



Australian Government
Refugee Review Tribunal

Country Advice

Nepal

Nepal – NPL38217 – Maoists – Young Communist League – Nepali Congress Party – Police – Jhakribash – Bakachol – Khotang
28 March 2011

1. Please provide information on the background, philosophy and history of the Maoists generally and their establishment and activities in Nepal, and in particular in Bakachol-9, Khotang, Nepal, and in particular Jhakribash.

An RRT country advice dated 24 August 2010 provides background information on the Communist Party of Nepal (Maoist), including details of its establishment, aims and history.¹ An earlier research response dated 31 March 2008 includes information on the Maoist movement in Nepal prior to the formation of the Communist Party of Nepal (Maoist).²

An October 2005 International Crisis Group report provides information on the aims, structure and strategy of the Maoists at that time. Their structure was based on the party, army and united front. The party had “overall responsibility for all activities related to the ‘people’s war’ and for the development of policy.” The People’s Liberation Army (PLA) was under the party’s full control, and was responsible for offensive operations against the enemy and defensive arrangements. The chairman of the party was also the supreme commander of the PLA. The United People’s Revolutionary Council Nepal was the central body of the united front, which the Maoists “fashioned partly as a revolutionary tool and partly as a central people’s government in waiting.” The Maoist strategy was of a protracted people’s war, both political and military.³

A ceasefire in May 2006 provided a durable military truce in Nepal. The Maoists entered open politics and elections were held in 2008. The Maoists are reported to have given up strategies and institutional structures for access to mainstream politics. According to a September 2010 International Crisis Group report, the dissolution of the Maoist parallel state and the cantonment of the PLA were among the first and most visible changes. The shift to electoral politics required the Maoists to redefine basic tactics and to change how they recruited. They “had to establish a permanent organisational presence capable of campaigning widely.” Mass mobilisation brought greater financial pressures and the Maoists asserted “their claim to political space and a share in local budgets and other state resources.” In many places, they were reported to have “successfully muscled their way into local bodies such as consumer committees, forest user groups and school or hospital management committees. They not only secured new financing for the expensive electoral

¹ RRT Country Advice 2010, *Country Advice NPL37205*, 24 August, (Question 1) – Attachment 1

² RRT Research & Information 2008, *Research Response NPL33127*, 31 March, (Question 2) – Attachment 2

³ International Crisis Group 2005, *Nepal’s Maoists: Their Aims, Structure and Strategy*, Asia Report No. 104, 27 October, Executive Summary & p. 7 – Attachment 3

competition and the maintenance of their extensive party structure but also obtained access to local state and para-statal appointments for their cadres.” It is stated in the report that:

The Maoists transformed their organisation to match the requirements of open politics. They increased their presence through new recruitment and expanding their fraternal organisations, often taking in individuals they would earlier have rejected as “feudalists” or “anti-social elements”. In particular, the Maoist trade unions have been successful in broadening their base, supported by popular projects like the campaigns for an increased minimum wage, the regularisation of employment contracts and the introduction of a service charge in hotels and restaurants. The Maoists now have an organisational presence and levels of activity unrivalled by other parties.

Despite the expansion, the Maoists maintained discipline, partly because the party retained and adapted past strengths such as the large number of full-time workers for its organisational core. At the same time, the Maoists maintained “a sense of purpose and organisational cohesion beyond this inner circle.” The number of positions within the party and movement were dramatically expanded, and “these grant a sense of importance to committed cadres. Similarly important are the regular training and programs held by the party”. The capacity of the Maoists for and use of violence reportedly “has reduced and changed, but not vanished. The cantonment of the PLA was a symptom of its already diminished relevance. Almost simultaneously, the Maoists started establishing the YCL [Young Communist League].” The YCL’s purpose was “to provide the Maoists with muscle in everyday politics.” The report also indicates that:

The Maoists do have a different view of the state to other parties. They are still a revolutionary party in philosophy and wish “the people” to be actively involved in defining and protecting their own interests. This means keeping the state subordinate to the people – and has set them on a collision course with other parties in constitution-writing, especially their view of the judiciary and their belief that there should be a fundamentally reconstructed security sector. Many Maoists express a genuine belief in popular action, armed if need be, as a legitimate means to resist oppression. This central strand of Maoist thinking appears to be intact despite the compromises of the peace process; it naturally colours approaches to the state. It also raises equally genuine fears in other parties that the Maoists are not willing to accept pluralistic norms or subordinate themselves to the constitutional and institutional order.⁴

2. Please provide information on the background, philosophy and history of the Young Communist League (YCL) in Nepal and in particular in Bakachol-9, Khotang, Nepal, and in particular Jhakribash.

