

**NEPAL BACKGROUNDER:  
CEASEFIRE – SOFT LANDING  
OR STRATEGIC PAUSE?**

10 April 2003



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## NEPAL BACKGROUNDER:

### CEASEFIRE – SOFT LANDING OR STRATEGIC PAUSE?

#### EXECUTIVE SUMMARY

Driven by growing pressure on the battlefield, increasing international isolation and a sense that the time is ripe for political gains, the Communist Party of Nepal (Maoist) has engaged in a ceasefire with government forces since 29 January 2003. A 22-point “code of conduct” has been reached that will serve essentially as the military ground rules while peace negotiations proceed, although unfortunately each side has already accused the other of persistent violations and no strong, independent verification process is in place.

The potential for successful negotiations is higher than during a similar ceasefire that collapsed in 2001, but significant potential spoilers remain. Negotiations have been directly between the Maoists and representatives hand-picked by King Gyanendra. Mainstream political parties have not been given a seat at the table and continue to object that Prime Minister Lokendra Chand’s government is unconstitutional and illegitimate. The parties, the Maoists and the palace remain locked in a three-way struggle for public support and strategic position, each hoping to use the other in its bid to control the state. The potential for miscalculation is considerable, and hardline elements in each camp appear willing to risk confrontation – even new violence – if they feel their needs are not being met.

In many ways, the crisis represents a failure to cement broader reforms or sounder institutional arrangements after the democratic uprising of 1990. The constitution drafted then was flawed and left the monarchy with considerable, but ill-defined powers. Since 1990, parties have engaged in systematic corruption and continue to be dominated by elite, older, often non-responsive leaderships. Failure to reform the police or army or account for their earlier

human rights abuses and corruption, also furthered a general climate of impunity, and a heavy-handed and often lawless response by the security services gave the Maoists recruiting momentum in the hill country. The Maoists, while often portraying themselves solely as defenders of the common people, engaged in targeted political violence, widespread extortion, bomb attacks and assassinations before the ceasefire.

Issues such as the monarchy’s role, control of the army, demobilisation opportunities for Maoist fighters, restoration of democracy, formation of a possible constituent assembly and establishment of an interim government will be central to negotiations. While it will be tempting for the royalist government to restrict these to the palace and Maoists, that approach would place Nepal’s battered democracy in greater jeopardy, and perhaps even push the Maoists and the political parties together. Efforts by the palace simply to “go-slow” and hope the pressure to restore democracy will dissipate would likely prove counterproductive.

India remains deeply concerned about the potential for either a failed or Maoist state on its northern border. A destabilised state directly between China and India would have serious international ramifications. These concerns, as well as increasing U.S. military assistance to Nepal, may have helped push New Delhi to take a harder line with the Maoists and urge a negotiated solution. While U.S. policy has been largely monotone – directing substantial military aid to the government and rather simplistically viewing the conflict largely as an extension of the global war on terrorism – this also likely contributed to Maoist willingness to talk.

However, the forces driving the conflict – including the failure to curb the abuses of political leaders, the monarchy and security services alike – are complex. A misreading will only make tackling Nepal's fundamental needs more difficult while leaving the conditions for renewed conflict in place.

This initial report lays out the background of the conflict and analyses the positions of the various actors, both domestic and international. Subsequent ICG reporting will address specific issues in greater detail and offer policy recommendations.

**Kathmandu/Brussels, 10 April 2003**

## NEPAL BACKGROUNDER:

### CEASEFIRE – SOFT LANDING OR STRATEGIC PAUSE?

#### I. INTRODUCTION

While the euphoria surrounding the 29 January 2003 announcement of a ceasefire between the government and the insurgent Communist Party (Maoist) has cooled somewhat, Nepal has a genuine opportunity for peace with the March announcement of an agreed code of conduct between the parties.<sup>1</sup> This was the first step toward relaunching formal peace talks. Unfortunately, the situation remains fragile, and the monarchy, the increasingly marginalised political parties and the Maoists all continue to jockey for position and public favour in an environment where any miscalculation could quickly lead again to bloodshed.

All the actors have issued earnest proclamations in favour of lasting peace, and certainly the thirst among average Nepalese for a permanent end to the civil war is considerable and genuine. Yet, as one senior international official indicated, the situation remains “more hopeful than optimistic”.<sup>2</sup> Lingering pessimism about peace prospects is a direct by-product of the broad failures of Nepal’s institutions during the modern era and the seemingly chronic unwillingness of the political parties, the monarchy or the Maoists to look beyond immediate vested interests. Indeed, many Nepalese appear to be thoroughly disgusted with their country’s leaders and profoundly discouraged about the likelihood for change in their daily lives – with or without peace.

A fundamental crisis of governance fuelled the rapid rise of the Maoist insurgency over the last seven years, particularly failure to reform the

security services or establish rule of law and accountability as the bedrock of a democratic society. The inability of Nepal’s elites to foster broader economic and social development or avoid the temptations of corruption are almost universally cited as core public grievances. Ironically, Nepal’s elites also readily acknowledge many of these shortcomings, although they have been reluctant to change more than their rhetoric. The future of Nepal’s political system is deeply cloudy, a result both of the constitutional demands of the Maoists and the decision on 4 October 2002 by King Gyanendra Bir Bikram Shah Dev to suspend the elected parliament and install a caretaker prime minister of his choosing, Lokendra Bahadur Chand.

While the guns are silent, Nepal has entered a period of intensified competition for control of the state. In many regards, the crisis now has a triangular dynamic among the Maoist guerrillas, the royal monarchy and the large political parties, primarily the Congress Party and the Unified Marxist Leninists (UML). They are mutually mistrustful and eager to manipulate each other. The potential that miscalculations will unravel the peace process is considerable.

- The Royal Nepalese Army (RNA), buoyed by an influx of modern arms, training and largely unequivocal Western support, could take a hard line to negotiations, preferring to seek a purely military solution rather than make concessions that would threaten its institutional prerogatives.
- The Maoists could splinter under the strain of prolonged negotiations and growing difficulties in securing or extorting resources, or because of anger among their cadres over diplomatic compromises.

<sup>1</sup> For purposes of this briefing, the Communist Party of Nepal (Maoist) is referred to simply as “the Maoists”.

<sup>2</sup> ICG interview, Kathmandu, 13 March 2003.

- ❑ The political parties, although their strength has diminished, could attempt to mobilise mass street protests or otherwise undermine negotiations driven because of fears that they will be shut out of a deal between the Maoists and the monarchy.
- ❑ The palace could push the Maoists and the parties into an uneasy coalition if it refuses to yield much of its undemocratic control of the commanding heights of the political system;
- ❑ The Maoists could again calculate that violence remains their best option and use talks largely as a “strategic pause”, as they did during the 2001 ceasefire.
- ❑ Continuing political stagnation could push others of the many disaffected and marginalised groups, including ethnic minorities, to calculate that insurrection is the best route to political representation.

A return to violence would come at a high cost as the war experience has already proven. More than 7,000 people have died, the majority after breakdown of the first three rounds of peace talks between the Maoists and the government in November 2001 and the subsequent deployment of the RNA.<sup>3</sup> Upwards of 70 per cent of the more recent deaths have been direct results of often-indiscriminate RNA counter-insurgency operations. Human rights abuses by government and Maoist forces are well documented, and Nepal had the world’s leading number of enforced or involuntary disappearances in 2002.<sup>4</sup>

Government control in rural Nepal is tenuous. As one Western diplomat told ICG, “The government has ceased to exist in most of the countryside”, and more than 1,000 Village Development Committee offices have been damaged or destroyed by Maoists.<sup>5</sup> Before the ceasefire, more than two-thirds

of Nepal was outside the control of security forces. Indian embassy officials indicate that roughly 120,000 displaced Nepalese crossed into India during January 2003 alone – fleeing both forced recruitment by the Maoists and RNA attacks. Although some returns have begun with the ceasefire, depopulation of parts of western Nepal remains a concern. Lack of institutions in the countryside is a stern challenge to long-term development.

The dismal economy further complicates the situation. Annual per capita income is a paltry U.S.\$220, and Nepal is 142nd on the UNDP’s Human Development Index – only Laos, Bangladesh and Afghanistan are worse off in Asia.<sup>6</sup> Revenues from tourism and carpet exports are sharply down, and with much of the country beyond government control, an already low tax base has been further diminished. The government relies on foreign assistance for roughly 40 per cent of its budget, and such financing could well be jeopardised by international concerns related to corruption, human rights abuses or the suspension of democracy.

While the conflict has largely not been drawn along ethnic lines, Maoist appeals to ethnic liberation movements and promises to right widespread injustices driven by caste, geography and minority status have touched a sensitive vein. Many Nepalese rightly feel that government has served them poorly, and systemic inequalities continue to hamper the country’s potential. It is important to note, however, that all parties to the peace talks are primarily drawn from Nepal’s elite; their commitment to widen political space remains in question.<sup>7</sup>

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<sup>3</sup> The figure of more than 7,000 dead is an estimate by the government that is broadly accepted by human rights groups and other observers. Accurate casualties figures are hard to ascertain as both sides exaggerate. The Informal Sector Service Centre of Nepal estimates slightly more than 7,400 dead between 13 February 1996 and 16 February 2003. See [www.insec.org.np](http://www.insec.org.np) for a breakdown by district.

<sup>4</sup> Nepal led the list with 28 such cases and Colombia was second with fourteen. See the United Nations Working Group on Enforced or Involuntary Disappearances at <http://www.unhcr.ch/pdf/chr59/70AV.pdf>.

<sup>5</sup> ICG Interview, Kathmandu, 10 January 2003.

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<sup>6</sup>The UNDP’s Human Development Index measures achievements in terms of life expectancy, education and adjusted real income. See [www.undp.org](http://www.undp.org).

<sup>7</sup> Rajendra Pradhan describes Nepal’s 60 caste and ethnic groups along the following broad lines in his article “Ethnicity, caste and a pluralist society”, that appeared in Kanak Dixit and Shastri Ramachandaran, eds., *State of Nepal* (Kathmandu, 2002): “In terms of caste and ethnic break-down the country is essentially a conglomeration of minorities, with the two largest groups comprising but 16 per cent (Chetri) and nearly 13 per cent (Bahun) of the population. None of the other groups constitute more than 10 per cent of the population. In terms of groupings, the 1991 census recorded 40.3 per cent of the population as hill-based Parbatiyas (Chetri 16.1 per cent, Bahun-12.9 per cent, and three ‘untouchable’ and other service castes, dalits, 11.3 per cent). The janjati ethnic groups, of both hill and plains

Nepal is at an important crossroads both politically and militarily. While all sides have expressed rhetorical willingness to engage in substantive peace talks and resolve the political impasse, violence could again surge quickly if the situation erodes. Given the fragile state of Nepal's institutions and economy, such warfare could be transformed from a short-term upheaval into a chronic and deeply costly crisis. Genuine compromise, consistent international pressure to make politics more inclusive, and efforts to forge a constitutional framework that promotes rule of law and sound institution building may be the only way forward.

## II. CONTEXT FOR CONFLICT

Since 1990, Nepal has undergone remarkable turbulence, tragedy and unrealised expectations. Although it has always enjoyed an unrealistically idyllic image, the seeds of many of these troubles were effectively planted by long reluctance to embrace more open economic and political systems. The confrontation with the Maoists has painfully exposed Nepal's slowness to modernise a society that is heavily dominated by issues of class, caste, ethnicity and geography. Economics and politics largely seem to be pursued as zero sum games, thus creating abiding cynicism within society and underscoring the importance of a legal and constitutional framework that will serve all citizens.

### A. THE POLITICAL LANDSCAPE: A CRISIS OF GOVERNANCE

A brief consideration of political developments over the last twelve years illuminates the depth of the current crisis. In April 1990, democracy protests rocked Kathmandu as part of a "people's movement". Security services went so far as to open fire on demonstrators before King Birendra agreed to establish a constitutional monarchy, dissolve the *panchayat*, or partyless system of government rule, and dismiss the cabinet. Yet, once the immediate threat of street protests was removed, the monarchy worked assiduously during the constitutional drafting process to preserve substantial amounts of its power, and the leaders of the democracy movement seemed caught off guard by their own rapid success and unsure of how best to codify democratic practice.

