

# NEPAL'S PEACE AGREEMENT: MAKING IT WORK

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## NEPAL'S PEACE AGREEMENT: MAKING IT WORK

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

Nepal's government and Maoist rebels have signed a comprehensive peace agreement (CPA) declaring an end to the ten-year civil war, paving the way for inclusion of the rebels in mainstream politics and June 2007 elections to an assembly that is to write a new constitution. The deal has been welcomed by an optimistic public but implementation will not be straightforward: some central questions remain, and there is a serious risk the elections could be delayed, putting strain on the whole process. The UN has very high credibility but it will not last indefinitely, especially if there are delays. International support for its monitoring of both the two armies and the elections will be critical.

The peace agreement charts a course towards elections for a constituent assembly (CA) following formation of an interim legislature and government including the Maoists. In a detailed agreement on arms management, the Maoists have committed to cantonment of their fighters and locking up their weapons under UN supervision; the Nepalese Army (NA) will be largely confined to barracks. The constituent assembly, to be elected through a mixed first-past-the-post and proportional system, will also decide the future of the monarchy.

The CPA was signed on 21 November 2006 after months of slow progress following the success of the April 2006 mass movement that overturned King Gyanendra's direct rule. The talks were sporadic and at one point came close to collapse. The Seven-Party Alliance (SPA) government was criticised for a lack of urgency and clarity; the Maoists pursued negotiations with more coherence but paid less attention to democratic methods. The process has now delivered significant results but some of the problems that characterised it since April – primarily a lack of solid dialogue mechanisms, poor facilitation, little attention to confidence-building and an opaque, elite-driven approach – may continue to dog the next stages.

The deal has its origins in the November 2005 SPA-Maoist agreement signed in New Delhi, which provided a basis for the April movement and a guiding framework for subsequent compromises. However, it represents a

temporary convergence of interests more than a permanent shift in the underlying outlooks and interests of the sides. The SPA and the Maoists retain different visions for Nepal's future institutions, and individual parties' electoral interests will come increasingly to the fore. The peace accord will not in itself alter the exclusionary characteristics of public life or deliver urgently needed economic progress.

The significant remaining hurdles will all be exacerbated if elections are postponed:

**Weak governance.** Post-April confusion turned into a worrying power vacuum across the country, which the Maoists were quick to exploit. The government has failed to re-establish law and order and democratic governance. Control over the civil service, election commission and distribution of local posts – always key bones of contention for mainstream parties – may be particularly intense in the run-up to CA elections.

**No deal on security structures.** The Maoists want their fighters to be half of a new, downsized national force while the NA still wants them entirely disarmed. Neither army sees itself as defeated, so compromise will be difficult, and lack of progress may cause unrest among cantoned Maoist soldiers. With the NA suspicious of the peace process and yet to embrace democratic control, the Maoist demand for more solid guarantees is understandable.

**Maoist behaviour.** At least until November, the Maoists continued extortions and abductions while showing little sign they are ready for meaningful power sharing and opening up of democratic space. Demilitarising their politics will require more than just laying down weapons; without this, chances for free and fair elections are limited.

International involvement in the peace process has been mostly low-profile and supportive. The government and Maoists have asked the UN to take on new tasks and provide immediate assistance, and public expectations are high. But getting an effective monitoring force on the ground quickly will be a challenge: questions of mandate, funding, logistics and staffing need to be resolved quickly.

Nevertheless, the peace process has some momentum, which gives good grounds for Nepalis' optimism. With continued compromise, political will and solid international support, a lasting peace is possible. Apart from shaping future institutional arrangements, the talks have agreed proposals for social and economic transformation – topics of immense public concern. However, only free and fair elections can give a government the necessary decisive mandate. Nothing should be allowed to put them off.

## RECOMMENDATIONS

### To the Government of Nepal and the Communist Party of Nepal (Maoist):

1. Build on the comprehensive peace agreement (CPA) by:
  - (a) resolving remaining differences quickly and establishing the specified joint bodies and commissions, including, in particular, agreement on the scope and format of the Truth and Reconciliation Commission;
  - (b) setting realistic timetables for the remainder of the process, including fallback plans if the constituent assembly elections must be postponed;
  - (c) managing public expectations and disseminating information about the CPA; and
  - (d) developing provisional arrangements to take urgent decisions as necessary by alternative mechanisms such as joint working groups so any delays in forming an interim government do not stall the peace process.
2. Develop quickly plans to re-establish local governance and rule of law by:
  - (a) prioritising re-establishment of effective policing, including by involving local Maoist militias in helping to manage the transition in areas they currently control;
  - (b) deciding on a power-sharing mechanism to restore local government, deliver services and, where appropriate, deal with donors on implementation of local projects; and
  - (c) proceeding with proposed local peace councils only if they fulfil clearly defined functions which do not make them rival institutions to legitimate local government.
3. Build confidence on military matters by:
  - (a) establishing effective bilateral frameworks for joint planning on cantonment management and working with donors willing to support the cantonment process;
  - (b) addressing longer-term army restructuring and merging of Maoist fighters into the national army by establishing a joint committee as soon as the interim government is formed (as specified in the CPA) and proceeding with informal discussions until that date;
  - (c) developing further confidence-building and dialogue mechanisms that include commanders of both armed forces and working to ensure their active support for the peace process and professional input into discussions over their future form; and
  - (d) Making the NA-PLA-UN Joint Monitoring Coordination Committee an effective mechanism not just for monitoring agreement compliance but also for developing lower-level coordination to deal with potentially destabilising incidents such as natural disasters or public unrest.
4. Make the next stages of the peace process more inclusive by:
  - (a) actively seeking public input, including canvassing the views of conflict victims, without assuming that self-appointed groups are necessarily fully representative;
  - (b) encouraging independent voter education initiatives in the run-up to the constituent assembly elections;
  - (c) fulfilling promises to ensure fair representation of all marginalised groups (in interim bodies, as candidates for election and in negotiating teams, working groups, joint commissions and the like) and setting up a monitoring body or interim legislature committee to report on implementation;
  - (d) Expanding public forums, focus groups and local consultation sessions to reach out to communities which have difficulty making their voice heard in the capital and considering holding interim legislature sessions and other such meetings outside the capital;
  - (e) ensuring key decisions involve all SPA members, not only the top Nepali Congress Party and Maoist leaders, and encouraging broader debate, for example by recognising an official opposition within the interim

legislature and consulting with non-SPA parties; and

- (f) considering creation of a commission to broaden input into the new constitution-drafting process.

- 5. Investigate and resolve, as promised, all outstanding cases of alleged disappearances and cooperate in the investigation of criminal acts and war crimes committed during the conflict.

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

- 6. Prepare for the formation of the interim government by completing implementation of existing policies, including:
  - (a) strengthening democratic control of the security sector by dissolving the palace military secretariat, bringing royal guards under the Nepalese Army chain of command, halting army recruitment and investigating, as promised, disappearances and other abuses alleged to have been carried out by the security forces;
  - (b) seeking advice from all concerned groups on implementation of the Rayamajhi Commission report and starting a wider public debate on acceptable forms of transitional justice; and
  - (c) reducing the size of the palace secretariat and bringing it within the mainstream civil service.

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

- 7. Immediately cease all activities that contravene recent agreements and international law and ensure that affiliated and subsidiary organisations do the same, including:
  - (a) ending extortion, intimidation and abduction;
  - (b) halting military recruitment and ensuring the prompt discharge of any soldiers younger than eighteen;
  - (c) recognising that the Maoist "new regime" is now defunct and disbanding all parallel government structures, including indirect mechanisms such as regional fronts;
  - (d) allowing the police, as agreed in the CPA, to maintain order and investigate criminal activities;
  - (e) assisting the return home of all conflict-displaced individuals (IDPs) if they wish

and expediting the return of seized property; and

- (f) demobilising local militia and ensuring they do not act as a parallel police force.

#### **To India, the U.S., the European Union and Other Members of the International Community:**

- 8. Maintain basic coordination, building on the consensus that restoration of rule of law and democratic space across the country is the top priority, and keep pressure on both sides to work towards a genuinely pluralist culture guaranteeing full civil and political rights.
- 9. Support the UN monitoring mission by:
  - (a) personnel, including by identifying and preparing candidates as soon as possible;
  - (b) visible political encouragement, especially from missions in Kathmandu; and
  - (c) cooperation with the UN to open local political space through coordinated civil affairs and police advisory assistance.
- 10. Provide effective development, reconstruction and other post-conflict assistance, including by:
  - (a) employing strict criteria, especially at the local level, when distributing aid to re-establish local governance, and releasing funds only when measurable targets are met, such as redeploying police or getting Village Development Committee secretaries in place and working;
  - (b) prioritising assistance that supports the opening of political space and the rule of law, even over aid for such security matters as cantonments and disarmament, demobilisation and reintegration (DDR);
  - (c) ensuring that proposed projects have the buy-in of all parties in the peace process;
  - (d) supporting the electoral process with money, helping the UN monitoring mission (which may be best placed to coordinate electoral assistance) and building the capacity of the Electoral Commission also beyond the immediate round of polls; and
  - (e) helping the government develop, including through extensive consultations, a plan for transitional justice that gives citizens a range of options to choose from and can gain broad public support.

**Kathmandu/Brussels, 15 December 2006**

## NEPAL'S PEACE AGREEMENT: MAKING IT WORK

### I. INTRODUCTION

The comprehensive peace agreement (CPA) between Nepal's government and Maoist rebels, which offers the best chance of a stable end to the conflict since it began in February 1996,<sup>1</sup> was signed on the evening of 21 November 2006 after months of difficult negotiations following the April 2006 mass movement that brought an end to King Gyanendra's direct rule. Its roots are in talks between the major parliamentary parties' seven-party alliance (SPA)<sup>2</sup> and the Communist Party of Nepal (Maoist), CPN(M), that were secretly initiated in New Delhi in mid-2005 with the Indian government's blessing.<sup>3</sup> The CPA broadly endorses the rough framework those talks produced but addresses many issues left unresolved in the earlier rounds.

However, the deal is not as comprehensive as its name implies. It took a further week of intensive wrangling to agree the modalities for arms management; finalising an interim constitution – a task originally scheduled for completion in June 2006 – is taking even longer. The optimistic 1 December target for forming an interim government was missed, and there are serious questions over whether free and fair constituent assembly elections can take place as scheduled by June 2007. Some of the difficulties which delayed the peace talks (analysed below) have been addressed but there are new

process challenges, for example deploying UN monitors within the tight deadlines envisioned by the parties.

Nevertheless, the agreement is a major achievement for the mainstream parties and the Maoists, completed against considerable odds and in the face of some deep-seated domestic and international scepticism. The process had to overcome a number of hurdles, and mutual mistrust brought the talks close to breaking point in early September. While the government sometimes seemed content to enjoy its new power without pushing to a resolution, the Maoists issued dark warnings of an October revolution, giving ample ammunition to those who saw little reason to trust their commitment to democracy. Overcoming such problems required skill and determination on both sides.

Although the April people's movement produced a dramatic transfer of power, many of the underlying aspects of the political landscape remained unchanged. The king has been chastened, losing much of his dignity and many of his powers. The collapse of palace prestige is notable but it does not mean the country will inevitably become a republic or that the palace can be ruled out as a future political player. The army has a new name and a new commander but despite some cooling of relations with the palace and a new law making it more democratically accountable, it remains largely autonomous and suspicious of the peace process. The mainstream parties and Maoists have hardly altered their political cultures, however much the former have promised to tackle their chronic shortcomings and the latter to reject violence and embrace political pluralism. The most palpable shift has been in the public mood. Opinion polls confirm a solid sense of optimism about Nepal's future, and popular expectations have kept pressure on the SPA and Maoists to deliver a settlement.<sup>4</sup>

<sup>1</sup> Recent Crisis Group reporting on Nepal includes Crisis Group Asia Report N°111, *Electing Chaos*, 31 January 2006; Crisis Group Asia Briefing N°49, *Nepal's Crisis: Mobilising International Influence*, 19 April 2006; and Crisis Group Asia Report N°115, *Nepal: From People Power to Peace?* 10 May 2006. Earlier Crisis Group reporting on the conflict is available at [www.crisisgroup.org](http://www.crisisgroup.org).

<sup>2</sup> The SPA members are the Nepali Congress (NC); Nepali Congress (Democratic) (NC(D)); Communist Party of Nepal (Unified Marxist-Leninist) (UML); Janamorchha Nepal; Nepal Workers and Peasants Party (NWPP); United Left Front (ULF); and Nepal Sadbhavana Party (Aanandi Devi) (NSP(AD)).

<sup>3</sup> See Crisis Group Asia Report N°106, *Nepal's New Alliance: The Mainstream Parties and the Maoists*, 28 November 2005.

<sup>4</sup> Some 89 per cent of respondents in a survey commissioned by the National Democratic Institute felt "things in Nepal are going in the right direction". "Nepal: A Cautiously Optimistic Public", Greenberg Quinlan Rosner Research Inc., 17 September 2006. This is a dramatic change in mood: two

This report examines the talks, the shape of the peace agreement, the new positions and tactics of the key actors and the challenges ahead. Separate reports in early 2007 will examine the constitutional process, the security sector in transition and Maoist politics and strategy.

## II. APRIL AFTERMATH

### A. FROM POPULAR PROTEST TO PARLIAMENTARY SUPREMACY

The April 2006 movement resulted in the reinstatement of parliament, which had been the longstanding central demand of the Nepali Congress (the largest parliamentary party) and latterly the SPA.<sup>5</sup> Parliament is a crucial power base for the parties, especially important as they are the only side in the conflict without an armed component. It is a source of legitimacy (something they had lost following its May 2002 dissolution) as well as a means of exercising patronage and influence, for example in the allocation of committee chairmanships. The SPA formed a new government and distributed cabinet ministries among its constituent parties.<sup>6</sup> Not surprisingly, the Maoists were unhappy that their proposal for an all-party conference instead of parliament was bypassed and aggrieved that their support of the April movement did not win them any role in the new power structure.<sup>7</sup>

Questions immediately arose over the legality of parliament's restoration – justified by political necessity rather than constitutional process – and over its mandate. King Gyanendra did not cite any constitutional clause when he reinstated the parliament “to resolve the ongoing violent conflict and other problems facing the

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<sup>5</sup> Only the lower house, the House of Representatives, was reinstated. Strictly speaking, the 1990 constitution defines the lower house, upper house and the king collectively as parliament. The eighteen remaining members of the upper house (the 60-seat National Assembly, one-third of whose members are elected each two years for six-year terms) were given no role, though they still collect allowances. On the April movement and the restoration of parliament, see Crisis Group Report, *From People Power to Peace*, op. cit.; on constitutional definitions, see Crisis Group Asia Report N°99, *Towards a Lasting Peace in Nepal: The Constitutional Issues*, 15 June 2005. The composition of the House of Representatives (elected in May 1999) is: NC 71 seats, UML 68, NC(D) 40, RPP 11, NSP 3, NSP(AD) 2, Janamorcha Nepal 3, Sanyukta Janamorcha Nepal 3 and NWPP 1.

<sup>6</sup> A twenty-member cabinet was formed on 2 May 2006 with seven NC members, six UML, four NC-D and one ULF, NSP and Janamorcha Nepal. NC Forest and Soil Conservation Minister Gopal Rai was killed in a helicopter crash in October 2006.

<sup>7</sup> The Maoists insist that SPA leaders had informally assured them that a reinstated parliament would only be active for weeks – long enough to set in motion the constituent assembly election process. Crisis Group interview, Maoist leader, Kathmandu, October 2006.

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years earlier, 95 per cent thought the country was headed in the wrong direction. “Faith in Democracy Endures, In Spite of Disappointments”, Greenberg Quinlan Rosner Research Inc., 16 August 2004. In a separate September 2006 survey, 92 per cent were positive, saying the country was doing “good” (49 per cent), “okay” (22 per cent) or “very good” (21 per cent). “Nepal Contemporary Political Situation III”, Interdisciplinary Analysts, Kathmandu, September 2006.

country according to the road map of the agitating seven-party alliance".<sup>8</sup> The Maoists were not the only ones to challenge the parliament's self-declared supremacy, announced in an 18 May proclamation.<sup>9</sup> The judiciary was also reluctant to endorse it without question, a full bench of the Supreme Court deciding on 9 June against accepting reappointment or retaking oaths under instruction from parliament. "Such reappointment would hurt the image of independent judiciary even at the international level", commented Chief Justice Dilip Kumar Poudel.<sup>10</sup> The court is also considering a privately-filed writ challenging the legality of the May parliamentary proclamation (see below).<sup>11</sup>

The popular mandate granted by the April movement is hard to define: all that can be said with some confidence is that people at large were dissatisfied with royal rule, wanted the parties and Maoists to work together to end the conflict and were impatient for the chance to have their own say rather than remaining mute spectators. But the parties and Maoists had encouraged crowds to adopt their slogans and subsequently argued that the movement had endorsed their specific goals. The newly-constituted government claimed it had public backing for moving ahead with proclamations and legislation that went far beyond the primary task of resolving the conflict. The Maoists, supported by some other parties and civil society groups, insisted that the protests had demanded an immediate transition to a republic. Neither side wanted to wait for a genuine electoral mandate to pursue its policies.

