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## Nepal and Bhutan in 2009: Transition Travails?

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## Nepal and Bhutan in 2009

### *Transition Travails?*

#### ABSTRACT

Democratic transitions in Nepal and Bhutan ran into challenges in 2009. The integration of Maoist combatants, polarization among political parties, increasing ethnic assertion, and mushrooming armed groups have delayed constitution writing in Nepal and led to political instability. In Bhutan, societal assertion against limited rights and discrimination is increasing.

**KEYWORDS:** Nepal, Bhutan, Democratic Transition, Maoists, constitution-making

#### NEPAL

In contrast to the more optimistic scenario in 2008, Nepal's peace process and transition to democracy increasingly appeared to be running into rough weather by late 2009. In particular, the political confrontation between the Maoists and other political parties delayed writing of the new Constitution. The year 2009 had actually begun with the Communist Party of Nepal-Maoist (CPN-M) at the helm of the state, with Pushpa Kamal Dahal (a.k.a. Prachanda) as prime minister of a coalition government that included most major political players in the country except the Nepali Congress Party.<sup>1</sup> This was a rosy political situation that many had not imagined even a year ago, before the Constituent Assembly (CA) election. The performance of the short-lived Maoist government, however, was mixed. The Maoists did not attempt to impose some of the radical policies they had espoused during their decade-long insurgency, such as land redistribution and socialist economics

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1. CPN-M and the Communist Party of Nepal-Unity Center (Masal) merged on January 13, 2009, to become the Unified Communist Party of Nepal (Maoist).

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including nationalization. This was largely because of the constraints imposed by coalition politics. Rather, they worked more or less within the framework of a market economy that seemed to please the World Bank and the International Monetary Fund. The finance minister, Dr. Baburam Bhattarai, was successful in reaching a very ambitious revenue collection target of 141 billion Nepali rupees (approximately \$1.88 billion) but then failed to spend the generated revenue in planned development activities.

The army integration issue remained a primary sticking point in deepening the “peace process.” It may continue to be a problem into 2010 unless some sort of mechanism is developed to guarantee a sense of security and political space for both the Maoists and other important political actors.<sup>2</sup> The Maoists fear that, without their army, the state agencies and other political parties might eventually attempt to undermine them. In contrast, the non-Maoist political parties fear that the Maoists may eventually use their armed cadres to try to forcibly capture the state. The Maoists remain suspicious and cautious because of the previous alignment against them of the Nepalese army, other major political parties, and the media, bureaucracy, and judiciary during the insurgency. Conversely, the Maoists’ intolerance toward the opposition, refusal to renounce violence, and periodic advocacy of a communist state have made the non-Maoists nervous about their true intentions.<sup>3</sup>

The Nepalese army and the Maoists have interpreted differently the ambiguous wording of the 2006 CPA and other documents, in terms of the exact modalities for integration of the army.<sup>4</sup> While the Maoists want to integrate their armed cadres collectively in the national army, the army resists this approach. In contrast, the Nepalese army prefers that the Maoist cadres be provided with civilian work opportunities, or, alternatively, be accommodated into the civilian security forces such as the various police services.

2. Nepal, in reality, had two “armies” at the time of peace settlement: the official Nepalese army of the state and the People’s Liberation Army (PLA) of the Maoists. Viable and functioning states have only one army. The Comprehensive Peace Agreement (CPA) of November 2006 called for “the rehabilitation of the Maoist combatants,” and the December 2007 Agreement on Monitoring of Management of Arms and Armies referred to “integration” of the Maoist combatants “into the security forces.”

3. See World People’s Resistance Movement, “Nepal: Interview with Comrade Baburam Bhattarai,” October 2009, at <<http://networkedblogs.com/p15796817>>, accessed on November 1, 2009. For a discussion of various aspects of the insurgency, also see Mahendra Lawoti and Anup K. Pahari, eds., *The Maoist Insurgency in Nepal: Revolution in the Twenty-first Century* (London: Routledge, 2009).