Some of the constitutional agreements reached by November 1990 and forged essentially as a gentlemen's agreement between King Birendra, the Congress Party and the Communists, were troublingly vague, leaving poorly defined matters such as control of the armed forces and the king's powers to intervene in a crisis. A local analyst observed that the king was moving to ensure "not a constitutional monarchy under a multi-party democracy, but a parliamentary democracy under a constitutional monarchy".<sup>8</sup> There was little credible effort to transform the security services or

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taken together, constitute 35.5 per cent of the population, whereas the hill ethnic groups alone make up 26.5 per cent of all Nepalis. The major hill ethnic groups are the Magar, Newar, Tamang, Rai, Gurung and Limbu. The Tharu (6.5 per cent) constitute the largest ethnic group of the plains".

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<sup>8</sup> *Drishti*, 17 October 1990.

to ensure accountability for human rights violations – either when troops fired on protestors or the earlier excesses of the *panchayat* regime. The political parties appeared cowed by the king's continuing control of the RNA.<sup>9</sup>

Unfortunately, this encouraged a broad sense of impunity, not only within the military, police and monarchy that carried over from the old system, but also within the newly ascendant political parties, who appeared mostly willing to overlook corruption as long as they were its direct beneficiaries. For many Nepalese, it appeared less that the political parties had cast out the old system and more that they had instead only ensured their own piece of the pie. A local NGO official put this reality in the terms of average citizens, "During the *panchayat* system you had to bribe to get a driver's licence; you still have to bribe to get a driver's licence".<sup>10</sup> As experiences since 1990 make clear, Nepal continues to suffer from a political system that exists in a nether world between traditional monarchy and the demands of modern democracy.

Parliamentary elections were held in May 1991, with the Nepali Congress Party capturing 109 seats, the Unified Marxist-Leninist (UML) Party securing 69 and the United People's Front – a splinter group that would eventually evolve into the Maoist insurgency through complicated manoeuvres – taking nine. Expectations for the new democracy were high.<sup>11</sup> Sadly, these were largely disappointed as the political system was whipsawed by a long sequence of no-confidence votes, change in governments, Supreme Court disputes, and deeply personalised internal party battles and coalition-hopping that seemed borne purely out of expedience. Since 1990, Nepal has had thirteen governments – hardly a recipe for progress or building institutional confidence. The image of parties as tools of a high

caste, corrupt and nepotistic Kathmandu elite has become endemic.

Amid this revolving turnstile of coalitions, most often led by the Congress Party working in conjunction with either the smaller Rastriya Prajatantra Party (RPP) or the UML, Maoist elements appeared to be just one of Nepal's many feuding far left factions. The Communists engaged in a Byzantine series of organisational and ideological disputes. However, efforts directed by the Congress Party leadership to suppress leftist political activity in the mountainous West, including through violent means such as the police-led Operation Romeo, only galvanised both the Maoists and a rising tide of localised resentment.<sup>12</sup> An international official noted, "The police reverted to the way they had behaved during the *panchayat* era because they had no other framework of experience", and even a senior Nepalese government official agreed that Operation Romeo was little more "than the use of police for looting".<sup>13</sup> These heavy-handed police operations are widely seen in retrospect as a disaster that provided vital fuel for the insurgency movement.

In 1995, Maoist leaders Pushpa Kamal Dahal (who also operates under the name Prachanda or "the fierce one") and Baburam Bhattari, the group's chief ideologue, publicly embraced violence as the best means to achieve the Maoist doctrine of revolution through a "people's war", although they had likely decided on this approach as early as 1992. On 4 February 1996, Baburam Bhattari presented the government with demands that included abrogating the 1950 Peace and Friendship Treaty with India, drafting a new constitution through a constituent assembly and rescinding the privileges of the royal family.<sup>14</sup> On 13 February 1996, Maoists launched initial attacks largely concentrated in their strongholds of the Rolpa and Rukum districts.

By 1998, the government again launched police reprisals in the form of Operation Kilo Sierra II. This more widespread crackdown was also

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<sup>9</sup> The RNA directly petitioned the constitutional drafting committee to have the king remain its commander in chief. One party insider complained to ICG of the constitution, "We call it a revolution, but it was the restoration of the monarchy". ICG interview, Kathmandu, 3 March 2003.

<sup>10</sup> ICG interview, Kathmandu, 7 March 2003.

<sup>11</sup> As an example of the lofty platforms presented by the parties, Congress promised that within ten years it would provide clean drinking water to all villages in Nepal, slash infant mortality rates by 75 per cent, dedicate 70 per cent of resources to rural development and link all district headquarters via a national transportation system. See Jan Sharma, *Democracy Without Roots* (New Delhi, 1998).

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<sup>12</sup> Operation Romeo was a 1995 police operation launched in the districts of Rolpa, Rukum and Dang to suppress leftist activists. Under the direction of local party ruling leaders, police conducted a broad sweep, often arresting individuals without warrants and subsequently subjecting them to torture.

<sup>13</sup> ICG interviews, Kathmandu, 12 and 13 March 2003.

<sup>14</sup> It is interesting to note that the first eight of the 40 demands all relate to different aspects of Nepalese-Indian relations.



conducted with blunt force – creating more, not less, sympathy for the Maoists in targeted areas. The Maoists also shrewdly couched their rhetoric in anti-imperialist, anti-monarchy and anti-feudalism appeals well designed to attract lower caste and rural families that felt the Kathmandu elite had long neglected them. Their arguments assailing corruption and political deadlock resonated with many Nepalese, and their strong ideological stand was a stark contrast to the constant compromise of values that seemed rife within the parliamentary system.

On 24 December 1999 Indian Airlines flight 814 headed to New Delhi from Kathmandu was hijacked with 155 passengers on board. India was quick to blame Pakistan, and it also sharply condemned what it considered lax Nepalese security. Eventually the hostages were released after being held at the airport in the southern Afghan city of Kandahar for eight days. While not related to the Maoist uprising, the incident put a heavy dent in the Nepalese tourist industry (particularly intimidating the many Indian travellers), and added to a growing sense that Nepal was facing a fundamental security crisis.

Soon Nepal faced another tragedy that complicated its already difficult lot. In June 2001, Crown Prince Dipendra massacred ten members of the royal family – including the king, queen and his brother – before taking his own life. The palace slaughter sent shockwaves throughout society, and clumsy official handling stirred up deep anger and confusion while spawning a web of conspiracy theories that thrive to this day.<sup>15</sup> Given the central role of the monarchy in Nepal's history, it is difficult to underestimate the impact of this terrible event on the social fabric of the country. King Birendra had gained public respect and admiration for agreeing to establish multi-party democracy, and he had largely demonstrated political restraint during the 1990s.

The Maoists quickly sought to take advantage of the disarray, claiming that the killings were part of a broader Indian and American imperialist plot that had been aided by King Gyanendra, who assumed the throne after the death of his brother and nephews. Despite no apparent evidence of

involvement, King Gyanendra was crowned under a tremendous cloud of public suspicion, anger and doubt. Baburam Bhattari, the Maoists' chief ideologue, went so far as to argue that the Maoists and the late King Birendra had been of a single mind on a broad range of issues, a rather brazen leap given the group's long history of anti-monarchist rhetoric. While not able to spark widespread action against the new king or the sitting government, the Maoist public relations effort was effective in sowing further doubts about the efficacy of Nepal's institutions at a time when insurgent forces in the field continued largely to enjoy success.

Prime Minister Sher Bahadur Deuba assumed office in July 2001 amid high hopes that engagement with the Maoists might produce a lasting peace. Initial signs were encouraging, and the government and the Maoists agreed to negotiations and a ceasefire. Between August and November 2001, they held three rounds of peace talks, by the third of which the Maoists indicated a willingness to drop their calls for abolishing the monarchy. By all accounts the negotiations were plagued by a general lack of professionalism, with participants largely unfamiliar with how to facilitate talks and often resorting to press leaks and rallies to curry public favour.<sup>16</sup>

Thus, while shocking, it was perhaps unsurprising that the Maoists pulled out of the talks unilaterally in November 2001 and launched high profile, well coordinated attacks against military, police and government facilities across the country, including the army barracks at Dang. The Maoists also increasingly directed strikes on infrastructure including bridges, clinics, dams, electrical supplies and drinking water facilities, all of which they declared to be part of aid projects backed by international imperialists. This appeared to mark a fundamental shift in the group's approach and suggested a drift away from its populist roots.

Prime Minister Deuba was said to feel personally betrayed, and he quickly declared a state of emergency and ordered the RNA to take on the Maoists. The army had resisted earlier pleas by political leaders to take a role in the conflict, insisting that it could not until a state of emergency was declared. Many observers saw that as further proof that RNA loyalties lay more with the monarchy than the civilian leadership. Although the

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<sup>15</sup> Palace officials initially reported that an accidental discharge of an automatic weapon had taken place. Contributing to the surreal atmosphere, the apparent killer, Crown Prince Dipendra, actually became king for a brief period while in a coma and near death.

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<sup>16</sup> ICG interviews with individuals close to the talks, Kathmandu, January 2003.

military had long declared confidently that it could easily break the back of the insurgency, the task proved far more difficult than imagined, and casualties escalated far beyond anything yet seen. Neither the government nor the Maoists were able to get a clear upper hand.

## B. THE KING ENTERS THE FRAY

In May 2002 and due largely to continued squabbling within his own Congress Party, Prime Minister Deuba asked King Gyanendra to dissolve the lower house of parliament and call elections, which were subsequently slated for 13 November 2002. In another controversial step, Prime Minister Deuba dissolved local elected bodies and replaced them largely with appointed officials. While many local elected officials were under intense pressure from the Maoists, this move was widely criticised. When the Maoists declared they would mobilise a national strike to coincide with the parliamentary elections, Deuba requested the ballot be put off for a year due to security concerns. On 4 October 2002, King Gyanendra, assailing the “incompetence” of the political parties, dismissed Deuba’s government and essentially reassumed executive powers. He then appointed a former premier, Lokendra Chand, as prime minister.<sup>17</sup> Chand has been widely viewed as a monarchy loyalist, as have been those members of his cabinet hand-picked by the king.

While a senior government official insisted to ICG that the king’s steps were entirely within the law and that “this is all quite normal” under the emergency provisions of the constitution, it is clear that Nepal has moved into uncharted waters.<sup>18</sup> The large political parties have refused to recognise the Chand government, and the palace has resisted setting any timetable for new elections. Prime Minister Chand and the palace have also rejected calls by the parties either to form an all-party government or restore the parliament. Public and international criticism of the king has been largely muted, driven by both concern about the growing Maoist problem and a mood verging on disgust with the behaviour of the parties. Indeed, it is striking that the fundamental support for democracy appears

to remain quite high in Nepal while parties themselves are seen as almost inimical to that ideal.

Supporters of the king’s move to dump the elected government point to his emergency constitutional powers, particularly Article 127, and the importance of dealing with the Maoists and restoring normalcy to the functions of the state. Article 127 does give the crown discretionary, although ambiguous, power.<sup>19</sup> Even if the king was within his rights to dismiss the prime minister, however, there is nothing to suggest that an indefinite suspension of the electoral process is acceptable. Unwillingness to set a firm election date or identify a timetable for a return to democracy would seem contrary to the spirit of the constitution. Opponents also note that the current government arrangements would seem to violate a host of other constitutional provisions.

Once again, this demonstrates that the large loopholes in the 1990 constitution poorly position the country to conduct its affairs with regularity and predictability. The Nepalese Bar Association has openly decried the king’s action as unconstitutional, although the Supreme Court has remained silent. Even the political parties have been unwilling to challenge the decision judicially, reasoning that if a politically intimidated court rules for the king, it would set a dangerous precedent and leave the crown with almost unchecked power.

