22</sup> These stories appear to have been orchestrated by the army – whose psychological operations unit has concentrated on pushing anti-Maoist propaganda into the mainstream media – and its supporters in the press and political parties.

The second step was to bring powerful international players into action. Most diplomatic missions were concerned at Katawal's possible dismissal, more out of fears for stability and genuine doubts about Maoist ill intent than any great respect for him. But the real actor, as ever, was New Delhi. Mobilising India's big guns was not difficult, as India had been intimately involved in planning the downfall of the government.<sup>23</sup> Apart from the well documented flurry of meetings carried out by Ambassador Rakesh Sood,<sup>24</sup> Indian Foreign Minister Pranab Mukherjee played an important role, telephoning Jhalanath Khanal in China and advising him to return to Kathmandu and withdraw support to the Maoists.<sup>25</sup>

The third step, and last resort, was to use the office of the president as a final trump card. Ideally, the pressure from the first measures would have been sufficient to force the Maoists to back down. When they pressed ahead with sacking Katawal despite the unravelling of their coalition, the president was given the nod to step in.

### C. CONSTITUTIONAL COUP DE GRACE

Matters came to a head on 3 May. The Maoists' main coalition partner, the UML, walked out of the cabinet meeting when it became clear the UCPN(M) was set on taking action against General Katawal. The MJF did not leave the room, but refused to endorse the decision. From their many meetings in the preceding days, Maoist leaders knew that going ahead would prompt a backlash from the president, opposition parties, the army itself and powerful diplomats. Nevertheless, they not only chose to press on but did so in a

way that gave grounds to question their constitutional and procedural legitimacy.<sup>26</sup>

In constitutional terms, the Maoists' determination to sack Katawal appeared to breach the requirement for the government to act "consistently with ... political consensus and culture of mutual cooperation".<sup>27</sup> However, the charge is hard to press: the same article also calls for the executive to govern in consonance with "the aspirations of the united people's movement". This suggests all parties should remain committed to the November 2005 twelve-point agreement's agenda of "forward-looking social change" as well as the specific promise to "democratise" the Nepalese Army.<sup>28</sup> Holding parties to such loosely worded declarations of principle requires political accountability rather than legalistic interpretation. The concept of "political consensus" is particularly ill defined in legal terms. The original stipulation that it meant seven parties-Maoist agreement<sup>29</sup> was deleted by the July 2008 fifth amendment and no replacement definition was substituted.<sup>30</sup> As for the legitimacy of a majority, or single-party, cabinet decision, the constitution is unequivocal: this

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<sup>26</sup>One critic of the Maoists' decision-making style and process has helpfully reproduced copies of the critical documents discussed in this section. Kedar Subedi, "Dastavejharule pramanit garchha – ko nayak, ko khalnayak!", *Deshanttar Saptahik*, 17 May 2009.

<sup>27</sup>Interim Constitution, Art. 43(1): "The conduct of business of the Government of Nepal shall be carried out consistently with the aspirations of the united people's movement, political consensus and culture of mutual cooperation. The common minimum programme prepared through mutual agreement shall be the basis of the policies of the Government of Nepal".

<sup>28</sup>The Interim Constitution took the 7 November 2006 Seven Parties-Maoist summit agreement as the basis of the consensus agenda. This agreement's second part specified: "The interim cabinet would prepare and implement the detailed action plan of democratisation of the Nepali Army by taking suggestions from the concerned committee of the interim parliament. This includes works like determination of the right number of the Nepali Army, prepare the democratic structure reflecting the national and inclusive character, and train them on democratic principles and human rights values".

<sup>29</sup>"For the purpose of this Constitution 'political consensus' means the political consensus reached between the seven political parties – Nepali Congress, Communist Party of Nepal (UML), Janamorcha Nepal, Nepal Sadbhavana Party (Anandidevi), Nepal Majdur Kisan Party, Samyukta Bam Morcha Nepal – and Communist Party of Nepal (Maoist) on 8 November 2006". Interim Constitution, Art. 38(1).

<sup>30</sup>"Amendment of Article 38 of the Constitution: In Article 38: (1) The explanation included in Sub-article (1) has been removed". Fifth Amendment of the Interim Constitution, Art. 7.

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<sup>22</sup>J.B. Pun Magar, "Bhayanak sapana", *Himal Khabarpatrika*, 29 April 2009.

<sup>23</sup>Crisis Group interviews, Indian officials and independent analysts, Kathmandu, April-May 2009 and New Delhi, June 2009.

<sup>24</sup>See, for example, Nepal's biggest-selling daily's front page story (Gopal Khanal, "Sudko daud-dhup") and accompanying analysis (Dinesh Wagle, "Senapati prakaranma dilliko chaso"), *Kantipur*, 2 May 2009.

<sup>25</sup>Crisis Group interviews, New Delhi, June 2009.

is up to the government itself and is not a question for the courts.<sup>31</sup>

In procedural terms, the case is more clear cut. The Maoists did not follow the rules. However ceremonial the president's role, he is empowered to appoint the COAS and control the army on the advice of the cabinet.<sup>32</sup> Although there is no provision for dismissing an army chief, the spirit of the constitution is clear.<sup>33</sup> The Maoists bypassed the president, informing him of the cabinet decision only by telephone but sending a letter of dismissal direct to General Katawal, as well as handing a letter of appointment as acting chief to his number two, Lt.-Gen. Kul Bahadur Khadka.<sup>34</sup>

This abuse of process is insignificant compared to constitutional issues. It has no bearing on the validity of the decision itself. But it provided President Ram Baran Yadav the opening he needed to accept a petition from eighteen opposition parties to annul the decision. The constitutional grounds for this intervention were shaky.<sup>35</sup> But the practical pressures and political incentives were irresistible. Army sources had indicated that General Katawal would have had no option but to stand down if his dismissal were not countermanded by the end of the day. If so, the putative damage of passing control to a pro-Maoist successor would already have been done before any appeal could be heard. Furthermore, India had made its mind up. Reliable sources indicate that Pranab Mukherjee telephoned President Yadav soon after the sacking was announced and promised him full support if he reversed it.

For both sides, questions of constitutional propriety came to the fore only after the real battle was over. The Maoists had the stronger case but they had relin-

quished their ministerial seats before they made it. The president enforced his expanded authority and enjoyed the flexing of political muscle that he had been limbering up for.<sup>36</sup> But his intervention will cast a long shadow. However ridiculous the characterisation of President Yadav as a new autocratic monarch, the risks of dual power centres have been illustrated by recent history. The parallels with Gyanendra's October 2002 dismissal of Prime Minister Deuba and February 2005 royal coup are by no means exact but the essence is the same: the invocation of amorphous "political necessity" to act against a legitimate government in the name of defending the constitution.<sup>37</sup>

#### D. ADIEU OR AU REVOIR?

When the Maoists launched their offensive against General Katawal they did not calculate that it could end in their own checkmate. But when they were thwarted by President Yadav, they recovered the wits and decisiveness that had deserted them in the preceding days. While others prepared for a messy, lengthy battle to force them out of government – with no certainty that they could be defeated in a vote of no confidence – Prachanda opted for surprise. The following morning he drafted a resignation speech; by the middle of the day he was on television, addressing the nation to explain that he was quitting on principle.<sup>38</sup>

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<sup>31</sup> "The allocation of portfolios and transaction of business of the Government of Nepal shall be carried out as provided for in rules approved by the Government of Nepal". Interim Constitution, Art. 38(2) "No question shall be raised in any court as to whether or not rules made pursuant to clause (2) above have been observed". Interim Constitution, Art. 38(3).

<sup>32</sup> Interim Constitution, Art. 144.

<sup>33</sup> The Army Act, which became law before the fourth interim constitution amendment introduced the presidency, provided that the government of Nepal may remove the COAS. Army Act 2006, 11(3).

<sup>34</sup> The letter of appointment was not, in fact, required. If the post of COAS becomes vacant, the next most senior officer automatically becomes acting chief, without needing cabinet approval or presidential endorsement. Army Act 2006, 8(3).

<sup>35</sup> There is no constitutional provision for the president to reject or override a government decision, nor is there any provision for a direct petition from parties claiming to form a majority. They can, however, call a vote of no confidence – a step which the president's action, and the Maoists' prompt resignation, pre-empted.

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<sup>36</sup> One civil society leader who attended a joint meeting with President Yadav as the crisis unfolded reported that he was already rehearsing the arguments to support taking an active role and unwilling to listen to alternative views. Crisis Group interview, Kathmandu, May 2009. For a published account of the president's comments in this meeting, see "Ma seremoniyal hun bhanne samvidhanma kaha lekhyachha?", *Naya Patrika*, 29 April 2009. The newspaper simultaneously published a prescient editorial warning of the president's "unconstitutional ambitions". "Rashtrapatiko asamvaidhanik mahattvakanksha", *Naya Patrika*, 29 April 2009. Despite becoming president, Yadav has continued interfering in local politics in his home district. Prashant Jha, "Right shift", *Nepali Times*, 10 July 2009. His clout did not, however, assist his son, who came an embarrassing third in the by-election contest to fill his father's vacated CA seat in April 2009.

<sup>37</sup> To take only one example, even most UML leaders reportedly viewed the president's move as unconstitutional and criticised their own party's uncritical stance. "Nepal Cabinet expanded; Madhesh parties mysteriously absent", *Telegraph Weekly*, 18 June 2009.

<sup>38</sup> The full text of Prachanda's resignation speech, in Nepali, is at [www.nepalnews.com.np/archive/2009/may/may04/full%20text-pm%20address.pdf](http://www.nepalnews.com.np/archive/2009/may/may04/full%20text-pm%20address.pdf).

The resignation speech was not without an element of self-pity. Prachanda believed he and his party had been hard done by, their efforts to forge consensus and establish civilian supremacy pulled apart by a cynical coalition following a script written in New Delhi.<sup>39</sup> Even if somewhat self-indulgent, and weak in acknowledgment of the Maoists' contribution to their own downfall, this analysis resonated with many ordinary people. Prachanda's defiance of India and unusually blunt criticism of its meddling won some new admirers. Most importantly, the Maoists' willingness to quit rather than dig in for a war of attrition suggested that they might yet retain a fresh approach to politics and be less prone to the temptations of clinging to office for its own sake. The speech was far from a final farewell.

### III. THE QUESTION OF MAOIST INTENT

The biggest question is whether or not the Maoists have genuinely embarked on the path of peaceful politics. Their critics suggest that they will never change: whatever promises they have made are only cosmetic, designed to sow confusion while they covertly pursue the same strategy of seizing power and establishing totalitarian rule. Such fears are borne out by statements from some senior leaders who never embraced the spirit of the peace deal or recognised that their original approach was not going to deliver. Furthermore, the party's official ideological stance has hardly altered: on paper, the people's war is not a thing of the past. Its strategic offensive phase is still in progress, although the war is now being prosecuted by different tactics.

The argument that the Maoists have not changed course and are using the peace process as cynical cover for a violent insurrection can sound compelling. Its most persistent exponents have made their case elegantly and supported it with a wealth of evidence. But it is wrong. However tenuous the Maoists' devotion to pluralism and the norms of liberal democracy, their movement is engaged in an evolutionary process that has, over several years, already seen major shifts.

The outcome of this complex, passionately contested process is uncertain. The party is unlikely to drop its theoretical commitment to revolutionary goals – a step that established moderate communist parties like the UML, or India's Communist Party of India (Maoist) (CPI(M)), have also never taken. Supporters of a more dogmatic approach could yet win control and lead the movement back to confrontation. But to deny that a real debate is taking place requires either a wilful avoidance of reality or an even deeper cynicism than that attributed to the UCPN(M).

#### A. MAOIST RULE: MORE RAGGED THAN RUTHLESS

The Maoists were not ready for government nor were other parties prepared to let them govern successfully. This fundamental problem was immediately evident in the four-month delay before a government was formed and was subsequently thrown into sharper relief. This twin problem led to a catch-22 situation. If the Maoists failed, it proved they were indeed unfit to govern. If they succeeded, it proved it was indeed too dangerous to allow them to govern.

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<sup>39</sup>Prachanda's first CA speech as an opposition leader clearly sets out the Maoist position on civilian supremacy. Edited extracts were published as "Nagarik sarvocchata sthapit nabhaesamma shanti ra samvidhan tungoma pugdaina", *Jana-disha*, 9 July 2009. One of the UCPN(M)'s leading legal and constitutional experts, and member of the interim constitution drafting committee, has also lucidly explained the party's stance: Khimlal Devkota, "Nagarik sarvocchata ra sainik netritva", *Naya Patrika*, 22 April 2009.

As it happened, their record was one neither of dramatic success nor of failure but rather a messy mixture of the two. Their failures were evident to all, from over-ambition and lack of skill in setting priorities and using the machinery of state to achieve them to the poor handling of coalition politics and the crude responses to criticism. At the same time, they underestimated the depth and genuineness of doubts over their intentions and squandered opportunities to allay concerns and build bridges.

The Maoists' repeated threats to seize state power (*satta kabja*) came back to haunt them. Their every move was interpreted as part of a covert plan for total takeover.<sup>40</sup> The aim of exercising power was indeed there, as it had to be: the idea that any ruling party, let alone one schooled in Leninism as well as Maoism, would abjure power is untenable. As Maoist activists rightly point out, *satta kabja* is nothing new. Throughout its history, Nepal's state has been controlled by tiny elites concerned primarily with extracting resources for their own benefit.<sup>41</sup> To the Maoists, the strident warnings that they might seize power stem largely from elites' concern that their political and economic hegemony could be weakened. As one UCPN(M) district secretary complained, "It's only when we threatened to use power for the sake of the people that people started shouting. But when feudal forces had captured

state power for centuries we were expected to accept it in silence".<sup>42</sup>

However, it is fair to question whether there are not both qualitative and quantitative differences in the Maoist approach. Their ideological schooling allows internal debate but is intolerant of alternative world-views. The legacy of ruthless and capricious communist regimes in other countries casts a long shadow – even though they have long rejected the totalitarian nature of the Soviet and Chinese systems.<sup>43</sup> Their perceived strength and determined strategic intent also sets them apart from previous governments in Nepal. The Ranas and Shahs were brutal but incompetent in their autocracy; post-1990 administrations were messy and short-sighted. Their efforts to consolidate and exercise power were simply never coherent enough to be threatening – and they were always counterbalanced by other parties and the palace. In contrast, the prospect of a brutally efficient, strategically focused Maoist regime backed by its own military force is indeed of a different order.

In fact, however, the Maoists achieved precious little in the way of structural change. While established elites continued to fear their ruthless efficiency, ordinary voters were frustrated at elementary failures to deliver basic goods.

Their scope for action was extremely constrained. Their own coalition partners were half-hearted supporters at best and often actively undermined their efforts. Opposition parties and critics orchestrated howls of outrage when they attempted to take any concrete steps. A judiciary universally distrusted for its corruption and inefficiency became sacrosanct as soon as the Maoists spoke of reform; the enforcement of fixed retirement regulations for the police was portrayed as political intervention.<sup>44</sup>

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<sup>40</sup> See, for example, Ram Sharan Mahat, "Malafide intention", *The Kathmandu Post*, 27 April 2009; Geja Sharma Wagle, "Hidden agenda", *The Kathmandu Post*, 24 April 2009; Dilip Rayamajhi, "Shades of the Third Reich", *The Kathmandu Post*, 1 June 2009. A more measured critique was offered by leading NC youth activist Gagan Thapa as the COAS crisis reached its peak: "Maovadiko niyatma ashanka", *Kantipur*, 1 May 2009.

<sup>41</sup> While the ideological underpinnings and the formal structure of the Nepalese state changed dramatically over time, the ability of informal elite networks to capture the state proved resilient. Anthropologist David Gellner characterises Rana rule until 1951 as running an "extractive state", with heavy taxation and minimal public investment. Less overtly extractive, the 1960-1990 period of palace rule significantly raised public investment under its development agenda. But privileged groups continued to dominate the bureaucracy and control most state resources. Development was extremely uneven, with the capital's concentration of wealth and public facilities in stark contrast to stagnating or declining living standards in most other regions. Post-1990 democratic administrations made some progress in addressing inequality but state capture, by subtly changed informal networks, continued, to some extent exacerbated by the pressures and expense of electoral competition. David Gellner, "Introduction: Transformations of the Nepalese State", in Gellner (ed.), *Resistance and the State: Nepalese Experiences* (New Delhi, 2003).

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<sup>42</sup> Crisis Group interview, western region, March 2009.

<sup>43</sup> For example, the rejection of Soviet and Chinese-style one-party systems dates back to the late 1990s and was formalised with the "Development of Democracy in the Twenty-First Century" policy. The commitment to a CA also evolved from a vague initial commitment to constitutional revision only as the Maoists first approached serious negotiations in 2001. There are numerous further examples of strategic and tactical reconsideration taking place through lengthy internal discussions. See Crisis Group Report, *Nepal's Maoists: Purists or Pragmatists?*, op. cit.

<sup>44</sup> An Indian journalist was horrified that "the Maoist government that came to power in April 2008 has attempted to refashion the judiciary, and the bureaucracy has been a victim of transfers and postings". Aditi Phadnis, "Once a revolutionary ...", *Business Standard*, 8 May 2009. Transferring

Nevertheless, the Maoists proved that they did not need any help to make bad judgments, to misread the political mood or to underestimate the difficulties of implementing policies. Governing under challenging circumstances was always going to be tough. Unplanned as it was, their return to opposition may provide a welcome relief from the demands of office.

## B. THE VIDEO NASTY

Against this backdrop, a leaked video of Prachanda rallying his troops in January 2008 caused a predictable stir. The tape, of an 80-minute address to commanders and combatants of the PLA's third division, appeared immediately following Prachanda's resignation.<sup>45</sup> The choice extracts that were shown on a private television channel before being distributed to other media were carefully selected to cause maximum embarrassment to the Maoists while obscuring the video's context. In particular, Prachanda seemed to suggest that the Maoists had hoodwinked the United Nations Mission in Nepal (UNMIN) into vastly inflating the number of verified Maoist combatants, that their plans to seize power by violent means were intact, and that they viewed the proposed "democratisation" of the NA as a means to politicise it.

Opponents seized on the video's apparent revelations to argue that fears over Maoist intent were more than justified. However, there was no analysis of the entire address and hardly any serious attempts in the press to put it into context and assess the significance of Prachanda's comments.<sup>46</sup> In an atmosphere of mock hysteria – with commentators falling over themselves to declare their shock at discovering the Maoists had a revolutionary agenda – facts were wilfully distorted and underlying messages ignored.<sup>47</sup> For example, it has been repeatedly asserted that Prachanda admitted he had used government funds meant for the canton-

ments to buy arms. The video includes some suggestive innuendo but no such admission. At the same time, serious information on Maoist politics was downplayed.