4. International Crisis Group, “Nepal’s Faltering Peace Process,” *Asia Report*, no. 163, February 19, 2009.

Political parties like the Nepali Congress and Madhesi (Plainsmen) People's Right Forum (MPRF), and external powers such as India and the U.S., have also increasingly opposed collective integration of the Maoist fighters into the Nepalese army.<sup>5</sup> Relations between the army and the Maoists deteriorated over the issue of the army's recruitment drive in 2007 and 2008, and soured further in 2009.<sup>6</sup> Nepal's defense minister, Ram Bahadur Thapa (a.k.a. Badal)—a former Maoist—refused to extend the appointments of eight brigadier generals in March. Even though the Supreme Court eventually reinstated the generals, the damage was done. The Nepalese army reacted by boycotting the fifth national games—a major countrywide sports and athletics meet—in April because the Maoists were allowed to take part. This, in turn, infuriated the Maoists, who viewed it as being a challenge to the Maoist-led government's authority.

In May, the Maoists attempted to remove the soon-to-retire army chief, Rookmangud Katawal, who was leading the anti-Maoist campaign. They appointed his second-in-command, Lt. General Kul Bahadur Khadka, who was going to retire sooner than the General Katawal. The army chief's removal raised suspicions in non-Maoist political quarters that the Maoists had brokered a deal with General Khadka by which he would act in their favor in return for promotion. Eighteen political parties represented in the CA subsequently urged President Ram Baran Yadav, a Nepali Congress nominee close to its party president Girija Prasad Koirala, to nullify the Maoists'

5. The MPRF represents the Madhesis who, along with the indigenous nationalities and Dalits, are increasingly challenging the historic domination of the state and polity by the higher caste, hill Hindu elites. The latter include the Bahun and Chhetri (hill Brahmins and Kshatriyas, respectively) who collectively comprise about 31% of the population. The Madhesis, residents of the Tarai (lowlands) and southern plains, share common languages and culture with various north Indian communities. For this reason, the indigenous nationalities of the hills and Dalits suspect their loyalty to the country. The indigenous nationalities, comprising more than 60 groups and collectively around 37% of the population, base their claims as being the "first residents" of various parts of the country. The Dalits, who comprise around 15% of the population, are struggling against exclusion in the state and injustice perpetuated by both hill and upper caste Hindu Madhesi groups. Overlap of identities, such as that of Dalits from the Tarai, complicates the neat categorizations of the various "ethnic groups" and also often results in discrimination against various subgroups within "ethnicities." For instance, the Madhesi population can be calculated as being more than 30% if Dalits, indigenous nationalities, and Muslims of the Tarai are also included.

6. The Nepalese army took raw recruits into its ranks in 2007, despite Maoist objections. This caused controversy as the relationship between the Maoist-led government and the Nepalese army deteriorated through 2008, resulting in the Maoist fighters also threatening to recruit new members into their ranks.

move. Yadav urged General Katawal to continue as army chief, arguing that the Maoists had improperly removed him by not going through the president's office. However, the Yadav's critics responded by pointing out that he lacked the power to nullify decisions taken by the Cabinet. In a move that surprised many, Prachanda resigned as prime minister the following day, citing violation of civilian supremacy by the ceremonial president, who did not abide by the Cabinet decision.