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<sup>8</sup> "Proclamation to the Nation from His Majesty King Gyanendra Bir Bikram Shah Dev", 24 April 2006, available at <http://nepalmonarchy.gov.np>. See Crisis Group Report, *From People Power to Peace*, op. cit., for analysis.

<sup>9</sup> The May proclamation asserted parliamentary sovereignty and amended legislative, executive, military and palace-related provisions accordingly. On 4 July 2006, 50 further articles and 32 sub-articles of the 1990 Constitution were amended. The proclamation is available at [www.nepalnews.com/archive/2006/may/may19/hor\\_proclamation.php](http://www.nepalnews.com/archive/2006/may/may19/hor_proclamation.php).

<sup>10</sup> "Reappointment of judges would tarnish independence of judiciary, says CJ", [nepalnews.com](http://nepalnews.com), 16 October 2006. A nationwide conference of judges was called "to maintain judicial independence" but later cancelled when some judges objected.

<sup>11</sup> The Supreme Court has rejected a writ challenging the constitutionality of the king's 24 April 2006 proclamation, ruling that the restoration of parliament was justified by the "theory of necessity". "Sarvocchadwara pratinidhi sabha ghoshanama prashna", *Kantipur*, 23 September 2006. The government has similarly argued that as the parliamentary proclamation is a political matter, it cannot be questioned on legal grounds. "Ghoshanako sambaidhanik parikchan garna mildaina", *Nepal Samacharpatra*, 25 November 2006.

Parliament gave notice of its ambitions with its bold May proclamation that started reshaping national institutions, for example by declaring Nepal a secular state. In the following seven months it passed no less than 31 acts, with parliamentary committees considering a dozen more bills – a more prolific legislative burst than under any post-1990 administration. Committees have played a more substantive role than plenaries, which have engaged in little debate and tended simply to endorse government decisions in the absence of a real opposition.<sup>12</sup> The state affairs committee was heavily involved in finalising the new Army Act; while the public accounts and natural resources committees traced and publicised details of the king's hidden properties. However, a 21-member parliamentary ceasefire-monitoring committee, formed on 30 May under Speaker Subash Nembang, was inactive.

## B. A FUNCTIONAL GOVERNMENT?

The government followed parliament's example by confidently broadcasting a solid sense of its legitimacy and scope to act. Envisaged as a short-lived transitional administration, it embarked on longer-term development plans and even treaty negotiations as if it were a full-fledged government.<sup>13</sup> Ministers drew up an ambitious budget, called on donors to pour in funds and set off on foreign trips. Veteran Congress leader G.P. Koirala became prime minister for the fourth time, the obvious choice as the undisputed leader of the SPA and the Maoists' preferred negotiating partner.

The new government drew strength from the mood of euphoria at the success of the people's movement and was boosted by international backing, especially from crucial states such as India and the U.S. However, it faced major challenges. Most importantly, it had even less reach than its royal predecessor, with most of the countryside in administrative limbo and no effective structures to deliver services or implement policies. Koirala, an octogenarian in fragile health, kept a firm grip on the peace process but had less time to coordinate a sometimes fractious cabinet or to lead normal policy discussions.<sup>14</sup> The celebratory mood in

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<sup>12</sup> Parliament has debated neither the peace accord nor, so far, the provisions of the interim constitution.

<sup>13</sup> Home Minister Krishna Sitaula was scheduled to sign a new extradition treaty with India in New Delhi in October 2006 but cancelled the visit due to Maoist objections.

<sup>14</sup> Most meetings have been short and at his residence; discussion has been severely curtailed. "Senako kura aunasath koirala swan-swan", *Jana Aastha*, 29 November 2006.



Kathmandu and among top party leaders contributed to the perceived lack of urgency in pursuing peace talks and limited concern for maintaining public buy-in.

April's political upheaval delivered a measurably increased sense of security to ordinary people but did not transform daily life in other areas.<sup>15</sup> Poorly thought out moves – such as a significant hike in petroleum product prices sprung on a volatile public in August – prompted discontent and a fear that the parties' promise to improve on past behaviour was hollow. The petrol issue led to two days of serious disturbances in the capital; before the government formally backed down, individual leaders of each SPA party disavowed the decision they were collectively responsible for. The sense of disarray did not inspire confidence that the SPA would find the necessary unity and discipline to restore rule of law and see through negotiations.

Some inter-party tension was to be expected. It was natural that the unity in the face of royal rule would not hold indefinitely. Hard bargaining over the allocation of posts delayed the formation of a full cabinet and led to an unseemly public row over the parliamentary speakership;<sup>16</sup> plans to replace palace-appointed ambassadors who had been recalled after April were also stymied;<sup>17</sup> constitutional bodies were left without members.<sup>18</sup> UML leaders have repeatedly accused Koirala of taking unilateral decisions and have threatened to leave the government. But staying in power and retaining control over ministries affords the SPA the advantages of an incumbent government: the chance to divert some funds to party coffers, distribute jobs to

their supporters and tinker with appointments in the civil service and judiciary.<sup>19</sup>

Still, the parliament and government were unanimous on two key political priorities:

**Clipping the king's wings.** Parliament curtailed the king's privileges and abruptly ended the concept of king-in-parliament. Instead of royal assent, new acts are now approved by the speaker of the House of Representatives. Parliament also took over the right to determine royal succession; abolished the principle of male primogeniture; made the king's property and income subject to tax and his acts subject to question in parliament and court; abolished the Rajparishad (royal council) and though as yet only formally brought the palace secretariat within the mainstream civil service. The first steps to loosen royal control of the army were also taken, with a change in name and supreme commander and a revised Army Act.<sup>20</sup> These steps were not inspired by republican zeal but by the practical imperative to reduce the risks of a new royal coup. Several were more cosmetic than substantive; viewed together they suggest the shape that Koirala's concept of "ceremonial monarchy" might take.<sup>21</sup>

**Undercutting the Maoist agenda.** Parliamentary enthusiasm for more radical socio-economic change – including pre-empting the envisaged constituent assembly (CA) – reflected a belated attempt to co-opt and neutralise parts of the Maoist agenda. Major decisions on long-term issues included tackling the army-palace relationship; the declaration of a secular state and the end of untouchability; and reserving one third of state jobs for women.

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<sup>15</sup> Some 88 per cent of one survey's respondents reported feeling safer than before April; only 1 per cent felt less safe. "Nepal Contemporary Political Situation III", op. cit.

<sup>16</sup> The UML claimed the speaker's post in return for allowing NC to take the prime ministership and key ministries. This displaced the natural candidate, Deputy Speaker Chitra Lekha Yadav of NC(D), who had also gained public support as a capable and articulate Madhesi woman.

<sup>17</sup> Inter-party tension has been particularly acute over ambassadorial appointments. The UML runs the foreign ministry but envoys are appointed by the prime minister; more than a dozen embassies have been without a head since May 2006. This was one of the reasons for Nepal's poor campaign for a UN Security Council seat in 2006 (it was easily defeated by Indonesia).

<sup>18</sup> Donors sent a delegation of ambassadors to urge the prime minister to make appointments to the National Human Rights Commission, National Women's Commission and Dalit Commission and other such agencies, saying their work had in effect been suspended. "Donors urge govt to make appointments in key state agencies", nepalnews.com, 8 December 2006.

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<sup>19</sup> For example, the UML's Kathmandu district deputy secretary, Nirmal Kuinkel, was appointed member-secretary of the Pashupati Area Development Fund in November 2006. Party officials privately admit that government positions are useful for boosting seriously depleted party funds. Crisis Group interview, UML headquarters, Kathmandu, November 2006.

<sup>20</sup> In line with the parliamentary proclamation, multiple amendments to the Army Act (1959) were passed on 22 September 2006. The revisions were the subject of lengthy committee debates in which army representatives secured important concessions.

<sup>21</sup> There is no common Nepali equivalent for the English term "ceremonial" and no clear conceptual separation between a "constitutional" and a "ceremonial" monarchy; the two terms largely overlap. Koirala appears to have in mind a constitutional monarch with no residual political powers and a purely symbolic role as head of state. See Ameet Dhakal, "Koirala advocates ceremonial monarchy", *The Hindu*, 15 June 2006.

## C. CONTESTED COUNTRY

Political manoeuvring in Kathmandu took place against a background of lawlessness and confusion across most of the country. Despite poor monitoring mechanisms, the ceasefire held.<sup>22</sup> But re-establishing anything like normal governance was hampered by Kathmandu's weakness and Maoist intransigence. The rebels were happier to move into any vacant political space than to share power.

An immediate characteristic of the transitional period – one much highlighted by the press – was increased criminality in cities, especially Kathmandu. The 19 August protests against the petrol price hike were violent and unhindered by the police: dozens of petrol pumps, shops, restaurants and vehicles were vandalised while angry mobs killed a restaurant owner and paraded two female restaurant workers naked in the street in broad daylight. Little of this urban crime was politically motivated; the robberies and kidnappings were largely carried out by established criminal networks taking advantage of the policing vacuum.

Amid mounting public concern in the capital, the government announced plans for a new metropolitan police but this will do little to address the general demoralisation of a national force which bore the brunt of the insurgency, was forced to abandon most of its posts and was then placed under army command.<sup>23</sup> The government re-established 53 police units in urban areas after April but the Maoists resisted police deployment along highways and in rural areas.<sup>24</sup> In many instances the police accepted de facto Maoist dominance and in effect recognised the rebels as a parallel authority. The twin responsibilities of Krishna Sitaula as home minister and chief SPA peace negotiator made him reluctant to take strong action to restore order.

While the Maoists negotiated in the capital, they sought to demonstrate that their “new regime” of local government was not just functional but in many ways stronger than ever. They expanded their limited administrative activities – partly by being more active in district headquarters, partly by moving into space vacated by indecisive and weak state entities. This occupation of space was more than metaphorical: in several places the Maoists took over government buildings, including abandoned police stations, and used them as offices or militia bases.<sup>25</sup> The confused environment enabled them to extend such practices beyond the countryside. Before being cantoned, their fighters had set up highway checkpoints to monitor vehicles and collect money; political workers shifted from the villages to open offices in towns and cities.

Maoist violence did decrease after the ceasefire but other intimidating behaviour appears to have increased, at least in the period before the CPA.<sup>26</sup> The killings which took place differed from the targeted “annihilation” that was a trademark during the war. Most were due to torture in Maoist “people’s government” custody: in the first five months of the post-April ceasefire, almost 200 people were arrested by the rebels, although most were subsequently released.<sup>27</sup> Local Maoists may feel they have free rein until their “people’s governments” are dissolved.<sup>28</sup>

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<sup>22</sup> The ceasefire was tenuously defined and monitored, although both sides refrained from military activity. The Maoists declared a three-month unilateral ceasefire immediately after the April movement and extended it; the government responded with an indefinite ceasefire. On 26 May both sides signed a 25-point code of conduct and formed a 31-member national monitoring committee, headed by former election commissioner Birendra Prasad Mishra. However, a formal bilateral ceasefire came only with the November peace accord.

<sup>23</sup> Of the 1,968 police posts before the conflict, 1,168 had been abandoned.

<sup>24</sup> Kiran Nepal, “Prahari chhaina, kanun-vyavastha shunya”, *Himal Khabarpatrika*, 1 September 2006.

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<sup>25</sup> The Maoist militias are distinct from their main, highly centralised, military force, the People’s Liberation Army (PLA). Command of the militias is in the hands of local party committees; another difference is that their recruits, who function as a rudimentary police force, do not move around the country and generally serve in their own home areas. They are poorly armed and generally without uniform but as a sizeable force (the Maoists claim 100,000) across the country, they are in many ways the most active Maoist presence at village level.

<sup>26</sup> From April to September 2006 the Maoists were directly or indirectly responsible for at least twelve killings. “Human rights abuses by the CPN-M”, Office of the High Commissioner for Human Rights (OHCHR), Kathmandu, September 2006. INSEC, a human rights organisation, gives a figure of 21 for the 24 April–8 October 2006 period. The state was responsible for 23 killings, available at [www.inseconline.org/hrvdata/Killingsafter20060424.pdf](http://www.inseconline.org/hrvdata/Killingsafter20060424.pdf).

<sup>27</sup> From 26 April 2006, when the informal bilateral ceasefire began, to 25 September 2006; the Maoists “arrested” around 184 people across the country on various charges. “Human rights abuses by the CPN-M”, op. cit.

<sup>28</sup> The CPA (Article 10.1) commits all parties “not to operate parallel or any form of structure in any areas of the state or government structure” after forming the interim government.

Extortion, the major source for the some \$30 million the Maoists say they need annually to maintain basic activities, increased more dramatically.<sup>29</sup> Despite promising not to force donations, it went up for a number of reasons. First, cadres used to raising cash this way could not resist the new opportunities afforded by post-April lawlessness. Secondly, a series of conventions by student, women, peasant, teacher and other affiliated organisations meant that their members needed to raise money. Thirdly, there appears to have been a calculation that extortion would soon have to end, and it was important to build up funds to see the movement through the remainder of the peace process and the election campaign. Fourthly, urban activity was more expensive, both for individual cadres and institutionally, as were the new demands of mass meetings and other political work. Following the CPA, initial reports suggest that extortion has decreased but it is too early to judge this trend.

### III. THE TALKS

#### A. A ROCKY START

Although the parties and Maoists had worked alongside each other in the April movement, once it succeeded, their talks got off to a bad start. The Maoists' preferred route of a roundtable conference had been trumped by the king accepting the SPA's demand to restore the old parliament, prompting fears that they were being conspired against. They were also annoyed that the SPA was seeking to claim sole leadership of the movement, since they felt their own role had been at least as important.<sup>30</sup> The Maoists called for the movement to continue but the lack of public response persuaded them to proceed with negotiations. A special central committee meeting in Punjab, India, in early May 2006 agreed a ten-point roadmap for peace talks.<sup>31</sup> Both sides formed three-member negotiation teams<sup>32</sup> and signed a 25-point ceasefire code of conduct on 26 May.<sup>33</sup>

#### 1. Eight-point agreement

The dynamics in the early weeks were not encouraging. While the Maoists were busy with mass meetings pushing their agenda to new audiences, parliament had started taking decisions on longer-term issues without consulting them. Amid hints of public frustration at the lack of movement and Maoist complaints that the government was blocking the process, Koirala sent top negotiators Krishna Sitaula and Shekhar Koirala to meet personally with the Maoist leader, Prachanda.<sup>34</sup> These discussions bore fruit: five days later, on 16 June,

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<sup>30</sup> See, Crisis Group Report, *From People Power to Peace*, op. cit.

<sup>31</sup> The Maoist roadmap laid down a preferred sequence: declaration of ceasefire; adoption of code of conduct; formation of a dialogue team; release of all political prisoners; initiation of dialogue; dissolution of old parliament, constitution and government; adoption of an interim constitution and formation of interim government through an all-party conference; demarcation of new electoral constituencies; constituent assembly elections supervised by a reliable third party; and restructuring of PLA and Nepal Army as per the popular mandate expressed through the election. Prachanda, press statement, 13 May 2006.

<sup>32</sup> The government team is led by Home Minister Krishna Prasad Sitaula and includes Pradip Gyawali and Ramesh Lekhak; the Maoist team led by spokesman Krishna Bahadur Mahara includes Dev Gurung and Dinanath Sharma.

<sup>33</sup> See Appendix B for a chronology of the peace process.

<sup>34</sup> This meeting took place at Siklesh in Kaski district on 11 June 2006.

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<sup>29</sup> According to Maoist leader Dev Gurung, the PLA's annual expense is more than one billion Nepalese rupees (some \$15 million) and the regional "people's governments" require a similar budget. Interview, *Samaya*, 14 September 2006.

Prachanda made his first open appearance in Kathmandu, at the prime minister's official residence to sign an eight-point agreement with the SPA.

This agreement was a crucial basis for the subsequent negotiations.<sup>35</sup> Both sides agreed to request the UN to monitor arms and both armies; they also decided to dissolve the parliament and the "people's governments" in order to establish an interim legislature. That the deal was done in an atmosphere of goodwill made up for the acrimony of the preceding weeks. That it had been negotiated behind the scenes and only announced once both sides were ready also implied some sophistication in managing the process and learning from past procedural mistakes.