The UCPN(M) leadership's response did nothing to encourage a sensible interpretation. Their explanations on combatant numbers were opaque and unconvincing; Prachanda's point-blank dismissal of the tape as "irrelevant" in the changed context was arrogant and unenlightening.<sup>48</sup> It was also wrong: the video helps to explain the evolution of Maoist policy and management of the movement at a critical point in the peace process. It offers lessons that remain highly relevant.

**The context:** What the edited highlights obscured, and the hundreds of press reports barely mentioned, was the extent to which Prachanda had been put on the spot by the PLA. As he admits, he was summoned against his will to give an account of the leadership's line. All of his comments were in response to a highly critical report that the PLA has prepared off its own bat, based on consultation with combatants in every brigade. It is clear that the report was wide-ranging and reflected deep concerns. The fact that Prachanda was forced to present himself to the PLA and respond to the various criticisms suggests that by late 2007 the Maoist military had started flexing its political muscles and exerting direct pressure on the leadership. This goes some way towards substantiating the hypothesis that PLA influence was a major factor in the dropping of the Maoists' demand for army integration before the elections.<sup>49</sup> Prachanda was at pains to reassure the PLA that the leadership had taken on board their concerns:

Finally, you have also raised many questions regarding integration. I don't think integration will take place before this constituent assembly [elec-

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some civil servants does not quite equate to the Year Zero-style genocide and re-education camps that "experts" had warned of.

<sup>45</sup> A full transcript of the address was published in one daily newspaper: "Yasto chha maovadi janayuddhako dirghakalin rananiti", *Nagarik*, 6 May 2009. Extracts from Prachanda's comments quoted in this section are translated from this transcript.

<sup>46</sup> There were, of course, some exceptions. For example, Pramod Mishra, "Reading the tapes", *The Kathmandu Post*, 13 May 2009. However, none made a detailed assessment.

<sup>47</sup> See, for example, Geja Sharma Wagle, "Maoist façade", *The Kathmandu Post*, 9 May 2009; Tom Marks, "Prachandagate: critical analysis", *Republica*, 12 May 2009; Kanak Dixit, "Shakikhor manasthiti ra maovadi pravritti", *Kantipur*, 7 May 2009.

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<sup>48</sup> "I have given countless speeches on several occasions before the CA polls", Prachanda offered in explanation. "If they are aired at present, they will appear to be meaningless and inconsistent, considering our present commitment to the peace process and the drafting of the new constitution". "Prachandagate" tape irrelevant: PM", *The Himalayan Times*, 6 May 2009.

<sup>49</sup> See Crisis Group Report, *Nepal's Election and Beyond*, op. cit., p. 21: "Lack of progress on integrating PLA fighters, while seen by conservative opponents of the Maoists as a victory, is precisely what more militant Maoist commanders sought. Prachanda's shift from December 2007 (when he was calling for integration before the elections) to January 2008 (when he announced it could be deferred until after them) may look like a triumph for moderation but is in fact a concession to those who want the PLA to be intact on 11 April".



tion] ... no understanding, no agreement, no decision has been made to carry out integration before the constituent assembly. It is to take place after the constituent assembly.<sup>50</sup>

**The question of PLA numbers:** Prachanda boasts of deceiving UNMIN into verifying larger numbers of combatants than the Maoists could truthfully claim:

How many of us really were there before the agreement? Honestly speaking, there were only a few of us. We had reached between 7,000 and 8,000. If we had kept the same number, how many would have been left after UNMIN's verification? 4,000. The verification of 7,000 would have left us with 4,000. At least by taking 35,000 we ended up with 20,000. This is the truth, we shouldn't tell this to others. We know the truth. So why should we think otherwise? Our leadership exercised their wisdom and increased the regular army from 7,000 to 21,000. Now you are all soldiers.<sup>51</sup>

However, the picture is not that simple. There was a large PLA expansion after the October 2005 Chunchang meeting.<sup>52</sup> Before then, reasonable estimates had placed the PLA strength towards 10,000; the then Royal Nepalese Army's own estimate was 9,500 fully trained fighters and 25,000 militia.<sup>53</sup> Prachanda was, as he admitted, responding to a strong perception in the PLA that the verification process had unfairly excluded genuine fighters: "Now on the face of it, it may look like our army has shrunk. But I don't agree it has shrunk. ... Where you see it as having shrunk, I see it as having vastly increased".<sup>54</sup>

**Approach to the peace process:** Prachanda's interpretation of the process, and of Maoist commitment to it, suggested a mixture of pragmatism, cynicism and

revolutionary idealism. In January 2008, few political leaders and analysts would have bet on the elections taking place as planned. Despite the December 2007 deal that brought the CPN(M) back into the government, the atmosphere was fraught. Prachanda's assessment that "as for the constituent assembly, either the Congress won't let it happen, or we won't let it happen" is unpalatable in retrospect but was a realistic take on parties' positions at the time. More remarkably, Prachanda insisted that the Maoists would have called off the armed struggle and gone for elections had their call for a CA been accepted in 2001 or 2003. This intriguing revelation also went entirely unremarked on in the mainstream media.

**Political agenda and popular support:** Prachanda's take on the saleability of the Maoist agenda deserves consideration. It suggests both a genuine commitment to change and a shrewd appreciation of the public mood – as well as the useful role of conditional popular support for a purely Maoist-led revolution. To take one example, his words on federalism remain relevant:

[The NC and UML] think of federal states as zones, whereas the Nepali people have understood federalism precisely as we have. For we have explained what a federation means. We have said it should be based on ethnicity, geography and language. People have understood all this. But Congress and UML leaders have not understood this. They say we'll make zones and then we'll make them autonomous. They say the regions will only be autonomous in geography. The Nepali people will not agree to this. So we've already won there.

In the words of one Indian commentator, the video proved that the Maoists "are not really committed to democracy or democratic ideals but only want a 'democracy under our dictatorship'".<sup>55</sup> In fact, the video revealed that Prachanda had no compunction in threatening the continued use of force ("it's not difficult for us to break the legs of candidates all over the country") and consistently argued that participating in the CA elections was a continuation of the revolution by other means. But this was placed in the context of repeated reference to respecting popular desires for change ("anyone who tries to go back [on republicanism] will look like a traitor; the people will not accept them") and improving relations with voters. Of course, the aims of revolution and building popular support are not incompatible. Rather, they are two sides of the same coin: "A revolt happens by winning the people's hearts and establishing that the Maoists are right and only by following them can we move forward".

<sup>50</sup> Prachanda, address to PLA training meeting, Shaktikhor cantonment, 8 January 2008.

<sup>51</sup> Prachanda, address to PLA training meeting, Shaktikhor cantonment, 8 January 2008.

<sup>52</sup> This meeting resolved to expand the PLA from three to seven divisions. Prachanda subsequently announced that half of all political cadres would be transferred to military duties to fill the newly created vacancies. Quoted in *Naya Dishabodh*, November 2005. See Crisis Group Asia Report N°111, *Electing Chaos*, 31 January 2006, pp. 8-9.

<sup>53</sup> Colonel Victor J.B. Rana, RNA press conference, *The Kathmandu Post*, 21 May 2005. See Crisis Group Report, *Nepal's Maoists*, pp. 8-9. While the true numbers are very hard to determine with certainty, the more extreme claims are patently ridiculous. See, for example, "PLA's real strength 1,000: Oli", *ekantipur.com*, 18 July 2009.

<sup>54</sup> Prachanda, address to PLA training meeting, Shaktikhor cantonment, 8 January 2008.

<sup>55</sup> Aditi Phadnis, op. cit.

**Lessons:** Ultimately, the video reveals little that is entirely new. The Maoists' revolutionary goals, ambiguous stance on the elections and difficulties coping with internal pressures were no secret at the time. Two lessons have emerged.

Non-Maoists should not underestimate Prachanda's political skills or the hard-headed calculation behind the Maoists' decision to join open politics. Prachanda's address to a deeply sceptical PLA was a masterclass in managing dissent. His approaches ranged from serious argument and ideological analysis to flattery, cajoling and stern warnings against disloyalty.<sup>56</sup> That he won the day benefited all parties to the peace process. But the way he was put on the defensive throws light on the core concerns of the broader Maoist movement and red lines of a politically powerful PLA. Determination to see radical change and instinctive wariness of compromise are both strong.

The Maoists need to recognise that they have only themselves to blame for others' worries over their intent. The video "revelations" were a crude propaganda campaign: deliberately leaked, selectively presented, misleadingly reported and tirelessly presented to sympathetic audiences in India and beyond. Nevertheless, the campaign was successful. It reignited old concerns, put the Maoist leadership on the back foot and discredited the UN. If the Maoists can be outmanoeuvred by such simple tactics their political nerve endings must be deadened indeed. And if they cannot offer substantive responses to the concerns raised by calls for revolt, they cannot be surprised if no one trusts them.

### C. THE BEGINNING OF THE END OR THE END OF THE BEGINNING?

Those who argue that the Maoists should never be trusted have preached to a steadily more receptive audience. Maoist strategy is immutable, in this view, and therefore the UCPN(M) can under no circumstances be a partner for peace or democracy. However attractive this line, it is more assertion than argument. It neither accounts for the sharp debates within the Maoist movement nor offers an explanation for UCPN(M) political behaviour. It also assumes that external factors play no part in shaping opportunities and restraints. The Maoists' internal arguments cannot credibly be dis-

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<sup>56</sup> For example, he reminded dissidents that they should think very carefully before going against the line agreed at the second national convention and made pointed reference to the "Alok tendency" (named for a "traitor" expelled from the party for dissent), underlining the party's intolerance for rebellion even as it accepts a degree of debate.

missed as window-dressing designed purely to sow confusion and distract from an underlying unity of revolutionary purpose.

The outcome of internal discussions is uncertain.<sup>57</sup> And the role of external players may push the debate in predictable, but dangerous, directions.

Maoist ideologues have plugged a traditional revolutionary line and played on fears that their party's flexibility has turned into weakness. C.P. Gajurel "Gaurav" has tirelessly rallied the Maoists' overseas supporters, Nepali and foreign, calling on them to remain prepared for revolution.<sup>58</sup> The Western members of the Maoist Revolutionary Internationalist Movement are probably as irrelevant as they are extreme but their receptiveness to the rebel line is revealing. For example, Italy's Maoists have come out against the UCPN(M) leadership:

In this context we do not support the position of chairman Prachanda but that of the comrades and leaders in the Unified Communist Party of Nepal (Maoist) that supports another line in the current situation, Kiran and Gaurav. We think that this line will become soon majority in the Party and moreover in the Nepal revolution and among the masses in Nepal. We want a national and international campaign with specific committees that invite comrade Gaurav to Italy and Europe.<sup>59</sup>

Gajurel has also put across the same message at home, apparently taking particular pains to ensure the unmodified call for a people's republic is broadcast through media outlets sympathetic to the NC and UML.<sup>60</sup> The

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<sup>57</sup> A late 2008 article by one of the main dissenting leaders clearly setting out the principal internal debates still serves as good guide to the multiple, serious policy differences. Netra Bikram Chand "Biplav", "Hamro partika pramukh matbhedharu", *Janadisha*, 22 November 2008. On the apparently clear bifurcation between the leadership and the main internal opposition following the collapse of the government, see Netra Panthi, "Maovadima spashta dui dhar", *Naya Patrika*, 24 June 2009. It should be noted that senior dissident leader Mohan Baidya insists there is no disagreement on tactics but has pushed for a renewed strategic push for revolutionary struggle. "Karyanitiko barema partibhitra kunai vivad chhaina", interview, *Janadesh*, 23 June 2009.

<sup>58</sup> See "Krantika lagi tayar rahana pravasilai gauravko apil", *Janadisha*, 29 April 2009.

<sup>59</sup> Partito comunista maoista – Italia (Maoist Communist Party of Italy), declaration, July 2009.

<sup>60</sup> See, for example, his uncompromising message in an interview to one prominent pro-NC weekly: "Das mahinama janaganatantra aunchha", *Ghatana ra Bichar*, 8 July 2009. Like-minded fellow central committee members communicate similar messages to the UML-leaning press as well. For ex-

charismatic but erratic former Maoist Madhesi leader Matrika Yadav is on the warpath. His argument that the leadership has lost direction and abandoned its principles is attracting defectors to his own CPN(M).<sup>61</sup>

This has fed the ever more harsh and public criticisms from other Maoists such as the U.S. Revolutionary Communist Party (whose grip on reality is tenuous) and the Indian Maoists (who are undertaking a real revolutionary effort and have some genuine experience and influence). Both of these parties believe the UCPN(M) has undergone a genuine, and to them alarming, strategic shift away from the tenets of Marxism-Leninism-Maoism. The CPI (Maoist) has offered a lengthy, closely argued critique complaining that the UCPN(M) leadership has in effect abandoned the people's war and class struggle:

Today, there is a peculiar situation in Nepal. The old Royal Nepal Army continues to be the bulwark of the present state structure in Nepal while the PLA is a passive onlooker. What would the Maoists do if a coup is staged by the army with the instigation of the reactionary comprador-feudal parties with the backing of Indian expansionists and US imperialists? Or if an Indonesia-type blood-bath of the Communists is organised by the reactionaries? How do the Maoists defend themselves when they have demobilised and disarmed the PLA?<sup>62</sup>

At the same time, the boundary between the UCPN(M) and other parties has become more permeable than ever. The new cabinet contains one Maoist defector to the UML, Rabindra Shrestha, and it is also backed by a former leader of the landlord-decapitating Jhapa movement, C.P. Mainali.<sup>63</sup> We should not be too taken

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ample, "Janaganatantrako tayarima chhaun", interview with Haribhakta Kandel, *Drishti*, 30 June 2009.

<sup>61</sup> Matrika Yadav was quoted describing the UCPN(M) as a "congregation of corrupt leaders" and saying that Prachanda "had committed the biggest mistake of his life by appointing [M.K.] Nepal as CA member ... the institutionalisation of the republic is a difficult proposition as long as the same orthodox and feudalist people remain in the government". "Matrika slams UCPN (Maoist) as corrupt", *ekantipur.com*, 10 July 2009.

<sup>62</sup> "Open letter to CPN (Maoist)", CPI (Maoist) politbureau, 20 May 2009, at [www.bannedthought.net/India/CPI-Maoist-Docs/Nepal/OpenLetterToCPNM-090520.pdf](http://www.bannedthought.net/India/CPI-Maoist-Docs/Nepal/OpenLetterToCPNM-090520.pdf). For a summary of the argument, see "Indian Maoists criticise Prachanda for betraying the revolution", IANS, 29 June 2009. For further comments on Nepal by the CPI (Maoist) see [www.bannedthought.net/India/CPI-Maoist-Docs/index.htm](http://www.bannedthought.net/India/CPI-Maoist-Docs/index.htm).

<sup>63</sup> The 1971 Jhapa movement, which took its inspiration from the Naxalite rebellion just over the border in India's West Bengal state, killed eight landlords before being crushed by the government. Seven of its own leaders were executed

aback: a prime mover in the regime change was erstwhile Maoist K.P. Oli – now one of the NA's, and New Delhi's, closest confidants.<sup>64</sup> The induction of former Maoists is nothing new. Gyanendra's post-coup royal cabinet also included an ex-Jhapali, R.K. Mainali. Clearly individuals' politics are not immutable – as the UCPN(M) leadership's bitter denunciation of traitors and revisionists shows they are well aware. Matrika Yadav's "real" CPN(M) has reportedly been attracting mass defections.<sup>65</sup> Some UN-verified PLA combatants have reportedly acted on their frustration with the peace process by switching allegiance.<sup>66</sup>

There has also been movement in the other direction. The CPN(M) brought on board the CPN (Unity Centre) in January 2009 to form the UCPN(M).<sup>67</sup> It has regularly boasted of recruiting UML activists; indeed, a prominent UML leader has estimated that almost half of the Maoists' district secretaries were originally with the UML, many of them switching camps following the UML's 1999 split.<sup>68</sup> More controversially and counterintuitively, the Maoists have also very publicly embraced former royalists, including cinema directors and actors. This is in line with their vow to unite with "nationalists" – a phrase that many democrats understand, with good reason, as code for erstwhile backers of the king. Some Maoist leaders are proud of this flexibility.<sup>69</sup>

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and others jailed. See Deepak Thapa, *A Kingdom under Siege* (Kathmandu, 2003), p. 26.

<sup>64</sup> On his Jhapa movement origins see Crisis Group Report, *Nepal's Faltering Peace Process*, op. cit., p.16.

<sup>65</sup> One report claimed that 240 hard-core UCPN(M) activists had defected to Matrika Yadav's CPN(M), citing their mother party's abandonment of its revolutionary ethos and dissatisfaction with leaders and their arguments. "240 UCPN (Maoist) activists join Matrika's party", *ekantipur.com*, 5 July 2009.

<sup>66</sup> Reports of full-fledged defections by formed units are exaggerated. Nevertheless, there is likely truth in some of the individual defections. See "50 PLA men join Matrika party", *ekantipur.com*, 16 July 2009.

<sup>67</sup> See Crisis Group Report, *Nepal's Faltering Peace Process*, op. cit.

<sup>68</sup> Pradip Nepal, "Maovadiko karkhana emale", *Drishti*, 23 June 2009. Nepal estimates that 36 of the UCPN(M)'s 75 district secretaries came from the UML, as did some five dozen of their CA members. He also claims that many of those who abandoned the UML to join the Bamdev Gautam-led CPN(ML) in 1999 – whom he terms "male-maovadis" after the CPN(ML)'s Nepali acronym – resurfaced as Maoist representatives in the 2007 interim legislature.

<sup>69</sup> Former minister Hisila Yami, for instance, is proud that the UCPN(M) is not as rigid as other leftist groupings such as the CPN (Mashal). Hisila Yami, "Divided we fall", *The Kathmandu Post*, 23 June 2009.

So far, the leadership line is holding in the face of critical questioning. Prachanda has insisted that a national unity government, led by the UCPN(M), is the best way forward – and that his party remains committed to the peace process.<sup>70</sup> Being back in opposition may enhance unity in the short term as all factions share a common front against their sidelining from state power. The Maoists seem to have realised the risks of stepping too far out of line. They pulled back from an initial ratcheting up of intimidation in the districts following the fall of their government and allowed the CA to function, the government's program to be passed and the budget presented. This at least indicates an awareness that bad behaviour would be short-sighted and risky: some more excitable opponents had been talking of using their obstruction of the CA as an excuse to invoke emergency powers.

However, if the situation is not resolved in the coming months, pressure on the leadership will grow. For those looking from outside, the question will become more stark: to support Maoist leaders who back the peace process and help UCPN(M) consolidate as a non-violent party or to push them further into a corner until extreme elements turn their backs on peace and are encouraged into confrontation.

## IV. THE ARMY'S GROWING POLITICAL ROLE

### A. WAR BY OTHER MEANS

The Nepalese Army never embraced the peace process. Feeling let down by Gyanendra and inadequately represented by the mainstream parties in the peace talks, its top brass reluctantly offered token assurances of abiding by the CPA even as they adjusted to continuing the conflict by other means.