### **Power Transition**

Madhav Kumar Nepal of the CPN-UML (Communist Party of Nepal-Unified Marxist Leninist) was elected prime minister by the CA on May 23, 2009. Twenty-two parties—including the Nepali Congress, a faction of the MPRF, and other smaller parties—formed a coalition to back him. The Maoists did not file a nominee for prime minister because they could not muster a majority support in the CA. Nepal's personal characteristics, such as his reputation for being willing to compromise and build consensus, are probably suitable for a transition period, but he and his Cabinet remained dogged by questions of legitimacy. For example, he had lost elections from two constituencies in 2008, and many prominent members of his new Cabinet either did not compete in those elections or had lost themselves.<sup>7</sup>

The formation of a second government within nine months showed that old habits die hard even in the “new Nepal.” Power aggrandizement resulted in the short tenure of the previous government; it threatens the new one as well. Likewise, political parties such as the MPRF split during the formation of the new government. Party splits not only weaken the party system but also potentially contribute in short tenure of governments by facilitating short-term political deals for mutual advantage. Nepotism also seems to be continuing, sometimes more brazenly today than in the past. Family members of powerful politicians have been nominated to the CA from the proportional representation quota. Prachanda and Baburam appointed close

7. An election for the CA was held in April 2008 in order to bring the Maoists into the national political mainstream. The CA was mandated by the interim Constitution to write a new constitution within two years and to operate as Nepal's Parliament during this period. The Maoists, Nepali Congress, CPN-UML, and MPRF obtained 229, 115, 108, and 54 seats, respectively, in the 601 member CA (240 elected in single member districts, 335 elected through a proportional representation method, and 26 nominated). The remaining 95 seats were won by 21 smaller political parties. The CA subsequently elected Prachanda as prime minister in August 2008.

relatives to important positions during their tenure in office, while former Prime Minister Girija Prasad Koirala is attempting to establish his daughter, Sujata Koirala, as the leader of the Nepali Congress. First, he arranged for Sujata Koirala to lead the Nepali Congress in Madhav Kumar Nepal's new government, purposely sending a team of junior leaders to the Cabinet so that she could become the leader of that contingent. Second, he pressured the tottering Madhav Kumar Nepal to promote her as the country's deputy prime minister despite loud objections of many top Nepali Congress party officials and some rank-and-file.

### **Delay in Writing the Constitution**

Brazen partisan activities, among other things, caused a serious delay in writing a new Constitution for Nepal. The schedule had already been changed seven times by late fall 2009. By October 2009, five thematic committees, which had formed to deliberate and propose drafts of various segments of the Constitution to the main body, had yet to finalize their reports, and only six committees out of 14 had submitted their completed papers to the full CA body.<sup>8</sup> The Maoists continue to block the proceedings of the CA to protest the president's move to reinstate the army chief. Thus, writing the new Constitution is likely to be delayed further. This raises the potentially unsavory prospect that the Constitution may eventually be hurriedly written by only a few leaders in order to meet the two-year deadline dictated by the Interim Constitution that ends on May 28, 2010. Such an eventuality would defeat the purpose of the CA to promote extensive deliberations within both the institution itself and among members of society at large. The fact that the CA was created to both write the document and also concurrently to operate as Nepal's Parliament has exacerbated the delay. The CA's latter function, in particular, has taken a significant toll on the task of building consensus and drafting the Constitution.

The CA has thus far failed to resolve two major issues preventing the timely writing of the Constitution—the nature of the executive system, i.e., whether it will be parliamentary or presidential, and the model of federalism to be used. Many parties in Nepal seem to favor the presidential system, either because the parliamentary system did not perform well in the past or

8. Martin Chautari, "Policy Brief: Update on the Constituent Assembly," Kathmandu, Martin Chautari.org.np, October 2009.

because they see a necessity for a strong executive. Yet, if the global experience of all non-U.S. presidential systems that faced crisis is any indication, the adoption of a presidential system would increase the likelihood of inviting crisis in the future such as military coups or presidents turning into autocrats by concentrating power in the executive by undermining parliament and the judiciary. The opposition would quite likely be prompted to engage in disruptive street movements against the increasingly autocratic president, if this were to occur.