However, the content of the agreement and the circumstances of its signing raised serious concerns about the SPA's readiness to do business with the Maoists. Prachanda gave a press conference at the prime minister's residence (his first public address after more than two decades underground), impressing star-struck journalists and stealing the limelight from SPA participants such as UML General Secretary Madhav Kumar Nepal and NC(D) President Sher Bahadur Deuba.<sup>36</sup> Politicians who were not involved in the negotiations, and many other observers felt the deal favoured the Maoists. Younger SPA leaders questioned the commitment to "dissolve the House of Representatives through consensus after making alternative arrangement" and suggested this "mistake" be corrected.<sup>37</sup>

It transpired that the agreement had been hastily finalised without careful consideration by the SPA.<sup>38</sup> Gradually the signatories – the top party leaders, Koirala, Nepal, Deuba, Amik Sherchan and Narayan Man Bijukchhe – hinted that they were also unhappy the Maoists had done so well. Under internal and external pressure, Prime Minister Koirala unilaterally added a major rider: that parliament could not be dissolved until the Maoists' arms were dealt with.<sup>39</sup> In itself this was an eminently reasonable condition but reneging on a

signed deal undermined trust; it no longer looked as if the interim constitution would be ready within a fortnight, as both sides had announced.<sup>40</sup>

## 2. Engaging the UN

The plan to request UN assistance was not derailed but it had to be translated into an official letter to the Secretary-General specifying what help was required. The government tried to pre-empt difficult discussions by drafting the letter itself, and Koirala sent it on 2 July without consulting the Maoists. While the latter had only agreed to have their weapons monitored, the prime minister requested help with "decommissioning". This certainly reflected SPA thinking that the Maoists should give up their arms completely before joining an interim government – but went far beyond what had been negotiated.<sup>41</sup>

Maoist cries of conspiracy were fuelled by secretive government behaviour. The letter was not published for three weeks and then only under pressure from a parliamentary committee. Once its content was confirmed, Prachanda condemned it and wrote separately to the UN on 24 July to express his "strong protest and disagreement over certain crucial points of the government letter".<sup>42</sup> This unnecessary controversy exacerbated mutual lack of trust.

At a public function on 7 August, one of the senior Maoist leaders, Baburam Bhattarai, accused Koirala of becoming the main obstacle to peace.<sup>43</sup> Although his language suggested the dialogue was in serious jeopardy, both sides were playing a more measured

<sup>35</sup> An unofficial translation of the agreement is available at [www.kantipuronline.com/kolnews.php?&nid=76803](http://www.kantipuronline.com/kolnews.php?&nid=76803).

<sup>36</sup> Prime Minister Koirala was absent, though the press conference was held at his residence.

<sup>37</sup> Radheshyam Adhikari, "Pratinidhi sabha bighatanko auchitya", *Kantipur*, 20 June 2006.

<sup>38</sup> One of Koirala's confidants later implied that he gave the Maoists such favourable terms because he was seriously ill and needed to spend time on oxygen. Crisis Group interview, Kathmandu, October 2006.

<sup>39</sup> Koirala made this statement during an interview with state-run Nepal Television. See "Nepal Parliament won't be dissolved until Maoists arms are managed", [www.samudaya.org](http://www.samudaya.org), 4 August 2006.

<sup>40</sup> An Interim Constitution Drafting Committee was established on 16 June 2006 under former Supreme Court Judge Laxman Aryal. Initially, it had only six members: Laxman Aryal, Harihar Dahal, Sindhunath Pyakurel, Shambhu Thapa, Mahadev Yadav and Khimlal Devkota. Following criticism of its exclusiveness, ten were added on 22 June. The committee – whose members were balanced to represent party divisions – could not agree key issues and the resulting draft (replete with blank spaces and alternative proposals) was unusable. A member described it as an essay rather than a draft constitution. Interview with Shambhu Thapa, Interim Constitution Drafting Committee member and Nepal Bar Association chairman, BBC World Service Nepali service, 24 August 2006.

<sup>41</sup> See Shyam Shrestha, "Hatiyarma adkieko shanti varta", *Mulyankan*, August 2006, for an analysis of the arms debate from an independent leftist perspective.

<sup>42</sup> Prachanda, "Letter to the UN Secretary-General", 24 July 2006, available at [www.cpnm.org](http://www.cpnm.org).

<sup>43</sup> "Koirala's remarks may be aimed at spoiling peace negotiations: Dr Bhattarai", [nepalnews.com](http://nepalnews.com), 7 August 2006.

game than frenzied media reports suggested. Taking the criticism as only a pressure tactic, Koirala invited Prachanda to his residence for lengthy informal discussions. Having seen the risks of providing spoilers with ammunition, they reaffirmed a desire to bring the process back on track.<sup>44</sup> A UN assessment mission headed by Staffan de Mistura had also impressed upon both sides the urgency of agreeing a joint approach if they wished to make the most of international assistance. A new five-point letter (sent in parallel copies; see below) to the UN dropped reference to decommissioning and more accurately reflected their understanding.

### 3. Mutual suspicion

The pattern of delays, recriminations, suspicion and eventual resolution was natural in the circumstances. The Maoists wanted to move quickly: they were better prepared, worried that delays would frustrate their cadres and keen to push ahead with interim institutions and elections while voters were still radicalised by the spirit of the April movement. The parties saw things differently: they needed time to put their house in order, prepare negotiating positions and plan for contesting elections. They were also busy (at least some of the time) trying to run the country. To the Maoists, each delay signalled conspiracy.<sup>45</sup> Occasionally this may have been true but more often the stalling was down to disorganisation and divergent priorities.

Maoist cadres were becoming restive, and their public threats of an “October revolution” were taken literally by many observers. At a central committee meeting in September held not far from Kathmandu,<sup>46</sup> all their army's divisional commanders and commissars participated as observers and presented situation reports. The six-day session saw serious debate and concluded that if peace talks were blocked, the only remaining option was revolt.<sup>47</sup> The meeting appointed a new ten-member team under Prachanda to pursue the negotiations seriously.<sup>48</sup> But it also drafted plans for a

two-phase mass movement: first demonstrations to bring pressure for progress in the talks; if that failed, then a decisive republican movement.

Briefings from the security forces suggested the cabinet should take the threatened movement seriously, warning that the Maoists had plans to attack key locations in the capital and target ministers.<sup>49</sup> When the government received information that hundreds of Maoist military cadres (PLA) had entered the Kathmandu valley shortly after the central committee meeting<sup>50</sup> it rapidly deployed large numbers of both the civil police and the armed police on street patrols.<sup>51</sup> Prachanda cancelled a public appearance and went underground. On 13 September, the Maoists called a nationwide shutdown, following rumours that the Nepalese Army (NA) was transporting Indian weapons to Kathmandu. A national ceasefire monitoring team cleared the suspect vehicles, and the Maoists lifted their shutdown after four tense hours.<sup>52</sup> They had not proved government deception but they had very publicly flexed their muscles and demonstrated their ability to start and stop coordinated action across the country with speed and discipline.

## B. THE STICKING POINTS

Not surprisingly, this troubled period saw a breakdown in communication between Koirala and Prachanda. The Maoists were increasingly convinced that the prime minister was in league with the palace and army;<sup>53</sup> the SPA was alarmed at Maoist sabre-rattling and nurtured growing doubts over their commitment to peace. With talks in effect suspended there was no chance to address the corrosive lack of trust or the remaining substantive issues. The government continued to press for more steps towards disarmament; the Maoists countered by insisting that the monarchy had to be dealt with

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<sup>44</sup> Crisis Group interviews, government and Maoist sources, Kathmandu, October-November 2006.

<sup>45</sup> Crisis Group interview, Maoist leader, Kathmandu, September 2006.

<sup>46</sup> The meeting was held at Kami Danda in Kavre district.

<sup>47</sup> Crisis Group interviews, Maoist sources, Kathmandu, September 2006.

<sup>48</sup> Besides Prachanda, the other members are Baburam Bhattarai, Ram Bahadur Thapa, Krishna Bahadur Mahara, Dev Gurung, Nanda Kishor Pun, Dinanath Sharma, Pampha Bhusal, Matrika Yadav and Khadga Bahadur Bishwokarma. They did not participate as a full team but added to the capacity of the original three-member group.

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<sup>49</sup> Crisis Group interviews, security officials, Kathmandu, September 2006; and documents in the possession of Crisis Group.

<sup>50</sup> Crisis Group interviews, security officials, Kathmandu, September 2006.

<sup>51</sup> There are two distinct police forces: the civil Nepal Police and the Armed Police Force (APF), which was established in January 2001 (before the army was deployed) to boost the state's counterinsurgency capacity.

<sup>52</sup> Prachanda, press statement, 13 September 2006.

<sup>53</sup> Crisis Group interviews, Maoist sources, Kathmandu, September 2006. Prachanda accused outsiders of interference, warning that “Foreigners are trying to dictate the present talks and the government isn't able to decide itself”. “Interview with Prachanda”, *Pratyakraman*, August 2006.

immediately. The shape of interim institutions was a further bone of contention.

## 1. Arms management

The SPA had good reasons to identify the issue of Maoist weapons as a top priority. Apart from the conceptual difficulty of imagining a joint government controlling two separate armed forces, Maoist retention of arms could compromise free and fair elections (even if the weapons were under lock and key) and keep open the war option should the process not go their way. Government negotiators were well aware that signs of weakness in bargaining would further alienate important constituencies with serious concerns about Maoist intentions, not least the army and some international backers.

The Maoists saw the question differently. Their arms were not only an integral part of their political culture but a practical defence in the uncertain environment of the talks while the Nepalese Army retained its full capacity.<sup>54</sup> They believed that the need to separate arms from politics sequentially, in step with political progress that reinforced confidence, had been confirmed in earlier agreements, and they insisted that UN monitoring would be sufficient to neutralise their weapons during the election campaign.

Beyond this, the Maoists reminded the government that successful disarmament would only be possible with agreement on the final stage of restructuring the national army and incorporating Maoist fighters. They felt that giving up any weapons before this would amount to surrender of their main bargaining chip.<sup>55</sup>

## 2. The monarchy

All parties agreed that the future role of the monarchy was a central issue of great public concern but they had differing views on both the outcome and the decision-

making process. Some mainstream parties had become more radical but the Maoists were still the most committed republicans; Congress and others beyond the SPA sought to keep open the possibility of a ceremonial institution.

For the Maoists, the effort to declare a republic immediately through the new interim constitution was based partly on long-term analysis and partly on tactical considerations. They believed that deferring the issue could save the king, even if elections delivered a republican mandate – their assessment has long been that such a fundamental change would have to be part of a sudden, probably violent, transition rather than the result of parliamentary debate. More immediately, their proposed broader republican front was meant to give the impression of maintaining the April movement's momentum and to pressure their opponents to make concessions on arms.<sup>56</sup>

Despite the widely divergent views, the fact that neither side wanted to derail the entire process over this issue meant that the toughest bargaining was over modalities. The Maoists had two fallback negotiating positions: to suspend the monarchy in the run-up to the elections, thus limiting its power to meddle; and to decide its fate in a separate referendum – a UML proposal also supported by the NC(D).<sup>57</sup> The Maoists reportedly forged a joint position with those parties.<sup>58</sup> But in the face of strong Congress resistance – Koirala arguing that a referendum could prompt a powerful royalist campaign<sup>59</sup> – and concessions on the arms agenda, the Maoists were happy to drop the idea, albeit at the cost of UML ill-feeling.<sup>60</sup>

## 3. Interim institutions

Haggling over interim institutions was primarily a matter of power politics. For the Maoists the reinstated parliament was the “major obstacle for peace and progress”;<sup>61</sup> for the SPA it was their nationally and internationally recognised source of legitimacy. SPA leaders worried that dissolving it would create a

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<sup>54</sup> The Maoists have deep-seated concerns about possible Nepalese Army action if their own forces are disarmed before a full settlement; they still warn of a possible royal or military coup and took the appointment of Rookmangad Katwal, widely seen as a hardliner, as the new army chief as a worrying signal. Crisis Group interview, senior Maoist leader, Kathmandu, September 2006.

<sup>55</sup> The Maoists argued that the usual international Disarmament, Demobilisation and Reintegration (DDR) models are unsuited to Nepal and proposed what they called a Camping, Monitoring and Restructuring (CMR) procedure instead. Ananta, “Hatiyar vyavasthapanko bahas ra rajnitik nikasbare”, *Sanshleshan*, 20 August 2006.

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<sup>56</sup> Crisis Group interview, Maoist source, Kathmandu, November 2006.

<sup>57</sup> It was argued that it was only fair to decide an issue of such wide interest by popular vote.

<sup>58</sup> Crisis Group interview, UML central committee member, Kathmandu, September 2006. Prachanda met the UML and NC(D) on 23 September 2006.

<sup>59</sup> Crisis Group interview, NC leader close to the prime minister, Kathmandu, November 2006.

<sup>60</sup> “Interview with Madhav Kumar Nepal”, *Budhabar*, 15 November 2006.

<sup>61</sup> “Interview with Prachanda”, *Pratyakraman*, August 2006.

dangerous power vacuum which rebels or royalists could exploit; some were simply keen to extend the comfortable new status quo.

Parties had to look at not only the bigger picture but also the concerns of their parliamentarians (MPs) and other leaders who would expect to be accommodated within new structures. The eight-point agreement was silent on the future of existing MPs but once it was agreed their positions would continue in any interim legislature, their concerns were assuaged. The make-up of new members was harder to agree.

The Maoists retained the objectives of their original proposal for a Broader National Political Conference composed one-third each by SPA, Maoist and civil society representatives. This was never going to be acceptable to the mainstream parties: it suggested that they were only on a par with the Maoists, and many suspected the civil society appointments would give the body a dangerously radical tint. Congress proposed that the interim legislature include current MPs, upper house members and individuals selected through political consensus; the NC(D)'s "inclusive" concept was closer to the Maoist proposal.<sup>62</sup>

### C. BACK ON TRACK

While the talks were dogged by public bad blood and seemingly intractable substantive differences, discrete efforts kept the sides on speaking terms. Even as Prime Minister Koirala traded accusations with Prachanda he gave his key negotiators, Krishna Sitaula and Shekhar Koirala, space to keep channels open. The main obstacle was internal Congress politics. Sitaula, who had emerged as a key player only since the royal coup, attracted jealousy and was criticised for weak performance as home minister. Shekhar Koirala similarly lacked broad support within the party but had prospered as the prime minister's nephew and confidant. Both men had earned their spurs representing G.P. Koirala in the November 2005 negotiation of the twelve-point agreement in New Delhi.

Behind a screen of public criticisms of the SPA, the Maoists were also playing a subtle hand. Their chief negotiator, Krishna Bahadur Mahara, had good links with his government counterparts. Like them he had been involved in the SPA-Maoist dialogue since the

earliest post-coup encounters in New Delhi. The personal trust and practical experience built up since then remained at the core of the process even after the end of royal rule. Baburam Bhattarai presented himself as a hardliner insisting on the Maoist bottom line but he kept up good rapport with Madhav Kumar Nepal and other mainstream left leaders.

The most worrying period came in early September, when mistrust reached a peak, and formal engagement was moribund. Both sides realised that the top-down nature of the process demanded the direct participation of their senior leaders. Koirala and Prachanda on 17 September concluded that a summit meeting was essential. In keeping with the tradition of over-optimistic deadlines, they decided to garner public goodwill by announcing that this would happen before the major Dasain festival just a week away – a deadline they promptly missed.

The summit talks finally got underway on 8 October 2006, following several rounds of informal talks. After a week, the stop-start meetings – with breaks for the parties to consult – had only lead to agreement to schedule constituent assembly elections for June 2007. The announcement was staged to give an impression of progress: the dates had in fact been agreed in earlier informal discussions. Other sticking points remained. Consensus ultimately depended on Koirala and Prachanda reaching face-to-face agreement. They held more than a dozen informal meetings before the talks formally resumed on 8 November, and these were the basis for the understanding announced at midnight that night.<sup>63</sup> When Madhav Kumar Nepal objected, Koirala threatened that he and Prachanda could move ahead on their own if the UML would not cooperate.<sup>64</sup>

The summit understanding repeated the commitment to hold elections by June 2007 and paved the way for a fuller deal by agreeing key issues. It smoothed over the misunderstanding of the preceding months by reiterating that all past agreements would be implemented, not renegotiated. It agreed a rough plan for managing arms (settling the number of cantonments and a locking system), the scope of the interim constitution (though

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<sup>62</sup> These proposals were submitted to the Interim Constitution Drafting Committee. See "Situation Update IV", Conflict Study Centre, Kathmandu, 17 August 2006, for a convenient breakdown of the various party proposals.

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<sup>63</sup> According to an insider, non-Congress SPA leaders and even the facilitators were left with little to do during the summit talks. Biswadeep Pande, "Baluwatarko aitihasik rat", *Samaya*, 7 December 2006.

<sup>64</sup> Crisis Group interview, UML leader, Kathmandu, November 2006. The UML salvaged pride by insisting a note of dissent stating its preference for a referendum on the monarchy and a fully proportional electoral system be added to the understanding.

not its crucial details) and a program to assist conflict victims and start a return to normality across the country.

The outline agreement on arms management was the central focus of the final negotiations and the critical issue on which each side was reluctant to give any ground.<sup>65</sup> The understanding laid to rest debates over the monarchy's future by announcing that it would be decided in the first meeting of the constituent assembly by simple majority. These process issues were complemented by a joint commitment to end all forms of feudalism and develop a common minimum program for socio-economic transformation and a promise to investigate human rights violations and establish a truth and reconciliation commission.