In this they were led by a hardened royalist who had never made any secret of his contempt for democratic values, Chief of Army Staff General Rookmangud Katawal. His succession as chief following the April 2006 people's movement had not been assured. Party politicians recalled his pro-palace fulminations supporting Gyanendra's seizures of power.<sup>71</sup> Human rights activists, including some who later urged that he be protected from dismissal, were so concerned at his wartime record as a divisional commander that they wrote to the UN Secretary-General asking him to intervene to block his succession.<sup>72</sup> Interim Prime Min-

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<sup>71</sup> These were published under the nom-de-plume of "Ajay P. Nath". Most were unrestrained royalist polemics arguing, for example, in favour of "enlightened despotism" in place of "chaotic democracy". Ajay P. Nath, "Democracy: is it just for voting right?", *The Rising Nepal*, 5 September 2002.

<sup>72</sup> "We strongly protest the decision of the cabinet meeting of 14th August, 2006 regarding the promotion of Lieutenant General Rukmangat Katuwal in to the post of acting Army Chief of Nepal. Appointment of Mr. Katuwal is against the spirit of the people's movement of 2006 as he is one of the key persons involved in suppressing the people movement in the past. Mr. Katuwal was also accused by different national human rights organisations including the National Human Rights Commission of Nepal and international human rights organisations for the incidences of disappearances of detainees, rape of girls and killings of innocent people in the mid west region specially in Banke and Bardiya when he was the chief of the regional headquarters of Nepali Army, in mid western region, Nepalgunj". "Press Release by Human Rights Community of Nepal protesting the appointment of Rukmangat Katuwal as acting Chief of the Army Staff", 15 August 2006. On 4 September 2006, the same activists sent a letter titled "Denunciation of Nepal's acting Military Chief and Amendment of Army Act" to UN Secretary-General Kofi Annan requesting him "to persuade the Nepal Government to immediately remove Mr. Katuwal from the position of acting Army Chief and guarantee that all allegations of human rights violations purported to have taken place under his command are thoroughly and impartially investigated by an independent body". By early 2009, however, some of the main movers behind that step had shifted to urging that the army and its chief,

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<sup>70</sup> See "Maovadi rashtriya samyukta sarkarko pakshama", *Jana-desh*, 30 June 2009; and "Rashtriya sarkar nabanai sukhai chhaina", interview, *Saptahik Biharsha*, 3 July 2009.

ister Koirala had been on the receiving end of his successful efforts, alongside other senior officers, to intimidate the interim government into insulating the NA from action for its role commanding security forces that killed and injured protestors during the people's movement.<sup>73</sup>

A reform-minded army chief could have been a key player in making the peace process work, while guarding against politicisation of the military. Instead, the NA was increasingly geared to fighting a crude propaganda war against threats to its autonomy and against the Maoists. It rejected outright the CPA call, written into the interim constitution, for its democratisation and reduction to an appropriate peace-time size.<sup>74</sup> It publicly claimed credit for cooperating with UNMIN while privately sowing doubts about its neutrality. While General Katawal railed at "Comrade Ian Martin" – for him, the former UN Special Representative of the Secretary-General (SRSG) was as good as a Maoist – his officers briefed foreign defence attachés that the Maoists' suborning of embassies and UN agencies was a "fait accompli".<sup>75</sup>

The NA spearheaded the campaign to undermine the Maoist government, calling for a "united front" to fight the Maoists, even while nominally acknowledging their post-election legitimacy. It was not only indulged by politicians and commentators but encouraged to fill the vacuum left by weak democratic parties. While the NC has yet to muster coherent policies on most central constitutional issues, the NA produced lengthy documents setting out a comprehensive national political agenda. It called for agreed steps such as secularism and federalism to be tested by referendums

and for King Prithvinarayan Shah, the founder of modern Nepal and symbol of the unitary state, to be constitutionally recognised as the emblem of national unity.<sup>76</sup>

Freed from the need to report to a powerful palace, it has been quick to seize control of its own affairs and to underline its deeply conservative take on national affairs. In this it has had the tacit support of key international actors. India has stood firm in its determination that the army "not be touched" until the peace process is complete. General Katawal was granted unprecedented prestige on a December 2007 visit, meeting India's president and foreign minister as well as receiving a strikingly warm public welcome. China has courted the Maoists but never objected to the military-palace combine and still seeks good relations with the NA.

The UK has not deviated from the position it adopted when inviting General Katawal for a high-profile red-carpet visit: security sector reform is essential but the generals must not be upset. The U.S., privately much more critical of the NA's political involvement, is similarly committed to maintaining the "constructive engagement" of military training. It has moved on from the days when it actively endorsed military adventurism but has suffered from its own legacy of engaging and supporting only the "legitimate" security forces.<sup>77</sup> That may now be counterbalanced by tough new restrictions on military assistance, which demand cooperation with war crimes investigations and support for integrating Maoist combatants into the armed forces.<sup>78</sup>

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the same General Katawal, be protected from Maoist interference. A public appeal, signed primarily by UML and NC activists and affiliates and speaking of "the need to keep the ... national army above debate and away from party influence" was coordinated by one of the signatories to the 2006 appeals. "Our Appeal on the Occasion of Loktantra Day: A statement by 19 citizens", Kathmandu, 24 April 2009.

<sup>73</sup> See Crisis Group Report, *Nepal's Peace Agreement*, op. cit.

<sup>74</sup> "Naya samvidhan nirman garna gathit vibhinna samitiharuko lagi avashyak sujhavharu", Nepalese Army, document submitted to the CA, February 2009. For an outline of the "top secret" suggestions, see Aditya Adhikari, "A people's army?", *The Kathmandu Post*, 24 February 2009.

<sup>75</sup> The army viewed the effort to "exploit diplomatic missions/ UN bodies (e.g. UNOHCHR)" as an already completed part of the Maoist "gameplan", whose aim is to "subvert state institutions until they become instruments of Maoist Party and all opposition to the Maoist Party is removed or negated". "Management of integration of Maoist combatants", NA briefing to defence attachés of foreign missions in Kathmandu, March 2009.

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<sup>76</sup> "Naya samvidhan ...", Nepalese Army, op. cit.

<sup>77</sup> See Crisis Group Briefing, *Nepal's Fragile Peace Process*, op. cit., p. 10.

<sup>78</sup> "Funds appropriated by this Act under the heading 'Foreign Military Financing Program' may be made available for assistance for Nepal if the Secretary of State certifies to the Committees on Appropriations that the Nepali Armed Forces (NAF) are – (A) cooperating fully with investigations and prosecutions by civilian judicial authorities of violations of internationally recognized human rights; and (B) working constructively to redefine the NAF's mission, implement reforms including establishment of a civilian ministry of defense to support budget transparency and accountability, and facilitate the assimilation of former rebel combatants into the NAF consistent with the goals of reconciliation, peace and stability". Fiscal Year 2010 Foreign Operations Appropriations Act, S1434, U.S. Congress, 9 July 2009.

## B. STATE ARMY OR ARMY STATE?

“State is state”, General Katawal is fond of saying. By this he means that the Maoists can never aspire to a legitimacy that is the state’s alone. The army sees itself as having defined the nation, rather than the other way round. In its own words, “the history of Nepal, in one sense, is largely a history of the RNA”.<sup>79</sup>

The army’s view is that it is not merely a loyal guardian of Nepal’s unity and sovereignty but its progenitor and sole custodian. It envisages a powerful role at the heart of the state, formally advising on any matter tangentially related to national security through powerful army-dominated institutions and informally advising politicians on all fundamental policy issues.<sup>80</sup>

The NA has resisted both external control and internal reform. Its resistance has exacerbated the lack of political will to build functioning accountability mechanisms. If politicians cross its red lines, it is quick to communicate its displeasure, rarely leaving room for misinterpretation. When Prime Minister Nepal was quoted as offering integration into the NA for 5,000 Maoist combatants,<sup>81</sup> a large group of top generals, led by the COAS, promptly descended on him to express their displeasure. (The NA later described this as a “regular meeting”.<sup>82</sup>) As with interim premiers Krishna Prasad Bhattarai in 1990 and G.P. Koirala in 2006, the NA does not hesitate to lean on any prime minister who shows signs of stepping out of line.<sup>83</sup>

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<sup>79</sup>“RNA History”, Royal Nepalese Army, undated, p. 28, formerly available at [www.rna.mil.np/organisation/images/history.pdf](http://www.rna.mil.np/organisation/images/history.pdf) (accessed October 2006). The phrase has been updated to remove the “Royal” and included in *The Nepalese Army: A force with history, ready for tomorrow* (Kathmandu, 2008), a glossy coffee-table public relations effort.

<sup>80</sup>See “Naya samvidhan ...”, Nepalese Army, op. cit. and “Nepalko rashtriya mul niti”, Nepalese Army, 2008/2009.

<sup>81</sup>In an interview with a reputable news outlet that he subsequently claimed had misrepresented his position. “Nepal PM says Maoist peace process stalled”, Reuters, 25 June 2009.

<sup>82</sup>“Nepal Army annoyed: PM says he was misquoted”, *Telegraph Weekly* (online), 27 June 2009.

<sup>83</sup>The generals who visited the prime minister’s office on 26 June 2009 to voice their dissatisfaction reportedly included Chhatraman Singh Gurung, Toran Bahadur Singh, Gaurav Shamsher Rana, Nepal Bhushan Chand, Keshav Raj Mahat and Anil Jung Thapa. “Nepal Army annoyed: PM says he was misquoted”, *Telegraph Weekly* (online), 27 June 2009. The senior commanders were also said to have pressed their case for a large budget increase. “Army top brass at PM’s door”, Himalayan News Service, 27 June 2009.

The NA’s political clout has been facilitated by an often timorous, and always intimidated, media. Although the taboo on discussing army matters is breaking down, critics receive prompt and unsubtle warnings that they should keep their views to themselves.<sup>84</sup> The U.S.-funded and trained psy-ops unit, conspicuously ineffective during the conflict, has finally picked up momentum as a tool for monitoring open debate. It is most likely the source of the multiple, often near-identical, pseudonymous letters to the media defending the army and attacking Maoists and independent analysts alike.<sup>85</sup> Editors report that General Katawal’s personal cultivation of major advertisers offers direct leverage over media barons keen to protect their only reliable source of income.<sup>86</sup> For all the talk of indirect Maoist censorship through threats, the NA has been shielded from criticism far more than the UCPN(M).

As brave commentators have opened up a better informed discussion, the army has resorted to increasingly desperate measures to scare off critics. Previously unknown “security experts”, who reflect senior officers’ opinions with uncanny accuracy, have become prolific contributors to the press without showing any other signs of existing in real life.<sup>87</sup> Army officers complain in private that no one speaks for them. They would

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<sup>84</sup>An illustration of the increased public attention that is being paid to security matters are the two special supplements published by the *Annapurna Post* daily on the army’s place in the new constitution (10 May 2009) and questions of national security policy (5 July 2009). It is indicative, however, that the former did not explicitly discuss the NA’s own detailed constitutional proposals in any of its eight in-depth pages of analysis – despite the fact that the NA’s views were well reflected indirectly.

<sup>85</sup>For example, the letters of Robin Paudyal detailed in fn. 87 below.

<sup>86</sup>Crisis Group interviews, editors of English and Nepali language dailies, Kathmandu, July 2009.

<sup>87</sup>For example, “Dr Ramesh Dahal” and “Robin Paudyal” have offered NA headquarters-styled opinions in the pages of the largest-selling English-language daily. See Ramesh Dahal, “They are guilty too”, *The Kathmandu Post*, 8 March 2008; “Autopsy on UNMIN report”, *The Kathmandu Post*, 31 July 2008; “Milestone on the Maoist roadmap”, *The Kathmandu Post*, 19 March 2009; and, at the height of the COAS crisis, the self-explanatory “Leave the army alone”, *The Kathmandu Post*, 28 April 2009. The preferred genre of the peripatetic Robin Paudyal, who has moved from “Boston, USA” to “Germany”, is the letter to the editor. For example, “Erroneous deductions”, letter, *The Kathmandu Post*, 16 May 2009; “Suspicious”, letter, *The Kathmandu Post*, 29 May 2009; “Watchdog or lapdog”, letter, *The Kathmandu Post*, 10 July 2009; “Diplomatic blunder”, letter, *The Kathmandu Post*, 24 July 2009; “Biased diplomacy”, letter, *The Kathmandu Post*, 2 August 2009. Neither Dr Dahal nor Mr Paudyal responded to Crisis Group communications.

like to have representation on the AISC and feel their interests and expertise have not been properly considered in discussions of national security.<sup>88</sup> The feeling of injustice is sincere and deeply held. Unfortunately, clumsy propaganda and private lobbying are unlikely to address these concerns in a constructive fashion.

Nevertheless, the army has been subject to some constraints on its behaviour. It has not won as great a budget increase as it pushed for (see below). While mostly successful, it has had to argue the case for endorsement of its proposed officer promotions. It secured promotion for its legal chief, B.A. Kumar Sharma, who played an important role in offering misleading excuses for the August 2003 Doramba massacre that contributed to destroying the peace talks.<sup>89</sup> On 13 July the new cabinet made him a major-general and upgraded the legal department, which has tirelessly resisted any meaningful investigation of war crimes. The proposed elevation of Toran Bahadur Singh, the commander whose battalion tortured and disappeared dozens of suspected Maoist activists in 2003-2004, is on hold.<sup>90</sup> The NA had earlier proposed Singh as a UN military adviser but the UN's Department of Peacekeeping Operations decided his record made him unacceptable; he remains on a U.S. blacklist. The pressure the UML-led government is under is illustrated by their reluctance to block the promotion even of the officer believed responsible for the murder of one of their parliamentarians during the royal rule period.<sup>91</sup>

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<sup>88</sup>These concerns extend across the political spectrum, from royalist and passionately anti-Maoist officers to much more liberal individuals. Crisis Group interviews, senior NA officers, multiple locations, 2009.

<sup>89</sup>When the National Human Rights Commission questioned these killings, Sharma complained that it had always been protective of the Maoists and that its existence would be threatened if it continued in such behaviour. "None should underestimate the army, which is an integrated and strong institution", he cautioned, "otherwise the results will not be good". "RNA begins probe into Doramba clash", *The Himalayan Times*, 25 August 2003. The belligerent tone and content of such warnings has changed little.

<sup>90</sup>On the proposed promotion, see Khim Ghale, "Vivadaspad jarnelko badhuva sipharis", *Kantipur*, 1 July 2009. On the delay in implementing it, see Kiran Chapagain, "Bhandari suspends Maj Gen Singh's promotion", *Republica*, 6 July 2009.

<sup>91</sup>NA headquarters has recommended the promotion of Lt.-Col. Babu Krishna Karki, who is accused of responsibility for the killing of Hem Narayan Yadav, an MP from Defence Minister Bhandari's UML party. "Samsadlai birsera senasita hatemalo", *Jana Aastha*, 8 July 2009. As a pro-Maoist report pointed out, Katawal's protection of Karki suggests contempt for a parliamentary inquiry instituted in May 2006 under NC MP Anand Prasad Dhungana, which

Obligated to pay lip service to the courts, which have generally issued favourable rulings or obligingly sat on the fence, it could yet fall foul of independent-minded judges. Its officers well understand international norms of civilian control, albeit in comfortingly abstract rather than compellingly immediate terms. Furthermore, the NA's distaste for the essence of the peace process has not prevented it from observing almost all of the ceasefire conditions. It has remained disciplined and has not made good on private threats of military intervention although, as the next section explains, it has tried to create conditions to do so.

In short, the NA is not running amok and its commanders, collectively at least, are not immune to the compulsions of the real world. With no political will to control it, it has stretched the culture of unaccountability and impunity to the limit. But its bark is worse than its bite. It will come to heel if there is concerted, cross-party determination to approach state security issues seriously. Until then, the tail will wag the dog – and the generals will strive to make the next steps of Nepal's development "largely a history of the NA".

### C. STRAINING AT THE BIT

Continued observance of CPA formalities is far from guaranteed. Generals have not hidden their desire for a decisive, "do or die" assault on the Maoists. They have increasingly argued that the stalemate in the insurgency was solely attributable to external factors rather than lack of army capacity: Gyanendra let them down with his foolhardy and underdeveloped political strategy; international backers froze support just when they needed it most; the NA was constrained by its own determination to minimise casualties and treat the Maoists as "misguided brothers and sisters" rather than military opponents.

Such arguments are tenuous at best. They have been deployed not for their accuracy but to salvage wounded pride and, for some, to support the argument that Nepal needs a "Sri Lanka solution": an intensely bloody endgame in which Prachanda would play the part of Prabhakaran, the late leader of the Tamil Tigers. The Maoists appear weakened and, concentrated in cantonments with their weapons stored in containers, are tactically vulnerable; non-Maoist parties are disillusioned with their broken promises; Delhi has gone cold on them and would like rid of the Naxalites' comrades-

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had recommended action against accused officers. Santosh Paudel, "Emale samsadko hatyaralai katawalko samrakshan", *Janadisha*, 29 April 2009.

in-arms. But even most staunch anti-Maoists realise a military victory is a pipe dream.

The retirement of General Katawal may dampen the push for war from the NA top brass. But the more bellicose elements will not be marginalised until peace is consolidated on the basis of unquestionably democratic values. Some in India have publicised their willingness to tolerate army rule to counter Maoist entrenchment or disorder.<sup>92</sup> Nepal's own elites have been indulgent towards warlike rhetoric. The NA risks being dragged further into the political mire, while its soldiers risk being used in a private campaign to renew hostilities which would put them back on the frontline of an unwinnable conflict.

#### D. THE SACRED AND THE PROFANE

Generals, politicians and Indian diplomats alike frequently invoke the importance of protecting the army's "sanctity".<sup>93</sup> But the messy battle over the COAS has left the supposed saints looking somewhat tainted. The panic at the prospect of one chief passing on the baton to his deputy suggested the chain of command is not quite as "sacrosanct" as the NA would have outsiders believe.

"If replacing one 60-year-old Army veteran with another is all it takes for the Maoists to establish a monopoly over the instruments of force in Nepal, then the situation there is clearly much more fragile than anyone has ever imagined".<sup>94</sup> But supporters of the presi-

dent's move argued that this one step would indeed have led to the collapse of the state. As one close observer put it, "the president had at least twenty of the 24 political parties in the country telling him that his failure to undo what Prachanda had done would lead to total capture of power by the Maoists".<sup>95</sup> An article jointly authored by a retired NA major-general accepts the Khadka conspiracy and suggests it must have involved a wider group within the army: "Khadka was probably not alone in this hellish conspiracy and heads must roll".<sup>96</sup>

Either the NA is in a truly parlous state or exaggerated fears of an imminent Maoist takeover through reshuffling have been deliberately been fanned to justify blocking Katawal's dismissal. If his number two could indeed be so readily suborned it makes a mockery of the NA's insistence on its discipline, professionalism and insulation from politics. If the second man cannot be trusted, public faith in the institution and in the integrity of the top command will be damaged.