Almost immediately after ousting Prime Minister Deuba, King Gyanendra began plans to start dialogue with the Maoists. He did so in a very discrete manner, and the genesis of the current ceasefire speaks volumes about the political climate. An emissary, Physical Planning Minister Colonel Narayan Singh Pun, was directed to reach out. These back channel talks were kept secret from the parties, and there have been credible suggestions that even India was left in the dark, a rather distinct departure from the past when New Delhi was kept closely informed about events that it viewed as central to its security concerns.

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<sup>17</sup> Chand, a member of the RPP party, was the last prime minister under the former *panchayat* system. He also later held that position in a 1997 RPP-UML coalition government.

<sup>18</sup> ICG interview, Kathmandu, 12 March 2003.

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<sup>19</sup> Article 127 of the 1990 Constitution states, “Power to Remove Difficulties: If any difficulty arises in connection with the implementation of this Constitution, His Majesty may issue necessary orders to remove such difficulty and such orders shall be laid before parliament”. While this language is quite imprecise in its scope, it should be noted that the king’s orders have not been “laid before parliament” because he has failed to schedule elections to replace the parliament that he dissolved upon Prime Minister Deuba’s request.

It came as a great surprise to the parties when the initial ceasefire was announced on 29 January 2003 – a breakthrough that was even more dramatic given that it came just three days after the Maoists assassinated in Kathmandu the Chief of the Armed Police Force, Krishna Mohan Shrestha, in an attack that many feared signalled an escalation of the insurgency in the capital. The Maoists secured three important concessions in the ceasefire: bounties on senior rebels were dropped; Interpol “red corner” notices were rescinded; and the government stopped labelling the Maoists as terrorists.

That a ceasefire was achieved between such unlikely partners has created a curious and often uneasy dynamic. The Maoists, who have long vowed to abolish the monarchy, have been dealing with the palace on a confidential basis. The king, who essentially suspended the democratic system in Nepal by fiat, has repeatedly appealed to the parties to support the peace process – although he has not made clear they would have a meaningful role in negotiations. The parties, which have long argued that promoting peace should be central to the government’s agenda, now appear to be actively considering undermining the talks because they are unwilling to see either the king or the Maoists strengthen their positions. A Western diplomat lamented, “the parties will sabotage things before they see someone else get credit”.<sup>20</sup>

On 13 March 2003, negotiators announced agreement on a 22-point “code of conduct” to serve as ground rules during subsequent peace talks. It commits both sides, among other things, to stop violent and coercive activities; halt kidnappings and extortion; allow free movement; instruct government media to provide information impartially; and gradually release detainees.

Both the Maoists and the RNA climbed down from some of their more absolutist demands. The Maoists abandoned their call to have the RNA return to barracks and thus leave them effectively in charge of much of the countryside. The RNA dropped its demand that the Maoists fully disarm and thus give up their negotiating leverage. Far harder hurdles are still ahead, however, if the contours of a deal

acceptable to the palace, the parties and the Maoists are to be shaped.<sup>21</sup>

Both the security services and the Maoists complain regularly about code of conduct violations.<sup>22</sup> Security officials and many average citizens say that the Maoists continue to collect “donations”, while the Maoists point to ongoing arrests and harassment of their cadres. The general failure to agree to a tough and independent verification procedure has undercut mutual confidence.

On 29 March 2003, Dr. Baburam Bhattari, head of the Maoist negotiating team, began making high profile public appearances in Kathmandu after years of operating underground. He was joined by other key figures in the movement, including the head of its military operations, Ram Bahadur Thapa. This signalled willingness by the Maoists to take an

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<sup>21</sup> The Maoists and the government agreed to the following 22 points during the ceasefire: 1. Both parties should be committed to finding a peaceful solution through dialogue. 2. Both sides should be committed to finding mutual agreement on matters of national importance. 3. Both parties will stop violent activities and security measures that might ignite fear amongst the general public. 4. Both parties will refrain from aggressive/provocative activities around sensitive/high security areas. 5. Both sides will gradually release prisoners. 6. Both sides will work peacefully for the welfare of the general public. 7. The ideas/ideologies of both sides are to get fair and impartial treatment in the state media. 8. Both sides are to refrain from publishing inflammatory comments that could jeopardise the talks and peace process. 9. Both sides are to refrain from forcibly taking money or materiel as “donations”. 10. Both sides are to organise only peaceful meetings by way of protest; there will be no strikes, “bandhs” or transport strikes during the ceasefire. 11. Both sides are to refrain from searches, arrests and kidnappings. 12. Both sides are to assist each other in maintaining the ceasefire. 13. Both sides are to allow the unimpeded transportation of food, medicine and essential goods. 14. Both sides are to allow the free movement of people. 15. While exercising their fundamental rights, neither side will obstruct the other from doing the same. 16. Both sides are to allow the unimpeded movement of negotiators. 17. Both sides will assist in return and reintegration of displaced persons to/in their places of origin. 18. A neutral monitoring team with an understanding of both parties will be formed. 19. Changes to the code of conduct can be made with mutual assent. 20. Differences in the interpretation of the code will be settled amicably by both sides. 21. The code of conduct can be terminated through mutual assent. 22. This code of conduct will come into effect immediately and should be fully implemented within three weeks of the date of the signature.

<sup>22</sup> ICG interviews 29-31 March 2003, Kathmandu and Sindhuli.

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<sup>20</sup> ICG interview, Kathmandu, 26 February 2003.

increasingly public position on negotiations and has sparked considerable media interest in Nepal.

In addition to holding a number of public events, the team has also met directly with the major political parties, Prime Minister Chand and key civil society figures. While insisting that the Maoists were serious about talks, Bhattari had strong words for both the parties and the king. He argued, “It is not because of us that the constitution remains as good as dead. It is because of the power struggle of the parties”.<sup>23</sup> At an earlier event, he observed that while the Maoists want “the king to play a role, if he fails, he will be lost to oblivion”.<sup>24</sup>

There are increasing concerns that while all the actors in the conflict are more sincere in their desire for peace than during the 2001 negotiations, miscalculations, whether by the RNA, the king, the parties or the Maoists, could quickly undo the limited progress to date and push the country back into an even more violent civil war.

### C. ECONOMIC PRESSURES

Nepal’s economic development has remained painfully slow and uneven despite the fact that the country has made strides in improving access to health, education and clean drinking water over the last several decades. The failure to secure broader economic growth has exacerbated social tensions, particularly as traditionally disadvantaged citizens have become more aware of rising levels of prosperity elsewhere in Asia. The Maoist insurgency has hurt the economy in multiple ways, undercutting investment, development spending, local infrastructure, educational capacity and tourism revenue. A Nepalese aid official argued that economic concerns weighed heavily in the king’s desire to talk peace:

It was not fatigue, but a broader sense that it can’t go on like this. It wasn’t the casualties so much, but the high cost of the war in terms of the economy and tourism.<sup>25</sup>

With increasing budget shares being dedicated to the military, Nepal is in danger of seeing its spending priorities tilt heavily toward the security

sector, an orientation that would come at the direct detriment of development. Yet, it is more robust and transparent investments in local development that are seen as the best means to sap the insurgency of its underlying logic. Nepal is one of the world’s most aid dependent countries, with foreign loans and grants financing 58 per cent of development expenditures in 2001.<sup>26</sup> It should not be surprising that there is a vein of popular anger at “imperialism” in a country that has remained dependent on the outside world for so long while average citizens have very little to show for the relationship.

If conflict is resumed, Nepal is in direct danger of being pushed into a downward economic spiral. The security situation has cut sharply into tourism in a country where those revenues have long been one of the few economic bright spots. Tourist arrivals were down 17 percent in 2001 and slumped further in 2002.<sup>27</sup> Tourism formerly brought in more than U.S.\$160 million a year, and more than 200,000 people were employed in the sector. Income from tourism has also declined for reasons beyond the Maoist insurgency, including the hijacking of the Indian Airlines flight, the royal massacre and the global slowdown in the industry after 11 September. The decline has started to have something of a ripple effect, putting increasing pressure on the banking sector as loans to hotels and other tourist facilities come due. The ceasefire has thus far brought only a modest increase in arrivals, and the latest round of fighting in the Persian Gulf will likely mean that further increases will not be dramatic.

Similarly, textile and carpet exports have contracted at a time when new revenue is badly needed, a victim of both the violence in the countryside and lower global demand generally, although exports to North America have shown a promising rise in late 2002 and early 2003.<sup>28</sup>

Foreign investment has also remained wary of a country that is seen not only as increasingly insecure, but also as deeply bureaucratic and corrupt. The fact that the Maoists directly targeted Coca-Cola, Lever, and Colgate Palmolive facilities for bomb attacks in 2001 and 2002 also had a chilling effect on the investment climate. For an economy that is both underdeveloped and largely non-

<sup>23</sup> *The Himalayan Times*, 1 April 2003.

<sup>24</sup> *Kathmandu Post*, 30 March 2003.

<sup>25</sup> ICG interview, Kathmandu, 7 March 2003.

<sup>26</sup> Asia Development Bank, *Annual Report, Nepal*, 2001.

<sup>27</sup> *Ibid.*

<sup>28</sup> *Kathmandu Post*, 27 February 2003.

diversified, with external investment largely confined to low-tech and low value consumer goods, these economic pressures make resolving the crisis of governance all the more difficult.

Many of the economic difficulties are deeply structural and have made growth more difficult in a country that has few advantages outside of its scenery and hydro energy potential. While there has been some economic reform since 1990, often these efforts have stalled amid the frequent government shake-ups. A long history of corruption, often poorly designed and monitored international assistance programs and the general reluctance of the political leadership to embrace a broader definition of national interest have ensured that the majority of Nepalese continue to suffer grinding poverty. The sharp splits in development between the Kathmandu Valley and rural areas have created a sense among many that there are now “two Nepals”, and it is no coincidence that the Maoist insurgency sprang from those regions that have always been treated as the lesser of the two nations within a nation.

Subsistence agriculture remains the predominant livelihood for most Nepalese. Despite a per capita income of U.S.\$220, poverty alleviation has not been a central goal of the government since democracy was established – despite nods in that direction. Even more disturbing are the gross inequities that lie within the economic trends. In some of the more remote districts, the average annual income is only 17 per cent of that \$220 national figure. In the Maoist stronghold of Rolpa, per capita income is less than U.S.\$100. In some parts of Nepal, the average life expectancy is only half that in Kathmandu. According to the UN, 38 per cent of the population is extremely poor and cannot meet basic needs.<sup>29</sup> Other indicators are equally stark. Life expectancy is 59 years, and the adult literacy rate is roughly 57 per cent. Yet here, too, there is sharp divergence between the “two Nepals”. For example, in the mid-western mountains, adult literacy is only 33 per cent and life expectancy is 45 years.<sup>30</sup>

What economic growth Nepal has achieved has often been centred on those families that have

already achieved middle or upper class status. One businessman in Kathmandu complained:

Because of my religion and ethnicity I cannot do business with the government. There is an iron gate in the civil service, the military and business which only Brahmins and Chetri can get past. So if people can't work with the government, what choice do they have? Only the Maoists.<sup>31</sup>

Land use and ownership also are volatile issues that will have to be dealt with more effectively over the long term. Earlier efforts to set limits on the amount of land that could be owned by individuals were tepidly enforced, and many avoided the intent of the law simply by transferring large portions of their plots to friends and families. A senior government official was candid in acknowledging that the land system remains one of the country's biggest problems, admitting, “I own a large piece of land in Eastern Nepal, but I'm not even sure where it is. Everybody in this government owns land”.<sup>32</sup> The practice of large landowners thriving on the indentured servitude of landless farmers, although now illegal, has not been fully eliminated. While obviously land reform is contentious, and any land redistribution would have to come with compensation, the matter should not simply be placed on a back burner indefinitely. It would have to be undertaken with considerable financial support to be effective, however. Maoist attacks on land revenue offices were seen as yet one more example of their populist approach to the conflict.