The Young Communist League is the youth wing of the Unified Communist Party of Nepal (Maoist) (UCPN(M)), and was re-activated by the UCPN(M) in 2006. It is reported that the YCL appears to be the largest of the political party youth wings. The organisational structure of the YCL mirrors the UCPN(M)’s structure, with directives flowing from the YCL central level down through several committee layers. The activities of the YCL are also directed by the leadership of the UCPN(M) and coordinated at a peer

⁴ International Crisis Group 2010, *Nepal’s Political Rites of Passage*, Asia Report N°194, 29 September, pp. 4-5 & 7-10 – Attachment 4

level with the youth wing. There is generally strong coordination between the party and the youth wing.⁵

The September 2010 International Crisis Group report referred to above indicates that although the YCL was built on the former “people’s militia”, its set-up and purpose was significantly different. The YCL’s purpose “was not to fight the security forces, but to provide the Maoists with muscle in everyday politics. Organisation and deployment vary widely. In some areas, YCL cadres live together in rented or captured buildings and are involved in parallel policing. But it is difficult to describe the YCL as paramilitary. Camps still appear to be few and far between and in many districts YCL cadres are far less organised.”⁶

In the lead up to the 2008 Constituent Assembly election in Nepal, “the YCL was implicated in extortion, intimidation and violent activities.” A recent report by the Carter Center indicates that since June 2010, the overall public activities of political party youth wings had been limited, although comparatively, the YCL had been the most active youth wing. There appeared to have been a decrease in youth wing violence and clashes, although nearly all clashes involving youth wings included YCL cadres. Most clashes had been between the YCL and cadres of the UML Youth Force (YF), which was formed by the Communist Party of Nepal - Unified Marxist-Leninist (CPN-UML) to counter the YCL. Carter Center observers heard many reports of negative youth wing activities, primarily involving the YCL, “which are aimed at obtaining financial gain and which have the effect of undermining political space, development, and public security... In many districts, the YCL and, to a lesser extent, the UML Youth Force, have interfered in contract tender processes, been complicit in smuggling, solicited forced donations, and engaged in violent clashes. Additionally, in some districts, YCL has used intimidation and violence to control political space.”⁷

The YCL was involved in public security activities, such as curbing criminal activities or “social evils” like gambling and alcohol consumption during the Dashain and Tihar holidays. YCL representatives spoke about efforts to prevent smuggling along the Nepal-India border. There were, however, reports of YCL cadres being implicated in benefitting improperly from such efforts, such as charging smugglers a fee for passage across the border. In relation to whether the Maoists had complied with a June 2008 agreement to terminate the “paramilitary functioning” of the YCL, the Carter Center found this difficult to assess, partly as there was no shared definition of the term “paramilitary”. The majority of YCL sites visited by Carter Center observers did not appear to be organised in a military-style hierarchy, although one site in Kaski was intended to be a “rapid response force”. There were cases where YCL cadres lived communally in private and sometimes public buildings, but it could not be determined in these cases that there was a military-style hierarchy.⁸

⁵ The Carter Center 2011, ‘Political party youth wings in Nepal’, The Carter Center website, 28 February, pp. 1 & 25 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

⁶ International Crisis Group 2010, *Nepal’s Political Rites of Passage*, Asia Report N°194, 29 September, pp. 9-10 – Attachment 4

⁷ The Carter Center 2011, ‘Political party youth wings in Nepal’, The Carter Center website, 28 February, pp. 1, 3, 4 & 8 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

⁸ The Carter Center 2011, ‘Political party youth wings in Nepal’, The Carter Center website, 28 February, pp. 4, 9-10 & 16 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

A recent article indicates that the Maoists have announced plans for a new organisation of “People’s Volunteers” they claim will serve the population by providing security and developing various types of infrastructure. The article refers to plans to bring the YCL under the People’s Volunteers organisation.⁹

An RRT country advice dated 2 September 2010 provides background information on the YCL, including details of its formation and activities.¹⁰

3. Deleted.

4. Please provide information on whether the Maoists and/or Young Communist League (YCL) are in conflict or opposition with the Nepali Congress Party, and if so, whether there is violence directed towards members of the latter, and if so, is that directed to leaders/activists of the Nepali Congress Party or to the rank and file members as well.