Katawal has won the battle but the NA has been weakened. While its supporters are energised, the carefully maintained charade of distance from politics has worn very thin. A televised video of the NA's top three underlining their unity was less than fully convincing. Although personal and political tensions in the army's upper ranks have long been visible internally, the dirty linen has now been washed in public view. The army's image has been tarnished and the task of Katawal's successor has been made more difficult. Internal rifts are likely to grow.

The many officers already concerned at their chief's overly political behaviour may be more uneasy at the possible fallout of the latest incidents. Those who feel they have been passed over for promotion or training opportunities due to internal factionalism are more frustrated than ever – in particular given General Katawal's son's felicitous securing of a coveted staff college berth amid a field of deserving candidates. This background, coupled with slight unease among party leaders and in New Delhi over Katawal's brazen politicking, compromised his chances of a term extension – and could yet put paid to efforts to find him an influential berth in the president's office.<sup>97</sup> Ultimately, the army is an institution. It not only survived Gyanen-

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<sup>92</sup> B. Raman, "Valid reasons for a military take-over in Nepal", South Asia Analysis Group Paper No. 2683, 27 April 2008.

<sup>93</sup> The term has been used intensively by NA officers and their supporters in the transitional period. For example, one fortnightly magazine whose publisher almost invariably uses his regular editorial to encourage the NA to step in and save the country, expressed it as: "[The armed forces] must not be indoctrinated with any political ideology. Politicians are expendable, not the Nepali army. Its sanctity and impartiality must be preserved at all costs. The Nepal army, we trust, knows well about this". *Spotlight*, 24 October 2008. General Katawal used his speech at a function commemorating 50 years of contributions to UN peacekeeping to insist that "in the name of democratisation, the army's purity, sanctity, and integrity should never be compromised". "Nepal Army: key promoter and defender of democracy", excerpts of COAS speech, *People's Review*, 3 July 2008. The NA's "sanctity" is presumably referred to in Indian foreign ministry internal memos. It is almost unflinchingly quoted by any Indian diplomat who touches on the topic. Crisis Group interviews, Indian diplomats, Kathmandu, New Delhi and New York, June-July 2009.

<sup>94</sup> Siddharth Varadarajan, "India's Nepal policy in disarray", *The Hindu*, 7 May 2009.

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<sup>95</sup> Yubaraj Ghimire, "The camera hasn't lied", *Indian Express*, 7 May 2009.

<sup>96</sup> Shashi P.B.B. Malla, Pradip P.B. Malla and Narendra P.B. Malla, "Collapse of the Maoist grand strategy", *People's Review*, 7 May 2009.

<sup>97</sup> Gen. Katawal applied for one month's leave before his 9 September retirement in line with traditional practice.



dra's downfall but thrived. Its top brass may yet collectively decide they would be similarly well served by moving on decisively after the current chief retires.

## V. INDIA: THE EMPIRE STRIKES BACK

India had a long-term strategy for peace in Nepal. New Delhi was instrumental in shaping the November 2005 twelve-point agreement and guiding developments after that. Although it never publicly acknowledged its role in the early negotiations that brought the Maoists and other parties into an alliance against the king, its role as facilitator and guarantor of the deal was never in doubt.<sup>98</sup> At times when the process stalled, in particular in late 2007, India exerted significant diplomatic pressure to maintain momentum for elections, and to whip other international players into line.<sup>99</sup>

But New Delhi has gone cold on its own original plan, preferring the short-term pursuit of immediate interests to the hard graft of supporting a complex process through its ups and downs. Its determination to guard against any reform of the security sector has remained undimmed, despite contradicting the CPA. Its interventions have been embarrassingly undisguised, dragging the Indian foreign minister, foreign secretary and ambassador into low-level Kathmandu politicking.<sup>100</sup> Meddling in Nepal's affairs is nothing new or surprising. But the revised approach threatens the prospects for stability and, unless reconsidered, will fail to secure the core national interests New Delhi believes it is pursuing.

India's initial exertions for peace were motivated in large part by a confident, but mistaken, assumption that the elections would deliver a serious defeat to the Maoists – offering them just enough of a stake in multiparty politics to cement their move away from insurgency but leaving them little bargaining power when it came to negotiating the final demobilising of their forces. New Delhi initially adjusted gracefully to the reality of a decisive Maoist victory but many influential figures were deeply concerned. Second thoughts about the wisdom of having facilitated the UCPN(M)'s entry into electoral politics were exacerbated by worries at increasing Chinese influence.

Senior Maoist leader and former finance minister Baburam Bhattarai claimed that India mishandled the

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<sup>98</sup>On India's role in shaping and tacitly underwriting the twelve-point agreement, see Crisis Group Report, *Nepal's New Alliance*, op. cit., pp. 15-16.

<sup>99</sup>See, for example, Crisis Group Asia Briefing N°72, *Nepal: Peace Postponed*, 18 December 2007, pp. 12-13.

<sup>100</sup>This behaviour was predictable. As a Crisis Group report put it one year earlier: India "appears to have lost none of its appetite for interventionist micro-management and remains happy to shield the Nepal Army (NA) from democratic reform". Crisis Group Report, *Nepal's New Political Landscape*, op. cit., p. 13.

COAS crisis because politicians were too busy with elections and left it to blundering bureaucrats.<sup>101</sup> It is true that Indian political leaders, including ministers, have taken remarkably little responsibility for Nepal policy (see below). But diplomats have done little more than zealously follow instructions crafted by senior bureaucrats with ministerial approval.

## A. CHINESE WHISPERS

Chinese influence is near the top of New Delhi's concerns over Nepal. It is often the first factor officials and analysts cite when asked to comment on the problems of the Maoist-led government. There can be no doubt that the Maoists' pursuit of better relations with Beijing crossed India's red lines.<sup>102</sup> At the same time, there is little evidence to support the theory that either the Maoists or China would have sought, or achieved, a dramatic strategic realignment.

A rash of stories in the Indian press a few days after the fall of the Maoist government suggested, on the basis of unidentified sources, that China had encouraged Prachanda to up the ante. "While India was inviting popular opprobrium in Nepal trying to prevent Maoist Prime Minister Prachanda from sacking the army chief", one report ran, "China at the same time sent messages to Prachanda pledging support for doing just the opposite! According to sources monitoring events in Nepal during those crucial days, China reportedly told Prachanda to stick to his guns and they would support him".<sup>103</sup>

Such theories conveniently overshadowed unflattering headlines about Indian policy miscalculations; they also implied that whatever role New Delhi might have had in protecting Katawal was part of a larger strategic battle with China. There is, however, no evidence that China incited the Maoists to sack the COAS, although the offer for PLA officer training probably had been on the table. Indeed, one senior Indian diplomat underlined that China's line differed little from India's: "I don't think Prachanda heard anything from [the Chinese ambassador] that he didn't hear from us: I

understand that he counselled caution and urged the prime minister to build consensus for any such step".<sup>104</sup>

"Maoist intentions surfaced from Day One when Prachanda chose to visit China before India as his first foreign visit. Instead of sending a tough diplomatic message, India lobbied hard and ensured he visits India soon after", complained one commentator, who viewed a proposed new bilateral cooperation treaty as an "all-changing peace and friendship agreement".<sup>105</sup> In this view, Prachanda's planned visit to Beijing in early May to sign the treaty was a reward for cooperation, and in particular for cracking down on Tibetan refugees and protestors. The cancellation of the trip was therefore a victory for India: Prachanda "would have liked to sack the army chief and go to Beijing to sign the agreement; but, clearly, his calculations were a little off".<sup>106</sup>

The concern at Chinese influence is not new. As a former Indian intelligence officer and prolific regional analyst expressed it:

China would try its best to see that the Maoists stay in power. Their continuance in power in Kathmandu is important for stability in Tibet. In the past, we supported Maoists thinking that Prachanda would take a neutral line between India and China. These hopes are elusive. Should we facilitate the Chinese designs in Nepal by bringing about a political compromise which would enable the Maoists to continue in power or has the time come to work for a non-Maoist alternative? This requires serious examination in our policy-making circles.<sup>107</sup>

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<sup>101</sup> "India blundered, lost the respect it once had", interview, *Outlook*, 18 May 2009.

<sup>102</sup> As one more sympathetic retired Indian official put it, "The way the Maoists cosied up to China makes it simply impossible to defend them [in Delhi]. However unfairly Delhi may have treated them, they just went too far". Crisis Group interview, New Delhi, June 2009.

<sup>103</sup> "China pushed Prachanda into sacking army chief: Sources", *The Times of India*, 9 May 2009.

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<sup>104</sup> Crisis Group interview, Kathmandu, May 2009.

<sup>105</sup> Pranab Dhal Samanta, "Process in pieces", *Indian Express*, 5 May 2009.

<sup>106</sup> *Ibid.* Such an interpretation is widely shared. Nepal "had taken a conscious decision to balance India's influence with China's", observed another well placed New Delhi journalist. "An unprecedented 38 Chinese delegations have visited Nepal over the last year. India made no secret of the fact that it took a dim view of the proposed visit by Prachanda to China last week (he quit before that) to sign a treaty with that country that mimics the 1950 Treaty of Friendship between the Nepal and India, a document unique to the relationship between the two countries". Aditi Phadnis, "Once a revolutionary ...", *Business Standard*, 8 May 2009.

<sup>107</sup> B. Raman, "China wants Prachanda to stay in Nepal", *rediff.com*, 4 May 2009. In an earlier paper, the same analyst had cautioned against such a situation: "China has a Look South policy to counter our Look East policy. As we try to move Eastwards to cultivate the countries of South-East Asia, it is trying to move southwards to outflank us. China is not a South Asian power, but it already has a growing South Asian strategic presence – in Pakistan, Sri

One former foreign minister observed that such fears were becoming a reality: "We are pouring a thousand crores [ten billion rupees] into Nepal. Yet China is more active in Nepal than we are. Prachanda feels quite comfortable with that".<sup>108</sup> In New Delhi's views of China, perceptions matter as much as reality, if not more. Fears over Chinese influence in Nepal form part of a larger picture. "It's not just about Nepal", cautioned one Indian diplomat. "It's how it fits into a broader pattern of worrying behaviour".<sup>109</sup> India-China relations have become more fraught. For example, one article on growing tensions, centred on border disputes and increased militarisation in India's north east, concludes:

For decades, India, badly bruised from its defeat at the hands of China, opted to back down in the face of Chinese intimidation. That is now changing. It is this newly assertive Indian posture that is bothering China. Indian analysts believe that neither of the two countries wants to go to war. But they are not ruling out the possibility of China carrying out a limited military operation ... It is to be prepared now that India is building its military muscle in Arunachal.<sup>110</sup>

Further expert talk of possible military clashes hints at heightened mistrust.<sup>111</sup>

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Lanka and Bangladesh. It is hoping to acquire a similar presence in Nepal with the co-operation of a Maoist-dominated Government. ... India will find itself in Nepal in a situation not dissimilar to the situation in Myanmar – all the time having to compete with China for political influence and economic benefits. Till now, India almost monopolised the strategic playing field in Nepal. Now, there will be a second player in China". B. Raman, "Rise of Maoists in Nepal: Implications for India", paper presented at a seminar organised by the Asia Centre, Bangalore, 9 August 2008, at [www.southasiaanalysis.org/papers29/paper2802.html](http://www.southasiaanalysis.org/papers29/paper2802.html).

<sup>108</sup> K. Natwar Singh, "Neighbourhood in turmoil", *Indian Express*, 5 May 2009.

<sup>109</sup> Crisis Group interview, Indian diplomat, July 2009.

<sup>110</sup> Sudha Ramachandran, "Indian might met with Chinese threats", *Asia Times*, 10 July 2009.

<sup>111</sup> "A leading defence expert has projected that China will attack India by 2012 to divert the attention of its own people from 'unprecedented' internal dissent, growing unemployment and financial problems that are threatening the hold of Communists in that country. 'China will launch an attack on India before 2012. There are multiple reasons for a desperate Beijing to teach India the final lesson, thereby ensuring Chinese supremacy in Asia in this century,' Bharat Verma, Editor of the Indian Defence Review, has said". "Nervous China may attack India by 2012: Expert", Press Trust of India, 12 July 2009.

In this context, some analysts in Kathmandu suggested India might have pushed the Maoists towards a crisis over the army precisely to thwart Prachanda's trip to Beijing to sign the proposed treaty.<sup>112</sup> Prachanda himself has hinted at such a theory, using an interview with the Indian press to say that the withdrawal of support to the Maoist-led government could have been "a planned strategy or a coincidence": "there are forces that did not want the (Beijing) visit to take place. A lot of things were being said about the trip".<sup>113</sup> While acknowledging the desire to conclude a friendship treaty, he insisted this would have had "no negative impact on our friendship with India" and noted the "imaginary fear in Indian political circles that Maoists [might] play the China card against India".<sup>114</sup>

China has, as ever, remained tight-lipped on Nepal's internal politics. Its relations with the UCPN(M) – which it long abjured – have certainly warmed but it has also kept in close contact with other parties. Such links are by no means confined to communists. During the period of Maoist-led rule, senior NC and UML delegations were also invited to Beijing.<sup>115</sup> Chinese diplomats exhibited some fondness for the royal family; they have also enjoyed very cordial relations with new Foreign Minister Sujata Koirala. In all such relations China appears to reap decent rewards for very little outlay. It did not lavish money on the Maoist government (or party), just as its royalist sympathies led to only negligible practical assistance, be it financial or military, following the royal coup. If nothing else, this rate of return on cautious investments looks shrewd. Spendthrift New Delhi, in contrast, often loses the support of the very parties, politicians and local communities that it so generously showers with financial inducements.

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<sup>112</sup> For example, one (rampantly anti-Indian but also anti-Maoist) weekly suggested that Indian intelligence operatives instigated the crisis to derail the visit. "RAW mission successful?", *People's Review*, 7 May 2009.

<sup>113</sup> "We'll not bow to foreign pressure: Prachanda", *The Times of India*, 9 May 2009.

<sup>114</sup> Ibid.

<sup>115</sup> An NC delegation, headed by Vice-President Prakash Man Singh, had also visited China before an official post-election party trip to India had taken place ("After Prachanda, Koirala's party heads for China", *thaindian.com*, 29 August 2008). MJF leader Upendra Yadav visited Beijing in April 2009 as foreign minister ("China to increase aid: FM Yadav", *The Kathmandu Post*, 18 April 2009). In the same month, UML leader Jhalanath Khanal led a party delegation in response to an invitation by China's communist party for a week-long visit ("Nepal UML on a trip to late Chairman Mao's land", *The Telegraph Weekly*, 19 April 2009). His own trip was cut short by the COAS crisis.

China's top priority in Nepal is to stifle any Tibetan protests or other "anti-Chinese" activities on Nepali soil. On this topic, Chinese diplomats are vocal, unsubtle and rigidly consistent. Nepali governments of any political colour have little choice but to bow to their powerful neighbour's primary concern; leftist parties, and in particular the UCPN(M), have done so assiduously and sometimes enthusiastically.

At the same time, Beijing has given India grounds for suspicion. The flurry of high-level visits suggested a much greater political interest and efforts to expand influence. The sight of Nepal expert Professor Wang Hongwei, based at Beijing's Institute of Asia-Pacific Studies but often viewed as an informal envoy and policy-shaper, seated among Nepali PLA commanders wearing one of their combat jackets was not reassuring.<sup>116</sup> Beijing was happy to engage the Maoists on military matters. Defence minister Thapa looked to China for support on integration;<sup>117</sup> Beijing also offered non-lethal military aid.<sup>118</sup> It reportedly offered professional training to senior PLA commanders – a logical step in the service of integration but at odds with India and the NA's refusal to contemplate any high-level officer entry.<sup>119</sup>

Of course, neighbours' assurances of non-intervention should always be taken with a large pinch of salt, especially as Nepal is sandwiched between such huge powers. Nevertheless, the evidence that China is interfering or pursuing hidden agendas is most notable for its absence. It certainly views Nepal as lying on an important strategic boundary at the juncture of its and India's spheres of influence but, apart from boosting commercial ties and establishing a number of China study centres, including in the Tarai, shows no signs of wishing to push that boundary south of the Himalayas.

China's long-term intentions towards Nepal are not inherently benign: they depend entirely on China's perceived self-interest, which could demand less friendly approaches. But for now, its mantra of non-interference in internal affairs looks close to the truth.<sup>120</sup> "What

China is doing in Nepal is to help the country achieve development and stability", explained a Chinese diplomat. "This is in line with China's international role and the aspirations of the international community. We are not stopping any other country doing the same for Nepal".<sup>121</sup>

## B. FEARS AND FRUSTRATIONS

New Delhi's desire to prevent a complete Maoist takeover and forestall dangerously radical change has led it to embrace the NA, endorse its red lines and argue that it must remain untouched. At the same time, it insists that the Maoist "course correction" it has pushed for must include full compliance with the UCPN(M)'s commitments and, preferably, a unilateral renunciation of PLA-NA integration.<sup>122</sup> "We're not saying the water in the bottle is entirely clear", said one policymaker, speaking metaphorically of the NA's purity. "But you won't fix that by adding more dirt [Maoist combatants] to the bottle. Prachanda should prove his sincerity by announcing that he will drop the demand for integration".<sup>123</sup>

Indian officials are united in emphasising that they gave the Maoists a more than fair chance. "We didn't stop them forming a government and we didn't interfere in their decisions", said one. "It's not our fault if they themselves were incapable of seizing the opportunity to deliver anything".<sup>124</sup> Diplomats are quick to recall Prachanda's September 2008 Delhi visit: "When he came here we rolled out the red carpet. We made promises and so did he. We fulfilled them all and he reneged on them all".<sup>125</sup> Underlying such complaints is a strong, widely held perception that Maoist vows to abandon violence and play by the rules were either weak or patently insincere.

The push for good behaviour makes sense but the logic of expecting unilateral Maoist concessions in the face of intransigence from the other side is questionable. It depends on the Maoists being too weak and disunited to resist such a plan. But such an assessment is more wishful thinking than hard-headed analysis, as some

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<sup>116</sup> See Bhojraj Bhat, "Chiyars! Naya nata", *Nepal*, 17 June 2007. The photograph featured on the cover of the magazine, a popular weekly with a large circulation.

<sup>117</sup> Phanindra Dahal, "Thapa seeks Chinese help on integration", *The Kathmandu Post*, 8 December 2008.

<sup>118</sup> "China agrees to provide non-lethal military support", *The Rising Nepal*, 9 December 2008.

<sup>119</sup> Maoist leaders apparently prevailed on the PLA commanders to decline the offer for fear it would ignite controversy. Crisis Group interviews, Kathmandu, July 2009.

<sup>120</sup> The difference with India is most striking in New York where China, an SC member, is almost silent on Nepal while India, not an SC member and vocally committed to Nepal's

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independence, is tirelessly strident in its advocacy of Nepal's "sovereign" views.

<sup>121</sup> Crisis Group interview, Chinese diplomat, Beijing, July 2009.