## IV. THE DEAL

### A. WHAT WAS AGREED

After two more weeks of difficult, but largely good-natured, talks, the deal was ready, and negotiators announced the CPA that formally declared an end to the war.<sup>66</sup> Its central elements are:

**Constituent assembly.** The interim cabinet will finalise dates for constituent assembly elections with a deadline of mid-June 2007. There will be a mixed electoral system: 205 members to be elected on a first-past-the-post basis from current parliamentary constituencies, 204 by proportional representation on the basis of parties' overall share of the vote, and sixteen distinguished individuals to be nominated as members by the interim cabinet, giving a total of 425 representatives.<sup>67</sup> Parties have agreed to ensure representation of all regions, Madhesi,<sup>68</sup> women, dalits<sup>69</sup> and other marginalised groups when selecting candidates. All citizens eighteen or above when the interim constitution is promulgated will be eligible to vote. The CA is seen as not just a constitution-making mechanism but also the vehicle for a "historic campaign of building a new Nepal and establishing lasting peace".<sup>70</sup>

**Interim constitution.** The interim constitution – an essential prelude to formation of other interim institutions – was scheduled for completion on 26 November<sup>71</sup> but has proved harder to finalise than predicted. Teams resumed intensive discussions on it as soon as the arms management agreement was completed and now expect to finish the task in mid-December.<sup>72</sup> The primary difficulty has not been

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<sup>65</sup> It is no coincidence that in mid-December arms management was still the main sticking point – although only in terms of to what extent it had to be implemented before forming interim institutions (for more see below).

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<sup>66</sup> The full text of the CPA is available at [nepalnews.com](http://nepalnews.com).

<sup>67</sup> A law will be made after consultation with the Election Commission.

<sup>68</sup> "Madhesi" is the term by which Tarai residents (excluding migrants from the hills) prefer to describe themselves, although it can also be used pejoratively.

<sup>69</sup> "Dalit" is the term preferred by "untouchables" at the bottom of the traditional caste hierarchy to describe themselves.

<sup>70</sup> CPA, Article 10.7. Much remains unclear about the functioning of the constituent assembly. This topic will be addressed in a subsequent Crisis Group report on constitutional process.

<sup>71</sup> This date was set by the 8 November government-Maoist understanding; the Interim Constitution Drafting Committee's original deadline was June. It submitted its draft on 25 August (see above).

<sup>72</sup> Government negotiators, led by Home Minister Sitaula, include ministers Pradeep Gyawali and Ramesh Lekhak and



agreeing the constitution itself but the fact that its completion would then demand the prompt formation of interim bodies – something that Prime Minister Koirala, and some in the international community, do not want to proceed until the issue of how to manage Maoist weapons is definitively resolved, and the weapons themselves are under solid UN supervision.

**Interim legislature.** The 330-member interim legislature that brings in the Maoists will be an expanded form of the current House of Representatives. That body will formally be dissolved but all sitting MPs (apart from those opposed to the April movement) and a handful of members from the upper house will fill 209 seats.<sup>73</sup> The Maoists will have 73 seats, while 48 are to be allocated to representatives of affiliated political organisations and professional bodies, oppressed ethnic communities and regions and political personalities on the basis of mutual understanding between all parties.<sup>74</sup> Victims of the Maoists have also demanded representation.

**Interim government.** The interim legislature will elect a prime minister, who will form an SPA-Maoist cabinet to take responsibility for the remainder of the peace process and organise the constituent assembly election. Koirala, who is acceptable to both the SPA and the Maoists will almost certainly remain as prime minister<sup>75</sup> but the cabinet berths will probably be allocated in line with the balance of power in the legislature.

**Local administration and policing.** The government and the Maoists agreed that the “Nepal Police and Armed Police Force shall give continuity to the task of maintaining [the] legal system and law and order along with criminal investigation” and “not to operate parallel or any [other] form of structure in any areas”.<sup>76</sup> Interim local bodies will be formed at district, city and village level on the basis of mutual understanding. The Maoist

“people’s governments” and “people’s courts” are to be dissolved on the day the interim legislature is formed.<sup>77</sup>

**Monarchy.** As noted, its fate will be decided at the CA’s first sitting. The 8 November understanding effectively suspended the monarchy, stating that “no rights on state administration would remain with the King” and confiscating much of his property.<sup>78</sup> The CPA endorses this although it does not use the term “suspension” and is silent about the position of head of state. The Maoists had pushed hard for the formal suspension of all royal duties and control of royal property as the best fallback position after their failure to secure a republic immediately.<sup>79</sup>

**Human rights and transitional justice.** The CPA reiterates both sides’ commitment to international humanitarian law and fundamental principles of human rights. It proposes two commissions: a national peace and rehabilitation commission to build peace in post-conflict society by running relief and rehabilitation programs for the internally displaced (IDPs) and other victims; and a high-level truth and reconciliation commission to investigate serious human rights violations and crimes committed against humanity by either the state or the Maoists. The exact scope and composition of these commissions has not been specified.

**Management of arms and armies.** The CPA and the subsequent arms management agreement (see below) finalised the seven cantonment sites for the Maoist army and stipulated that arms and ammunition are to be locked in secure stores within the cantonments. Maoist commanders will have keys but the UN will monitor the stores from a distance with video cameras and siren-activating sealing devices and may carry out site inspections. Maoist guards will be allowed to retain a few weapons for cantonment security.<sup>80</sup> The Nepalese Army will put a similar number of weapons under supervision but be allowed to carry out essential tasks such as guarding borders, key infrastructure and VIPs.

**Principles of social and economic transformation.** The parties to the CPA pledge to:

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the NC’s Shekhar Koirala; the Maoists are led by Baburam Bhattarai and include Dev Gurung and Khim Lal Devkota, a former interim committee member.

<sup>73</sup> Some accommodation will probably be made for the ULF, the only member of the SPA that has no MPs.

<sup>74</sup> This was originally envisaged as bringing in apolitical figures but the seats will probably be divided between party supporters, with the SPA using it to bring in “new faces”.

<sup>75</sup> The Maoists feel they deserve to lead the interim government as they put the constituent assembly on the agenda but they likely will use this question as another bargaining chip. Crisis Group interviews, Maoist leaders, Kathmandu, September 2006.

<sup>76</sup> CPA, Articles 5.1.6 and 10.1.

<sup>77</sup> 8 November 2006 understanding, paragraphs 3(c) and 7(a).

<sup>78</sup> The property of the late King Birendra and his family is to be brought under a government-controlled trust; other property which Gyanendra received after coming to the throne will be nationalised.

<sup>79</sup> Crisis Group interview, Maoist central leader, Kathmandu, November 2006.

<sup>80</sup> The Maoists will retain 30 weapons for the security of each main cantonment and fifteen for secondary cantonments.

end the existing centralised and unitary state system and restructure it into an inclusive, democratic progressive system to address various problems including that of women, Dalits, indigenous community, Madhesis, oppressed, ignored and minority communities, [and] backward regions by ending prevailing class, ethnic, linguistic, gender, cultural, religious and regional discrimination.<sup>81</sup>

Development plans are as vague as they are ambitious, calling for preparation of “a common development concept that will help in socio-economic transformation of the country and will also assist in ensuring the country’s economic prosperity in a short period of time”.<sup>82</sup> Given the signatories’ divergent perspectives, a shared development plan is unlikely to be workable, though there could be agreement on some practical steps. The CPA does make significant decentralisation of power and a federal model more likely but it leaves the final decision to the CA (advised by a commission on state restructuring).

## B. THE DYNAMICS OF COMPROMISE

The CPA is not truly comprehensive. It does open the way for a more durable ceasefire and charts the course for the rest of the process but even if it ends the armed conflict, it has deferred certain central issues. Structural changes have yet to take place: if the political understanding falls apart or the process is otherwise derailed, the Maoists are prepared to start another type of struggle, albeit not a simple resumption of “people’s war”.<sup>83</sup> As long as their armed forces remain intact and the state security sector unreformed, there is potential for a rapid return to conflict.

The compromises that secured the deal make good sense but each leaves further bargaining to come:

**Power-sharing.** The accord effectively recognises the Maoist PLA as a parallel army and initialises plans for its merger into a new national army. In return the Maoists are to give up their hold on the countryside, dissolving their parallel administrations and allowing the state to resume its role as the sole guarantor of law and order. This may happen on paper but the Maoists’ ethnic and regional liberation fronts and village-based

militias (now also active in urban areas) may take the place of the “people’s governments”.<sup>84</sup> The peace accord has not defined or limited their role.

**The monarchy.** With its fate to be decided by a simple majority in the constituent assembly, attention will shift to that body’s possible dynamics. No party is likely to have an absolute majority and thus be sure of the 213 votes needed to push through its policies. Alliance-building (more likely on specific issues than across the board) and pressure on individual representatives will be the new focus of attention.

**Inter-party dynamics.** The deal was pushed through by Prachanda and Koirala – effectively, but at the cost of goodwill within the SPA. Since the referendum controversy, the UML’s distance from both the NC and the Maoists has increased. UML General Secretary Nepal asked: “Are the Maoists under contract to Congress and Girija Prasad Koirala?”<sup>85</sup> The UML leadership was kept out of NC-Maoist discussion over the CPA, and Nepal initially refused to read the draft when he was summoned just before the signing ceremony.<sup>86</sup>

## C. PUBLIC REACTION AND DEMANDS FOR INCLUSION

The peace accord was widely welcomed, domestically and internationally. It addresses two of the conflict’s critical elements: the Maoists’ armed insurgency and the struggle between the king and the parties in Kathmandu. But it only tangentially addresses the third element – the concentration of political and economic power in the hands of small elites at the expense of many marginalised groups. While the CPA promises socio-economic transformation, activists (especially from ethnic groups) have already criticised it for brushing over the main issues. Control over the peace process has not increased confidence; that all decisions were made behind closed doors by a handful of Brahman men leaves sceptics wondering if ten years of conflict has done anything to change underlying structures.

<sup>81</sup> CPA Article 3.5.

<sup>82</sup> Ibid, Article 3.12.

<sup>83</sup> The Maoist leadership is disseminating this line to cadres in training sessions. Crisis Group interviews, different levels of Maoist activists, Kathmandu, October–November 2006.

<sup>84</sup> The Maoists have six ethnic and three region-based “liberation fronts” that are responsible for the regional “people’s governments”; the militias, equipped with very basic arms, perform a policing role for them.

<sup>85</sup> “Interview with Madhav Kumar Nepal”, *Budhabar*, 15 November 2006.

<sup>86</sup> He joined the meeting only after repeated requests from the prime minister and other leaders. Crisis Group interview, UML central committee member, Kathmandu, November 2006.

In the April movement's aftermath, demonstrations demanding rights for particular marginalised groups featured prominently in Kathmandu. In contrast, there were few mainstream party gatherings. The Maoists had boosted their support by presenting themselves as the champions of all groups excluded from power but there is no guarantee this will translate into votes or workable policies within a coalition. The conflict has also radicalised activists, some of whom learned violent tactics when co-opted by the Maoists but retain their own agenda. No group is likely to start a separate armed uprising – although a Maoist splinter, the JTMM, has been carrying out violent activities in a few Tarai districts – but nor are groups likely to accept unsatisfactory compromises.

The major issues include:

**Ethnic rights.** With the constituent assembly agreed, ethnic activists – whose campaigns have been gathering momentum since shortly after the 1990 democracy movement – for the first time scent the real possibility of change. Although there are a multitude of different groups, whose specific aims are sometimes in conflict, there is broad agreement that the priorities are a federal state and significant job quotas for minorities. The Nepal Federation of Indigenous Nationalities, an umbrella organisation, has demanded a “secular democratic republic state” within which ethnically based autonomous regions will have legislative, executive and judicial authority.<sup>87</sup> It is questionable how representative the ethnic organisations are, and their politics is largely elite-driven. Nevertheless they are a large potential constituency.

**Regional demands.** The question of regional rights is most prominent in the Tarai plains that stretch along the border with India. Tarai residents, who describe themselves as Madhesis (a term that does not include the large population of settlers from the hills), are hardly represented in national institutions and are seen by many hill-dwellers as not true Nepalis because of their links to Indian communities over the border. Many (activists claim up to four million) have been denied citizenship, largely because of strict rules designed to protect a hill majority. Parliament passed a citizenship act on 26 November 2006, which rescinded the constitutional articles that were the basis of most restrictions.<sup>88</sup> But not all claimants will be entitled

under the new law, and putting it into practice in time to update voter lists before the elections will be extremely challenging.<sup>89</sup>

**End to caste discrimination.** Parliament has proclaimed a complete end to caste discrimination but Nepal has a long history of such declarations (in theory, discrimination was abolished in the 1960s), which are rarely implemented. As with ethnic groups, the Maoists tried to recruit and radicalise dalits (the “untouchables” at the bottom of the caste hierarchy whom activists claim number some four million). Dalits have certainly improved their ability to campaign for their interests and have forced the issue of their rights onto the political agenda. Their chief demands are coherent and backed by increased organisational capacity but their voice in the upper ranks of political parties – including the Maoists – is still limited.

**Women's representation.** Female political leaders and NGO activists have been developing a more united front to press their demand for greater political representation and the abolition of discriminatory laws and constitutional provisions.<sup>90</sup> Parliament passed a resolution on 30 May 2006 guaranteeing women 33 per cent of all positions in state bodies until they attain proportional participation.<sup>91</sup> A June 2006 protest in front of government headquarters that demanded women's representation on the committee drafting the interim constitution and on the parliamentary committee monitoring the peace talks kept the issue on the agenda. However, the May resolution has not been implemented, and women politicians are threatening to boycott the polls if action is not taken.<sup>92</sup>

## D. THE ROLE OF THE UNITED NATIONS

Until the summer of 2006, the UN had a limited role in the search for peace. Repeated offers of the Secretary-General's good offices were rebuffed (despite enthusiastic

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concentrated on lobbying for resolution of the citizenship issue.

<sup>89</sup> The government plans to send task forces to the Tarai districts to expedite the process but experience indicates they will find it hard to deliver; the political and bureaucratic elites are unlikely to embrace the more liberal dispensation wholeheartedly.

<sup>90</sup> Women politicians from across the political spectrum have formed an active Inter-Party Women's Alliance (IPWA).

<sup>91</sup> “33 per cent reservations for women”, ekantipur.com, 30 May 2006.

<sup>92</sup> “Women threaten poll boycott”, *The Kathmandu Post*, 7 December 2006.

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<sup>87</sup> “Situation Update IV”, Conflict Study Centre, Kathmandu, 17 August 2006. See Crisis Group Report, *Towards a Lasting Peace*, op. cit., for analysis of ethnic demands for constitutional change.

<sup>88</sup> The NSP(AD), a member of the SPA with one cabinet minister, is a Tarai-based regional party which has

public support), and there was a perception that India would resist such involvement in its neighbourhood. The establishment of a major human rights monitoring mission in early 2005 started to change this picture by demonstrating the utility of well-defined UN assistance and allaying Indian concerns of a possible erosion of its regional hegemony. The Maoists had long seen a need for the UN in a peace process and promised cooperation; this took more solid form with the November 2005 twelve-point agreement in which the SPA also endorsed the concept.

Once the post-April government and the Maoists agreed on inviting the UN, an assessment mission led by Staffan de Mistura arrived promptly.<sup>93</sup> With some boldness, de Mistura urged the two sides to agree quickly on a mandate if they were serious about seeking help: while not quite an ultimatum (which the UN was in no position to deliver), this sense of urgency spurred a more precise consensus on what should be requested. On 9 August, the government and the Maoists sent parallel letters to the Secretary-General asking the UN to (i) continue its human rights monitoring through the Office of the High Commissioner for Human Rights (OHCHR); (ii) assist monitoring of the ceasefire code of conduct; (iii) deploy civilian monitors to verify the confinement of Maoist combatants and weapons within designated cantonment areas; (iv) monitor the national army to ensure it remains in barracks and its weapons are not used; and (v) observe the CA election in consultation with the parties.

By its own standards, the UN has moved remarkably quickly to assist. Ian Martin, who had been heading the successful OHCHR mission, was appointed as the Secretary-General's Personal Representative to the peace process and rapidly assembled a small team of expert advisers. Although not tasked with facilitating the peace talks, the UN's crucial role in helping develop a workable plan for arms management put it at the heart of one of the central political debates. This role was technical by definition but also included a critical diplomatic aspect.<sup>94</sup>

The arms management deal has boosted the UN's credibility while adding to already exaggerated expectations. The UN's high visibility increases

stability but also leaves it exposed to criticism should anything go wrong – and some politicians have already found it convenient to pin the blame for delays on it. A government negotiator complained informally to the media that the peace process was being held back by slow UN response.<sup>95</sup> Commentators have started to warn that the elections may be delayed due to the UN's "bureaucratic problem".<sup>96</sup> Deputy Prime Minister K.P. Oli pointed to "the time needed for the United Nations bureaucratic procedures" as a reason for slow progress.<sup>97</sup>

Still, the basic elements of a successful mission are in place. Domestic political actors have worked well with the UN (its longstanding relationship with the Nepalese Army has also helped to build confidence), and it has received the solid backing of key international players, including India. The Security Council approved the Secretary-General's proposals for assistance with almost unprecedented ease, and the first monitors will arrive soon.<sup>98</sup> An assessment team has been dispatched to plan a full mission,<sup>99</sup> unless it recommends a huge presence, funding is not likely to be a major problem, although recruitment within tight deadlines will be challenging.<sup>100</sup> The most important question is whether enough monitors can be in place quickly enough to build confidence in the run-up to elections.