The economy's health remains deeply dependent on relations with India. Nepal relies on remittances from India and Indian payments to Nepalese members of the Indian military, both active and retired. Hundreds of thousands, if not millions, of Nepalese live and work in India. Even more importantly, Nepal's landlocked position makes it depend on its neighbour as both a source and transit point for the vast majority of its imports and exports. Over the last 20 years, India and Nepal have often wrangled over trade issues and customs duties, and New Delhi's ability to use economic pressures to secure foreign policy and water concessions remains a sore point that has often fed anti-Indian sentiment. The renewal of the 1996

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<sup>29</sup> UNDP “Nepal: Development Context”, [www.un.org.np/publications/mdg/index.html](http://www.un.org.np/publications/mdg/index.html).

<sup>30</sup> UNDP Human Development Report 2002, [www.undp.org.np/publications/nhdr2001/](http://www.undp.org.np/publications/nhdr2001/).

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<sup>31</sup> ICG Interview, Kathmandu, 26 February 2003.

<sup>32</sup> ICG interview, Kathmandu, 7 March 2003.

India-Nepal trade treaty was welcome and helped ease doubts surrounding exports. However, for a number of reasons, Nepalese industries will feel continuing pressure to become more professional and competitive.

War damage to infrastructure also strains an already stretched government budget. Although there was not massive destruction, even rebuilding infrastructure to pre-war levels will entail real costs. As noted earlier, over 1,000 Village Development Committee offices have been damaged, as have more than 400 post offices.<sup>33</sup> In a number of areas, important facilities such as bridges, roads and schools suffered either direct damage or steady neglect. Another challenging proposition, if the ceasefire holds, will be the need to provide active livelihoods for numerous Maoist cadres in the field.

### III. THE CONTENDERS FOR POWER

Amid the uncertain calm of the peace process, the major actors are now in open competition for legitimacy and public support. All are eager to shape the contours of any peace deal to their own favour, and, rather ominously, all think they are negotiating from a position of strength. Talks continue directly between the royalist government and the Maoists with the mainstream political parties largely on the sidelines. While the government has made its disdain for the parties well known, and Minister Pun has declared that the “peace bus is leaving” with or without them, both the palace and the Maoists know that at some point they will have to deal with the politicians if a deal is to hold and the Maoists are to take a place in the political mainstream. This has triggered a curious courting process within the camps: the Maoists meeting regularly with the parties, whose leaders speak almost fondly of the same Maoists they had labelled terrorists; the palace and its appointed government suggesting that peace is all but assured.

Underneath all the positioning, there remain real differences about the details of a peace deal and genuine fears in each camp that it will be outfoxed. All sides envision even a successful negotiation as taking years. More than ideology and even more than personality, all these groups have their eyes firmly fixed on political power. The ability to form effective coalitions and consensus on a triangular playing field will have a profound impact on the country’s future course and may well determine if the nation yet again descends into war.

#### A. THE MAOISTS

There are compelling reasons why the Maoists have been eager to come to the peace table now. The military situation appeared to be in something of a stalemate; the Maoists had not enjoyed a major battlefield victory in some time but continued to take steady casualties. The RNA was increasingly the beneficiary of a greatly strengthened arsenal procured on the international market and through international assistance since governments appeared to be largely willing to look past its battlefield abuses as part of the effort to slow the Maoists.

Certainly the international focus on the war on terrorism was bringing the Maoists unwanted

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<sup>33</sup> *Nepali Times*, 15-21 November 2002.

attention, particularly the United States. Individual Maoist leaders most likely viewed the intelligence and security services of outside powers as potentially posing a threat to their personal well being. If the Maoists had been placed on the U.S. terrorism list, this might well have presented a permanent barrier to some of them being able to enter mainstream politics. As one local foreign policy expert concluded, “The war on terrorism had pushed the Maoists into an unwinnable position”.<sup>34</sup>

It appears that mounting Indian pressure on the group was driven at least partially by concerns about the growing U.S. military influence in Nepal. India has long viewed Nepal as distinctly within its sphere of influence and an increasingly active U.S. presence could understandably be seen as eroding New Delhi’s strategic position. That Indian pressure may have been key in bringing about talks would be ironic given the group’s vocal anti-Indian rhetoric.

The Maoists may also have been experiencing difficulties in maintaining control of their field organisation. Extortion, violence and attacks on infrastructure were beginning to cut into rural support, and keeping a large insurgency in the increasingly poor and depopulated hill country would prove difficult over time. In short, the battlefield seemed to offer the Maoists no clear opportunity to take and hold major cities in Nepal, while presenting a real risk that senior leaders would be apprehended or killed.

Further, the continuing political disarray in the capital seemed to provide every opportunity to exploit deep divisions between the parties and the palace, a game at which the Maoists have proved themselves more than adept. Thus, from both a political and military perspective, the time appeared ripe for a major change in strategy. However, it is still an open question whether the group’s relatively recent interest in multi-party democracy is sincere. While almost all interviewed by ICG indicated that the Maoists are much more serious about talks than they were in 2001, it is also clear that they are willing to take up arms again if stonewalled by government negotiators.

Given that the Maoists remain in control of large parts of the countryside and have proven themselves very capable of exploiting differences within and among the political parties, and between the parties

and government, they may have also reasoned that they could now gain more at the negotiating table than on the battlefield. The Maoists have also worked hard to gain the high ground of public opinion since the ceasefire was announced by appointing a very senior negotiating team, almost completely halting violence, issuing a decree against extortion, organising village level political meetings and using moderate language in favour of democracy, multi-party rights and the free market.

Throughout the conflict the Maoists have adopted a fluid approach to their revolutionary model and military planning. They are willing to learn from mistakes and the setbacks suffered by other Maoist groups that have operated around the globe. This approach has made it more challenging to deal with the Maoists militarily, while often making their ultimate political goals frustratingly opaque.

While much attention has been paid to the insurgents dense and voluminous writings on Maoist theory within the Nepalese context, it remains unclear how much of this philosophy is more than window dressing.<sup>35</sup> While there is clearly a core of “true believers” in the ranks, the fluidity of the groups’ demands and tactical approach suggest a certain level of expediency. Given the rather abstract nature of many of their political ruminations, it is not entirely clear what level of political philosophy is actually being brought to bear in their activities. While the Maoists seem genuine in their concerns about tackling issues such as equity and corruption in the administration of development projects in their territories, there have not been wholesale re-education campaigns and purges in areas under their control. That said, the Maoist doctrine is quite explicitly built around long-term strategies that view gaining control of the state as a fundamental goal to be achieved over years and by employing all methods possible. Given such a strategy, it is natural that there would be considerable variations in how the group’s ultimate agenda is interpreted.

Much current policy debate is dominated by questions regarding Maoist intentions. Are they

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<sup>34</sup> ICG interview, Kathmandu, 26 February 2003.

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<sup>35</sup> For example, the Maoists have spoken repeatedly of the need to end the relationship between capitalists, imperialists and the bureaucracy while stopping the “entry of imperialist capital”. Yet on 19 March 2003, Krishna Bahadur Mahar, a senior Maoist leader making the rounds in Kathmandu, insisted, “Our economic model is free economy with sound competition and level playing field for all players”. *Kathmandu Post*, 20 March 2003.

genuinely committed to a complete and overwhelming victory whatever the costs? Or are they willing to accept a negotiated settlement that simply gives them a piece of the pie? Observers wonder if peace talks are sincere or simply an extension of Mao's old axiom of "jaw, jaw, fight, fight" that argued negotiations could be best used as a tactic through which to buy time for a more complete military victory. There are sharply divergent views on Maoist intentions, and these profoundly shape international policy responses.

If the Maoists are seen as totally committed to a people's revolution that will ultimately bring down both monarchy and the mainstream parties and establish strict Maoist doctrine across the land, then it is logical to rely more heavily on hardline methods to counter this threat. In contrast, if the Maoists are willing to engage in serious discussion with other political actors and ultimately accept a fair peace deal built around multi-party democracy and representative government, the policy imperative becomes quite different: facilitating efforts to get and keep all the parties at the table and designing a political solution that not only brings the Maoists in from the cold but also makes Nepal's political system and economy more accessible to the many citizens who have traditionally been disenfranchised.

Proponents of both sets of views can be found, and they marshal those facts that they can in support of their positions. Those arguing that the Maoists are implacably committed to total revolution point to their often extreme and highly doctrinaire rhetoric, their abandonment of the 2001 peace talks and their reliance on bombing, extortion and forced military service as examples of what would await the country if they came to power. It is also argued that the Maoists have always had the option of participating in the democratic process (although some earlier factions were indeed barred from the ballot), and that their decision to take up the gun was driven in part by their inability to win greater electoral support.

It is further suggested that the Maoists will not be willing to accept any interim government that they would not control. Thus, the scenario goes, the Maoists would remain armed and would be well situated because of their control of large swathes of the countryside to secure victory at eventual polls through coercion and intimidation. Gaining control of the government and armed forces, the Maoists would then be in position to complete their political and ideological victory. Advocates of such a view

raise scenarios as extreme as that of the Pol Pot regime in Cambodia in expressing their fears. Not surprisingly, government excesses and human rights abuses are seen as problematic, but by far the lesser of two evils, within such a worldview.

The other camp, while acknowledging the often-brutal tactics of the Maoists, views them as more willing to negotiate, less doctrinaire and more amenable to compromise. They note that the Maoists have behaved relatively well since the ceasefire and have shown flexibility in their demands, including dropping calls to abolish the monarchy during the last set of peace talks. There were some, but largely limited attacks, on senior political figures in Kathmandu. This relative restraint was seen by some as eagerness either to achieve eventual entry into the political mainstream or to avoid targeted strikes on their own senior leadership.

Advocates of this position sharply question the Pol Pot analogy, and point out that Maoist management of the villages under their control has not resulted in the wholesale purges or massive re-education campaigns that provided early signs of trouble in Cambodia. They have not shown the level of ritualised brutality of either the Khmer Rouge or the Sendero Luminoso in Peru.<sup>36</sup> While obviously the Maoists have attracted their share of purely criminal elements drawn to the cause for profit and by their skills with the gun, some elements have tried to engage in genuine hearts and minds activities and to manage local development programs equitably. Interestingly, few of the international aid or UN officials conducting assistance programs in Maoist controlled areas subscribe to the belief that the Maoists are solely bent on total ideological domination of the country or have found the insurgents unreasonable to deal with.<sup>37</sup> A number of international aid workers and some journalists have been subjected to brief detentions by Maoists, but the group has largely resisted indiscriminate attacks on Westerners. In general, it has been far less hostile to multilateral programs than bilateral aid efforts.

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<sup>36</sup> Comparisons between the Nepali Maoists, Peru's Sendero Luminoso (Shining Path) and the Khmer Rouge are often made but usually reveal little. All three insurgencies made use of Maoism but were ultimately grounded in local ethnic and racial ideologies and political conditions. Although undeniably brutal, Nepal's Maoists have not so far encouraged mass participation in killings, a key aspect of the violence of the other Maoist groups.

<sup>37</sup> ICG interviews January and February-March 2003.



## 1. The Maoists as an Organisation

To many outside observers, the notion of a Maoist insurgency in the early 21<sup>st</sup> century seems almost impossibly anachronistic. With the general demise of communism globally, to have a conflict pitting monarchists, Maoists, and an array of other communist and socialist parties against one another appears to be a storyline from a bygone era. But as noted, conditions within Nepal are conducive to a rebellion from the hinterland, and if the Maoists had not seized upon the abiding public resentment, another movement likely would have.