<sup>122</sup> Crisis Group interview, senior government official, New Delhi, June 2009.

<sup>123</sup> Crisis Group interview, senior government official, New Delhi, June 2009.

<sup>124</sup> Crisis Group interview, New Delhi, June 2009.

<sup>125</sup> Crisis Group interview, senior government official, New Delhi, June 2009.

observers realise.<sup>126</sup> If the Maoist transition towards peaceful democratic norms was halting while they were in power, it is likely to be even less sustained in opposition.

### C. DELHI'S DISARRAY

Indian policymakers make little effort to conceal their grave doubts about the central predicate of the peace process they brokered: that the Maoists could embrace political pluralism and reject violence. Instead, those who argue that this was not the case, and never will be, are now getting a more serious hearing.

India's public pronouncements and diplomatic posture indicate confusion. Officials reinterpret the peace deal and question its tenets but neither publicly nor privately acknowledge the evident change in stance.<sup>127</sup> They do not seriously analyse the implications of their revised interventions. While frequently invoking the need for a Maoist "course correction", Indian policymakers appear not to notice their own change of course or weigh its risks.

Part of the problem is that India, like the various parties in Nepal, did not do a good job of selling the peace process to all of its own constituencies. Most publicly, the opposition Bharatiya Janata Party (BJP) and pro-Hindutva groups were appalled at the apparent facilitation of a movement aimed to topple the Hindu monarchy; they complained that the Congress-led government had "outsourced" Nepal policy to the Communist Party of India (Marxist).<sup>128</sup> Powerful players

within the bureaucracy and other limbs of the state were also dismayed. The Indian army, already unhappy at the freeze on military assistance to the post-coup royal government, was unimpressed at the prospect of shepherding the Maoists into open politics and remains determinedly unreconciled to the concept of integrating Maoist combatants into the NA. Others in the foreign policy and security establishment have become more sympathetic to these concerns.

The excessively covert approach to the twelve-point agreement did not help.<sup>129</sup> The legwork was left to intelligence agents and the gradual shifts in policy towards the Maoists and the monarchy were never clearly acknowledged or explained. The rubric of "supporting the wishes of the Nepali people" belied, as ever, the intense involvement in all aspects of political developments. However, there has been little political discussion in New Delhi of policies framed primarily by civil servants. And while major decisions were taken at a ministerial level, the implementation of policy and the revision of short-term goals has been the result of opaque bureaucratic manoeuvrings with little public questioning or political oversight.

Indian policymakers often preface comments with phrases such as, "We cherish Nepal's independence and sovereignty but ...". In fact, New Delhi does not view Nepal as a fully foreign or fully sovereign country. However, India lacks the direct knowledge and capacity that it enjoys in its own states. Its embassy is thinly staffed and narrowly focused; its more numerous intelligence operatives are spendthrift and ineffective;<sup>130</sup> its pool of independent expertise on Nepal, in academia or elsewhere, is dismally shallow. Despite myriad cross-border connections and cultural overlaps, New Delhi fails to benefit from its access to information.

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<sup>126</sup> Many of those outside government who regularly follow Nepal developments from different political and institutional perspectives concur that recent developments have harmed India's reputation and interests. But all complain that a flurry of seminars and other government hints at consultation have had no impact on policy thinking. Crisis Group interviews, New Delhi, June 2009.

<sup>127</sup> Indian ambassador Rakesh Sood questioned whether the CPA prescribes any form of integration of PLA combatants into the NA: "This idea that integration is into the army and rehabilitation is into society are your words, they are not there in the peace agreement". "Consensus is the need of the hour", interview, *The Kathmandu Post*, 15 June 2009. While the CPA does indeed not offer definitions of the terms integration and rehabilitation, the subsequent Agreement on the Monitoring of the Management of Arms and Armies (AMMAA) clearly specifies "possible integration with the security bodies after fulfilling the standard norms" for registered PLA combatants (AMMAA, paragraph 4.1.3). The AMMAA is incorporated as a schedule of the interim constitution.

<sup>128</sup> Leader of the Opposition L.K. Advani, the BJP's prime ministerial candidate in India's May 2009 general election,

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reportedly described the crisis over the COAS as a "natural" outcome of the Congress's "opportunistic" alliance with left parties: "The Congress-led government has outsourced the problems of Nepal to the Left parties and told them to handle it. The mishandling of Nepal led to the capture of power by Maoists". C. Jaishankar, "Advani sees mishandling of foreign policy", *The Hindu*, 8 May 2009.

<sup>129</sup> Both independent analysts and retired officials complain that the Indian government's strategic shift in 2005 was neither well explained in public nor well implemented through the usual diplomatic means. Crisis Group interviews, New Delhi, June 2009.

<sup>130</sup> As former foreign minister Natwar Singh belatedly recognised: "Our concerned agencies ... were hopelessly wrong about the rise of the Maoists. They were even more off the mark about the outcome of the elections which gave Maoists a spectacular victory". K. Natwar Singh, "Neighbourhood in turmoil", *Indian Express*, 5 May 2009.

The discussion has spread beyond the mandarins' confines in South Block, which houses the foreign and defence ministries, as well as the prime minister's office. Some commentators have lined up on the government's side to stress that concerns at Maoist intent and possible ramifications for India to justify New Delhi's recent steps. "India has high stakes in [Nepal's] peace and should engage in deft diplomacy to save it", offered one editorial. "During Maoist institution-wrecking, as they signed the peace and friendship agreement with China, India preferred to remain in the sidelines. It must now talk to all actors, and forthrightly".<sup>131</sup> But other independent analysts suggest the problem has not been a shortage of talk or action but a lack of consideration of ends and means.<sup>132</sup> Prominent newspapers, such as *The Hindu* and *The Hindustan Times*, attacked the short-sightedness of undermining civilian control of Nepal's military in favour of teaching the Maoists a lesson for their supposed misbehaviour. Several commentators with knowledge of Nepal argued that India had betrayed its own interests. In the words of one:

What is shocking is that the Kathmandu cocktail circuit and desperate powerseekers managed so easily to hijack India's policy towards Nepal by talking of coups, countercoups and a civil war. What will be the consequences of this? First, India will become unpopular once again in Nepal. This may not be reflected in street agitations but sympathy will grow for a prime minister who preferred to quit rather than be dictated by the Indian ambassador who behaves in a vice-regal fashion. This is the stuff of potent nationalism.<sup>133</sup>

#### D. REGAINING DIRECTION

Indian and Nepali interests are not irreconcilable. Indeed, they do – as diplomats always insist – largely overlap. But the only viable plan for pursuing them is to return to the logic of the twelve-point agreement. It has not worked out quite as planned but the underlying calculation was solid: that peace, stability and bringing the Maoists into open, competitive politics would serve Indian interests as well as reflecting the

wishes of Nepal's people. India's loss of faith in this plan is based on an unduly negative take.

Political ownership and parliamentary scrutiny in New Delhi would help. For the region's proudest democracy, the paucity of serious parliamentary debate on Nepal is shameful. Off-the-record seminars and mandarins' confabulations are a poor substitute for ministerial accountability. Given the critical importance of Nepal to India, a point no Delhi diplomat ever leaves unstressed, there has been precious little parliamentary discussion of whether policies serve their purpose.<sup>134</sup> The rhetoric of a nationally owned process would also be worth translating into reality. It is true that Nepali politicians feed the Indian appetite for intervention by constantly crawling to New Delhi. Yet in recent years India has reacted to developments as much as shaping them. Accepting Nepal's sovereignty would help India react more calmly and constructively when events take an unexpected turn – as they have before, and will again.

The mutual mistrust and antagonism that has developed between India and the UCPN(M) is helpful to neither side. Just as New Delhi fears Maoist intent, UCPN(M) leaders harbour suspicions over India's outlook. Both perspectives rest on too much truth for comfort. Nepal's Maoists know they have to cope with Indian concerns if they are to return to government and achieve real change but they have been slow to adapt in practice. Most Indian policymakers know the UCPN(M) is here to stay but still wish it away. In the meantime Nepal policy risks being overshadowed by India's own burgeoning Maoist movement. The original idea that success in Nepal would set a useful domestic precedent has not outlived its utility, even if the situations are not directly comparable.

Ultimately, India faces a simple choice. It can push for a democratic neighbour in which the Maoists will likely remain a leading political force. Or it can see a militarised Nepal, in which an emboldened NA tempts Maoist extremists to return to violence. For now, its policies are inviting the latter scenario. But it is not too late to revert to working towards the former. And India could even try to practice what it preaches to others on non-intervention. It might discover that Nepali

<sup>131</sup> "Post Prachanda", editorial, *Indian Express*, 5 May 2009.

<sup>132</sup> Frustration at the ill-planned diplomatic manoeuvres is common across the board – from opposition politicians and activists to those who have long advised the Congress-led government on Nepal policy. Crisis Group interviews, New Delhi, June 2009.

<sup>133</sup> Bharat Bhushan, "India blunders in Nepal again", *Mail Today*, 6 May 2009.

<sup>134</sup> Neither India's lower nor upper house (Lok Sabha and Rajya Sabha) has seen substantive debate on policy towards Nepal since before the 2005 twelve-point agreement. Parliamentary discussion and formal questions to ministers have tended to focus more on questions of water resources, flooding, trade and perennial concerns about Pakistani intelligence agents' infiltration across the open border. All debate transcripts and parliamentary questions are archived at <http://parliamentofindia.nic.in>.

politicians are indeed capable of working out their own solutions if freed from constant interference.

## VI. THE FALLOUT FOR THE PEACE PROCESS

### A. NEW REGIME, OLD PROBLEMS

The fall of the Maoist-led government was widely welcomed but the wave of enthusiasm for its replacement, an unwieldy coalition of 22 disparate parties, dissipated rapidly. It took Prime Minister Madhav Kumar Nepal weeks even to negotiate the entry of major partners into his cabinet. Smaller allies have yet to join and some are already showing signs of restiveness. The 9 July presentation of the government's policy and programs prompted dissent from within the UML itself as well as from the NC.<sup>135</sup> Eight parties nominally part of the coalition registered amendment motions.<sup>136</sup> The new government lacks the will and capacity to achieve anything significant, especially on the peace process. Even many of its constituents appear well aware of this, as do most of those who had initially hailed it as a saviour.<sup>137</sup>

The new government started out – ironically if not surprisingly – by flouting the very constitutional demand for consensus that the Maoists had been accused of breaching. Not only did it apparently fail to consult the UCPN(M) on major policies, it also managed to take some innovative decisions before the cabinet had even been formed.<sup>138</sup> Coalition partners, especially the

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<sup>135</sup>The policy and programs were published in full in the state and other media. See “Nepal sarkarko arthik varsha 2066/67 ko niti tatha karyaakram”, *Gorkhapatra*, 10 July 2009.

<sup>136</sup>Those filing amendments were: Tilak Bahadur Thapa Magar, CPN (ML); Chandra Bahadur Gurung, Rastriya Prajatantra Party (Nepal); Jaya Prakash Gupta, Madhesi Janadhikar Forum (Upendra Yadav); Sarita Giri, Nepal Sadbhavana Party (Anandidevi); Bishwendra Paswan, Dalit Janajati Party; Rukmini Chaudhary, Samyukta Loktantrik Rastriya Manch; Lila Nyaichyai, Nepal Workers and Peasants Party; Santa Bahadur Nepali, Rastriya Janamorcha. “Parties against govt's policy”, *The Himalayan Times*, online edition, 10 July 2009.

<sup>137</sup>See, for example, Kamal Dev Bhattarai, “Month-old UML-led government fails to inspire confidence”, *The Himalayan Times*, 22 June 2009. Commentary from one repentant former supporter and dedicated anti-Maoist, calling for Madhav Nepal's resignation, was particularly incisive: Manuj Chaudhari, “Upay: pradhanmantriko rajinama”, *Nepal*, 5 July 2009.

<sup>138</sup>The new government's eye-catching initial decisions – including the inauguration of a new republic monument which appeared to replace that already planned for the former royal palace, although officials explained that no budget or design had yet been agreed – were taken when only three ministers had been sworn in and the coalition cabinet had yet to sit.

smaller parties, complain of being sidelined. Impressive as a 22-party grouping may sound, the government's majority in the CA is neither wide nor secure: in the only test so far, its policy and programs were backed by 305 members – just four over the 301 needed for a simple majority.

The fact that many ministers were defeated in the CA elections has further tarnished the government's democratic credentials. Madhav Nepal is an able bridge builder and a conscientious balancer of factions. But he lost from two constituencies in April 2008 and has yet to emerge from the shadow of his past eagerness to secure the prime ministership. Only twelve of 32 ministers were elected directly, through first-past-the-post contests. Eight lost, eight were appointed through proportional representation and three did not contest the polls at all. Several prominent office holders lost their seats, for example Foreign Minister Sujata Koirala, Defence Minister Vidya Bhandari and Peace and Reconstruction Minister Rakam Chemjong. This has caused dissatisfaction within the UML, which has been most egregious in appointing losers.<sup>139</sup>

Sniping from other parties in the government has continued. Many NC leaders criticised the government's policy and programs, despite the fact that they had heavyweight representatives, such as Ram Sharan Mahat, on the drafting committee.<sup>140</sup> While disgruntled leaders called on their party to register their dissent formally, Mahat himself awarded the government's program only half marks in a newspaper survey of reactions.<sup>141</sup> Similar complaints also came from senior figures within the UML.<sup>142</sup>

The budget appears sensible and politically astute on paper. It maintains popular Maoist initiatives, despite dismissing the cancellation of farmers' small loans as

a "Maoist pet program".<sup>143</sup> It also revives some of the UML's well-regarded programs from their 1994-1995 administration, while offering projects designed to please Kathmandu residents alongside heavy investment in roads and basic infrastructure. But most commentators are dubious when it comes to the critical question: can it be implemented?<sup>144</sup>

After some stalling, the Maoists did allow the presentation of the program and, later, the budget to go ahead. However, other parties have set a poor precedent on such issues. The NC's hindering of the post-CA government formation and budget was egregious but disrupting CA proceedings has become a standard tool for opposition. The CA's functioning as legislature has been severely disturbed, with little business transacted in its sittings. The Maoists seem likely to cooperate on purely peace process-related issues but will not offer the new regime any easy victories. A proposed high-level political coordination committee could at least coordinate efforts on this front. Long talked of, it is now championed by G.P. Koirala, who would like to head it – or at least be recognised as the "guardian" of the process. As long as such a mechanism does not meddle in day-to-day governance and sticks to a clear mandate it would make good sense.

In the background, progress on constitution-writing has been patchy at best.<sup>145</sup> CA members did canvas public opinion, albeit through lengthy and complex questionnaires that did not facilitate a wide response. But the drafting schedules have slipped again, forcing a further revision of interim deadlines.<sup>146</sup> Only a handful of the

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<sup>139</sup> "If this was what we wanted to do ultimately, then why stage the drama of elections?" one UML lawmaker was quoted as having asked Madhav Nepal following the appointment of so many losing candidates as ministers. Mohammad Rijwan, a junior home affairs minister, is the only directly elected UML appointee, from Sarlahi-2 constituency. "PM under fire in UML", *Republica*, 18 June 2009.

<sup>140</sup> See, for example, "Kangres asantushta", *Naya Patrika*, 10 July 2009; "Dissatisfaction within NC over govt policy programmes", *The Kathmandu Post*, 10 July 2009.

<sup>141</sup> "Niti tatha karyakram: sarkar lai 44 nambar", *Naya Patrika*, 10 July 2009.

<sup>142</sup> At their 10 July parliamentary party meeting, UML CA members complained that the agenda was stale. "Govt policy programmes lack new idea: UML lawmakers", *ekanti-pur.com*, 10 July 2009.

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<sup>143</sup> Mukul Humagain, "Maoist pet programmes to be scrapped", *The Kathmandu Post*, 7 July 2009. In contrast to the dominant private-sector orthodoxy to which most coalition partners subscribe, it even promises to go ahead with the revival of two state-owned industries. (These include the Hetauda Textile Mills, a step that might gratify the Maoist trade unionists who occupied the site to protect its equipment and push for its revival – or annoy them at the UML trying to take credit. Crisis Group interviews, Maoist party and trade union activists, Hetauda industrial area, April 2009.)

<sup>144</sup> Even supporters of the government are very doubtful about the prospects for implementation. Prominent former finance ministers and economics specialists Ram Sharan Mahat and Prakash Chandra Lohani are among the well-informed sceptics. They and other non-UML politicians have complained that the budget does not represent the coalition's smaller parties. "Lawmakers see challenge in implementation of budget", *nepalnews.com*, 14 July 2009.

<sup>145</sup> See Martin Chautari Policy Brief, "The Constituent Assembly Process", Kathmandu, May 2009, at [www.martinchautari.org.np/pdf/policy-brief\\_no.1\\_may2009.pdf](http://www.martinchautari.org.np/pdf/policy-brief_no.1_may2009.pdf).

<sup>146</sup> Despite the ever tighter schedule, the CA adjourned indefinitely on 21 July 2009 while waiting for further input from thematic committees.



thematic committees submitted their draft proposals and those that did were often quirky and not supported unanimously.<sup>147</sup> The important position of constitutional committee chair has remained vacant since Madhav Nepal quit it on assuming office as prime minister. The usually unflappable CA chair, Subash Nemwang, has finally altered his public line to admit that there have been problems, the process is behind schedule and lack of consensus threatens the completion of the exercise.

There has been little joined up thinking and few parties have communicated a vision for the new constitution. Of course, this would be easier if such visions existed. But the major parties remain undecided on key topics. The NC, for example, took until July 2009 to produce its first internal document on possible federal structures – that too only a starting point for discussion rather than an agreed policy paper. On this most central and contentious area, few parties have taken a coherent public position. As a detailed assessment observes, “the CPN (Maoist) is the only [political party] that has presented a comprehensive geographic model for a federal republic of Nepal”.<sup>148</sup> For most others, the main incentive is a negative one: to guard against the presumed dangers of disintegration and ethnic strife.<sup>149</sup>

## B. PARTIES BEYOND PARODY

The state of the other parties has shaped recent events and affects Maoist calculations. The UCPN(M) may have the most serious policy discussion to resolve but parties facing less existential wrangles are in even more of a mess. Almost all are faction-ridden, rudderless and short on fresh ideas and leadership. This even applies to the UML, whose February 2009 national convention had held out a promising example of serious policy debates and full internal elections. The parties have been their own worst enemies, achieving only a tragic repetition of past mistakes.

Most parties' local networks are weak and have yet to be revived. They have lost touch with both core supporters and the population at large. Instead of rectifying this, they rely on looking upwards: often accurately, they see power as being delivered from above rather than from a mass base. While the palace used to be the chief arbiter, higher forces such as the NA and New Delhi remain. With the exception of Madhesi parties' strident line on regional autonomy, there remain few saleable policy alternatives to Maoist proposals. (Many governing party members have themselves complained that the new administration's policy and programs are stale.) The NC still stands out for its lack of thinking on policy issues: it made no detailed analysis of its election defeat and has only belatedly started discussing major constitutional questions. But its rivals are not as far ahead as they should be.