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<sup>95</sup> Crisis Group interview, government negotiator, Kathmandu, December 2006.

<sup>96</sup> "Nepal peace process update: UN delays everything", [blog.com.np](http://blog.com.np), 7 December 2006.

<sup>97</sup> "Interview with DPM K.P. Oli", [ekantipur.com](http://ekantipur.com), 7 December 2006.

<sup>98</sup> "Recruitment continues for a team of up to 35 advance monitors to be deployed, ahead of a full-fledged mission, to monitor provisions of the Comprehensive Peace Agreement. We also are proceeding with our efforts to recruit 25 electoral experts to assist in carrying out Constituent Assembly elections", reported the Secretary-General's spokesperson, Stephane Dujarric. "UN assessment team to visit Nepal from Monday to plan for full-fledged mission", IRIN, 7 December 2006. The first monitors are likely to arrive in the second half of December; funding is available from the ACABQ, the UN's funding committee, which can approve up to \$10 million.

<sup>99</sup> The technical assessment mission from 10–16 December was led by Ian Martin and included members of his Kathmandu staff and New York-based experts in political and military affairs, logistics and public information.

<sup>100</sup> Total personnel might be as high as 1,000, including local staff, with perhaps 150–200 monitors plus UN volunteers and international electoral advisers. The mission will be classified as a "special political mission"; these generally fall under the Department of Political Affairs but can also be run by the Department of Peacekeeping Operations. Monitors, including civilians with military backgrounds and serving military officers, will be unarmed and in civilian dress.

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<sup>93</sup> De Mistura's team was in Kathmandu from 28 July to 3 August to meet political leaders and visit NA and PLA bases. De Mistura also met Indian officials in New Delhi.

<sup>94</sup> For example, after separate meetings with the prime minister and Prachanda, Ian Martin briefly visited Delhi in the third week of October to brief Indian officials and ascertain their views. "Martin rushes to India, acquires Delhi's view on Nepal's arms mgmt", [ekantipur.com](http://ekantipur.com), 17 October 2006.

## V. PEACE POLITICS: SAME PLAYERS, NEW PLANS

The April movement left Nepal's main political actors facing new scenarios and developing new tactics. However, it changed neither the fundamental interests the parties represent nor their political and institutional cultures. Despite established politicians' low visibility during the April protests, no new leaders emerged to eclipse them.

### A. THE PARLIAMENTARY PARTIES

The SPA's seven parliamentary parties were the big winners in April, returning to government and claiming the lion's share of the credit for a movement they hardly led.<sup>101</sup> Still, their gains were not entirely undeserved. When the alliance first coalesced, critics suspected it would rapidly disintegrate; its insipid efforts to rouse popular protest in the wake of the royal coup had inspired little confidence. But the parties have more or less maintained their unity (impressive by any standard, especially their own), used risky talks with the Maoists to deliver a workable peace deal and ultimately managed, albeit far from single-handedly, to see through a popular protest movement. They achieved all of this without using force – unlike the two more extremist forces they faced down.

If this has boosted overall morale, it has especially burnished the reputation of Congress leader and Prime Minister Girija Prasad Koirala. When he refused to join the ill-fated coalition government under his rival, Sher Bahadur Deuba, in June 2004, he was widely criticised as the main obstacle to political consensus but creation of the SPA, the handling of the negotiations with the Maoists and his steering of the new government have brought him renewed respect.

The crucial calculations the parties must now make are how to position themselves during the next stages of the peace process and how to maximise their chances in the constituent assembly elections. Leftist parties with populist policies face the difficulty of distancing themselves from the Maoists; Congress under Koirala has been much criticised for refusing to join the strident

republican trend but has earned itself leadership of a broader, more conservative, block. The parties' election plans are not yet clear but they seem confident that traditional supporters will vote for them regardless of Maoist intimidation and a long record of past poor performance.

### “Conservatives”

The NC is the largest parliamentary party and the strongest conservative force. It is still seen by some – including many of those hostile to party politics as a whole – as the only truly democratic party in the country, since the UML only accepted parliamentary democracy in the aftermath of the 1990 movement. Koirala's careful attitude toward the king (holding out the possibility of his retaining a ceremonial role) enables him to position himself as the protector of broader traditional interests but leaves him open to criticism from party activists who want a more radical line.

Koirala's nuanced position has given birth to conspiracy theories – that he is in league with the king, army or India – and harsh criticism from an increasingly republican intelligentsia. However, he has moved little from his long-standing tenets: even when allying with the Maoists under royal rule, he steered clear of republicanism in favour of “full democracy”. He resisted post-April efforts to form a broad republican alliance by arguing that a system restored by the king should not overthrow him.<sup>102</sup> Senior Congress figures give credence to the idea that international pressure to retain the monarchy as a counterbalance to the Maoists may have influenced Koirala.<sup>103</sup> But his stance may yet deliver party-political advantage: the country is probably still more conservative than fervent republicans would like to believe, and presenting himself as the king's protector will invite financial and practical help from royalists. At the same time, he is conscious of the need to give the palace some reason to accept the constituent assembly: to write off any chance of its survival would be to invite a last stand by hardliners.

Still, many NC activists and district-level leaders are influenced by republican thinking and worry that conservative policies will be hard to sell to voters.<sup>104</sup> Congress displayed more radical leanings when it dropped

<sup>101</sup> On party motivations during the twelve-point agreement talks, see Crisis Group Report, *Nepal's New Alliance*, op. cit. For a party overview see Krishna Hachhethu, “Political Parties of Nepal”, Social Science Baha Occasional Papers 1 (Kathmandu, 2006).

<sup>102</sup> Crisis Group interview, NC leader close to Koirala, Kathmandu, October 2006.

<sup>103</sup> Crisis Group interviews, Nepali Congress leaders, Kathmandu, October 2006.

<sup>104</sup> The NC's central working committee has ordered MPs and party leaders to canvas activists on the monarchy. “NC to send its leaders to villages”, nepalnews.com, 5 December 2006.

the constitutional monarchy from its party statute in late 2005.<sup>105</sup> However, anti-monarchical opinion is hardly reflected in the central leadership, and the king's retreat may have defused some of the republican sentiment evident before April 2006.<sup>106</sup> The party may ultimately refuse to take a definitive stance or leave it to candidates' individual judgement.<sup>107</sup> Congress may also struggle to keep its ethnic support base intact. While the Maoists are touting populist slogans of autonomy and self-determination, Congress has yet to decide whether it will support ethnic-based regional autonomy or, more likely, endorse an alternative federal structure.

Congress' internal politics are as murky as ever. Despite public professions of contrition at past corruption and poor governance, party machinery has quietly been put back in the hands of some of the worst offenders. A special court conveniently cleared senior leaders Khum Bahadur Khadka and Govinda Raj Joshi of major corruption charges on technical grounds;<sup>108</sup> they are reportedly playing an important role within the party, carefully out of public view.<sup>109</sup> Given Koirala's age, the succession question looms ever larger. He has not anointed an heir, and contenders are jostling for position. Perverse as it seems, his most likely successor is former Prime Minister Deuba, who has presided over some of the most unhappy events in recent history and leads a splinter party, the NC(D).<sup>110</sup>

The two parties have no fundamental differences; disputes revolve around personalities and accommodation of NC(D) leaders in the reunited party's top ranks.<sup>111</sup>

However, initial haste to reunite – prompted partly by international encouragement – has cooled, both sides preferring to defer the issue until after the formation of interim institutions (entering the new legislature and government separately will entitle them to more seats).<sup>112</sup> The NC(D) also has internal divisions: its November 2006 district chairmen's conference pushed for a republican line,<sup>113</sup> a position also supported by prominent leaders such as Pradip Giri, Bimalendra Nidhi, Minendra Rijal and Prakash Man Singh.<sup>114</sup>

The small royalist parties, still largely composed of politicians who made their name under the pre-1990 partyless Panchayat system, may find themselves in broad alliance with Congress in opposing both Maoist and mainstream leftists. The primary royalist party, the Rashtriya Prajatantra Party (RPP), has normally garnered around 10 per cent of the national vote but has suffered from splits. Its most important offshoot is the Rashtriya Janashakti Party, headed by astute former Prime Minister Surya Bahadur Thapa, which has absorbed the tiny Prajatantrik Nepal Party of former royal minister Keshar Bahadur Bista.<sup>115</sup> The unrecognised RPP faction – created under royal rule in a palace-engineered split – limps on with a change of leader, marginalised by events.<sup>116</sup>

Royalists have not shrunk from criticising the king. RPP President Pashupati Shamsheer Rana has bitterly accused the monarch of splitting his party and hints that the RPP may adopt a less palace-friendly line;<sup>117</sup> Thapa

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<sup>105</sup> This was at its eleventh general convention, 30 August–1 September 2005; there was also debate over a republican agenda.

<sup>106</sup> Only one central NC leader, Narahari Acharya, supports a republic. He has started a separate campaign, assisted by political scientist-turned-politician Krishna Khanal and former NC student leader Gagan Thapa; they campaigned in western and eastern hill districts in November 2006.

<sup>107</sup> Crisis Group interviews, NC leaders, Kathmandu, November 2006.

<sup>108</sup> Khadka was cleared on 15 November 2006 (the court ruled the charge not proven); the next day, the same panel dismissed the case against Joshi because of its "delayed registration". Hari Bahadur Thapa and Balkrishna Basnet, "Bhrashtachar muddama ekpachhi arko saphai", *Kantipur*, 17 November 2006.

<sup>109</sup> Crisis Group interview, NC source, Kathmandu, November 2006.

<sup>110</sup> The NC(D) split from the NC in 2002, when the NC refused to endorse then Prime Minister Deuba's unilateral decision to request the dissolution of parliament.

<sup>111</sup> The NC(D)'s primary demand is for top to bottom reunification of all party committees, thus ensuring rehabilitation of its supporters. Top leaders also want guarantees they will not

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be demoted in a reunited party. Crisis Group interviews, NC(D) leaders, Kathmandu, November 2006.

<sup>112</sup> Compared to possible NC successors such as Ram Chandra Poudel or Sushil Koirala, Deuba is a heavyweight, with three terms as prime minister and good international contacts. Crisis Group interviews, Congress leaders, Kathmandu, November 2006.

<sup>113</sup> "NC (D) district presidents demand to go for democratic republic", nepalnews.com, 16 November 2006.

<sup>114</sup> Deuba has acknowledged this pressure and promised the party's next general convention will settle its stance on the monarchy: "Majority of colleagues feel that the King is no good and should not be kept, but this subject should be settled by general convention or national conference". "Deuba says majority in his party want the King out", nepalnews.com, 6 December 2006.

<sup>115</sup> "Bista's party merges into RJP", nepalnews.com, 30 November 2006.

<sup>116</sup> Rabindra Nath Sharma, who replaced Kamal Thapa as head of the splinter group, has found few takers for his proposed democratic front against republicanism.

<sup>117</sup> "RPP not to back monarchy: RPP chief Rana", nepalnews.com, 21 September 2006; "RPP to launch nationwide campaign to change its policy", nepalnews.com, 7 December 2006.

was never a slavish royalist even under the Panchayat and was one of the first pro-palace politicians to realise the king's star was waning and to dress his party in more progressive clothes. Both supported curtailing the king's powers and have been constructive in the new parliament, generally voting with the SPA, despite being excluded from government and denied recognition as an official opposition.<sup>118</sup>

### “Progressives”

The April movement had a bittersweet outcome for the mainstream leftist parties. The popular mood was more supportive of their general approach than ever but Congress was firmly in the SPA driving seat, and they faced difficult choices vis-à-vis the Maoists. All on the left, including the Maoists, are conscious that a successful peace process is unlikely to leave room for two large leftist parties. Jostling for control of the mainstream left has begun.

The parliamentary left is dominated by the UML, which accepted multiparty democracy in 1991 and has since served in government as well as being the largest party in local councils. It burnt its fingers by joining the Deuba coalition in June 2004 and has mixed feelings about its role in government. Ever conscious of its junior position, it has sometimes acted as an opposition within the cabinet, publicly criticising SPA policies and suggesting its own approach is more principled. But it dare not be seen to undermine unity during the peace process and needs a stake in central power in the run-up to elections.

The parliamentary left also incorporates smaller parties with differing interests. Janamorcha Nepal (People's Front Nepal), the political front of CPN (Unity Centre-Masal),<sup>119</sup> is the most radical and close to the Maoists on many issues apart from the use of violence; its chairman, Amik Sherchan, is one of two deputy prime ministers. It has been weakened by splits but still is a crucial bridge between the Maoists and the mainstream.<sup>120</sup> The United

Left Front is a disparate grouping of three tiny parties without MPs, although its representative, Prabhu Narayan Chaudhary, is the land reform minister. Its members disagree over the republican agenda and could split on this issue.<sup>121</sup> The Nepal Workers and Peasants Party is the only SPA member to have stayed out of the government. While supporting the peace process, the party will not join the interim government and says it will play an opposition role in the interim legislature;<sup>122</sup> it has been critical of various SPA policies.<sup>123</sup>

The UML's August 2006 central committee meeting decided to campaign for a democratic republic through the constituent assembly<sup>124</sup> but positions within the party are not so clear-cut. Accommodation within the post-1990 parliamentary system has dulled the party's formerly radical edge and led many leaders to feel comfortable with existing institutions, including the monarchy.<sup>125</sup> General Secretary Madhav Kumar Nepal has successfully balanced tensions between two wings: its chief representative in the government, Deputy Prime Minister K.P. Oli is considered right-leaning, while a left-leaning lobby, led by Jhalanath Khanal and Bamdev Gautam, sees advantage in an alliance with the Maoists. Should the general secretary's comfortable partnership with Oli weaken, he could be pushed towards Khanal and Gautam to secure his position.<sup>126</sup>

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Subedi, formed another group under Chitra Bahadur Ale; the third group, led by Chitra Bahadur KC, has three MPs including KC, Hari Acharya and Dila Ram Acharya.

<sup>121</sup> ULF coordinator C.P. Mainali is allegedly against a republic. Crisis Group interviews, ULF leaders, Kathmandu, November 2006. The Maoists have approached Minister Chaudhary to join their party or the proposed republican front. Chaudhary is also the chairman of CPN (Unified Marxist), a member of the ULF; its General Secretary, Bishnu Bahadur Manandhar, resigned in October 2006 after clashing with Chaudhary.

<sup>122</sup> “NWPP to play oppn's role in interim govt”, *The Himalayan Times*, 23 November 2006.

<sup>123</sup> NWPP chairman Bijukchhe's vote against the citizenship bill on 26 November was the first for an SPA MP against the government.

<sup>124</sup> Crisis Group interview, UML central leader, Kathmandu, September 2006.

<sup>125</sup> For example, the UML appeared to back Koirala's ceremonial monarchy agenda by supporting parliamentary amendments of royal laws and regulations rather than insisting on full suspension. Other leftist parties doubt its commitment to republicanism. NWPP leader Narayan Man Bijukchhe suspects the UML would abandon the republican agenda in exchange for the prime ministership. “Vartako sancho dillima chha”, *Kantipur*, 23 October 2006.

<sup>126</sup> Crisis Group interviews, UML leaders, Kathmandu, October-November 2006.

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<sup>118</sup> Pashupati Rana has consistently argued that the RPP should at least be accorded the role of official opposition. “Chand, Rana discuss peace process with PM”, nepalnews.com, 13 November 2006.

<sup>119</sup> Party leader Mohan Bikram Singh says the Unity Centre itself will remain underground as complete democracy has not yet been achieved. “CPN (Unity Centre-Masal) to remain underground”, nepalnews.com, 8 December 2006.