The Maoists have quite successfully appealed to what are widely viewed as deep injustices within Nepal, including abuses by the security services. Much of their attraction has stemmed not from the resonance of Maoist theory among poor and often illiterate villagers, but from the frequently inescapable logic of a general population that feels at best poorly served by their government and at worst preyed on by officials. Early Maoist attacks were effective in capturing the public's imagination because they targeted some of the most obvious signs of inequality in the form of local upper caste politicians, police posts, the judiciary, rural banks and land revenue offices. One European official vividly shared what he saw as the attitude of many poor, rural Nepalese when viewing Maoist violence against local village political elites, who are overwhelmingly upper caste: "We've had no justice for 1,000 years and they've lopped his head off. Ha. Ha. Ha".<sup>38</sup>

The Maoists' dedication to their cause has also inspired respect among some Nepalese. As one politically active Nepali told ICG, "I was beaten up during the democracy protests in 1990. I was not willing to die; the Maoists are. If they had been here, *panchayat* would have been gone 30 years earlier".<sup>39</sup>

The Maoists have enjoyed remarkable gains in the field for a relatively young insurgency. Common estimates before the ceasefire were that they controlled some 70 per cent of the countryside. Yet, any figure estimating "areas of control" in Nepal should be taken with a pinch of salt. While the Maoists could mount attacks throughout most of the country, they were not in a position to hold territory against resistance. In essence, they controlled large

swathes of Nepal simply by default. The RNA could take most positions by day, and the Maoists could return at night. "Control" is a relative term in the many remote areas where there is little administration to assume. Government attacks increasingly put the Maoists back on their heels in some areas before the ceasefire, and there were reports that Maoist cadres had to dedicate increasing amounts of time and energy simply to avoiding government pursuit and comparatively less to their political and social agenda at the village level.

Their general effectiveness in many aspects of a "hearts and minds" campaign, however, should not obscure the fact that the Maoists have frequently employed methods that are brutal and extra-legal, and some of their actions have directly hurt the same general population that they claim to place at the centre of their agenda.<sup>40</sup> In contrast to the actions of the government forces, Maoist violence has usually been discriminate, although random incidents of thuggery, crime and score settling have taken place as the movement has grown larger. The Maoists have appeared to direct their violence toward a specific political agenda, whatever its merit.

Teachers and local political leaders have often been the target of Maoist beatings, torture and executions. Teachers have frequently come under attack because the assignment of such posts in Nepal is unfortunately politicised. At times, these murders came in the form of high profile demonstration killings with the bodies left in public places as a way to spread fear and to intimidate. The Maoists' unrelenting attacks on local political officials across Nepal has unfortunately disrupted democratic political development at the exact place where it is most needed and actually appeared to be gaining a measure of traction. More educated villagers were demanding results from local politicians and a measure of accountability that had long been missing from Nepalese politics. Unfortunately, that element has now been derailed and will remain so for some time even if the ceasefire holds.

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<sup>40</sup> ICG interviews and Amnesty International, "Nepal: A Spiralling Human Rights Crisis", London, April 2002 and "Nepal: A Deepening Human Rights Crisis", London, December 2002. Amnesty has documented cases of killings of civilians, particularly teachers, government officials and political party workers by Maoists along with torture, hostage-taking, the use of cruel and degrading punishments handed down by 'People's Courts' and the use of child soldiers. The Maoists also often summarily execute captured members of the police and military.

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<sup>38</sup> ICG interview, Kathmandu, 11 January 2003.

<sup>39</sup> ICG interview, Kathmandu, 7 March 2003.

There have also been widespread and credible reports that as the Maoists came under increasing military pressure, they resorted to kidnapping youths and forcing them to serve within their ranks. Small home-made bomb attacks were also a favourite, and such attacks carried a high chance they would kill those other than the intended targets. In addition to efforts to liquidate local political leaders, the Maoists have also engaged in numerous attacks on high profile infrastructure and development targets, although they appear to have recognised that these strikes were rapidly dimming their stature. The Maoists proved effective at staging coordinated attacks to over-run police and military outposts, using superior numbers to kill most of those in such a post and capture their weapons.

Yet, despite all these violent practices, the Maoists at times have appeared to be the lesser of two evils to some villagers, in that the violence they directed was generally predictable, whereas the actions of the RNA and police often seemed not only brutal but also capricious.

The Maoists appear to be largely financed through a series of illegal operations. They consistently and effectively carried out bank robberies to augment their funding, and have also received both forced and voluntary contributions in the form of money, food and livestock from villagers.<sup>41</sup> General extortion appears to be an important source of income, and even senior politicians in Kathmandu were reported to have been subjected to extortion schemes.<sup>42</sup> Since the ceasefire the Maoists have insisted that none of their cadres will be allowed to engage in extortion.

The Maoists also demonstrated an increasing reliance on *bandhs*, or general strikes, to show political strength. These general strikes appeared to work largely because individuals and businesses were quite fearful of Maoist reprisals and not because of widespread support, particularly in urban centres such as Kathmandu. Indeed, the *bandhs* prompted growing anger among many Nepalese given the already precarious state of the economy.<sup>43</sup>

## 2. What Do They Want?

The publicly stated Maoist demands are threefold and essentially sequential: the formation of an interim government in which they would take part; the hosting of a national roundtable conference that would bring together a broad range of interests including the Maoists, the parties, the monarchy and civil society groups to discuss the country's future; and the establishment of a constituent assembly. Such a constituent assembly would be formed by holding an election in 205 constituencies, each of which would select a delegate who would assist in setting up a special committee to draft a new constitution. In theory this constituent assembly would then ratify the constitution either by a simple or two-thirds majority. How any such election would be conducted, particularly the security arrangements, would clearly be crucial to its outcome.

Baburam Bhattari has insisted, "There is no constitution at present, it is a constitution-less state". Nevertheless, there are suggestions that the Maoists would be willing to accept a pre-negotiated package of constitutional amendments that would then be put to the public in a referendum.<sup>44</sup> Key concerns for the Maoists – whatever the form of constitutional tinkering – include greater civilian control of the RNA, curtailing the privileges and power of the royal family, jobs for their demobilised cadres, and a significant stake in any interim government. While their demands have almost continually evolved, the current set are perhaps most notable for their general lack of extreme ideological content. The Maoists have stressed that their aim is the "completion of the bourgeois revolution", a phrase that is taken to mean creation of a capitalist economic system with multi-party democracy. They indicate this is a vital step toward a more purely communist system at some stage in the distant future, but that explanation could also be an effort to prepare their cadres to accept compromises. Interestingly, the Maoists have even said they embrace open markets and want to enjoy a good relationship with the private sector.

There are, however, widely divergent opinions regarding the bottom line of the Maoists. A number of commentators suggested to ICG that the Maoists have realised they are essentially at a military dead-end, and it is only a matter of developing a "face saving" arrangement that allows them, in effect, to surrender. Others argue from the other direction that

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<sup>41</sup> As of July 2001, Maoists were said to have robbed banks of more than 240 million rupees (more than U.S.\$3 million), according to the *Nepali Times*.

<sup>42</sup> ICG interviews, Kathmandu, January 2003.

<sup>43</sup> ICG interviews, Kathmandu, January 2003.

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<sup>44</sup> *Kathmandu Post*, 1 April 2003.

“a constituent assembly is now a given fact”.<sup>45</sup> Much of this confusion likely stems from a common source: the Maoists have been telling quite different things to different audiences as they make the rounds of Kathmandu – just as all the other actors are trying to use them to their own advantage.

For example, a Congress Party insider noted, “The Maoists are not saying publicly that they want to get rid of the king. In private, they have been clear that getting rid of the king is a goal. They want a constituent assembly without pre-conditions so they can form a republic”.<sup>46</sup> A senior government official takes a diametrically opposed view: “The Maoists agreed to a constitutional monarchy”, adding that the government would never accept a constituent assembly. “This is just absurd, a lot of noise, you try to pin anyone down on the idea of a constituent assembly, and they can’t give you an answer”.<sup>47</sup> A Nepalese foreign policy analyst suggests that such posturing is quite normal, “The elephant has two sets of teeth; one for show and one for eating. The goal of the Maoists is simply to come to power”.<sup>48</sup>

The fact that the Maoists have been dealing directly with the monarchy that it has so long denigrated has forced some rhetorical gymnastics. After the political parties complained that the Maoists were legitimising the current government through negotiations, the Maoists began to assert that they were negotiating with the “state” and not the “government”. They insisted that two armed equals were talking and that the discussions were taking place between the “old regime” (the royalist government) and the “new regime” (the Maoists). Such semantics underscore the complexity of a soft landing for the Maoists. If they truly wish to emerge as a force within a multi-party democracy, they know that any agreement reached solely with the palace will likely both lack broader legitimacy and rob them of the ideological purity that has set them apart from other actors in Nepal.

It comes as no surprise that the Maoists have been actively courting both the UML and Congress parties. If the palace remains reluctant to strike what the Maoists consider a reasonable deal, some broader joint action with the political parties might be more advantageous than renewed combat with

the RNA. The Maoists also reason that the gains of 1990 were limited because only the king had armed forces. Certainly, the Maoists must consider the monarchy a greater direct threat to their interests than the political parties and that they have the ability to overwhelm the latter in any meaningful coalition.

The popularity of the Maoists in any free and fair electoral contest remains a key question. While their support was quite low before they took up arms, several factors could now bode well for their chances: public anger with the traditional parties and fear that a ballot box loss could push the Maoists back toward violence; proven organisational skills; the appeal of reformist rhetoric; charismatic leadership; lack of other party activity in large areas of the country; and possible public accolades for reaching a peace deal. However, many also feel that if they gave up their arms, the Maoists would not do well in a general election.

Given that the activity of the Maoists is often viewed within doctrinal terms, there is much speculation as to whether the insurgents are poised to move from the second phase of a people’s war – strategic stalemate – to its third phase – strategic offensive and a final push to topple the government and gain control of the state. For all the talk of a soft landing, the Maoists continue to maintain that they should be given one-third to one-half the power (the balance being split between the parties and the palace) in any deal, and they continue to use the ceasefire to step-up the political organising activities that had been sharply curtailed as a result of intensive fighting after November 2001.

By all accounts, the Maoists have maintained a remarkable level of field discipline and command and control. A peace process of any duration will put this to a stern test as cadres watch carefully for signs of undue compromise or see their sources of self-financing disappear. Communist groups in Nepal have a rich history of factionalism, and the possibility that the Maoists may split or morph into ethnic or regional offshoots over time is considerable.<sup>49</sup> Given that most expect peace talks to be protracted, figuring out what to do with cadres during this period will be crucial.

<sup>45</sup> ICG interview, Kathmandu, 27 February 2003.

<sup>46</sup> ICG interview, Kathmandu, 7 March 2003.

<sup>47</sup> ICG interview, Kathmandu, 12 March 2003.

<sup>48</sup> ICG interview, Kathmandu, 3 March 2003.

<sup>49</sup> See Sharma, *Democracy Without Roots*, op. cit. and Dixit and Ramachandaran, *State of Nepal*, op. cit., for fuller descriptions of earlier communist factionalism in Nepal.

## B. THE POLITICAL PARTIES

The political parties are in a quandary over the peace process and are intensely concerned that they will be left out in the cold. An official from an international NGO observed, “Before the ceasefire, there was a general sense that the king had overplayed his hand”.<sup>50</sup> Now, both the Maoists and the government are receiving public acclaim for the ceasefire, leaving the parties looking for a way to get seats at the table. But in the blunt words of a Western diplomat, “The government couldn’t give a damn what the parties think. They are moving ahead with or without them”.