The debate on federalism has revolved around whether to grant autonomy to ethnic communities and, if so, how much. The rightist parties and the dominant group such as Bahun, Chhetri, and some upper caste Newars oppose granting significant autonomy, whereas marginalized ethnic groups such as the Tharus, Limbus, Khambus, Tamangs, and regional identity groups like the Madhesis insist on it. For their part, the Maoists have supported the minority groups' demands, but eventually denying ethnic marginalized groups significant autonomy in any final compromise among the top leadership of major political parties cannot be realistically ruled out. Ethnic autonomy is not at the top of the Maoists' agenda, and they might give it up in return for other policy objectives. In addition, most of the major political parties in the country, including the Maoists, are led by high-caste Hindu males from the hill regions. The top CPN-UML and Nepali Congress leaders vehemently oppose ethnic autonomy, whereas the top Bahun Maoist leaders may give in. The denial of such autonomy, however, is likely to trigger street movements by the indigenous nationalities and the Madhesis. This realization seems to have dawned on political parties like CPN-UML, which has lately proposed that some regions grant ethnic autonomies by configuring regions around concentration of major ethnic groups.

One major issue that has not been debated seriously in the CA is governmental accountability, a major problem in Nepal's political history including during the democratic years of the 1990s. The culture of impunity resulting from the excessive centralization of power and the majoritarian political culture among the political elite has contributed to this lingering problem. Many Nepalese seem to have resigned themselves to the notion that political leaders will do whatever they please once elected. Politicians in general may be reluctant to develop stringent accountability mechanisms for fear that those same mechanisms may come back to haunt them later. Unless civil society actors in Nepal mobilize to insert strong accountability mechanisms

in the new Constitution, the country may be plagued by gross abuses of power and corruption well into the foreseeable future.

### Security Situation

Transition periods are, by definition, precarious and potentially more lawless because of the breakdown of the previous system and the uncertainty emanating from the one yet to be finalized. The security situation deteriorated significantly in Nepal in 2009, especially away from the capital Kathmandu, largely because of bickering among the major political parties. Kidnapping, extortions, and killings have become widespread. The Youth Communist League of the CPN-M and the Youth Force of the CPN-UML often clash, raising questions about the commitment of the major parties toward the rule of law. As a result, many other parties have formed, or announced plans for, similar paramilitary forces.

Numerous armed groups, political as well as criminal, have sprouted in the Tarai (lowlands) region bordering India. Limbuwan groups in the east have militias, collect taxes, and “govern” their region. The indigenous Khambu, Tamang, and Tharu groups have also paraded their own security forces to the media. In fact, a report by the Conflict Study Center listed 74 armed and semi-armed groups born after the peace accord of November 2006.<sup>9</sup>

In late July 2009, the Home Ministry announced the formulation of a Special Security Plan (SSP) in order to improve the law and order situation. Uncertainty about the government’s longevity, as well as distinguishing among criminal and political groups, will make it hard to implement this plan. The SSP has also been criticized by Madhesi and indigenous nationalities that say it is targeted toward their social-justice movements. If the government is not careful, ongoing ethnic and political conflicts—especially in the Tarai Region—could be further aggravated by the insensitivity of the administration and security forces, which comprise largely hill people.

### Street Movements

The year 2009 also witnessed several major street movements by political parties representing the indigenous peoples of Nepal. These parties received

9. Pathak, Bishnu, and Devendra Uprety, *Tarai-Madhes: Searching for Identity Based Security* (Kathmandu: Conflict Study Center, October 2009). The home minister is reported to have publicly said that 109 armed groups operate in the country. See <<http://nepalnews.com>>, accessed July 31, 2009.



only five seats out of 601 in the CA.<sup>10</sup> Many indigenous parties resorted to street protests because they could not influence the constitution-writing process in the CA. For example, the Tharuhat struggle committee launched two series of sustained street protests in collaboration with other indigenous and Muslim groups in February-March and April-May. Other groups such as the Limbus called numerous *bandhs* (shutdowns) in the far eastern parts of the country.