<sup>120</sup> In the 1970s Sherchan was one of Prachanda's mentors; his party retains close links to the Maoists and will probably join their republican front. This relationship, long controversial in the party, prompted its recent division into three factions (one group led by Sherchan has one MP, Lilamani Pokhrel; two rebel MPs, Pari Thapa and Nawaraj

The UML's own republican front proposal could unite mainstream left votes in the CA elections, although the Maoists will likely push ahead with a separate version. The UML also hopes its republican agenda will tempt back into the fold the many party workers who – voluntarily or under coercion – joined the Maoists. It remains a disciplined, well organised party with much healthier inner democracy than most of its rivals.<sup>127</sup>

Despite some support for the idea, it is unlikely the Maoists and UML could achieve anything more than the most basic tactical alliance on certain issues. Each is a threat to the other's long-term future, and there is little basis for a shared vision. Prachanda provocatively claimed that the UML would ultimately be merged into the CPN(M); Madhav Kumar Nepal responded: "Is it not enough [for them] to drink the blood of one-and-a-half hundred UML cadres? How much blood do they want?"<sup>128</sup> Tussles over positions in the proposed interim government have added to the tension. The UML sought Maoist support for its bid to replace Koirala as interim prime minister but Prachanda publicly rebuffed this.<sup>129</sup>

## B. THE MAOISTS

The Maoists' strategic goal remains a communist republic (*janabadi ganatantra*), although they have accepted the concept of a democratic republic (*loktantrik ganatantra*) as an intermediate objective.<sup>130</sup> Their official policy is that the constituent assembly can be the first step in a peaceful transition to that eventual communist republic. However, their private analysis is that the monarchy is unlikely to be removed without a further violent confrontation. They have always believed that the strength of Nepal's conservative institutions should not be underestimated and still see mainstream parties as reactionaries and revisionists who will resist radical

reform.<sup>131</sup> They are preparing for both routes – or a combination of the two – by putting serious effort into normal political campaigning while keeping their cadres ready for a final fight if necessary.<sup>132</sup>

The public political activity which the Maoists started immediately after the April movement has gained new momentum since the peace agreement. They plan to restructure the party to increase its effectiveness in open politics, especially in elections.<sup>133</sup> For dealing with potential allies, their major priority is to form a democratic republican front<sup>134</sup> and tempt small leftist groups and individuals to join the CPN(M).<sup>135</sup> They have concentrated on boosting their presence in the urban areas where they have traditionally been weak. In Kathmandu, they claim some 1,500 full-time political activists compared to 70 before April 2006.<sup>136</sup> They have tried to curry support among the sceptical local Newar community with a "valley republican campaign" launched in October.<sup>137</sup>

They have had trouble deciding on their public image. Their new urban "people's courts" drew enthusiastic business from those fed up with the state judiciary but harsh criticism from the press and mainstream politicians. That Prachanda's promise to close the courts in major cities<sup>138</sup> has not been kept in Kathmandu<sup>139</sup> reflects the Maoists' difficulty in deciding which approach would win more support rather than revealing a lack of discipline. Attempts to foster sympathy by using cadres

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<sup>127</sup> In early December 2006, the UML completed a three-month "day-and-night" campaign, during which it renewed thousands of its cardholder's membership and provided political training. Ameet Dhakal, "Underestimate the UML at your own peril", *The Kathmandu Post*, 5 December 2006.

<sup>128</sup> "Interview with Madhav Kumar Nepal", *Budhabar*, 15 November 2006.

<sup>129</sup> Crisis Group interview, Maoist central leader, Kathmandu, November 2006.

<sup>130</sup> They emphasise that even their ideal communist republic would allow competitive politics among "anti-imperialist and anti-expansionist" forces. See Crisis Group Asia Report N°104, *Nepal's Maoists: Their Aims, Structure and Strategy*, 27 October 2005.

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<sup>131</sup> Crisis Group interviews, Maoist leaders, Kathmandu, October-November 2006.

<sup>132</sup> A subsequent Crisis Group report will examine in detail recent changes in Maoist politics and tactics.

<sup>133</sup> A task force under Badal submitted restructuring proposals at the end of November and proposed names for the interim legislature. The proposed new structure would follow the existing administrative districts and electoral constituencies rather than the demarcations the Maoists had been using. Crisis Group interview, Maoist source, Kathmandu, November 2006.

<sup>134</sup> Prachanda, press statement, 13 November 2006.

<sup>135</sup> Crisis Group interviews, leftist leaders, Kathmandu, November 2006.

<sup>136</sup> Crisis Group interview, Maoist valley bureau source, Kathmandu, October 2006.

<sup>137</sup> *Ibid.* The Newars, the original inhabitants of the Kathmandu valley, are an important constituency that has never embraced the Maoists but is historically left-leaning and appears disillusioned with the mainstream parties. On Newar participation in the April movement, see Crisis Group Report, *From People Power to Peace*, op. cit.

<sup>138</sup> Prachanda, press statement, 3 July 2006.

<sup>139</sup> Kantipur Television showed footage of one of the courts delivering a verdict.



to clean streets and target organised crime likewise prompted mixed reactions.<sup>140</sup>

The Maoists also are having internal debates. Despite victory rallies after signing the CPA, their declaration of an end to the war has caused some disquiet.<sup>141</sup> The leaders have to sell significant compromises to political and military cadres who consider themselves undefeated but must lock up their weapons without achieving their minimum goal of a republic, join as a minority party an interim parliamentary set-up of the type they had so trenchantly criticised and dissolve the “people’s governments” which many regard as the most concrete achievement of ten years of war. The leadership still believes that focusing on the constituent assembly as an interim step makes sense: a central committee member explained that the hope remains of establishing their own government in an unspecified future.<sup>142</sup> But this is a tough sell to local activists, especially if power in the villages has to be traded for legislative and ministerial berths for a select few.

The August-September 2006 central committee meeting addressed both broader policy issues and internal discipline. The leadership line on the talks was accepted after heated debate, and there was an admission that working methods needed much reform. The political report criticised lower-level leaders and cadres for using force to compensate for weakness in ideological and political campaigning.<sup>143</sup> The meeting also laid down a strict line on party discipline.<sup>144</sup> For now, despite some tensions between the leadership and the grass-roots, the

Maoists remain cohesive, with overall command and control throughout their movement.

The Maoist leadership has also been devoting attention to improving its international image and building relationships with key states. Their international department chief summarises policy priorities as neutralising Indian opposition, increasing ties with China and maintaining a critical stance towards the U.S.<sup>145</sup> Prachanda was at pains to praise India’s role in the transition during his first open visit to New Delhi on 18-19 November 2006.<sup>146</sup> He met Indian leaders – primarily former prime ministers, the current government being still not ready for formal contact – and announced that for the Maoists “India is no longer a reactionary state”.<sup>147</sup> His revelation that they had rejected help from Pakistani intelligence in 1997 was calculated to make press headlines.<sup>148</sup>

### C. THE PALACE

King Gyanendra was the main loser when his fragile direct rule crumbled. While he avoided total defeat and still commands the loyalty of some powerful friends, parliament’s many small cuts have eroded his dignity and influence. He has been comprehensively sidelined from public life and shorn of almost all ceremonial duties; even the sympathetic forces around the palace, including the army, seem to have lost faith in the monarchy as a political rallying point. While it is premature to predict the public verdict – the idea of the monarchy is still powerful even if the incumbent is unpopular – the chances of a major palace comeback have diminished.

On his few public appearances since April, Gyanendra has cut a lonely figure. Prime Minister Koirala and army chief Katwal did not accompany the king and queen at the *indra jatra* and *phulpati* festivals as they would have in the past. The king no longer gives assent to acts of parliament or receives ambassadors’ credentials; he has lost his role as supreme commander of the army and the CPA leaves even his position as head of state unclear. Nevertheless, the palace has tenaciously retained some levers of power. Despite cooler relations (each blaming the other for the fiasco of royal rule), the divorce of king and army has yet to be

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<sup>140</sup> The Maoists launched an anti-crime “Operation CC (crime control)”, detaining over 100 alleged criminals, 37 of whom were put on display, alongside stolen property and weapons, at a press conference. “Aparadh niyantran apareshan saphal”, Krishnasenonline.org, 21 October 2006. They also patrolled streets in the tourist hub of Thamel during the Tihar festival. Alok Tumbahangphey, “Red Road”, *Nepali Times*, 20-26 October 2006.

<sup>141</sup> Crisis Group interviews, Maoist district and regional level activists, Kathmandu, November 2006. Rabindra Shrestha, who left the Maoists in March 2006 after a dispute with Prachanda, has called on cadres to revolt against him and Bhattarai, whom he describes as traitors who betrayed the people’s war. Interview with Rabindra Shrestha, *Ghatana ra Bichar*, 29 November 2006.

<sup>142</sup> Crisis Group interview, Maoist central committee member, Kathmandu, November 2006.

<sup>143</sup> “Aitihāsik sambhavana ra aitihāsik chunauti”, CPN(M) central committee-approved document, *Sanshleshan*, September 2006.

<sup>144</sup> Crisis Group interview, Maoist central leader, Kathmandu, September 2006.

<sup>145</sup> Crisis Group interview, Kathmandu, September 2006.

<sup>146</sup> An invitation to speak at the *Hindustan Times* leadership summit had already suggested a receptive audience.

<sup>147</sup> “Prachanda declares: India is no longer a reactionary state”, *The Himalayan Times*, 18 November 2006.

<sup>148</sup> “Aaiesaaiko sahayog asvikar garyaun”, *Kantipur*, 20 November 2006.

implemented. Some public distancing is not the same as a real transfer of control to the government and, despite declarations, the palace military secretariat has not been disbanded.<sup>149</sup> The palace still directly commands the 3,000-strong royal guard, a sophisticated force that includes units such as a mortar company based outside the Narayanhiti complex.

The palace secretariat – the key centre of control under royal rule – is still intact despite parliament's announcement that it would be brought into the normal civil service and reduced. The press secretariat has regained the confidence to rebut controversial accusations.<sup>150</sup> At the CPA signing ceremony, Prime Minister Koirala and Prachanda both mentioned that there is still a rightist threat to democracy, implying the palace could try to undermine the deal.<sup>151</sup> One new group even threatened to launch a violent struggle to defend the king.<sup>152</sup> Such crude efforts are unlikely to attract much support, even from the palace, as long as the CPA process holds out hope of salvaging an acceptable compromise. This is the preferred option of Kathmandu's pro-monarchy elites, who do not want an end to the institution but lack the capacity to intervene directly on its behalf.

The king appears to be testing the situation; his advisors hope that problems with the peace process may yet give the palace openings to regain prestige. Gyanendra refused to respond to the Rayamajhi commission's written queries about his role in suppressing the April movement, and he has been consulting with his allies and restoring his information-gathering systems.<sup>153</sup> But he seems to have learned some subtlety and diplomacy. He publicly welcomed the CPA, even though it further curtailed his powers, saying he hoped "a prosperous

Nepal can now be built with the collective efforts of all the Nepalis".<sup>154</sup> Insiders explained that this move was proposed by the prime minister, who is willing to help the king restore the monarchy's image as long as he stays out of politics.<sup>155</sup>

#### D. CIVIL SOCIETY

Civil society was unified and important during the April movement but since then group and individual interests have diverged. Some have adopted a radical stance, pushing policies such as a republic; others have been drawn into the fringes of government, for example by appointments to the Rayamajhi commission and the ceasefire code of conduct national monitoring committee. The Maoists and NC(D) had proposed seats for civil society in the interim legislative, interim government and constituent assembly; all parties have used patronage to reward their civil society supporters.

The parties never enjoyed criticism by self-appointed civil society groups. While some civil society figures were quick to rebuild relations in hope of reward, others felt it all the more important to criticise government performance and act as a vocal watchdog. The Citizens' Movement for Democracy and Peace, the most prominent such group, played an important role paving the way for the April movement. However, its campaign for a republic and insistence on rapid implementation of agreements led intellectuals close to the SPA to accuse it of being soft on the Maoists, a charge its leaders deny.

There has also been a shift in the outlook of the mainstream media. Publishers had been forced by their journalists to take a strong line against the king after the royal coup, and the non-government press strongly supported the April movement. In its aftermath, publishers' and journalists' interests have converged: most are close to the mainstream parties and worry about the Maoists gaining too much power. The daily press has been quick to highlight Maoist misbehaviour, while some prominent publications have softened their line on the monarchy. The largest daily, *Kantipur*, criticised the Federation of Nepalese Journalists' decision to campaign for a democratic republic.<sup>156</sup>

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<sup>149</sup> "Sainik sachivalay ajhai sakriya", *Kantipur*, 7 September 2006. Principle Military Secretary Maj.-Gen. Gajendra Limbu still works at the palace and the government has not established a proposed royal security coordination unit in the Defence Ministry to replace the palace's own aide-de-camp office.

<sup>150</sup> The press secretariat promptly rebutted charges that Crown Prince Paras was involved in buying arms during a trip to Austria. "Yubarajko samlagnata chaina", *Kantipur*, 4 September 2006. An allegation that the British government paid the palace a royalty in return for Gurkha recruitment was similarly dealt with. "Palace denies malicious report", *People's Review*, 21 September 2006.

<sup>151</sup> "Comprehensive Peace Accord signed, armed insurgency declared officially over", nepalnews.com, 21 November 2006.

<sup>152</sup> The Nepal Janatantrik Party, formed in the far-west district of Kailali, has so far done little more than issue press releases. "Party to take up arms in king's support", *The Himalayan Times*, 16 October 2006.

<sup>153</sup> Crisis Group interview, palace source, Kathmandu, September 2006.

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<sup>154</sup> "King lauds treaty", *The Himalayan Times*, 23 November 2006.

<sup>155</sup> Crisis Group interview, NC central leader, Kathmandu, November 2006.

<sup>156</sup> "Patrakar mahasangh ganatantraka pakshama", *Kantipur*, 20 November 2006; "Peshako maryada" (editorial), *Kantipur*, 21 November 2006.

Despite these divisions and shifts, public opinion, much of it channelled through the media and representative groups, has been an important spur to both sides to make a success of the peace process. The direct influence exerted by protestors in April has died away but all parties know there will be a tough fight for constituent assembly votes: anyone considered an obstacle to peace is likely to pay a price at the ballot box.

## E. INTERNATIONAL COMMUNITY

Although differences of interest and emphasis persist, the international community has been broadly helpful during the difficult months of negotiation. India has retained its pre-eminent influence – all parties, especially the Maoists, are still keen to curry its favour – and can claim credit for having quietly helped shape the settlement framework. The U.S. has found it difficult to revise its assessment that any solution other than reunion of the palace and parties to combat the Maoists invites disaster but has vocally supported the peace process while maintaining strong public pressure on the Maoists to change behaviour. China, long seen as favouring the palace, adjusted rapidly to build links with the Maoists and keep options open.<sup>157</sup> Others, primarily Nepal's development partners, offered moral support but were careful not to intervene in the negotiations.<sup>158</sup> All have supported the UN role.

The April movement was a success for India's cautious engagement with the Maoists and facilitation of their November 2005 deal with the mainstream parties. India's approach had been informed by two considerations: that the military situation made a political solution more urgent; and that Gyanendra could not be trusted and had to be taught a lesson, if need be by using the Maoists. This policy shift was not without risks: it was hard to sell in New Delhi and never convinced the U.S. Nevertheless, the hope that Nepal's Maoists joining the mainstream could also send a lesson

to their Indian counterparts made it a worthwhile gambit.<sup>159</sup>

Success brought its own problems. With Gyanendra moved aside, there was domestic concern about the Maoists and much more critical questioning of engagement with them. The government's apparent weakness in acceding to Maoist demands in the eight-point agreement added to such concerns.<sup>160</sup> Indian policy reportedly compensated for the dangers of a seemingly weak government by ensuring that the army remained untouched as a last line of leverage with the Maoists.<sup>161</sup> But the public line simply stayed with the "course correction" that then-Foreign Secretary Shyam Saran had issued following the rejection of the king's first proclamation on 22 April, when he emphasised that Nepal's political future "is really for the people of Nepal to decide.... We have been and continue to be firmly on the side of democratic forces in Nepal. There should be no ambiguity about that".<sup>162</sup>

New Delhi remained publicly cool to the Maoists. Although there were frequent, discreet lower-level contacts, there has been only one acknowledged meeting between Maoist leaders and Ambassador Shiv Shankar Mukherjee.<sup>163</sup> Indian ministers are unlikely to engage with them formally until the arms issue is settled and the interim government established.<sup>164</sup> Despite their underlying differences in analysis, the U.S.'s sustained pressure on the Maoists has been helpful to India, which

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<sup>157</sup> Maoist leaders Dev Gurung, Ananta and Dinanath Sharma attended a party hosted by the Nepal-China Society, a Chinese embassy-funded NGO, on 21 September 2006 and chatted over cocktails with Chinese diplomats, including the ambassador; a senior diplomat commented positively on them to journalists, *Kantipur TV* news bulletin, 22 September 2006. Prachanda had a first official meeting with Chinese diplomats but a Chinese communist party delegation in late November met only SPA leaders.

<sup>158</sup> See, "Int'l community should not impose ideas on Nepal peace process: Hall", *The Kathmandu Post*, 21 October 2006.

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<sup>159</sup> This suggestion was not new. See S.D. Muni, *Maoist Insurgency in Nepal: The Challenge and the Response* (New Delhi, 2003), p. 67.

<sup>160</sup> Crisis Group interviews, New Delhi, July–October 2006.