While the temptation to keep the talks strictly between the Maoists and the monarchy is obvious – particularly given often fractious and unconstructive posing by party leaders – it is doubtful that a sound package of constitutional revisions for restoring democracy will be struck between the two camps without taking broader social forces into consideration. As a local human rights analyst maintained, “Donors may be impatient with the parties, but abandoning that process would be a fundamental mistake”.<sup>51</sup>

The parties continue to resist lending any legitimacy to the government, reasoning that this would further their own marginalisation. When Prime Minister Chand called an all-party conference to discuss the ceasefire in February 2003, he was embarrassed that not only did the Congress and UML boycott, but even his own RPP was a no-show. This strategy may look obstructionist in the immediate term, but the parties believe that time is on their side. They reason that in today’s world, the king will not be able to suspend the democratic system indefinitely, and that without the spectre of rural violence, international pressure on him will steadily mount to embrace political liberalisation and hold elections or appoint an interim all-party government. Even a senior government official was left to lament privately to ICG on the state of democracy: “We have no parliament, we have no local bodies and we have no election. It is a sad state of affairs”.<sup>52</sup>

The Congress Party, headed by Girija Prasad Koirala, has pushed for restoration of the previous parliament, although by all accounts this is a dead

letter. Given that it has already been dissolved, there is little constitutional justification for such a move. The Congress preference is clearly driven by the fact that this would once again give them the seats needed to pick the prime minister. It would appear that Congress is also concerned that it would do poorly in a new election because the public might blame it for failing to deliver improvements in the quality of life or to secure a peace agreement. The UML has pushed the king to form an all-party council of ministers, citing Article 128 of the constitution as giving the monarch sufficient authority.<sup>53</sup> Both UML and Congress have suggested that if they continue to be left out of the negotiating process and the Chand government is not dismissed, they will have little choice but to resort to unspecified joint action. After a meeting on 12 March 2003, they announced that either restoration of the old parliament or appointment of an all-party council of ministers would be welcome.

Congress and UML have also been actively engaged with the Maoists, both to demonstrate that they are players and to put pressure on the palace. After a meeting of eleven left parties, including the Maoists, on 11 March 2003, Maoist leader Dinaanath Sharma said that the insurgents would work with the whole spectrum of leftist parties to reverse the king’s “regressive step” in dismissing Prime Minister Deuba on 4 October.<sup>54</sup> However, some UML members are distinctly uncomfortable with the efforts to court the insurgents. One parliamentarian lamented, “It is hard to tell if the king or the Maoists are a greater threat to democratic values”.<sup>55</sup>

The positions of the parties on the issues most important to the Maoists are highly malleable. Nervous that a constituent assembly would erode their base of power, the parties have, nevertheless, not completely ruled it out, although they insist that the normal method of amending the constitution through parliament would be their first choice. The parties welcome the concept of more clearly limiting the power of the monarchy and putting the RNA better under civilian control. However, many believe that the timidity of the parties in exercising the powers that they did possess in the 1990

<sup>50</sup> ICG interview, Kathmandu, 11 March 2003.

<sup>51</sup> ICG interview, Kathmandu, 14 March 2003.

<sup>52</sup> ICG interview, Kathmandu, 7 March 2003.

<sup>53</sup> Article 128, clause 2: “If, for any reason the Council of Ministers referred to in clause (1) is dissolved, His Majesty shall constitute a new Council of Ministers consisting of representatives from the main political parties”.

<sup>54</sup> *Kathmandu Post*, 12 March 2003.

<sup>55</sup> ICG interview, Kathmandu, 12 March 2003.

constitution, including considerable say in how the RNA would operate, was part of the reason that the monarchy became increasingly assertive after the royal massacre.

The parties continue to suffer from deep internal divisions and have been unable to forge a common view for dealing with either the palace or the Maoists. In many ways, it appears that the only thing that could unify them would be a continuing effort by the king to hold on to power. Thus far, however, the king's manoeuvres have complicated their efforts. Feeling outflanked, they have openly entertained the notion that the Maoists might be a useful ally in street actions if the palace refuses to return power to elected officials. This underscores the danger of the current situation and the political brinkmanship in which all sides are engaged.

### **1. What Went Wrong with Party Politics?**

The U.S. Ambassador, Michael Malinowski, routinely describes Nepal's political parties in colourful language: "Nepal's house is on fire and the politicians are arguing about who gets to sleep in the master bedroom". Another diplomat in Kathmandu echoed his view of the party leadership, "They simply cannot look over the hill". The performance of the parties since 1990 has left a uniformly bad taste in the mouths of both Nepalese and international observers, which helps explain the relative equanimity that greeted the king's decision on 4 October 2002 to suspend the democratic process with no clear signal as to when it would be restored. International criticism was muted, and there was little in the way of popular unrest, all of which suggests that frustration with the current political party leadership is substantial.

However, there is a deep wellspring of support within Nepal for the democratic process. Almost everyone seems to recognise that there can be no "turning back the clock" to a permanent system of absolute monarchy. Despite growing public distaste for the parties and the recent turmoil, support for multi-party democracy seems to be unshaken. While some suggest that the parties had begun to become more responsive to the public's needs – slowly opening up party rules and considering more progressive legislation aimed at addressing some social ills – this process was painfully slow. Tragically, with the regular political process now derailed, opportunities for younger and more vigorous party leadership appear to be on hold.

Instead, the most discredited leaders are left negotiating power sharing with a monarch who has taken power by what could fairly be considered extra-constitutional means. In such a situation, it is difficult to imagine how the broader interests of the public will be well represented.

In many ways, the revolution of 1990-1991 can be seen as incomplete, leaving Nepal awkwardly caught between its traditional ways and more modern institutions. This often unsatisfying arrangement, neither past nor present, is akin to what Nepalese call the frustration of "chewing water". Further, while the corruption and general venality of many political leaders has been well documented, broader systemic problems have also undercut the effective development of democracy. The failure of any party to develop a strong electoral mandate has certainly hampered general administration, and the reliance on coalition governments has encouraged constant machinations that have often brought out the worst in Nepal's politicians.

However, many party activists also argue that the king has maintained a disruptive role in the political process despite the conversion to a constitutional monarchy, and that the palace has often sought to play the parties off against each other. It is also a fair complaint that the monarchy has kept privileges that go beyond what would normally be expected in a constitutional monarchy, including an influential relationship with the RNA. Given the underdeveloped state of the country's democracy, it is not reasonable to expect it to operate effectively when the spectre of palace intervention is always present. While members of the royal family may have concerns about the policy decisions of elected officials, a political system requires time to grow both more regularised and more robust. Party members note that the monarchy has agreed three times in history to be more passive and allow democratic rule. Each time a "passive monarchy" quickly became an "active monarchy".

In many ways, the problems of the political parties are simply symptomatic of the broader problems of class, ethnicity and caste that trouble society as a whole. The two largest parties, Congress and UML, are run by older and almost exclusively upper caste leaderships that remained fixated on personal aggrandisement and enrichment. Personality is seen as dominating the system. For example, Girija Prasad Koirala of the Congress Party has served as prime minister four times already during Nepal's

short democracy, and he clearly thirsts to do so again. He appeared to actively undercut Prime Minister Deuba, although they share the same party. His name is frequently mentioned when observers bemoan the failure of Nepalese politicians to embrace a more modern or enlightened style of leadership. Because Congress has most frequently held power in Nepal's elected governments, the party has seen its reputation erode most.

The parties have large and active memberships and are generally constructed around a patronage system that has limited their ability to embrace genuine compromise or stake out positions that serve the national interest. The influence of this patronage system also extends well into civil society, since many local groups are directly allied with a specific party on which they rely for financial sustenance. In such a system the compulsion to use government funds to grease the wheels of party machinery has been impossible for many politicians to resist. The announcement by the Judicial Inquiry Commission on Property on 18 March 2003 that it had gathered documentation on some 2,000 officials, including many party officials, with respect to the amassing of illegal assets could prove a useful starting point for cleaning up the system – but only if the government avoids selective enforcement to further its own political ends.

Interestingly, grassroots political development had begun to make some significant progress before the Maoist insurgency.<sup>56</sup> Unfortunately, the insurgents have directly targeted local political party activists in the countryside, and the structures of local democracy have largely ground to a halt, leaving a political vacuum other than the Maoists in many regions. Such bottom-up political development is ultimately Nepal's best hope. Giving the traditionally disenfranchised a growing role in the political process is the only viable long-term means by which to re-orient economic and development strategies toward the broader population.

Since 1990, both the UML and Congress have staked out positions that are left of centre. Nepal has no major political force representing the right of the political spectrum, although the RPP has played that role to a minor degree. However, it should also be noted that the left has been largely stripped of ideological content, though party policies are

generally geared to providing a general social welfare state.<sup>57</sup>

The most pressing needs for the parties are to reach a position with regard to negotiations with the king on an interim government and to stake out a clear position on dealing with the Maoists. The issues are closely linked, and the major parties appear quite willing to flirt with the Maoists as a means to put pressure on the palace to return the levers of state to civilian control. While it is understandable that the parties may feel compelled to adopt fairly desperate measures given their marginalisation, a poorly thought out alliance with the Maoists could make a lasting solution to the conflict more difficult.

### C. THE KING

The monarchy has long been revered in Nepal. Yet, the institution has had a very difficult time adjusting to a modern role and has been reluctant to stay on the political sidelines. By taking control of the state after 4 October 2002, the king has dramatically raised the political stakes. It is a harsh commentary on the frequent failures of the political parties that so few Nepalese directly protested the king's actions.<sup>58</sup>

While many see the palace moves as justified by the peace initiative, such measures also carry with them fundamental risks both to the country's democratic aspirations and to the institution of the monarchy itself. This led one European diplomat to argue to ICG, "The king has made a dramatic mistake, and the monarchy is more clearly in jeopardy than ever before." Indeed, many observers feel that the king has painted himself into a difficult corner. Now seen as responsible for overseeing day-to-day administration (despite Prime Minister Chand's formal position as head of government), the king will be held directly accountable for policy.

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<sup>57</sup> One political analyst said of potential rule by either the UML or the Maoists, "It would be a communist government only in name". ICG interview, Kathmandu, 26 February 2003.

<sup>58</sup> As noted earlier, the king already enjoys exceptional powers under the existing constitution. For example, article 122 notes, "His majesty shall have the power to grant pardons and to suspend, commute or remit any sentence passed by any court, special court, military court or by any other judicial, quasi-judicial or administrative authority or institution". These powers have made it difficult for the courts to serve as an effective brake on steps by the monarchy that might normally be seen as unconstitutional.

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<sup>56</sup> ICG interview, Kathmandu, 13 January 2003.

In the immediate term, achieving the ceasefire and bringing an end to the violence have consolidated his position, and he has every reason to believe that he is acting from strength. The parties remain weak and divided, the RNA is firmly loyal, and his public standing has improved demonstrably since the fallout from the royal massacre. The Maoists appear eager for talks, the public outcry over suspension of democracy has been limited, and the international community continues to offer tacit support.

Many commentators appear willing to give the king the benefit of the doubt, sensing that he is not absolutist. While most of these observers also feel that the king is shrewd and much more politically engaged than his late brother, a sense of his difficulties is difficult to ignore. One local analyst said, “The king is not foolish; he knows that an absolute monarchy is not possible in this day and age”. However, this same analyst acknowledged that patience has not always been the king’s strong suit and added, “He likes to be in the centre of things”.<sup>59</sup>

While most Western officials feel the king will relinquish power (although acknowledging his keen interest in shaping the policy agenda, a role not usually reserved for a constitutional monarch), suspicions run deeper among party leaders and activists. Most of them remember the partyless system all too well, and some were jailed during the fight to establish a democracy before 1990-1991. A local journalist observed to ICG, “The king is a very ambitious man”, something of a mixed blessing in the current environment.

The king has regained a measure of good will since his turbulent rise to power after the palace massacre, and he is widely seen as working hard in what he views as the public interest. However, the monarchy is no longer viewed as operating well above the fray, and criticism in the press – long unknown – has become common. Even many supporters of a constitutional monarchy feel the king over-stepped his bounds on 4 October 2002. In addition, there is deep chill in public attitudes toward Crown Prince Paras, to the point where some openly speculate that the current king will be Nepal’s last. This also in part reflects lingering suspicions regarding the palace massacre.