In contrast, the post-2008 election period did not witness long and sustained street mobilization by the Madhesi groups and parties—as in pre-2008-election years—probably because the Madhesis have been able to influence mainstream politics through higher levels of representation from Madhesi ethnic parties in the CA and Cabinet. The activities of the indigenous and Madhesi parties suggest that groups excluded from the system may mobilize outside of it. For their part, the Maoists began their second phase of protests on November 1, 2009, consisting of sit-in protests, demonstrations, and picketing of government offices. Their demand is to form a national government headed by them because they are the largest party in the CA. In early December, the Maoists launched the third phase of their protest movement, and declared 13 autonomous ethnic (Magarat, Kochila, Madhesh, Tamuwan, Sherpa, etc.) and regional (Bheri-Karnali, Seti-Mahakali, etc.) states by December 18. They also announced three-day countrywide *bandh* from December 20.

## BHUTAN

Bhutan's transition to institutionalized democracy has been much smoother than that of Nepal, largely because the process in Bhutan has been “top-down” and controlled. Yet, this does not mean the absence of political problems and violence in Bhutan. A year after the first parliamentary elections, the media and political opposition have become more assertive, but ordinary people still do not enjoy genuine political rights and civil liberties. The constitutional monarch, Jigme Khesar Namgyel Wangchuk, retains considerable power, including the right to reject the decisions of the elected Parliament. Political rallies and public demonstrations are not allowed, and media outlets have been fined for criticizing government officials. The Lhotshampa,

10. It should be noted that indigenous peoples do find a form of weak representation in the political process through membership in many of Nepal's major political parties.

Bhutanese of Nepali origin, that live in the southern part of the country do not benefit from even the minimal rights enjoyed by other citizens. Their cultural and political rights, including citizenship and freedom of movement, are constrained by the Drukpa regime that promotes the domination of one people and culture.<sup>11</sup>

Ethnic discrimination and restrictions on their rights have increased dissatisfaction among the Lhotshampa in southern Bhutan. More than a hundred thousand Bhutanese refugees, who were expelled or ran away to escape prosecution after protesting the imposition of Drukpa culture (language, dress, etc.) on the diverse inhabitants of the kingdom, have been living in refugee camps in southeastern Nepal since the early 1990s. The Maoists—formally known as the Communist Party of Bhutan (CPB-MLM)—have begun to exploit these grievances by increasing their political activities, including violence. Bombings committed by suspected Maoists have occasionally damaged bridges, fuel depots, and electrical installations. The recruiting ground for the Maoists in Bhutanese refugee camps in Nepal may be drying up with the resettlement of Bhutanese refugees, largely in the U.S. but also in Australia, Norway, Canada, New Zealand, Denmark, and the Netherlands.

In contrast, southern Bhutan will continue to remain a potent breeding ground as long as discrimination continues. By October 2009, around 22,000 Bhutanese refugees living in Nepal had been flown out for resettlement, with many thousands more waiting their turn. Those who have refused resettlement and instead insist on repatriation may have stronger incentives to join radical organizations. Partial opening up of the polity may facilitate organization by such groups. The Bhutan Tiger Force, United Revolutionary Front of Bhutan, and United Refugee Liberation Army have owned up to various violent actions. Thus, while the transition to limited democracy may appear to be smoother in Bhutan than in Nepal, it has also been fraught with problems. The full trajectory, and effect, of the democratization process remains to be seen.

11. The Drukpa regime primarily consists of the Ngalongs, a minority community of Tibetan origin settled in western Bhutan. The Drukpa share many cultural commonalities with other ethnic/regional groups in Bhutan such as the Khengs in the central part of the country and Sharchops in the east. Lhotshampa, in contrast, are Nepali-speaking people who began settling in previously uninhabited southern Bhutan for agricultural cultivation in the late 19th century. At the time of their expulsion, the Lhotshampa constituted from about one-third to half of Bhutan's total population.

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