<sup>161</sup> Nepali Congress sources suggest India advised Koirala not to move against senior army officers and to postpone reform of the institution. Crisis Group interviews, Kathmandu, September 2006. Commentators suspected fraternal relations with the Indian Army would have been jeopardised had the government pursued significant restructuring. C.K. Lal, "Shanti sansthaगत गर्ने चुनाउती", *Himal Khabarpatrika*, 18 October 2006.

<sup>162</sup> "Press Briefing by Foreign Secretary Shri Shyam Saran on Nepal", Ministry of External Affairs, New Delhi, 22 April 2006. See Crisis Group Report, *From People Power to Peace*, op. cit. for an explanation of the context of this statement.

<sup>163</sup> This took place at the Indian Embassy on 31 October 2006.

<sup>164</sup> India has signalled its softening stance. In August, eleven mid-level Maoists leaders and cadres who had been detained in Patna for two years were released; two top leaders, C.P. Gajurel (Gaurav) and Mohan Baidya (Kiran), who had been arrested in 2003 and 2004 respectively, were set free on 1 December.

does not have major differences with Washington over the desirability of early full disarmament.<sup>165</sup>

## VI. THE ROAD AHEAD

### A. WILL IT WORK?

#### 1. Overambitious timetable

The agreement is a solid basis for a lasting deal; its negotiation in the face of many obstacles demonstrates political will and aptitude. That said, the issues yet to be tackled are challenging and can still derail the process. Likely, deadlines will continue to be missed. That is not necessarily disastrous: ambitious timeframes have spurred talks, and slight slippage will not unduly upset the parties or the public. The crucial date is for constituent assembly elections. If the June 2007 target is missed, the next suitable opening will be after the monsoon and holidays, in November – a gap that could prompt disillusionment or misbehaviour from disgruntled parties.

Although the elections seem a long way off, especially to negotiators engaged in complex talks, immediate steps are required to make them viable. The Election Commission has been able to make some preparations but can only proceed with firm plans once a new electoral law and associated regulations are in place. These have to be passed by the interim legislature – something that can only happen once an interim government is in place and with it agreement on appointments to crucial ministries and administrative positions. There should ideally be restored rule of law and an open environment for campaigning and public education months in advance of the polls. Even if the priority of peace encourages tolerance of less than ideal conditions – something that international observers may make difficult<sup>166</sup> – there will need to be solid agreement on basic issues such as policing.

One spur to quick progress is the prime minister's poor health. At 84, Girija Prasad Koirala is acutely aware that he may not have the strength to guide the process for much longer. His age has made him physically frail but his seniority – he is a generation older than most other political leaders, including the king – has made it easier for the Maoists and rival SPA parties to accept

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<sup>165</sup> U.S. Ambassador James F. Moriarty had consistently argued that the Maoists should not be allowed into government without disarming. "Don't Include Maoists in Interim Govt Till They Disarm: Moriarty", *The Himalayan Times*, 30 July 2006. He has been quick to criticise bad behaviour, warning that "the US stance on the Maoists would only change after seeing and observing their activities". "Moriarty says Maoists not committed to agreement", nepalnews.com, 1 December 2006.

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<sup>166</sup> The UN will monitor the constituent assembly election. The government and Maoists have also invited the Carter Center to observe the polls; it is to send ten long-term international observers and an additional 40 observers for the polls themselves. "Carter Center to observe CA polls", ekantipur.com, 23 November 2006. The European Union has also offered to assist in monitoring. "EU pledges development assistance", *The Rising Nepal*, 18 November 2006.

his leadership. The end of his active political life will spark power struggles within the NC, the SPA and the SPA-Maoist combine. This is one of the most pressing threats to the peace process.

## 2. Keeping the process on track

Problems with the negotiation process itself beset the talks until they resumed at the end of September 2006. Instead of solid, mutually agreed structures to engage and resolve day-to-day tensions, the process was heavily dependent on personal relations between a handful of top leaders and suffered badly when they disagreed. For example, from 9 August to 17 September, Koirala and Prachanda did not even speak on the phone, jeopardising the entire process.<sup>167</sup> The talks were opaque and exclusive – necessarily so at times, but not always inspiring public confidence. There was more quiet facilitation and technical support than in past efforts but structure still appeared occasionally lacking.

Following the signing of the CPA, some of these problems look less threatening. “The communication gap ... isn't an issue any more”, said a figure involved in the November negotiations. “There are now good working relationships between plenty of people at different levels on both sides; they talk openly, stay in touch and generally get on well – so it's unlikely there'll be a breakdown there”.<sup>168</sup> Nevertheless, it is important to keep some focus on the factors necessary to keep talks on track through the difficult stages to come.

Mutual trust has improved but could still be fragile, especially if external events buffet the negotiations. As contentious topics move up the agenda, more confidence will be needed. This is particularly true for a final deal on arms and armies, since neither side has been chastened by defeat. It is likely that the UN will be drawn into an informal facilitation role in some areas, which could help stabilise the process but brings risks as it has no mandate for facilitation or mediation. Public pressure helped focus attention on the need for success but mutual confidence in a process that is strong enough to ride out inevitable ups and downs is more important.

## 3. Potential spoilers

The momentum of a successful process backed by solid public support is the best guard against spoilers who are unhappy with the direction of the talks. To a large extent, the CPA has provided such momentum. Although some powerful lobbies are deeply suspicious of compromises with the Maoists, there is no evidence of a viable effort to derail the process. The Nepalese Army, understandably worried about Maoist intentions and its own future, remains in “wait and watch” mode – not yet an enthusiastic partner but not a determined opponent. Royalists are upset by the king's humiliation and concerned about the future but, so far, lack the will and support to oppose developments.

The biggest hopes and risks still attach to the negotiating parties themselves. The success of the talks so far has boosted those on each side who argued for a negotiated settlement but there remain those within the mainstream parties and the Maoists who are not yet convinced that other options can – or should – be closed. Unity and discipline, especially within the Maoist movement (whose cadres have more potential to disrupt the process if they break with their leaders), will be crucial.

Finally there is a risk of the next stages being destabilised by external factors. There are still armed splinter groups outside the process, such as the Janatantrik Tarai Mukti Morcha (JTMM), a faction of former Maoists fighting for Tarai regional rights. It has mainly targeted the Maoists, who have declared “war” against it in return.<sup>169</sup> For now, it is small, localised and too weak to disrupt the wider process; the same goes for other independent ethnic, religious or royalist fronts which exist more in name than in practice. But if the process founders and powerful backers choose to boost such groups, they could cause real problems, however limited their political base. In such circumstances, disaffection among Maoist cadres could also trigger a return to wider conflict, with or without their leaders' approval.

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<sup>167</sup> Bhojraj Bhat, “Hatiyarmai aljhiyo varta”, *Nepal*, 24 September 2006.

<sup>168</sup> Crisis Group interview, Kathmandu, November 2006.

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<sup>169</sup> When JTMM killed two Maoists cadres in Saptari, Maoist leader Matrika Yadav declared war against it at a press conference on 17 July 2006 in Rajbiraj. “Maoists Declare War Against Breakaway Faction”, *The Himalayan Times*, 18 July 2006. The most recent exchange of fire was in Saptari on 18 October 2006. Dilli Ram Khatriwada, “Maoists, JTMM trade fire”, *The Kathmandu Post*, 19 October 2006. The JTMM has also targeted other hill-origin people, including mainstream party workers.

## **B. FROM ARMS MANAGEMENT TO DEMILITARISATION**

### **1. Implementing the arms management agreement**

The Agreement on Monitoring of the Management of Arms and Armies was signed on 28 November and witnessed by the UN.<sup>170</sup> It had already been agreed in early November that the Maoist fighters would be cantoned with their weapons under a UN-supervised single-lock system;<sup>171</sup> the Nepalese Army would reciprocate by restricting all but essential activities and keeping a similar number of arms locked under a parallel system. This framework was hard to achieve, and the full deal required intensive bargaining, partly because the UN's need for a specific mandate necessitated a document without the ambiguities and deferrals common to the other peace deals.

Practical progress has been quick on some fronts. The Maoists had in effect started the cantonment process immediately after the April movement, largely because the ceasefire rendered the PLA the least important of their wings. Preparing for cantonment was a relatively cost-free way to signal goodwill and distract attention from the lingering issue of their separate local militias while starting to argue that the government should contribute to the force's upkeep. Since the agreement was signed, they have set up a committee to manage the cantonment process; reports indicate that Maoist fighters assembled quickly in the designated areas, although their first task is to create their own shelters as little infrastructure is in place.

Once the arms management agreement was reached, the government was quick to make a first tranche of funds available; it also formed a cantonment coordination office, headed by Joint Secretary Sushil Jung Bahadur Rana, and announced plans to establish camp management committees for each of the seven main cantonments. Indeed, there is already a profusion of committees; at the central level, a direction committee under the prime minister and an implementation committee under the chief secretary are also meant to

assist PLA camp management, on top of which the government has separately formed a PLA cantonment management committee under Home Minister Krishna Sitaula, with a technical committee to assist it.<sup>172</sup>

The UN has a critical role in monitoring arms and armies and has already moved quickly to put mechanisms in place. In a rapid response to a request from the Secretary-General, the Security Council authorised immediate deployment of 60 new personnel (35 for arms monitoring, 25 to support the electoral process) as well as an assessment team to recommend how to establish a full mission.

### **2. Possible problems**

This rapid progress does not in itself remove all difficulties. The UN's task of registering Maoist fighters will be far from straightforward. As well as verifying identities, monitors are expected to weed out recent recruits (in order to boost their numbers the Maoists have cajoled and forced many to join during the peace talks) and the under-aged. The limited number of monitors will have little capacity for independent verification, and the Maoists will push them to accept their own records. Registering weapons will be more straightforward and also one of the more measurable tests of Maoist commitment, as the army and police will be able to compare the numbers handed in with what they know the Maoists seized from them.

Assuming these issues can be addressed – and they likely will be, with some fudging – the main question will be what the PLA does inside the cantonments, how it is provided for and how disaffection can be avoided if the process slows. Practical difficulties have already been suggested by a reported outbreak of illness affecting 100 fighters in one camp. Maoist commanders complained the camp lacked basic infrastructure, including a water supply, and that the initial government funds covered only two weeks' expenses.<sup>173</sup> If CA elections are delayed, there will be far greater problems during the monsoon, with attendant risk of illness. Even if elections go ahead on time, dismantling the camps

<sup>170</sup> Following some technical revisions by UN lawyers in New York, Ian Martin signed the agreement on behalf of the UN on 8 December.

<sup>171</sup> The summit had settled on the locations for camps: Kailali, Surkhet, Rolpa, Palpa, Kavre, Sindhuli and Ilam; Palpa and Kavre were later changed to Nawalparasi and Chitwan. These seven districts will host divisional headquarters; three brigades will be positioned within two hours' drive of each main cantonment, giving a total of 28 camps.

<sup>172</sup> "Govt provides Rs 70m to Maoists for management of cantonments", nepalnews.com, 23 November 2006. The technical committee formed on 6 December 2006 includes Nawaraj Khatri, Ram Chandra Poudel, Surya Bhakta and Sharad Shrestha representing the government and Chandra Khanal (Baldev), Lok Bahadur Raut, Jagat Shrestha and Laxmi Devkota from the Maoists. "Prabidhik samittee gathan", *Kantipur*, 7 December 2006.

<sup>173</sup> Ramesh Chandra Adhikari, "Hundreds of Maoists fall sick in camp", *The Kathmandu Post*, 8 December 2006.

can only take place when the future of their occupants has been decided.

The government army also has challenges, although the practicalities of registering its troops and weapons and accommodating them satisfactorily should be less of a problem. Like the Maoists, it has already started showing goodwill, for example by mapping the landmines it planted to protect bases,<sup>174</sup> but it still has some way to go to show that it is under government control. Despite having agreed to a freeze and being ordered by the government to stop, it has been recruiting.<sup>175</sup> It says it is only filling some 4,000 vacant slots but such behaviour could cause friction and points to the continuing weakness of democratic controls. Misunderstandings are also likely to arise while it carries out the essential duties agreed to under the peace deal. As noted, the Maoists held eleven army vehicles for two hours in November on suspicion of carrying weapons, releasing them after negotiations.<sup>176</sup> Army headquarters warned that the Maoists would be held responsible for any interference with military activities.<sup>177</sup>

None of these problems is insurmountable. Overcoming them requires continued political will, astute management (including by the UN and national monitors) and further confidence building. However, the management of arms is only a small part of the big picture. In early November, Maoist cadres in Pokhara asked their chairman: "What should we do if the enemy attacks us after we lock up our weapons?" Prachanda responded: "The keys will be with us. If that situation arises, pick up your guns and fight".<sup>178</sup> Making sure such a situation does not arise will require more than just fulfilling the terms of the arms management agreement.

### 3. Towards demilitarisation

The limited management of weapons and soldiers is well short of full Maoist disarmament or reorientation of the state security sector to peacetime. The focus on arms and armies also tends to obscure the broader challenge of demilitarisation. Building a stable peace demands more than taking guns out of people's hands –

it also needs to take them out of politics. There is a long way to go on both the Maoist and state side.

The longer-term challenge in demilitarising the Maoists is that armed action is an integral part of their political culture and strategy. Even if they can conform to normal democratic behaviour, it will be hard to make a permanent change in their worldview – especially in a way that does not prompt splits or serious indiscipline. For this, management of weapons is marginal. The Maoists have built themselves into a force to be reckoned with despite having only a fraction of the arms available to the state.<sup>179</sup> They started with only two rifles and could restock without too much difficulty should they choose even after full disarmament.

In the short term, the Maoists will likely retain the capacity to intimidate even if they abide by the arms management deal. They are still an organised force with a known capacity for violence. That their frontline fighters are temporarily in camps does not mean that people will be free from fear. If their command structure and country-wide discipline remain intact they can be a formidable force even if armed only with sticks and knives.

Demilitarisation will also be difficult for the state. Despite some preliminary moves, real military reform has yet to start.<sup>180</sup> Democratic control depends on more determined political will and persuading the army that it must readjust its institutional culture. If peace lasts, Nepal will be burdened with a seriously oversized security sector: initial discussions about bringing it to manageable levels and reshaping it to be more efficient are urgently needed.

Most importantly, only a viable final deal on security arrangements will give the Maoists confidence to sacrifice their independent military capacity and a proposition they can sell to their armed cadres. The interim government is to form a special committee to plan the merger of two armies. According to Maoist military commander Ananta, this committee will be tasked with democratising the NA and professionalising the PLA.<sup>181</sup> However there is still a large gap between

<sup>174</sup> "Senalai aaphnai bamko sanaso", *Jana Aastha*, 6 December 2006.

<sup>175</sup> The current strength of the Nepalese Army is around 93,000. "Senama pheri bharna", *Kantipur*, 15 November 2006.

<sup>176</sup> This incident took place on 2 November in Paurahi, Rautahat district. "Senaka gadi dedh ghanta maobadi niyantranma", *Nepal Samacharpatra*, 3 November 2006.

<sup>177</sup> "Maobadilai senako chetawani", *Drishiti*, 7 November 2006.

<sup>178</sup> "Rajnitik mudda suljhiyo", *Kantipur*, 6 November 2006.

<sup>179</sup> The Maoists have captured around 3,000 weapons from state security forces and have probably made and bought a similar number: in total, they may have 6,000–7,000 weapons. Crisis Group interviews, army and Maoist sources, Kathmandu, September–October 2006. See Crisis Group Report *Nepal's Maoists*, op. cit. for detailed estimates.

<sup>180</sup> Reform of the army will be the subject of a subsequent Crisis Group report.

<sup>181</sup> Interview with Ananta, *Janadesh*, 21 November 2006.

the sides' thinking, and there will be great resistance in the NA to accept more than token numbers of ex-Maoist fighters or many changes in a structure it argues is already professional and loyal.

### C. RULE OF LAW AND DEMOCRATIC SPACE

The major challenge in making the peace process work and paving the way for viable elections will be re-establishing rule of law and democratic space across the country. This is also where the CPA is most vague, leaving many crucial steps to be decided by "understanding" between the parties.<sup>182</sup> Apart from their arms, which are now out of the front line, the Maoists' grip on much of the countryside is their strongest card. They are unwilling to surrender control that guarantees them continued influence and the chance to push their policies at local level. The mainstream parties insist their national organisations remain in good shape despite institutional absence from much of the country for several years and lingering dissatisfaction with their earlier record in power. But they have yet to push the Maoists hard on ensuring access to areas which they had been forced to abandon during the conflict.

The almost complete lack of policing in the post-April period – in major cities as well as rural areas – illustrates the difficulties ahead. Although the CPA states clearly that the Nepal Police is the legitimate law-enforcing body and will be allowed to operate without hindrance,<sup>183</sup> the Maoists have not welcomed the re-establishment of posts where they hold sway. Their behaviour suggests they will seek to negotiate each case individually and seek compensatory benefits. Proposed local peace councils could be a means of building trust and power-sharing mechanisms; they are backed by the government's Peace Secretariat (which has had little role in the talks other than channelling some technical advice) and some donors.<sup>184</sup> However their rationale is

sketchy and their possible effectiveness, as well as the interests they represent, would be dependent on the same dynamics as any other local bodies.