The continued weakness of democratic opposition only encourages the army to usurp the role that should be played by political parties. This dangerous trend has gathered pace as the major parties cede responsibility. It is particularly surprising that NC leaders should be comfortable with the army producing far more serious constitutional suggestions than they themselves have. All four NC prime ministers have fallen victim to previous military interventions. Two were imprisoned following palace-ordered and army-executed coups: B.P. Koirala in 1960 and Sher Bahadur Deuba in 2005. Two more, Krishna Prasad Bhattarai and G.P. Koirala, suffered heavy-handed efforts to intimidate them in transitional periods.<sup>150</sup> Former Prime Minister G.P. Koirala and Home Minister Govinda Raj Joshi, a party strongman, were pushed into resignation by army non-cooperation.<sup>151</sup> Prime Minister Nepal did not have to wait long for his first taste of this bullying, when a cohort of NA top brass descended to reprove him for his reported comments on PLA integration.<sup>152</sup>

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<sup>147</sup> For example, proposed language in draft sections on topics such as compulsory military service, the definition of sovereignty, the protection and regulation of borders and language policy often prompted dissent from within the committees themselves but was inserted by chairpersons or a majority of members in line with their own parties' policies but without building consensus.

<sup>148</sup> Pitamber Sharma and Narendra Khanal, *Towards a Federal Nepal: An assessment of proposed models* (Kathmandu, 2009).

<sup>149</sup> The rallying against the spectre of “ethnic federalism” has intensified. One NC-leaning weekly even argued that the Maoists were using the cover of “civilian supremacy and nationalism” precisely in order to foment ethnic war. “Nagarik sarvocchata ra rashtriyatako namma jatiya yuddha bhad-kaune maovadiko yojana”, *Ghatana ra Bichar*, 3 June 2009.

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<sup>150</sup> Interim Prime Minister K.P. Bhattarai described the generals' arm-twisting in Martin Hoftun, William Raeper and John Whelpton, *People, Politics & Ideology* (Kathmandu, 1999), p. 301; Koirala had a similar experience in the immediate aftermath of the April 2006 people's movement when then COAS Pyar Jung Thapa, accompanied by senior officers including then Lt.-Gen. Katawal, turned up at his office to warn him against punishing them for their role supporting the royal government.

<sup>151</sup> Koirala's resignation as prime minister was prompted by the army's refusal to help rescue dozens of police hostages from Holleri, Rolpa district, in 2001; Joshi resigned when the army sat tight in its barracks as police were massacred in the Maoists' first major attack on a district headquarters, in Dunai, Dolpa district, 2000.

<sup>152</sup> See section VII.D below on the row over the prime minister's reported, but retracted, words.

The main non-Maoist parties have a strong incentive to delay the constitution-writing process. As long as they remain weak, they will not push it forward assiduously because its completion will bring fresh elections. The evidence to date, reinforced by the April 2009 by-elections, is that the older parties will struggle to challenge Maoist dominance or to outflank new parties in the Madhes and elsewhere.<sup>153</sup> The Maoists might not repeat their April 2008 performance but confident talk of their collapsing popularity is well off the mark. As long as their challengers show no signs of revival their electoral strength should not be underestimated.

The main parties:

**Communist Party of Nepal (Unified Marxist-Leninist), UML:** Its surfeit of bright and able leaders have devoted much time and effort to political analysis. However, it has never been able to make the most of its position in between the Maoists and the NC. Instead of building on the centre ground and being an essential bridge between left and right it has slipped close to irrelevance. It played little role in the 2005 negotiations that framed the peace deal. As leader of the new government, it risks carrying the can for an administration over which it will exercise only nominal control. UML leaders are well aware of the dangers of such an arrangement. Their detailed January 2009 political report pointed out the error of joining the 2004-2005 coalition government and the mistake of allowing desire for office to cloud their judgment in imagining Gyanendra's "regression" was "half corrected".<sup>154</sup> Further in the past, but still fresh in the memory, is the experience of their short-lived 1994-1995 minority government.

The Maoist administration is Nepal's second communist government to fall after only nine months in office, the first being the UML's own minority administration in 1994-1995. This irony is not lost on UML leaders, nor is the fear that the new arrangement could break this record for brevity. Misgivings within the party have been barely concealed. Party president Jhulanath Khanal, for now outmanoeuvred by his rivals, has voiced concerns. Former Home Minister Bam Dev Gautam has been more vocal in ruing the UML's withdrawal of support to the Maoist-led government to align with the NC and more right-wing parties. Many senior party members fear they will be used by both the NC and the army. If so, they would further erode their popular credibility while making no gains beyond a few months occupying ministerial positions.

**Nepali Congress (NC):** Nepal's oldest party took a great step forward by finally holding a long overdue election for the leadership of its parliamentary party. The result was an unexpectedly convincing victory for Ram Chandra Poudel. This upset widespread expectations that G.P. Koirala would engineer a win for his longstanding rival Sher Bahadur Deuba – in return for the latter's docile acquiescence in Sujata Koirala's appointment as foreign minister and leader of the NC team in government. This exercise in internal democracy may establish a useful precedent for a party that is widely – and correctly – seen as one of the most autocratically and opaquely managed.

With the party presidency soon to be contested, and a general convention in the offing, there may be further realignments within the party. Deuba will seek to compensate for his setback, while other contenders may feel emboldened now that some of Deuba's formerly solid supporters have deserted him, suggesting that the faultline of the 2002 split has been redrawn.<sup>155</sup> More internal democracy could reinvigorate the party but it could also destabilise its delicate balance of rival factions. None of Koirala's possible successors is a strong leader, none has anywhere near his grip on the party and none has his ability to make bold deals with the Maoists or to face down the army or India. For all his weaknesses, the party and the country still need Koirala in control. Beyond questions of leadership, the NC will only rebuild credibility as the prime promoter

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<sup>153</sup> The six by-elections included a surprisingly balanced range of constituencies, both geographically and politically. However, they are far from nationally representative. Nevertheless, the Maoists' retention of two seats and victory in one more suggests the CA election result was not a one-off. A far stronger UML and NC performance in subsequent student elections is not much comfort: the student population is tiny and extremely unrepresentative of the population as a whole in class, caste, ethnic, gender and other aspects.

<sup>154</sup> The report contends that the UML allowed its opposition, G.P. Koirala's NC, to cloud its judgment; it supported Deuba "without making an analysis of the overall situation". CPN(UML) Central Committee, "Rajnitik prativedan", January 2009, p. 91. The report accepts that this step only encouraged Gyanendra's autocratic steps, split the democratic opposition and made it all the more difficult to achieve any of the UML's stated aims – while prompting dissatisfaction and opposition within the party. Ibid, p. 92.

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<sup>155</sup> When the party split in 2002, Koirala and Deuba were the only individuals commanding substantial support in the ranks. The picture is now less clear-cut: Koirala's dominance continues but he has more contenders, who are competing for influence. For a good analysis of this more complex landscape, see Haribahadur Thapa and Kulchandra Nyaupane, "Kangresbhitra pheriko dhruvikaran", *Kantipur*, 23 June 2009.

of democracy if it forges a serious policy platform to translate its rhetoric of liberal pluralism into practice.

**Madhesi Janadhikar Forum (MJF):** The MJF has split, with the Gachchhadar-led faction opposing party president Upendra Yadav's leadership and having its parliamentarians support the new government. The battle for legal control of the party is partially resolved (the election commission has recognised Yadav's faction) but the party's original central committee remains divided and there is little prospect of reunion. Yadav is probably in the better position to profit from this situation, despite his short-term loss of dominance. With his party shedding opportunistic senior leaders he may manage to revive his grassroots by continuing to distance himself from New Delhi and breathing life into a Madhesi campaign. The likelihood of a new political movement during the constitution-writing period remains high. But, as MJF and other Madhesi party leaders privately admit, the "one Madhes, one province" goal is unattainable. The crunch will come when the constitutional process nears the decision point on federalism and parties have to temper their populism with pragmatism. That is still some way off. The more immediate challenge will stem from demands for better representation of Tharus, Dalits, Muslims and other groups not well served by the Madhesi parties in their first incarnation.

### C. UNMIN: UNLOVED BUT ESSENTIAL

The UN mission's mandate has been extended by a further six months until 22 January 2010 – the fourth such term extension. Once again, the government's request described the consistent progress of the peace process and, without offering a specific promise, reassured the UN Secretary-General that it is heading towards its "logical conclusion" and that the CA is "duly working to write a new democratic constitution of Nepal within the stipulated time frame".<sup>156</sup> The mission

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<sup>156</sup> "I have the honour to request for an extension of the duration of the current mandate and the continuation of the related works of the United Nations Mission in Nepal (UNMIN) by another six months beginning 23 July 2009. ... I have further honour to inform you that the peace process ... has consistently been making progress. The Government and the major political parties of Nepal remain fully committed to take the peace process to its logical conclusion and they have been keenly engaged in that direction. The elected Constituent Assembly is duly working to write a new democratic constitution of Nepal within the stipulated time frame". Letter to UNSG from Ambassador Madhu Raman Acharya, 7 July 2009.

has a limited mandate and its primary responsibility is to monitor the management of arms and armies.<sup>157</sup>

**Under fire:** UNMIN has been a convenient lightning rod for resentment at "outside interference" – ironically, given that it has no will or capacity to engage in any of the skulduggery that India does so brazenly. "Like elsewhere in the world, the UN peace keeping effort in Nepal too has failed summarily not because of the host country but by the erratic habits and immoral conducts exhibited by the men engaged in the said UN team", railed one hostile editorial in a conservative weekly. "Ian Martin, the former UNMIN chief, clearly sided with the Maoists ... It is time that the Nepal leadership formally says good bye to the UNMIN from Nepal. The longer this UN body stays in Nepal, the more trouble we will have to endure".<sup>158</sup> Attacks have also come from political parties: in particular the NC, but also – despite UNMIN's supposed partiality towards them – the Maoists.<sup>159</sup> India has not only sniped from the sidelines but has sometimes stirred up public controversy.<sup>160</sup>

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<sup>157</sup> UNMIN was established on 23 January 2007 with a one-year mandate, which has subsequently been renewed four times. It was deployed to support the CPA by: monitoring the management of arms and armies, assisting in the monitoring of ceasefire arrangements (with human rights aspects to be monitored by OHCHR) and supporting the CA elections. UNMIN had planned to recruit 1,073 staff for the original twelve months, of which 968 were actually hired by April 2008. After the CA elections, its capacity was progressively scaled down. The Electoral Assistance Office was closed in May 2008 and all other units were reduced. By December 2008 it had 355 staff; this had gone down to 255 as of July 2009. UN Secretary-General, Reports to Security Council, January 2007 to July 2009, available at [www.unmin.org](http://www.unmin.org). For the original mandate see Crisis Group Asia Report N°128, *Nepal's Constitutional Process*, 26 February 2007, p. 34.

<sup>158</sup> "Nepal: Say Good bye to UNMIN", editorial, *Telegraph Weekly*, 17 June 2009.

<sup>159</sup> The NC, in particular, seized on the Shaktikhor video to castigate UNMIN and demand a full reverification of Maoist combatants. See, for example, Umakant Chaudhari, "Mao-vadi rananiti ra anminko bhumika", *Naya Patrika*, 19 May 2009. During the verification procedure itself, the Maoists had been the most vocal critics, insisting – in particular following the first phase of the exercise in the PLA's first division cantonment – that the UN had unfairly disqualified eligible combatants. Although some cases were reconsidered, only a small number passed a second test.

<sup>160</sup> It enjoyed and apparently stoked, for example, the controversy over alleged UNMIN contacts with Madhesi armed groups. (There had indeed been one ill-advised and ill-concealed meeting in Bihar conducted by the UN's Office for the Coordination of Humanitarian Affairs on the thin excuse of securing cooperation in essential aid efforts.) It is

**Weaknesses:** UNMIN's mandate was prepared within unavoidable, but unhelpful, constraints. It was given limited but critical tasks; at the same time it was always at risk of becoming stuck if the peace process did not conclude as planned. It cannot safely be withdrawn as long as the Maoist army remains in cantonments but it has no leverage to push for progress towards integration and rehabilitation. The inconsistency in the mandate is the responsibility of the Nepali parties – and, even more so, of the Indian government, which wrote and continues to police the red lines. The UN itself took the difficult decision to accept a less than ideal mandate rather than risk stalling the rapid progress of the peace deal by holding out for unattainable perfection. UNMIN's own public relations effort in Nepal did not effectively address criticisms of substance or working methods. It could have done more to leverage the public support of Kathmandu-based diplomats and donors, many of whom initially found their UNMIN counterparts uncommunicative – not to mention upsetting some development officials by making the presence of business as usual even less sustainable.

**Hostile environment:** Initially welcomed, UNMIN has latterly received precious little support from influential Nepali opinion-formers. Few have taken an honest, clear stance on UNMIN's role and potential utility to Nepal. Some are sceptical on principle; most have been content to join a fashionable chorus of mudslinging, which alienates no domestic players but tends to lack depth. Fringe outlets have been more outspoken, although mainstream publications have occasionally rivalled them for hyperbole.<sup>161</sup> Political parties often play to the gallery to win public credibility or look tough to their own ranks despite privately appreciating the UN role and calling for more assistance. The NA high command made constant efforts to undermine UNMIN even as it professed its commitment to cooperation and participated formally in its tasks.

**Indian concerns:** India knew it needed the UN but was worried by its presence from the outset. It has never coped well with these dual compulsions. It rushed to help UNMIN get set up, with a genuine effort and major contribution on practicalities such as providing vehicles and containers for arms which would have

taken months to arrive via other routes. But almost at the same time it started the off-the-record sniping, much of it at the pettiest level.<sup>162</sup> The approach was predicated on the confident calculation that a few weeks after the CA elections the new, "legitimate" government would thank UNMIN for its troubles and order it to pack its bags. It also reflected a genuine fear that a serious international presence, even with a limited mandate, might reduce India's almost unfettered influence on Nepal and dilute its exclusive role in the peace process. This could be a blow not just to India's dignity but also to its scope for intervention.

**Resentment at new approaches:** UNMIN upset different layers of the establishment by taking marginalised communities seriously. It risked alienating the traditional UN employee class – a well-entrenched network – by making a real effort towards inclusive employment practices. In doing so, it built probably the most diverse workforce of any comparable international or national agency, putting donors and Nepal's government to shame. The contrast with the high-caste male cliques dominating the parties and the media was even more stark. It is little wonder UNMIN earned minimal public credit for this, or even interest. UNMIN was by its nature closely in contact with the Maoists, particularly the PLA, through arms monitoring and the Joint Monitoring Coordination Committee (JMCC). It naturally developed a different perspective on them, one based on far more in-depth, face-to-face relations than most outsiders. It was a small step to translate this into accusations of bias.

In sum, UNMIN perhaps started out with a flawed mandate. But that was hard to avoid and the decision to accept it is, even with the benefit of hindsight, justifiable. It is hard to imagine what readily better options existed or could have been engineered. Its poor public relations were exacerbated by half-hearted diplomatic and political support. A natural scapegoat, it should have developed better strategies to deal with public criticism. But it has played an essential role, many aspects of which have been unsung and underappreciated.<sup>163</sup> Without it, the peace process could well have

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ironic that the government of India had itself been directly supporting the same armed insurgents that it complained of the UN engaging with on humanitarian issues. Crisis Group interviews, officials and analysts, New Delhi, September 2008.

<sup>161</sup> See, for example, the call of one mainstream daily for the UNMIN chief to be sacked over the phrasing of one (not inaccurate) sentence in the May 2009 UN Secretary-General's report. "Recall Landgren", editorial, *Republica*, 27 May 2009.

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<sup>162</sup> "They realise Nepal's a cushy spot and just want to extend their stay indefinitely to enjoy themselves and keep their cars and salaries" was a repeated refrain, even from the most dedicated and committed of diplomats. Crisis Group interviews, various Indian officials, Kathmandu and New Delhi, 2007-2008. (Of course, the cars and salaries were indeed embarrassingly luxurious, although this is a trend that Kathmandu's omnipresent aid experts, and Indian ambassadors, have done little to buck.)

<sup>163</sup> For a relatively uncontroversial example, there were the district election advisers who boosted many election commission officers' morale and capacity in districts nationwide in

collapsed and Nepal's politicians – of all stripes – would have had even less of a shield against determined but miscalculated bilateral meddling.<sup>164</sup>

A UN role in Nepal is here to stay – and certainly beyond January 2010. UNMIN has not been used as well as it could, either for technical input or for political backing for the peace process. An expanded mandate is unlikely and unnecessary: some technical assistance is happening under the current set-up and the offer of the Secretary-General's good offices does not depend on a formal sanction. India does not want extended Security Council (SC) attention on its backyard; China does not feel much differently. But as long as UNMIN is there, SC oversight is inevitable, as are the growing concerns of member states at slow progress and the multiple missed deadlines. Their engagement can be useful, and Russia's longstanding proposal of an SC visit to Nepal merits serious consideration.<sup>165</sup>

Repeated extensions to UNMIN's mandate are not disastrous in themselves, even if they are slightly embarrassing. The bigger question is how to make the most of international moral and practical support while being honest about the challenges. Such honesty would help in planning better to address difficulties in a long-term fashion, not just with the six-month pretence that comes round each January and July. It should also embrace a realistic understanding of Indian and Chinese concerns – not to mention the genuine desire of most Nepalis not to become dependent on white cars or blue helmets. But even once UNMIN has gone, Nepal's transition to full stability will be a lengthy, delicate process requiring international understanding beyond the standard development engagement. It is already time to be thinking about the transition to coordinated support for that next stage, whether through a strengthened UN country team, better international coordination mechanisms or any other means. Ideally, Nepal itself should guide such steps and its powerful neighbours should take the lead in bringing interna-

tional players back onto the same page for the region's long-term good.

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the run-up to the CA election. See Crisis Group Report, *A Peaceful Revolution?*, op. cit., p. 9. It is important to note that India supported such efforts wholeheartedly: its criticism of the UN role was not unfocused.

<sup>164</sup> Some serious analysts who would prefer not to say so in print are convinced that UNMIN's presence has been a critical bar against resumed conflict. One senior newspaper editor, for example, says: "If it weren't for UNMIN we'd have been back at war long ago; there's no way the peace process would not have collapsed". Crisis Group interview, Kathmandu, July 2009.

<sup>165</sup> The Security Council has undertaken a number of visits to countries in which it has mandated missions. Reports of missions are at [www.un.org/Docs/sc/missionreports.html](http://www.un.org/Docs/sc/missionreports.html).