While the king is indeed in a strong position, he remains vulnerable. Despite their lip service, there is

a great deal of support among both the Maoists and mainstream political activists for establishing a republic and doing away with the monarchy. While the Maoists and political parties have been unable to strike an effective alliance to date, they could form a powerful united front, and the king would have a difficult time justifying military action solely to protect the institution of the monarchy. Further, as long as proposed constitutional revisions remain central to the peace process – either through a constituent assembly or constitutional amendments – there will be serious discussions about limiting the palace’s influence over the RNA, its ability to influence the political process, and the general immunity enjoyed by the extended royal family.

It would not be unreasonable for the Maoists or the parties to call for a full analysis of the royal family’s holdings, as the Judicial Inquiry Commission on Property has done for other public officials. While the king has steadfastly maintained that his sole interest is advancing the interests of the people, he emerged as one of Nepal’s most successful businessmen during his brother’s reign, and the monarchy must share blame for the corruption and mismanagement that has plagued the country.

There are discouraging signs that officials affiliated with the current royalist government have failed to understand the seriousness of suspending a democratic system, no matter how badly flawed. One senior government official insisted to ICG, “The parties need a mandate from the people in the form of a new election, unlike the monarchy that enjoys the traditional mandate of the people”.<sup>60</sup> However, this same official made clear that no elections were imagined in the near future – leaving the parties in an untenable catch-22 situation.

The government also uses somewhat circular logic in defending the decision to suspend the democratic process. As mentioned, supporters cite the king’s emergency powers as justification for his removing Prime Minister Deuba but they argue that he lacks constitutional authority to put a new all-party government in place or restore parliament. Yet, if the king enjoys such plenipotentiary powers as to enable him to remove a sitting prime minister and indefinitely postpone elections, he must surely also have the power to appoint an all-party government or arrive at some reasonable compromise that would

<sup>59</sup> ICG interview, Kathmandu, 14 March 2003.

<sup>60</sup> ICG interview, 12 March 2003.

begin to inject democratic considerations into the daily operations of the state.

In resolving the internal contradictions between his desire for control and a commitment to multi-party democracy, the king appears, at least at this juncture, to prefer some form of highly “guided” democracy. There is also much speculation that the king is again in favour in New Delhi, and that he may feel able to take the steps he has over the last six months because of this support, driven at least in part by India’s frustration with Nepalese elected officials.

A “go slow” approach to the negotiations appears to be central to the king’s strategy. Maoist negotiators have complained that reaching even simple agreements takes a great deal of time because the government representative, Minister Pun, runs almost all decisions by the king himself – despite the hollow insistence by the palace that Prime Minister Chand makes decisions. The palace likely reasons that long negotiations will bring a series of advantages: the Maoists will be less likely and able to return to arms; the peace will have longer to take hold; the main political parties will become more irrelevant; and the king will be able to improve his public standing steadily.

The palace will likely remain cautious on any proposal for a constituent assembly and attach conditions that any such arrangement would have to come with an advance guarantee to preserve a constitutional monarchy and multiparty democracy. However, it has been suggested that given its control of the RNA and public standing at the moment, the king might even be comfortable with a referendum on the monarchy, although this would obviously be a risky roll of the dice. The palace and government would also like to begin any elections on a local basis, perhaps district-by-district arguing security concerns, as a means to begin to rebuild the political system from the bottom-up. This would also be consistent with a general “go-slow” approach.

Ultimately, the king must reach some sort of accommodation to bring the parties into the peace process and eventually give them a role in an interim government. It must be imagined that he seeks to reach such an agreement in a manner that will both save face and maintain the role of the constitutional monarchy, while avoiding the sort of party deadlock and general failure that led him to his 4 October decision in the first place. The role of the monarchy will have to be central to any discussion of an interim government, constitutional revision or

meaningful dialogue with the Maoists. The legal ambiguities that continue to surround the role of the monarch are ultimately incompatible with the rule of law and systemised decision-making that are fundamental to a healthy democracy. Like his brother, the current king may well find that the greatest contribution he can make to the public good is to remain on the sidelines once peace is secured.

#### **D. THE RNA AND THE POLICE**

The RNA has long been one of the best-respected institutions in Nepal. However, its prestige has been sorely tested. Despite its popular acclaim, the RNA had seen very limited action before the Maoist insurgency, and its duties were largely limited to ceremonial functions and international peacekeeping. The current conflict has harshly exposed its limits, particularly in counter insurgency.

Ironically, Minister Pun, a former army helicopter pilot and now the government’s chief negotiator, has helped the RNA take a lead in the peace process. It is crucial for keeping the peace, and there are competing theories as to how vested it is in the current process. In all likelihood, the RNA is not of one mind about the negotiations. There certainly are divisions on matters ranging from general reform, to its close links to the monarchy, to the wisdom of seeking compromise with the Maoists at a time when some commanders felt they were making significant gains in the field. One long-time Nepal analyst commented, “There is a strong hardline lobby in the RNA that sees the talks as a bit of a surrender”.<sup>61</sup>

Some within the RNA are willing to press what they feel will be a clear military advantage once they can both expand their ranks to some 70,000 and augment their capabilities with new Western arms and training. The government recently made a commercial purchase of 5,000 M-16s from the United States, and has also purchased 5,500 machine guns from a Belgian manufacturer. The sale sparked a minor political controversy in that country about the legitimacy of arms sales to a government with a spotty human rights record. It has even been suggested that some members of the military feel that a continued Maoist threat gives them an ideal opportunity to modernise with Western help. Others, particularly younger officers, are seen as far more

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<sup>61</sup> ICG interview, 14 March 2003.



reform minded, openly questioning whether the close alliance with the palace is appropriate institutional behaviour for a modern fighting force.

The conflict has exposed many of the RNA's shortcomings. It needs to improve its basic operational performance across a range of areas including defence of installations, intelligence, long-range reconnaissance and the entire scheme of conducting counter insurgency operations without alienating the general population or perpetrating egregious human rights abuses. As an institution, the RNA needs to understand that its behaviour in waging the war put international support for Nepal in direct jeopardy, and that improved operational approaches would not only be more acceptable, but also more effective.

With 75 district headquarters potentially to defend across some of the world's most challenging terrain with only about 50,000 troops, government forces were simply overstretched. The RNA has often done a poor job defending army and police installations, and the Maoists have repeatedly mounted successful infiltrations that should have been detected. Outdated equipment, training methods and operational planning made the RNA's early boasts that it could eradicate the Maoists within days sound painfully hollow.

Most troubling was the actual conduct of the anti-insurgency campaign, which created as many problems as it solved. The RNA and the police proved all too willing to use indiscriminate force after the collapse of the 2001 peace talks, and both local and international human rights organisations have drawn up long lists of human rights abuses. Extra judicial killings quickly rose, and scores of disappearances could be traced directly back to the government. Few prisoners were taken, fuelling further suspicions of abuses. A senior officer told Amnesty International that prisoners were often shot because of the difficulties of moving them through mountainous terrain and the shortage of prison space. The government objected strongly to Amnesty reporting as one-sided.<sup>62</sup>

While government officials and their supporters were quick to point out the abuses of the Maoists and stress that the military had little choice but to fight a dirty war, it is clear that the government should be held to a higher standard of international

conduct than an insurgency movement whose entire pattern of organisation is extra-legal. The atmosphere of absolute impunity for military and police officials was fundamental in giving the Maoist movement considerable impetus. Most rank and file fighters for the Maoists have precious little knowledge of Maoism – they know only how they have been treated by the state.

One local human rights activist argued to ICG shortly before the ceasefire, "Torture is rampant".<sup>63</sup> In most cases the RNA was seen as less accountable than the police, who generally cohabit with the people in whose area they patrol. Because the RNA often entered an area then quickly left, it felt little pressure to meet even basic standards of human rights. As one diplomat in Kathmandu complained, "This government doesn't understand hearts and minds at all".<sup>64</sup> Relations between the police and the army remain strained. The police feel that the military offered them almost no support – often with deadly costs – in the early years of the war when the RNA wanted no part of dealing with the Maoists. Later the RNA was firmly in charge, and the police wanted to stay away from the issue.

In reaching the code of conduct, the RNA developed important lines of communication and a baseline for wary trust with the Maoists. As negotiations move forward, the military will have an important say. The RNA may well remain sceptical of assimilating former enemy fighters, as some have suggested. While the proposal has appeal to the Maoists who want jobs for their people, Nepal needs smaller and better trained, not larger and less well trained army and police. Internal security responsibility should eventually be returned to the police. Constitutional control of the RNA will be a sticking point. Whatever the result of negotiations, a broader effort on security sector reform will be vital. A full accounting of both government and Maoist abuses during the war should be part of a lasting settlement.

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<sup>62</sup> Amnesty International, "Nepal: A Deepening Human Rights Crisis", London, December 2002.

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<sup>63</sup> ICG interview, Kathmandu, 13 January 2003.

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#### IV. THE INTERNATIONAL RESPONSE

Key international players – particularly the United States, the United Kingdom, the European Union and India – have very different approaches to Nepal's crisis. The government remains quite sensitive to outside pressure given its economic isolation and aid dependence, which makes the failure of the broader international community to reach consensus on some core issues all the more frustrating. The peace process thus far appears to be almost entirely home grown. Many Nepalese are proud that they have been able to secure a ceasefire without international mediation. However, the international community can play a deeply influential and positive role if it can develop a clear policy concept. For example, it could likely observe and verify the ceasefire and help ensure that any election is free and fair. Nepal will also likely call for significant international aid to facilitate demobilisation and reconstruction efforts if negotiations are successful.

##### A. THE UNITED STATES

The U.S. has largely viewed the conflict in the context of its global battle against terrorism and strongly sided with the government. It provides just over U.S.\$17 million in military assistance from anti-terrorism, Foreign Military Financing and International Military Education and Training (IMET) funds.

Colin Powell, the first secretary of state to visit Nepal, told reporters in Kathmandu in January 2002, "You have a Maoist insurgency that's trying to overthrow the government and this really is the kind of thing that we are fighting against throughout the world". Ambassador Malinowski was more specific a month later:

Nepal is currently plagued with a terrorism that is shaking its very foundation as a nation. These terrorists, under the guise of Maoism or the so called 'people's war', are fundamentally the same as terrorists elsewhere.<sup>65</sup>

In a statement after the ceasefire that drew considerable ire in the Nepalese press, Deputy Assistant Secretary of State Donald Camp suggested that U.S. policy was closely coordinated with New Delhi and that recent Maoist statements had defended the Khmer Rouge. His comment that Nepal was a "budding democracy" seemed out of touch.

After comments by Baburam Bhattari that the Maoists were eager to reach out to diplomatic missions, Malinowski reacted coolly, "Given their violent history of destroying infrastructure projects, does anyone take the Maoists seriously"?<sup>66</sup> Without precluding some form of diplomatic engagement, most major European missions also appeared to reject a meeting at ambassadorial level.

The Maoists claimed responsibility for shooting two Nepalese guards who worked for the U.S. Embassy, and they have also directly targeted U.S. Agency for International Development projects in the field.<sup>67</sup> Their rhetoric has always had a strong anti-U.S. flavour, and Washington has a good deal of material to work with in making the case that they are terrorists, including selective political killings, attacks on teachers and other local officials, bomb attacks and the kidnapping of boys and young men from rural families to bolster their fighting strength. U.S. officials also express concern that Nepal has the potential to become a failed and lawless state that might provide safe haven for a variety of unsavoury international figures – much as Afghanistan did under Taliban rule. Mounting U.S. pressure and military assistance was clearly a factor in pushing the Maoists toward the peace table.

That said, there is understandable concern that the focus on terrorism fundamentally misreads the situation on the ground, and the U.S. is too willing to look past government abuses that have both helped create and perpetuate the conflict and the dangers posed by the suspension of the democratic system. U.S. criticism of both RNA human rights abuses and the king's suspension of democracy have been sufficiently muted as to send the message that they are actually condoned. Further, in an environment where the RNA appears unwilling to institute even basic mechanisms of accountability within its ranks, it is certainly fair to question the wisdom of pouring in more weapons.