Maoist strategy continues to be in contradiction with their commitment to mainstream politics. Even if the formation of an interim government goes ahead smoothly and the Maoists join as a political party, they will retain the idea of representing their "new regime". They have plans to continue their policies as far as possible, for example by reorganising the judiciary and bureaucracy from within the interim government.<sup>185</sup> The "people's governments" will only be dissolved once the interim legislature is in place; even then the plan is to keep shadow institutions in place by converting these bodies (which, however, still exist more in concept than daily administrative reality) into regional fronts.

Change in Maoist policies depends not so much on an improbable change of heart over strategy as on the democratic parties showing more resolve in implementing the CPA. The parties remain top-heavy and focused on politics in the capital. They have not used the end of royal rule to move back into the villages. This may be partly due to Maoist obstruction, although central party leaders do not generally complain of this,<sup>186</sup> but seems to reflect more a lack of will. There is also a problem of partisan interest: the UML had pushed to reinstate the old local bodies because it was the largest party in them; Congress and other parties have sidelined this for the same reason. Civil servants theoretically run administrations but in practice there is little government presence in the villages.<sup>187</sup>

For ordinary citizens the picture is mixed. The end of all-out hostilities has brought relief and a renewed sense of security but much has yet to change. The CPA agreed to accelerate the process of returning houses, land and property confiscated by the Maoists but there has not yet been much delivery. The two sides have also vowed to create an environment for IDPs to return home, partly through bipartite district committees. The

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<sup>182</sup> The CPA leaves many matters to be decided by "understanding" or "mutual consensus". It commits both sides "to take individual and collective responsibility of resolving, with also the support of all political parties, civil society and local institutions, any problems arising in the aforementioned context on the basis of mutual consensus", CPA, Article 5.2.9. The 8 November summit understanding had many similar provisions.

<sup>183</sup> The accord states (Article 5.1.6): "Nepal Police and Armed Police Force shall give continuity to the task of maintaining [the] legal system and law and order along with criminal investigation".

<sup>184</sup> Crisis Group interviews, donor agencies, Kathmandu, December 2006.

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<sup>185</sup> Baburam Bhattarai, "Shanti vartaka chunautiharu", *Sanshleshan*, 20 August 2006.

<sup>186</sup> In one case, Maoists reportedly used violence to obstruct a planned UML meeting in mid-western Dailekh district. "Maoists explode bomb to terrorize UML activists", *nepalnews.com*, 20 November 2006.

<sup>187</sup> A nationwide survey by the UN Office for the Coordination of Humanitarian Affairs in July found that 68 per cent of Village Development Committee Secretaries were still displaced from their villages. "OCHA Nepal Situation Overview", Kathmandu, 11 August 2006. Available at the UN Nepal Information Platform, <http://www.un.org.np/>.



CPA target of completing this process within one month is unrealistic; the UN is so concerned that it has launched a special inter-agency campaign to address the issue.<sup>188</sup>

#### D. PEACE AND JUSTICE?

Nepal faces sometimes competing imperatives of peace and justice. So far, attention has been given to the former, while plans to address accountability for crimes committed during the war remain vague and lack political momentum. The government took prompt steps to investigate possible abuses by the state against protestors in the April movement but follow-up has been limited. Neither the government nor the Maoists has shown any great appetite to pursue those responsible for the more significant violations over the course of the conflict. The peace deal promises a truth and reconciliation commission but its viability and public acceptability are yet to be explored.

The zeal with which the government pursued security officials accused of abuses in April was undermined by a piecemeal and partial approach. The police and intelligence chiefs were rapidly suspended and then permanently relieved of commands.<sup>189</sup> However, the government was pressured not to suspend the army chief, Pyar Jung Thapa, although the army acknowledged it controlled all security forces during April under the Unified Command system.<sup>190</sup> Second-rank officers in the regular and armed police appeared to be judged by their connections rather than their actions: The deputy chief of the armed force, Ravi Raj Thapa, was suspended despite the fact that he was in charge of human resources and not part of the command chain; Basudev Oli, who was responsible for operations, was promoted to become the new chief.<sup>191</sup> Attempts to deal

with the security forces' political masters got off to a similarly inauspicious start, as former royal ministers were detained without charge, then freed by the courts.<sup>192</sup>

Nepal has a mixed experience with transitional justice. In the wake of the 1990 democracy movement, a judicial commission under former Supreme Court Justice Mallik recommended action against those responsible for abuses but none was taken. This enabled a smooth transition and probably encouraged figures from the old regime not to spoil the democratic elections; however, some key officials and politicians criticised by the Mallik Commission in 1990 resurfaced to reprise their role in April 2006.<sup>193</sup>

In May 2006, the government formed a similar High-Level Probe Commission (HLPC), under former Supreme Court Judge Krishna Jung Rayamajhi, to investigate abuses of state power and funds since the royal coup of February 2005. It submitted a 1,400-page report on 20 November 2006 recommending action against 202 people including King Gyanendra and his cabinet (a minority report complained that the king had been let off lightly).<sup>194</sup>

A five-member cabinet committee under Deputy Prime Minister K.P. Oli will suggest how to implement that report.<sup>195</sup> Signs are that Prime Minister Koirala would prefer a quiet compromise to an acrimonious pursuit of high-profile targets.<sup>196</sup> Fearing this, MPs from various

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areas but convinced Sitaula they had been victimised because of their democratic convictions. Biswamani Pokhrel, "Bhagaudalai swagat", *Samaya*, 24 August 2006.

<sup>192</sup> The government detained former royal ministers Kamal Thapa, Ramesh Nath Pandey, Shrish Shamsher Rana and Nikshya Shamsher Rana under the Public Security Act in May 2006. The Supreme Court released them after three weeks, observing that there were no real cases against them, and their arrests appeared to have been politically motivated.

<sup>193</sup> See Crisis Group Report, *Electing Chaos*, op. cit.

<sup>194</sup> Two commission members, Ram Kumar Shrestha and Kiran Shrestha, dissented, dissatisfied that it did not recommend strong action against the king despite finding him directly involved in suppressing the April movement. Crisis Group interview, HLPC source, Kathmandu, November 2006. The HLPC heard evidence from 294 people, including security officials, civil servants, royal ministers and palace officials. Only the king, questioned in his role as then head of government, refused to cooperate.

<sup>195</sup> Other members of the committee, formed on 27 November 2006, are Krishna Sitaula, Gopal Man Shrestha, Hridayesh Tripathi and Narendra Bikram Nembang.

<sup>196</sup> Koirala rejected the recommendation to suspend the army chief. He also visited the palace to smooth feathers ruffled when Rayamajhi summoned the king's principal secretary, Pashupati Bhakta Maharjan, to testify on 31 August 2006.

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<sup>188</sup> "Presidential statement expresses support for political mission to monitor arms, elections; advance deployment of essential personnel", UN Security Council, 1 December 2006, available at <http://www.un.org.np>.

<sup>189</sup> The police chief, Shyam Bhakta Thapa, and the armed police chief, Sahabir Thapa, were transferred to the Home Ministry as "special officers" after three-month suspensions; The National Investigation Department chief, Deviram Sharma, retired. Om Bikram Rana is the new police chief; Dhana Singh Karki replaced Sharma.

<sup>190</sup> The Unified Command put the army in operational control of the civil police, armed police and national intelligence agency; its dissolution was announced after the April movement.

<sup>191</sup> Home Minister Sitaula's 17 July decision to reinstate 53 police sub-inspectors was also controversial. They had been dismissed four years earlier for refusing to serve in conflict

parties have pressed the government to publish the report and act promptly on its recommendations.<sup>197</sup> Oli has insisted that “the Rayamajhi panel’s report will not face the same fate [as the Mallik report]” but has remained non-committal on the form of any follow-up action;<sup>198</sup> his committee did not meet for more than a week after its formation.

It is unclear how the Truth and Reconciliation Commission proposed in the CPA will function. In the absence of serious public debate, its suitability is unproven. It is almost certain that any legal measures will be decided and implemented domestically, without recourse to international justice mechanisms. But there may still be a role for international technical assistance, and international rights organisations will keep up pressure for accountability.<sup>199</sup> Meanwhile, for relatives of victims, especially families whose breadwinners were killed or disappeared, financial compensation and security are probably as important as justice and psychological closure.

## VII. CONCLUSION

Nepal’s peace agreement reflects determined leadership and much hard-headed political necessity: neither the SPA nor the Maoists had attractive alternatives to making the talks work. Although their goals remain very different, there is a much more solid convergence of interests than in earlier, failed efforts to reach a negotiated settlement.

The collapse of the 2003 negotiations paved the way for the king to sideline the mainstream parties, and they are now more aware that their popular legitimacy and grip on power is largely dependent on delivering peace. The Maoists have not abandoned their ideology, admitted defeat or abandoned the possibility of reverting to armed insurgency. However, they have little to gain through further military action and probably see mainstream politics as a more profitable route, as long as it affords them a serious share of power at the centre and the chance to retain local influence and achieve their goals.

Making the agreement work means building on these shared interests and ensuring that progress limits room for spoilers to undermine the process. In practice this translates into managing successful elections and then delivering a stable, long-term settlement through the constituent assembly. The first task requires serious preparation: free and fair polls will only be possible if the resolution of outstanding issues leads to a rapid restoration of democratic space and government across the country.

The election of the constituent assembly will not in itself guarantee smooth functioning, especially if there is deadlock on important topics, but it will provide a clear popular mandate, the crucial element that has been absent from national politics since 2002. Once elected, the CA will present new challenges; depending on the balance of power and willingness of the parties to cooperate these may be more intractable than the threshold issues. Public pressure for peace and economic progress will remain the best incentive for all parties to deliver a lasting solution.

**Kathmandu/Brussels, 15 December 2006**

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Crisis Group interview, cabinet minister, Kathmandu, September 2006. Maharjan met the prime minister again immediately before the king refused to respond to questions, leading some to suspect his non-cooperation had the prime minister’s blessing.

<sup>197</sup> “Implement Rayamajhi Commission report, MPs tell govt”, nepalnews.com, 7 December 2006.

<sup>198</sup> “Interview with DPM K.P. Oli”, ekantipur.com, 7 December 2006.

<sup>199</sup> Human Rights Watch has pointed out that the CPA makes no mention of the judicial or penal measures that will be used to enforce accountability. “Nepal: After Peace Agreement, Time for Justice: Army, Maoists Must Account for Killings, ‘Disappearances’”, Human Rights Watch, New York, 1 December 2006.

## APPENDIX A

### MAP OF NEPAL



## APPENDIX B

### CHRONOLOGY OF THE PEACE PROCESS

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#### 2001

27 July: Government and Maoists declare ceasefire and announce negotiations.

13-14 September: At second round of talks Maoists submit 31 demands including constituent assembly.

23 November: Following deadlock in third talks, Maoists end ceasefire and attack the army.

26 November: Government declares nationwide state of emergency and mobilises army for the first time.

#### 2002

22 May: Prime Minister Sher Bahadur Deuba dissolves parliament for fresh elections after dispute with party president Girija Prasad Koirala over extending state of emergency.

4 October: King Gyanendra dismisses Prime Minister Deuba; assumes executive power.

11 October: King appoints RPP leader Lokendra Bahadur Chand prime minister.

#### 2003

29 January: Bilateral ceasefire announced; government appoints Narayan Singh Pun as talks coordinator; Maoists announce five-member talks team under Baburam Bhattarai (1 February).

April-May: Government reshuffles negotiation team; two rounds of talks make no substantive progress.

5 July: NC, UML, NSP, Janamorcha Nepal and NWPP sign eighteen-point agreement in first alliance against royal rule.

30 May: Prime Minister Chand resigns; king appoints Surya Bahadur Thapa prime minister (4 June); he forms new talks team (12 June).

July-August: Disagreement over constituent assembly at third round of talks; army kills nineteen unarmed Maoists in Doramba, Ramechhap; Maoists pull out of talks and end ceasefire (27 August).

#### 2004

7 May: Prime Minister Thapa resigns; King reappoints Sher Bahadur Deuba prime minister (2 June); he forms coalition government.

#### 2005

1 January: King dismisses Prime Minister Deuba in coup restoring direct palace rule.

April: Secret NC-Maoist talks start in New Delhi.

10 April: Government signs agreement with UNOHCHR for Nepal office (established in May 2005).

8 May: NC, NC(D), UML, Janamorcha Nepal, NWPP, ULF and NSP form Seven-Party Alliance (SPA).

10-15 July: UN Special Advisor Lakhdar Brahimi visits Nepal and later holds talks with New Delhi (September).

3 September: After progress in semi-secret talks with SPA, Maoists announce three-month unilateral ceasefire; royal government refuses to reciprocate.

19 October: SPA formally initiates talks with Maoists.

22 November: SPA and Maoists sign twelve-point agreement as basis for joint movement against the king to establish "total democracy".

28 November: Prachanda announces CPN(M) central committee meeting has endorsed joint movement with SPA.

2 December: Maoists extend unilateral ceasefire by one month; government again does not reciprocate.

#### 2006

January: Maoists end four-month ceasefire with numerous attacks across country.

8 February: Government holds municipal elections; SPA and most other parties boycott.

5 April: SPA general strike and Maoist blockades launched; start of "people's movement".

6-24 April: Movement continues with growing public support, clashes between police and protesters and mass defiance of curfews; king's offer to appoint SPA prime minister rejected (21 April); King surrenders power and reinstates parliament (24 April).

25 April: Maoists call to continue the movement greeted with public indifference.

26 April: Maoists announce three-month unilateral ceasefire.

30 April: Girija Prasad Koirala takes oath as prime minister; formally invites Maoists for talks.

3 May: Government announces indefinite ceasefire; withdraws "terrorist" tag and arrest warrants against Maoists leaders.

13 May: CPN(M) announces its central committee has approved ten-point roadmap for peace talks.

18 May: Parliamentary proclamation asserts sovereignty and curtails king's powers.

26 May: Government and Maoists sign 25-point ceasefire code of conduct.

16 June: Prachanda's first public appearance in Kathmandu at meeting with SPA leaders to sign eight-point agreement (to dissolve parliament, form interim government and invite UN to monitor arms); form interim constitution drafting committee (which submitted incomplete draft on 24 August).

Late June: dissatisfaction within SPA over promise to dissolve parliament.

2 July: Government writes unilaterally to UN S-G Kofi Annan proposing decommissioning of Maoist arms.

12 July: Government announces \$2 billion budget for fiscal year 2006–2007.

24 July: Maoists write separately to UN protesting reference to "decommissioning"; serious loss of trust between government and Maoists.

27 July-3 August: UN assessment mission visits Nepal.

28 July: Maoists extend ceasefire for three months.

9 August: Government and Maoists agree parallel five-point letters to UN requesting monitoring of arms and elections.

27 August-2 September: CPN(M) central committee conditionally endorses talks and forms ten-member high-level talks team under Prachanda but also prepares fallback plan for resumed struggle.

13 September: Maoists call, then lift, nationwide shutdown amid rumours army is transporting Indian arms to Kathmandu.

25 August: UN Secretary-General appoints Ian Martin as his Personal Representative to the peace process.

28 September: Parliament passes Army Act increasing democratic control.

Late September: more than a dozen private meetings between Koirala, Prachanda and close aides puts talks back on track.

8, 10, 12 & 15 October: SPA-Maoist summit meetings announce constituent assembly election date of June 2007 but fail to agree other issues.

29 October: Maoists extend ceasefire for three months.

31 October: Indian Ambassador Shiv Shankar Mukherjee holds first meeting with Maoist leaders.

8 November: SPA-Maoist summit meeting produces signed peace understanding; resolves some disputes over arms management and interim institutions.

20 November: Rayamajhi Commission submits report recommending action against 202 people including King Gyanendra; government forms implementation committee (27 November).

21 November: Government and Maoists sign Comprehensive Peace Agreement formally declaring end to the war.

28 November: Government and Maoists sign Agreement on Monitoring of the Management of Arms and Armies, witnessed by UN.

1 December: UN Security Council welcomes CPA, approves initial deployment of monitors and sends full assessment mission; deadline for formation of interim government missed.

## APPENDIX C

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with nearly 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group'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, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group 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 Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC (where it is based as a legal entity), New York, London and Moscow. The organisation currently operates thirteen field offices (in Amman, Bishkek, Bogotá, Cairo, Dakar, Dushanbe, Islamabad, Jakarta, Kabul, Nairobi, Pristina, Seoul and Tbilisi), with analysts working in over 50 crisis-affected countries and territories across four continents. In Africa, this includes Angola, Burundi, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Liberia, Rwanda, the Sahel region, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia,

Afghanistan, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Myanmar/Burma, Nepal, North Korea, Pakistan, Sri Lanka, Tajikistan, Turkmenistan and Uzbekistan; in Europe, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Kosovo, Macedonia, Moldova, Montenegro and Serbia; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia, the Andean region and Haiti.

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**November 2006**

## APPENDIX D

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