## VII. HEADING OFF TROUBLE: SOME SUGGESTIONS

The risks to the peace process posed by polarisation and the individual actors' mala fide intentions are clear. But Nepal's transition is conditioned just as much, if not more, by deeper and broader social, economic and cultural change. Great as the influence of top party leaders can be, the country's transformation is not solely in their hands. A young and growing population is caught between aspiration and frustration; marginalised groups continue to agitate for greater representation; faith in the state and political processes has not evaporated but is conditional. With so much contestation and conflict, the structural challenges involved in achieving a lasting resolution should not be underestimated. Coupled with this is the need to reimagine the bases of national identity. Nepal is not the Balkans: the assertion of ethnic and regional identity does not necessarily mean secessionism and communalism. But forging a revised national self-image only adds to the tasks the political process has to channel constructively. Muddling through – the traditional fallback approach – has staved off catastrophe in the past but is a less than inspiring strategy which is already offering diminishing returns.

### A. COPE WITH CHANGE ON ALL FRONTS

Nepal is a large country, and a changing one. The peace process had its roots in a comparatively straightforward triangular conflict. The main parties, readily identifiable, were structured and fairly predictable in their behaviour. They were able to fight and to talk; when they chose, they had it in their hands to create chaos or stability. Things are not so simple now. Short-term closed-door fixes still work, but their efficacy is ever less durable and they have made politics more dysfunctional overall. Games of musical chairs in Kathmandu are not going to solve Nepal's multiple, pressing problems. Parties need to get a grip and put their own disputes into perspective. If not, they will be standing on the sidelines as wider forces reshape the country in ways beyond their control.

The concepts of fragile, failing or failed states are not necessarily helpful or applicable. But Nepal's slide down the rankings of the respected Fragile States Index should prompt concern.<sup>166</sup> Coupled with weak public security

(discussed below), the country's fragility adds to the difficulties of finding peace solutions and putting them into practice. State institutions are, in general, ineffective in their functioning and command little public trust. Perceptions of corruption and politicisation of the police and judiciary are particularly damaging to confidence and public security.

**Inequality and conflict:** Nepal is a deeply unequal country. It has the greatest levels of inequality in South Asia – and the gaps are growing wider.<sup>167</sup> Such differentials tend to hinder smooth democratisation and increase the risks of totalitarianism. The peace process was predicated on a cross-class consensus for democratic structures. Yet the institutionalisation of democracy is conditioned by the evolving struggle between groups that hold power and those that are excluded from it. Great inequality increases the incentives for the powerless to fight for a share of the pie but it also raises the stakes for existing elites: the more they stand to lose, the harder they will resist change.<sup>168</sup> The definition of Nepal's "elites" is not straightforward but a struggle for control of state institutions, which involves forms of class conflict, is undeniably taking place. If power is redistributed there will be losers, at least in the short term. The interests of different classes, castes and other communities will inevitably clash. Without agreement on how to negotiate such conflicts, this is a recipe for turbulence and violence.

**Land reform:** Land disputes are a running sore. Landlessness is a particularly acute example of inequality and unsustainable social divisions. Yet progress on land reform has been stalled, despite many cross-party commitments. The new government has promised that "all legitimate demands put forward by ... the landless ... will be gradually fulfilled through mutual dialogue".<sup>169</sup>

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and marking a deterioration in both its relative position and individual indicators since 2008. See [www.fundforpeace.org](http://www.fundforpeace.org).<sup>167</sup> One Nepali academic recently pointed out that the Gini measure of economic inequality increased from 0.305 in the 1980s to 0.472 in 2000-03: "in a South Asian context, inequality in Nepal was less than India, Pakistan, and Sri Lanka in the 1980s while it became the highest among the above three countries and Bangladesh in the 1990s and the early twenty-first century. ... Gini index never crossed 0.4 in the four countries". Mahendra Lawoti, "Democratic corporatism", *The Kathmandu Post*, 5 February 2009.

<sup>168</sup> Daron Acemoglu and James A. Robinson, *Economic Origins of Dictatorship and Democracy* (Cambridge, 2005).

<sup>169</sup> The full list reads: "All legitimate demands put forward by the workers, peasants, women, youths, students, teachers, professors, intellectuals, doctors, engineers, lawyers, civil servants, journalists, entrepreneurs, cultural artists, the landless, the squatters, the conflict-affected, the displaced, freed bonded labourers (Kamaiyas), the Haliyas, Badis, and the

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<sup>166</sup> Nepal ranked 25th in the Fund for Peace/*Foreign Policy* Failed States Index, placing it in the highest risk category

Landless people, however, are only one of 23 categories of people whose demands will be addressed; prompt steps are unlikely. The government has also promised that a scientific land reforms program will be implemented and that “special attention will be paid to the socio-economic uplifting of the agriculture labour, freed bonded labour, landless and squatters”.<sup>170</sup> It has further vowed to reclaim land as part of two major irrigation river diversion projects.<sup>171</sup> Land reform has long been one of the Maoists’ central goals and a significant mobilising agenda. The fact that they made almost no progress in this area while in government, despite establishing a commission, suggests it will be hard to address.

**Education, employment and economic growth:** The 2009 school leaving certificate results brought good news for many students: the two-thirds pass rate was a significant increase on previous years. However, the higher education system cannot absorb all those wanting to pursue further studies while the job market has extremely limited openings for those with better qualifications. Industrial production has dropped and economic growth is likely to fall by more than two percentage points.<sup>172</sup> At the same time, inflation has been in double digits for several months. Although the global economic slowdown has not yet affected remittances as badly as many predicted, prospects for economic growth and employment are grim.<sup>173</sup> Agriculture, which remains the backbone of the economy, can offer only marginal increases in efficiency and productivity – and that too only with improved credit and investment, not to mention favourable weather. Industry, troubled by lack of diversification and poor labour relations, is not likely to deliver much in the way of jobs or profits. The already large numbers of unemployed and disaffected young people look set to grow. And in the short term, Nepal’s chronic food deficit has become an acute

crisis, with food shortages threatening dozens of districts and adding to the stresses on under-resourced communities.

**New armed actors:** The complexity of the political landscape, and profusion of small disruptive outfits, has continued to increase. One report listed twelve active armed groups in the Tarai, of whom five have entered preliminary talks with the government; it also names six armed groups mobilised in the eastern hills, of which only one is in negotiations.<sup>174</sup> Government strategy towards such groups remains unclear. The Ministry of Peace and Reconstruction (MoPR) has reportedly initiated contacts by telephone with the promise of substantive dialogue with the peace minister.<sup>175</sup> But the terms for talks, and their goals, have been neither clearly defined nor seriously pursued. With a limping constitutional process, divided political scene and incompetent law and order enforcement, the incentives for new groups to emerge and stake a claim to attention and rewards is undiminished.<sup>176</sup>

## B. STRENGTHEN THE STATE’S CAPACITY AND LEGITIMACY

The state has not failed. However, it lacks capacity and legitimacy. It has failed to get a grip on insecurity and has itself been responsible for killing more of its own citizens than any other group.<sup>177</sup>

**Public security, justice and impunity:** Focusing solely on the Maoists as instigators of unrest is unhelpful. Other parties are not nearly as non-violent as they pretend; some fringe groups make no claims to peaceful methods and have been increasingly active.<sup>178</sup> Insecu-

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disabled will be gradually fulfilled through mutual dialogue”. Policies and Programmes of the Government of Nepal for the Fiscal Year 2066/067, para. 18.

<sup>170</sup> Ibid, para. 31.

<sup>171</sup> Ibid, para. 34.

<sup>172</sup> “Quarterly economic update Nepal”, Asian Development Bank (ADB), June 2009. The ADB does forecast a marginal improvement in growth in 2010, but only to a meagre 3.5 per cent. “Asian Development Outlook Nepal”, ADB, 2009. Still, these figures are not necessarily disastrous. During the decade of insurgency, Nepal managed modest but sustained growth and significant poverty reduction. “Nepal: resilience amidst conflict”, World Bank, June 2006. A major factor behind this development was remittances, but rising incomes from agricultural activities and industrial employment also played important roles.

<sup>173</sup> “Interim Strategy Note for Nepal for the period FY 2010-2011”, World Bank, May 2009.

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<sup>174</sup> Ajit Tiwari, “Govt initiates contacts with Tarai armed groups”, *Republica*, 24 June 2009.

<sup>175</sup> Ibid.

<sup>176</sup> Crisis Group will examine public security issues in a separate forthcoming report.

<sup>177</sup> According to the most systematic, but not necessarily comprehensive, reports, the police were responsible for nineteen of the 44 killings carried out by identifiable groups in the first six months of 2009. Two killings were committed by the Maoists, ten by various Tarai-based armed groups and three by the Nepal Defence Army. The perpetrators in most cases, however, remain unidentified. See INSEC, “Trend Analysis”, at [www.inseconline.org/index.php?type=reports&id=3&lang=en](http://www.inseconline.org/index.php?type=reports&id=3&lang=en).

<sup>178</sup> In a front-page feature on increasing violence even the relentlessly anti-Maoist *Nepali Times*’ top three highlighted violent clashes had no Maoist involvement; instead, they related to vigilante action by local residents and an armed clash between NC and UML student unions. “More insecure”, *Nepali Times*, 10 July 2009. This is nothing new. Brutal

riety is partly an outcome of the conflict and the Maoist “lesson” that taking up arms can be an effective political tool. But it is about much more than just the Young Communist League (YCL).<sup>179</sup> While the Maoists have been responsible for beatings and killings in the period since the ceasefire, many more of their own activists have been killed – and with much less public acknowledgment.<sup>180</sup> An analysis of how killings break down – by the state, political parties, armed groups, criminal groups and the like – reveals a murky and ever more confused picture with a multitude of perpetrators and victims.<sup>181</sup> The sense of upheaval and lawlessness, even if not borne out by statistics, has also contributed to increased vigilantism, underscoring the capacity for violence in society at large.<sup>182</sup>

**Weak judicial system:** The judiciary is corrupt, ineffective and in need of reform. This reality is widely acknowledged by judges, lawyers and politicians alike. But there has been no meaningful action. Systemic

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fighters between non-Maoist parties were a feature of the pre-CA election period (see Crisis Group Report, *A Peaceful Revolution?*, op. cit.), although the changed environment has encouraged some participants to forget this. One senior UML office-bearer, for example, professed no recollection of an 8 April 2008 clash with the NC in his own district that had left several fellow party workers seriously injured. Crisis Group interviews, Lamjung district, April 2008 and April 2009. Crisis Group witnessed a far larger, and potentially more dangerous, pitched battle between NC and UML supporters armed with staves, rods and homemade firearms during the by-election in President Yadav’s home village (Sapahi, Dhanusha district, 10 April 2009).

<sup>179</sup> A leaked “security agency” report listed dozens of active (29) and inactive (25) armed groups and even more unarmed struggle movements or pressure groups (141). See Ravi Dhimi, “Rokiena hatyahimsako shrinkhala”, *Annapurna Post*, 2 July 2009.

<sup>180</sup> For example, UML Youth Force members killed a Maoist black flag waver protesting Prime Minister Nepal’s first visit to his home district of Rautahat after his swearing-in. The incident was briefly reported in a couple of news outlets but did not even warrant mention in the main newspapers. “Maoist cadre assaulted by UML cadres succumbs to injuries”, nepalnews.com, 6 June 2009.

<sup>181</sup> Recent terrorist attacks have been more random, and more risky to civilians, than almost any assaults during the 1996-2006 insurgency. For example, the bombing of a church in the capital left three dead – while a CA member accused of planning deadly bus bombings in Kathmandu in September 2007, Baban Singh, has managed to have his name removed from charge sheets.

<sup>182</sup> There has been an alarming spate of public lynchings of alleged kidnappers, initially a series of beatings and immolations in the Tarai and latterly copycat vigilante incidents elsewhere, including the beating to death of three teenage college students involved in a relatively harmless punch-up just outside Kathmandu.

weaknesses have complex institutional roots, as practitioners have long recognised: an action plan for judicial reform accepts the need for a major overhaul.<sup>183</sup> The outgoing and newly appointed chief justices have both emphasised that delays and corruption have undermined the courts’ credibility.<sup>184</sup> There has been next to no action on addressing conflict-era crimes, including investigating disappearances.<sup>185</sup>

**Development derailed:** Basic development is more or less on hold. The biannual Nepal Development Forum bringing together government and donors, already delayed, had been scheduled for May 2009. It was postponed indefinitely when the government fell, a step symbolic of the disruption to development efforts as a whole. Donors could be asking tougher questions of both themselves and the major parties. Awareness that development as usual is not quite possible does not in itself translate into realistic programming to fit with the halting transition to peace. The last government was excellent at raising money but, despite the many political incentives, poor at spending it. Without a radical improvement in the political dynamics, the state’s absorption capacity will remain very low. However generous donors are, their contributions will not be appropriately utilised until central and local governance is restored and until they stop subsidising needless security expenditure at the expense of basic essentials.

**Weak local governance:** Despite repeated promises of cross-party agreement to re-establish local government bodies, there has been no action. Local politicians in several districts cited the absence of elected representatives and conflict between parties at the district and village level as a major obstacle to disbursing development funds and ensuring the provision of basic services.<sup>186</sup> However, there has been progress on the establishment of local peace committees (LPCs). By 1

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<sup>183</sup> Kamal Raj Sigdel, “Massive judicial reforms on anvil”, *The Kathmandu Post*, 18 May 2009.

<sup>184</sup> New Chief Justice Min Bahadur Rayamajhee has called for lawyers to help “eliminate corruption from the judiciary”, while Nepal Bar Association chair Bishwo Kant Mainali argued the judiciary could also help itself “if it delivered fair judgments”. “CJ seeks lawyers’ help”, *The Kathmandu Post*, 18 May 2009. Mainali himself had earlier been at the centre of a heated row when the supreme court barred him from practising for accusing judges of corruption. A more in-depth exposition of the new chief justice’s views is available in Nepali: “Kanunlai janatale suraksha ra shantiko rupma anubhut garna sakun”, interview, *Annapurna Post*, 11 May 2009.

<sup>185</sup> Crisis Group will be examining peace and justice issues in detail in a forthcoming policy report.

<sup>186</sup> Crisis Group interviews, western and central districts, March-April 2009.



July 2009, 55 of Nepal's 75 districts had an LPC in place and the MoPR had started deploying secretaries to support them. LPCs could be a crucial element of the peace process.

If they function well, they can promote inter-party co-operation, deal with local disputes before they get out of hand, facilitate the provision of relief and rehabilitation funds and support the district administration in maintaining law and order. In some districts, LPCs have, with the encouragement of government officials, taken on a broad mandate to deal with sensitive issues.<sup>187</sup> Fostering local collaboration can go some way towards insulating against the dramatic ups and downs of national politics. LPCs bring together party officials and figures from civil society, as well as conflict victims and representatives of marginalised communities. This is a good thing. Nevertheless, LPCs are not a long-term solution. They are neither elected nor transparent and they risk the appearance of serving political parties' interests (albeit by sharing out the spoils across the spectrum) rather than serving local communities' needs. They deserve conditional support, as long as they are not encouraged to entrench themselves at the expense of the promised return to accountable governance.

### C. HALT MILITARISATION

Growing military budgets are a worrying indicator. Increased post-conflict military spending not only suggests a shaky belief in the ceasefire but increases the risk of a return to war. The most serious academic analysis of this topic shows that many post-conflict governments tend to avoid the "peace dividend" of reducing military expenditure on the assumption that maintaining high investment will deter renewed conflict. In fact, this strategy is "worse than ineffective": "Far from deterring conflict, high post-conflict military spending actually significantly increases the risk of renewed conflict".<sup>188</sup> Moreover, the authors of this study conclude that their results underestimate the risks: "Other research has established that high military spending reduces growth, while growth tends to reduce the risk of conflict".<sup>189</sup> A "peace dividend" of sharply curtailed military spending both reduces direct conflict risks and indirectly contributes to stabilisation by boosting economic growth.

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<sup>187</sup> Crisis Group interviews, Syangja, Gulmi and Arghakhanchi districts, April 2009.

<sup>188</sup> Paul Collier and Anke Hoeffler, "Military expenditure in post-conflict societies", *Economics of Governance*, vol. 7 (2006), pp. 89–107.

<sup>189</sup> *Ibid.*, p. 103.

Despite the durable, three-year military ceasefire, Nepal's 2009-2010 budget increased defence expenditure by more than 27 per cent.<sup>190</sup> (This figure does not include funds that are indirectly diverted to the military; only those budgeted for the ministry of defence itself.) With a total allocation of Rs. 15.6 billion (approx. \$203 million), more will be spent on the NA than on providing electricity – a bizarre prioritisation given both the desperate need for power for industrial development and the acute shortages that have affected the influential urban population. The NA will also account for almost as much expenditure as health (Rs. 18.5 billion/\$240 million), and almost as much as agriculture and irrigation combined.

The amount allotted is less than the NA's own target. It had publicly pushed for an increase of over 60 per cent; the defence ministry had reportedly called on the finance minister to approve a total of Rs. 18 billion (\$234 million).<sup>191</sup> Army officers argue, with justification, that they need extra funds to address chronic deficiencies in basic infrastructure and equipment.<sup>192</sup> Many soldiers, possibly up to half of the NA's forces, do not have adequate barracks and are forced to live in bunkers and other temporary structures. This is a legacy of rapid expansion during the conflict, when funds were targeted at immediate military needs rather than long-term infrastructure.

The call to create long-term facilities for an army of the current size illustrates the army's reluctance to revert to an appropriately resourced peace-time role. It has also been accompanied by a demand for a large increase in helicopters – potentially useful to deal with natural disasters but more plausibly requested to prepare for possible conflict. Most importantly, such procurement would provide the multi-million-dollar kick-backs that the top brass enjoyed during the war and have subsequently been deprived of.

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<sup>190</sup> The 2008-09 defence budget was Rs. 12.3 billion (\$159 million); for 2009-2010 the government has proposed 15.6 bn (\$203m). In practice, expenditure may be much higher. The revised estimate for actual spending in 2008-2009 was Rs. 14.5 bn (\$189m) – more than 18 per cent over the original budget. Budgets, 2008-2009 and 2009-2010, Government of Nepal.

<sup>191</sup> General Katawal had reportedly asked for a Rs. 20bn (\$260m) budget and ultimately persuaded the defence minister to request the finance ministry for Rs. 18 bn (\$234m). "NA asks for additional budget", nepalnews.com, 18 June 2009.

<sup>192</sup> Crisis Group interviews, senior NA officers, western and central regions, April, June and July 2009.