<sup>65</sup> Gary Leupp, "Imagining the Global Consequences of a Maoist Victory in Nepal", *Counterpunch*, Petrolia, California, 21 October 2002.

<sup>66</sup> *The Himalayan Times*, 3 April 2003.

<sup>67</sup> ICG interviews, Kathmandu, January, February-March 2003.

While U.S. officials remain outwardly supportive of the ceasefire and peace talks, they are deeply sceptical of negotiations with the Maoists. The U.S. has not officially designated the Maoists as a terrorist group and is unlikely to do so as long as the talks go on. However, if the Maoists break them off, Washington would likely act, which in turn would make a later effort to bring the Maoists into the political system extremely difficult.

## B. EUROPE

Before the ceasefire, concerns about the human rights situation loomed much larger in European quarters. The European Union in particular was increasingly vocal.<sup>68</sup> In December 2002, the EU presidency declared:

While the European Union acknowledges the Government of Nepal's right to protect its citizens and institutions within the framework of the Constitution, it notes with deep concern the evidence of human rights violations committed by the Security Forces with impunity.<sup>69</sup>

If fighting were to resume and the RNA failed to improve its conduct, the EU would likely take the lead in curtailing assistance – and certainly the supply of arms – to Kathmandu.

The UK, one of the most influential Western governments in Nepal, has come down somewhere between the U.S. and the EU. It is willing to assist in increasing the operational effectiveness of the RNA in conducting counter-insurgency operations, and two British-purchased, Russian-made MI-17 helicopters bought from Belarus were delivered to the government on 1 March 2003. Although the British made clear that the helicopters were to be used solely for medical, logistical and humanitarian purposes, they would obviously free up other RNA helicopters for direct combat activities if fighting with the Maoists were to resume.

The British have also placed a great deal of emphasis on dealing with the root causes of the

conflict, and unlike the U.S., have demonstrated a willingness to carry out development programs in areas that are under Maoist control. This has meant that British officials have had to engage Maoists in a dialogue, and this has likely resulted in a greater understanding and relationship on both sides.<sup>70</sup> British officials have been far keener to see talks move forward, and in February 2003 London appointed Sir Jeffrey James, the former British High Commissioner in Kenya, as the Special Representative for Nepal in an effort to more closely coordinate policy. In response to the expressed desire of Baburam Bhattari to meet with Western diplomatic officials, British Ambassador Keith Bloomfield said, “We will have to listen to them because the government has to work with the Maoists for reconstruction and rehabilitation”.<sup>71</sup>

Sir Jeffrey pointedly noted in mid-March that the UK would not seek to play any role in mediating talks and that the RNA would have British backing if the talks broke down.<sup>72</sup> However, the UK has already begun exploring possible ways to help support the possible demobilisation of Maoist cadres if a peace deal is reached.

## C. INDIA

India has a unique role in Nepal. Its influence is almost overwhelming on issues of trade, water, security and immigration. There is still considerable anger over the Peace and Friendship Treaty signed in 1950, and in some respects India is disliked for what is seen as its hegemonic influence.<sup>73</sup> Some Nepalese even joke that anti-Indian sentiment is one of the great forces that binds Nepal together. But the

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<sup>70</sup> While the UK and the Maoists have not engaged in “official” discussions, aid officials from those countries working in Maoist dominated areas have generally held informal talks with the Maoists to “approve” projects.

<sup>71</sup> *The Himalayan Times*, 3 April 2003.

<sup>72</sup> His comments came at a media roundtable in Kathmandu on 14 March 2003 and were widely reported in the local press.

<sup>73</sup> At first glance it is hard to see why the treaty is a source of such intense resentment as it pledges everlasting peace and friendship, lays out the basis for diplomatic relations and agrees on mutual economic and trade access. However in 1989 the India imposed a trade embargo on Nepal after the government in Kathmandu purchased arms from China. New Delhi claimed that it should have been consulted first under the terms of the treaty. The treaty has long been seen in Nepal as an attempt to maintain Indian hegemony over its neighbour.

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<sup>68</sup> The British have a unique position due to their historical links to Nepal, including the service of large numbers of Nepalese as Gurkhas in the British military.

<sup>69</sup> Declaration by the European Union Presidency on behalf of the European Union on the Human Rights Situation in Nepal, 18 December 2002.

relationship is far deeper and more complex than the rhetoric suggests.

Nepal is deeply reliant on trade with India and remittances from families working there. If India were no longer to treat its border with Nepal as open, Nepalese suffering would likely be considerable. An Indian official noted to ICG that many Nepalese politicians insist in private that their anti-Indian rhetoric is “just for show” and that they fully realise the importance of the bilateral relationship. A Nepalese political analyst roughly echoed these sentiments: “In Nepal, you are always anti-Indian when you are in the opposition, and you always work with India when you are in power”.<sup>74</sup>

As noted above, many observers in Kathmandu believe a tougher line by New Delhi helped bring the Maoists to negotiations. India it is said was growing increasingly anxious about both the decaying situation in Nepal and the growing strategic influence of Washington. It has also been suggested that the India has become more supportive of the king, feeling he can return a greater stability to the situation. Indian concerns may include that chaos in Nepal could provide an opportunity for Pakistani meddling. While there has been no indication of such a development, the absence of security in much of Western Nepal may well have alarmed India.

Much of the Maoist senior leadership has used Northern India as a staging area and refuge, particularly the states of Bihar and Uttar Pradesh. This triggered much speculation until recently that India was not acting as robustly against the Maoists as it could. However, Indian foreign ministry officials strongly argued that what little success was achieved against the Maoists was the result of Indian intelligence efforts and that Nepal’s own attempts to share intelligence have been woefully inadequate. Further, given that the Indian-Nepalese border is 1,800-kilometres, that it is open, and that Bihar and Uttar Pradesh are two of India’s most unruly states, there are clear limits to India’s capacity.

New Delhi, like Washington, may well believe that talks with the Maoists will prove unproductive absent greater military pressure. Indian officials have expressed deep reservations about Maoist participation in any interim government and continue to feel that the insurgents remain committed to taking control of the entire state.

Indeed, despite the complaints before the ceasefire by both Nepalese and international officials that India was not acting strongly enough against Maoists operating on its territory, Indian rhetoric is staunchly anti-Maoist.

It is likely that India hedges its bets in Nepal, playing something of a parallel game and remaining closely engaged with the monarchy, the Maoists and the political parties. A former Nepalese diplomat argued to ICG, “India is not entirely happy, and they conveyed directly to the king that they do not want to see the parties completely marginalised”.<sup>75</sup> It was also suggested that India may not have been taken into the king’s confidence when back channel talks were ongoing with the Maoists during December and January. That India would expect to be fully informed of such dealings says a great deal about its level of influence in Nepal.

A visit by the king to India in mid-March 2003, while billed largely as a religious pilgrimage, was also seen as an effort to coordinate policy. Visits by Nepalese leaders generally prompt widespread anxiety in Kathmandu that India will use them to push its policy agenda more ambitiously.

India will likely remain sceptical about a potential constituent assembly. It will also be eager to ensure that whatever arrangement is negotiated is responsive to its core security and economic concerns. It will be interesting to see whether the Maoists substantially alter their anti-Indian rhetoric as part of an effort to ensure themselves a soft landing in the political mainstream.

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<sup>74</sup> ICG interview, Kathmandu, 26 February 2003.

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<sup>75</sup> ICG interview, Kathmandu, 6 March 2003.

## V. CONCLUSION

Nepal has an important opportunity to pull itself out of conflict before more lives are needlessly lost, social divisions are made more raw and its fragile economy is torn to tatters. The desire for peace is widespread, and there is little thirst for revenge killings. The Maoists have taken a serious first step, and both they and the RNA are to be commended for their relative restraint since the ceasefire was announced. All sides have demonstrated a measure of patience in agreeing that substantive talks will take time to conclude.

But there is also an uneasy feel to the current calm, and a general sense that the main actors are still willing to place self-interest ahead of national interest. Many Nepalese fear that arrogance and stubbornness could push them to overreach where genuine compromise is needed. It remains unclear that a peace process largely directed by, and for, the elite leaders of each of these factions will result in political arrangements that credibly begin to address the grave problems of underdevelopment. The only true consensus beyond a general hope for peace is that if violence resumes it will be even more intensive and devastating than previously.

A number of forces could unravel the ceasefire. The government's determination to keep the talks between the RNA and the Maoists is sensible from a practical operational standpoint but may well persuade others that they would be better served by undermining the negotiations lest their interests be excluded in any final settlement.

It will remain tempting for the international community to overlook the increasingly undemocratic nature of the government in hopes that a strong king is best positioned to secure a lasting peace. Certainly, the frustration with the political parties is understandable. Yet, the Maoists are not the only problem. Many of Nepal's most serious challenges can be traced back to institutional failures, mainly pre-dating the democratic era. This is not to excuse the parties' corrupt and venal practices but to suggest that there is a rare opportunity to put the fundamental questions of governance on the table. Issues such as corruption, security sector reform, the constitution, political decentralisation, representation of women and ethnic minorities, the king's role and ways to ensure that foreign aid reaches intended recipients should

all be part of a much needed discussion about how the country can both achieve and maintain peace.

Again, this reinforces the notion that at some point talks will have to expand beyond a give and take between the Maoists and the royal palace. While both groups would like to claim they enjoy a broad mandate, the common people are more than capable of expressing their will directly through an election, referendum or the input of social groups. Nepal's population is increasingly dominated by the young, and new voices and new leadership are vital to shaping the country's future. The events of 1990 did not allow for the broader issues facing the country to be put to the people. It would be a shame if a rare second such opportunity were lost.

Nepal will need an agreement regarding an interim government – with or without the Maoists. The continuing failure of the parties and the monarchy to reach a fundamental accord has only exacerbated the potential for a more widespread conflict, and both must understand that their opportunity – and the reservoir of international goodwill – will steadily evaporate. Efforts to engage the broad spectrum of civil society more fully in determining the country's future will also be vital.

All parties to the conflict need to take a long hard look at the situation and realise that the cost of confrontation will likely outweigh any short-term tactical gain they might hope to exploit. At the least, given the country's precarious economic state, intensified warfare could well lead to a protracted and complex emergency that would sap its potential for years to come.

**Kathmandu/ Brussels, 10 April 2003**

## APPENDIX A MAP OF NEPAL



Base R01532 (NOI7500-6-90)

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## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (ICG) is an independent, non-profit, multinational organisation, with over 90 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, [www.crisisweb.org](http://www.crisisweb.org). ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York and Paris and a media liaison office in London. The organisation currently operates eleven field offices (in Amman, Belgrade, Bogota, Islamabad, Jakarta,

Nairobi, Osh, Pristina, Sarajevo, Sierra Leone and Skopje) with analysts working in over 30 crisis-affected countries and territories across four continents.

In *Africa*, those countries include Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone-Liberia-Guinea, Somalia, Sudan and Zimbabwe; in *Asia*, Indonesia, Myanmar, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan, Afghanistan and Kashmir; in *Europe*, Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia; in the *Middle East*, the whole region from North Africa to Iran; and in *Latin America*, Colombia.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Austria, Canada, Denmark, Finland, France, Germany, Ireland, Japan, Luxembourg, The Netherlands, Norway, Sweden, Switzerland, the Republic of China (Taiwan), Turkey, the United Kingdom and the United States.

Foundation and private sector donors include The Atlantic Philanthropies, Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, The Henry Luce Foundation, Inc., John D. & Catherine T. MacArthur Foundation, The John Merck Fund, Charles Stewart Mott Foundation, Open Society Institute, Ploughshares Fund, The Ruben & Elisabeth Rausing Trust, the Sasakawa Peace Foundation, the Sarlo Foundation of the Jewish Community Endowment Fund and the United States Institute of Peace.

**April 2003**

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\* The Algeria project was transferred from the Africa Program in January 2002.

## APPENDIX D

### ICG BOARD MEMBERS

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