As before,<sup>193</sup> the headline figures also exclude expenditure on civil and armed police, as well as the large sums devoted to supporting the 19,000 Maoist combatants in cantonments: a total number of personnel that exceeds that of the NA. Perhaps not surprisingly, most domestic press analyses of the budget barely mentioned the extent of expenditure on the NA, Nepal Police and the Armed Police Force (APF).<sup>194</sup> This despite the fact that Finance Minister Surendra Pandey had been happy to tell the international media that “My priority in the budget will be to address the security issue”, with a particular focus on increasing security spending to satisfy industries and investors.<sup>195</sup>

The NA has not disguised its deep reluctance even to consider reductions in troop numbers until the peace process is complete. By this it means it should retain its full strength, with enhanced resources, until the Maoist combatants have been disarmed and rehabilitated, the constitution has been written, elections have been held and a new government installed legitimately under the new constitution. Even then, it argues that there should be no reduction in its strength unless and until a full national security strategy is in place.<sup>196</sup>

Although the new government has resisted the NA's more extreme demands, its significant hike in defence budgets will both stifle economic development and increase mutual mistrust by suggesting low commitment to peace. Money will be diverted from vital tasks, such as investing in health, education and industry. Aggressive signals will be sent to the Maoists. Maintaining NA recruitment while pushing for PLA degradation is a clear attempt to re-engineer the balance of power, which risks pushing Maoist fighters back to

war purely to protect their interests.<sup>197</sup> In an atmosphere already poisoned by the peddling of “Sri Lanka models” of all-out war, this step will only further spoil the chances for stability.

#### **D. WORK ON DEMILITARISATION**

The narrow focus on arms, cantonments and military matters has, from the start of the peace process, obscured the more important issue of demilitarisation. Arms monitoring, integration and rehabilitation are all controversial topics. But they are all discrete, small, manageable issues in comparison to the broader question of demilitarising the Maoist movement, the state and smaller political and criminal outfits. Dealing with Maoist army combatants and the mechanics of NA accountability is the first step. Grappling with the transformation of political and institutional cultures is a longer term project requiring leadership, determination and a clear sense of direction.

An obvious starting point would be Maoist action on discharging ineligible supposed combatants in line with repeated promises.<sup>198</sup> This will also depend on the state of planning by the MoPR and supporting international agencies. Rehabilitation plans need to be appropriately tailored and sold to those being discharged, rather than imposed. Ideally, a successful discharge process could encourage other steps forward and become a confidence-building tool. If mishandled, however, it could cast a pall over the wider discussion of verified combatants' integration and rehabilitation.

Making the AISC work is critical. Getting its composition and leadership right is just the start. It must separate the technical and political: parties should stop pretending the technical subcommittee can take real decisions on hotly contested topics. Feeding in technical options and advice will be essential; it is good that there is a mechanism to do this. But it cannot take the

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<sup>193</sup> See Crisis Group Report, *Nepal's Faltering Peace Process*, op. cit., p. 18.

<sup>194</sup> For example, one detailed survey of key features did not mention the defence budget despite discussing the allocations for education (Rs. 46.52bn/\$605.7m), roads (Rs. 18.49bn/\$240.7m), drinking water (Rs. 9.04bn/\$117.7m), electricity (Rs. 14.69bn/\$191.3m), health (Rs. 18.67bn/\$243.1m), agriculture (Rs. 8.60bn/\$112m), irrigation (Rs. 7.95bn/\$103.5m) and social security (Rs. 7.78 bn/\$101.3m). Ramesh Shrestha, “Sector-wise budget allocations”, *ekantipur.com*, 14 July 2009.

<sup>195</sup> Cherian Thomas, “Nepal will spend more on security as industrial output falters”, *Bloomberg*, 24 June 2009.

<sup>196</sup> “Any decision regarding the size of the Nepalese Army should be taken only after considering the following: when a new constitution is made and general election has been conducted; new government comes in power and formulates a national security policy; based upon the assessment of threats, national economy and other geo political factors the need of security forces is made”. “Management of integration of Maoist combatants”, NA briefing, op. cit.

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<sup>197</sup> As Collier and Hoeffler observe, “the longer the peace lasts the more the military capability of the rebel organization decays. This decay is much more pronounced than for the government army. After all, the normal state of government armies is to be at peace. They are organized so as to be financed without the need to fight, and to maintain a degree of combat effectiveness through training. By contrast, there is no example in history of a rebel army sustaining itself financially and militarily as a combat-ready force through a prolonged period of peace”. Collier and Hoeffler, op. cit., p. 91.

<sup>198</sup> For example, as prime minister, Prachanda explicitly promised action to Radhika Coomaraswamy, UN special representative for children and armed conflict, during her December 2008 Nepal visit. “Nepal Maoists pledge to discharge child soldiers: UN”, *Agence France-Presse*, 5 December 2008.

toughest decisions, nor can it achieve much until they are made.

Talking numbers cannot be avoided for much longer. When Prime Minister Nepal reiterated in June 2009 that integration would be completed within six months the timetable sounded like wishful thinking.<sup>199</sup> His government's official program has formalised this commitment, although remaining silent on the parallel requirements for security sector reform.<sup>200</sup> More importantly, Prime Minister Nepal put the question of numbers on the agenda, even if his comments were misquoted. He had reportedly suggested that some 5,000 Maoist combatants could be integrated into the NA. The Maoists cried foul at the figure but the stance, if genuine, would be a step forward. First, unlike his defence minister, the prime minister would have confirmed that significant integration into the NA is part of the peace deal; secondly, 5,000 would be a fairly generous opening position for negotiations.<sup>201</sup> Although Nepal denied the comments, Peace Minister Rakam Chemjong insisted that even more than 5,000 could be absorbed.<sup>202</sup> Regardless of any final outcome, talking numbers would help.

International support can be better focused and more urgently mobilised. Countries with longstanding military links – the U.S. and UK in particular, but ideally India, China and others too – should actively explore how they could help train integrated NA forces. Conversion training for former PLA combatants, most likely including officer training, will be needed. Reform of

the NA will also entail revised approaches from internationals, in terms of attitudes and practical assistance. Detailed plans may be best discussed privately with the government but there would be no harm in publicly explaining the options available on request and emphasising the willingness to support the inevitable transition. Those who continue to resist change will find their influence in the future, reformed, army much diminished.

Finally, and most importantly, the bigger picture of demilitarisation must not be obscured. Quibbling over cantonment numbers is natural but does nothing to address the much more immediate threats posed by groups outside the formal agreements. Militias, party youth outfits, armed groups and violent criminal mafias represent the reality of militarisation. As long as both Maoist and state politics are themselves militarised, lasting solutions will remain beyond reach.

## E. STOP SPOILING THE SPOILERS

The risks of failure are more stark than ever. The refrain of “give war a chance” has grown steadily louder and more insistent in the months since the Maoists first assumed leadership of the government. Senior NA commanders talk consistently of the likelihood that they will have resumed hostilities with the Maoists by the autumn. Diehard anti-Maoists within the army, the political parties and elsewhere are pushing hard to make this a reality. Maoist firebrands are assisting their efforts by insisting on a return to revolution and the establishment of a people's republic.

Those who want war have not yet won the day. The Maoist leadership has not allowed itself to be provoked and has reiterated its adherence to the peace process. Sensible political leaders in the NC, UML and MJF are aware of the risks of a return to conflict and an over-assertive military. An often myopic media has also woken up to the concerted efforts to derail the peace process. India, for all its distrust of the Maoists, does not want to see armed conflict reignite and would only support an army mobilisation, or political intervention, in extreme circumstances.

This means the priority for spoilers is to create circumstances where a return to conflict appears a reasonable option. The possibilities here are numerous. One can expect efforts to repeat the propaganda coup of the Prachanda video, to keep the Maoists on the back foot and revive fears over their intentions if they appear flagging. A push for “zero tolerance” policing, already being touted in the press, could be used to crack down on the YCL and provoke a response. Stirring up trouble in the Tarai would not be difficult, given the volatile

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<sup>199</sup>“Nepal PM says Maoist peace process stalled”, Reuters, 25 June 2009.

<sup>200</sup>The new government has promised that “The supervision, integration and rehabilitation of the combatants of the Maoist army and management of arms will be done in accordance with the provisions of agreements including the Comprehensive Peace Accord signed between the Government of Nepal and the Communist Party of Nepal (Maoist). The supervision, integration and rehabilitation of the combatants of the Maoist army will be carried out prior to the completion of the task of writing the new constitution”. Policies and Programmes, *op. cit.*, Art. 19.

<sup>201</sup>While those involved in the early peace negotiations consistently refer to an unwritten agreement that “some thousands” of Maoist combatants would enter a reformed national army, most non-Maoists cite a figure below 5,000. Crisis Group interviews, *passim*. The total reportedly mentioned by Prime Minister Nepal would be especially generous considering the harm done to the UCPN(M) negotiating position by Prachanda's apparent admissions of inflated numbers in the Shaktikhor video.

<sup>202</sup>Chemjong reportedly said that all qualified Maoist combatants could be integrated into the NA. “Qualified Militias to be integrated into Nepal Army: Minister”, *Telegraph Weekly*, 27 June 2009.

political mix and the opportunities to play on multiple divisions. The declaration of a state of emergency could be proposed as a reasonable step to contain disorder, especially as it would grant the delayed constitutional process a six-month extension. The president, given the green light by parties happy that he intervened against the Maoists, may be encouraged to take further steps.

The time has come for powerful Nepali players to make their minds up. If Maoist ideologues Kiran, Gaurav and their cohorts really want to be pure revolutionaries then they should go back to the jungles, resume the “people’s war” and stop pretending to be part of the process.<sup>203</sup> If visceral anti-Maoists are genuinely convinced they will never change and the only option is war then they have a duty to make their case openly instead of privately plotting “Sri Lanka models”. If fanatics on either side lack the courage to put their doubts into practice, then it is time they be told to stop undermining the process. It is very hard to build confidence when more extreme elements on both sides keep upping the rhetorical ante, implying they have no faith in the peace process and fuelling a more confrontational atmosphere.

Civil society may have lost some of its unity and credibility but it should be able to unite in pushing this message. Wilful spoilers have been incited and indulged by people who ought to know better. It is time to stop spoiling them before they have the chance to spoil the peace process for good.

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<sup>203</sup> As the Indian Maoists have suggested, they could “realize the futility of going into the electoral game and, instead, should concentrate on building class struggle and advancing the people’s war in the countryside”. To do this, they “should pull out the PLA from the UN-supervised barracks, which are virtually like prisons for the fighters, reconstruct the organs of people’s revolutionary power at various levels, retake and consolidate the base areas, and expand the guerrilla war, and class and mass struggles throughout the country”. Open letter to UCPN(M), op. cit.

## VIII. CONCLUSION

Cautious optimism is still an option in Nepal but the grounds for it are increasingly shaky. The peace process has built several impressive achievements, from a solid ceasefire to successful elections and the start of a democratic constitution-writing process. Many potential disasters have been averted. Parties across the board have capable and committed leaders who, when push comes to shove, are not always as short-sighted and irresponsible as their inflammatory public pronouncements suggest. The cross-party capacity for dialogue, compromise and cooperation for broader national interest has been dented but not destroyed.

Most Nepalis have readily accepted the UCPN(M) as a political party, albeit with reservations about their continued use of violence. However, most would like the Maoists to be democratic without simply becoming replicas of the old parties. There remains a strong demand for a decisive shift away from the perceived corruption, self-interest and destructive behaviour of the 1990s. There already is one UML: people do not want just another of the same but something fresh. But the Maoists often seem to have retained the worst of their own behaviour and adopted some of the worst of other parties’, instead of the other way round.

It is naive to pretend that the risks of failure have not increased. Consensus politics lies in tatters and divergent interests, always present, have become sources of festering distrust and bitterness. With the king gone, there is no common enemy to provide a rallying point. Political parties are weak and divided; the state is losing legitimacy and capacity. Capable honest brokers, so essential in forging the peace deal, are almost absent. Civil society is fractured; the UN has lost its gloss; India appears partisan and interventionist. The incentive of elections, in which all parties could imagine potential advantage and which formed a focus for international pressure, has evaporated. The constitutional process limps onwards but generates little political enthusiasm, especially as its completion will trigger fresh polls for which most parties are woefully ill prepared. Those arguing for a return to war barely conceal their agenda – and appear to be finding new takers. The peace process has become much more complex and more fragile.

The current heightened tensions and confrontational mood are symptoms of how the peace process was crafted. It was not based on wide buy-in within key parties. For the NC, Koirala ran the show without discussing strategy with senior or junior party workers, let alone selling it to them. Prachanda often moved ahead of his party and the PLA, papering over serious dis-

agreements; key figures such as Kiran and Gaurav, now leading the internal opposition, were still in prison while the major early negotiations took place and do not feel any ownership or responsibility for the twelve-point agreement or ceasefire. The UML was out of the game during the critical early talks and, relegated to the role of piggy-in-the-middle, became increasingly lost in its own messy internal politics. The NA was not represented in the peace talks (and never accepted their outcome), still feels unrepresented and has taken no steps to make itself institutionally capable of adjusting to change.

Perhaps most importantly, India is now suffering from the way it crafted its decisive mid-2005 policy shift. Although the decision to drop the king and back a Maoist-mainstream alliance was taken after serious top-level consideration, its implementation was delegated to covert intelligence operatives, the government failed to bring on board significant opponents (including the Indian army and sceptics in many parties) and there has been subsequently been almost no genuine debate in New Delhi on this most important area of regional policy. Parliament has not held ministers to account; bureaucrats have neither acknowledged nor answered for their mistakes. New Delhi's own democratic deficit, sadly and ironically, now threatens the democratic transition in Nepal that it so bravely backed at the outset. Its backtracking threatens both Nepal's stability and India's own core interests.

But India, much as it may try, does not rule Nepal. Nor is it primarily responsible for Nepal's problems. The peace process can still be rescued and the historical legacy is still there for political leaders to claim. Getting to a ceasefire, elections and a constitution-drafting process required courage and statesmanship on both sides. When pressed, top leaders proved they had these qualities. But the political process rests on weak institutions. State bodies are alarmingly fragile; parties are buried in internal feuds and personality clashes. Like it or not, hopes for renewing the drive for lasting peace centre on two people: Pushpa Kamal Dahal "Prachanda" and Girija Prasad Koirala. The dynamics of their critical relationship may have deteriorated but they can jump start the process if they choose.

If they recover some of their former boldness they could restore much of Nepal's battered dignity and tattered sovereignty. Broadening the peace process to bring parties and other players on board could deliver on the promise of peace, democracy and change that brought people onto the streets in April 2006. If they fail, Nepal's growing inequality, weakening state and restive, politically aware population make it a country ripe for revolution.

**Kathmandu/Brussels, 13 August 2009**

## APPENDIX A

### MAP OF NEPAL



Map No. 4304 UNITED NATIONS  
 January 2007 (Colour)

Department of Peacekeeping Operations  
 Cartographic Section

## APPENDIX B

### GLOSSARY OF ACRONYMS

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AISC	Army Integration Special Committee
AMMAA	Agreement on Monitoring of the Management of Arms and Armies, December 2006
APF	Armed Police Force
BJP	Bharatiya Janata Party
CA	Constituent Assembly
COAS	Chief of Army Staff
CPA	Comprehensive Peace Agreement, November 2006
CPI(M)	Communist Party of India (Marxist)
CPI (Maoist)	Communist Party of India (Maoist)
CPN(M)	Communist Party of Nepal (Maoist), now UCPN(M)
CPN(ML)	Communist Party of Nepal (Marxist-Leninist)
IC	Interim Constitution
JMCC	Joint Monitoring Coordination Committee
LPC	Local Peace Committee
MJF	Madhesi Janadhikar Forum (sometimes referred to in other sources as the Madhesi People's Rights Forum, MPRF)
MoPR	Ministry of Peace and Reconstruction
MP	Member of Parliament
NA	Nepalese Army
NC	Nepali Congress
OHCHR	Office of the United Nations High Commissioner for Human Rights
PLA	People's Liberation Army (referred to in UN documents and agreements such as the AMMAA and December 2007 23-point agreement as "Maoist army")
SC	United Nations Security Council
SRSG	Special Representative of the [UN] Secretary-General
UCPN(M)	United Communist Party of Nepal (Maoist)
UML	Communist Party of Nepal (Unified Marxist-Leninist)
UNMIN	United Nations Mission in Nepal
YCL	Young Communist League



## APPENDIX C

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<b>Anglo American PLC</b>	<b>Chevron</b>	<b>Zelmira Koch</b>	<b>Tilleke &amp; Gibbins</b>
<b>APCO Worldwide Inc.</b>	<b>Richard Cooper</b>	<b>Scott Lawlor</b>	<b>Vale</b>
<b>Equinox Partners</b>	<b>Neil &amp; Sandy DeFeo</b>	<b>Jean Manas</b>	<b>VIVATrust</b>
<b>Ed Bachrach</b>	<b>John Ehara</b>	<b>Marco Marazzi</b>	<b>Yapı Merkezi Construction and Industry Inc.</b>
<b>Stanley Bergman &amp; Edward Bergman</b>	<b>Seth Ginns</b>	<b>McKinsey &amp; Company</b>	
	<b>Joseph Hotung</b>	<b>Najib Mikati</b>	
		<b>Harriet Mouchly-Weiss</b>	
		<b>Yves Oltramare</b>	

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## SENIOR ADVISERS

*Crisis Group's Senior Advisers are former Board Members who maintain an association with Crisis Group, and whose advice and support are called on from time to time (to the extent consistent with any other office they may be holding at the time).*

<b>Martti Ahtisaari</b> <i>(Chairman Emeritus)</i>	<b>Gianfranco Dell'Alba</b>	<b>Matthew McHugh</b>	<b>Christian Schwarz- Schilling</b>
<b>George Mitchell</b> <i>(Chairman Emeritus)</i>	<b>Jacques Delors</b>	<b>Nobuo Matsunaga</b>	<b>Michael Sohlman</b>
<b>Hushang Ansary</b>	<b>Alain Destexhe</b>	<b>Miklós Németh</b>	<b>William O. Taylor</b>
<b>Ersin Arioğlu</b>	<b>Mou-Shih Ding</b>	<b>Timothy Ong</b>	<b>Leo Tindemans</b>
<b>Óscar Arias</b>	<b>Gernot Erler</b>	<b>Olara Otunnu</b>	<b>Ed van Thijn</b>
<b>Diego Arria</b>	<b>Marika Fahlén</b>	<b>Shimon Peres</b>	<b>Simone Veil</b>
<b>Zainab Bangura</b>	<b>Stanley Fischer</b>	<b>Surin Pitsuwan</b>	<b>Shirley Williams</b>
<b>Christoph Bertram</b>	<b>Malcolm Fraser</b>	<b>Cyril Ramaphosa</b>	<b>Grigory Yavlinski</b>
<b>Alan Blinken</b>	<b>I.K. Gujral</b>	<b>George Robertson</b>	<b>Uta Zapf</b>
<b>Jorge Castañeda</b>	<b>Max Jakobson</b>	<b>Michel Rocard</b>	
<b>Eugene Chien</b>	<b>Todung Mulya Lubis</b>	<b>Volker Rühle</b>	
<b>Victor Chu</b>	<b>Allan J. MacEachen</b>	<b>Mohamed Sahnoun</b>	
<b>Mong Joon Chung</b>	<b>Graça Machel</b>	<b>Salim A. Salim</b>	
	<b>Barbara McDougall</b>	<b>Douglas Schoen</b>	