In February 2011, Nepal’s parliament elected Jhalanath Khanal, the chairman of the Communist Party of Nepal - Unified Marxist Leninist, as prime minister after the Maoists, the largest single party, withdrew their candidate and gave him their support. The Nepali Congress Party was reported to be in opposition.¹¹ On 4 March 2011, it was reported that the Maoists had joined the government, following a month-long dispute with the country’s new prime minister.¹² On 10 March 2011, the UCPN (Maoist), the Nepali Congress and the CPN-UML parties “agreed in principle to formulate an action plan to complete the integration and rehabilitation process of former Maoist combatants within one-and-a-half months.”¹³ On 17 March 2011, Nepali Congress leader, Dr Ram Sharan Mahat, said the NC “will not join a government that is the outcome of a secret deal that the UCPN-Maoist and the CPN-UML signed keeping his party in the dark.” He also said the Maoist party was “more interested in capturing the state than forming the government, claiming that the party has formed a volunteers’ force to achieve this end.”¹⁴ An article dated 21 March 2011 refers to moderate CPN-UML leaders intensifying inter-party consultations in a bid to form a national consensus government with NC involvement.¹⁵

In its 2011 Nepal assessment, the South Asia Terrorism Portal (SATP) indicates that during 2010, the Unified Communist Party of Nepal – Maoist was responsible for only two of 12 militancy-related civilian deaths in Nepal, up to 28 November 2010. According to the SATP assessment, “[t]he Maoists who spearheaded the violent political turmoil in the country for a decade (1996-2006), are evidently no longer actively engaging in armed violence”.¹⁶

⁹ ‘One too many’ 2011, *The Katmandu Post*, 16 March – Attachment 6

¹⁰ RRT Country Advice 2010, *Country Advice NPL37309*, 2 September, (Questions 2 & 3) – Attachment 7

¹¹ ‘Nepal: Jhalanath Khanal elected new prime minister’ 2011, *BBC News South Asia*, 3 February <http://www.bbc.co.uk/news/world-south-asia-12358985> - Accessed 16 March 2011 – Attachment 8

¹² Gurubacharya, B. 2011, ‘Nepal’s former communist rebels finally join new government, 4 ministers named’, *Associated Press Newswires*, 4 March – Attachment 9

¹³ ‘PLA integration: Big Three agree to formulate action plan’ 2011, *The Katmandu Post*, 10 March – Attachment 10

¹⁴ ‘Congress not to join govt’ 2011, *Himalayan Times*, 17 March – Attachment 11

¹⁵ ‘Olive branch: Maoist-UML attempt to woo sulking NC’ 2011, ekantipur website, 21 March <http://www.ekantipur.com/2011/03/21/top-story/olive-branch-maoist-uml-attempt-to-woo-sulking-nc/331219.html> - Accessed 21 March 2011 – Attachment 12

¹⁶ ‘Nepal Assessment 2011’ 2011, South Asia Terrorism Portal <http://www.satp.org/satpor/tp/countries/nepal/index.html> - Accessed 18 March 2011 – Attachment 13

There have, however, still been reports of clashes between NC and Unified Communist Party of Nepal (Maoist) supporters. On 15 March 2011, a clash over a minor issue at the Tribhuvan Janata Higher Secondary School in Musikot between students close to the UCPN (Maoist) and the Nepali Congress resulted in injuries to at least seven students.¹⁷ On 10 March 2011, an assistant sub-inspector and five other people were injured when police intervened in a clash between UCPN-Maoist and Nepali Congress supporters at the Bharatpur-based BP Koirala Memorial Cancer Hospital.¹⁸

On 25 January 2011, UCPN-M cadres were reported to have abducted six activists including one from the NC in Udayapur district.¹⁹ On 8 January 2011, it was reported that YCL activists had attacked and injured a NC cadre in Chitwan district.²⁰

The Carter Center report on political party youth wings in Nepal indicates that local level youth wing clashes it had reported on primarily involved the YCL and were often between YCL and UML Youth Force cadres. In the early phase of the Center's observation, clashes were frequent, but the number of youth wing clashes appeared to have decreased in the last half of 2010. The Nepali Congress Party youth wing, named the Tarun Dal, is reported to be smaller than the YCL and much less active.²¹ The limited involvement of NC cadres in clashes between youth wings is reportedly "the result of organisational weakness more than policy. Where local NC structures are still strong enough, its supporters have flexed their muscle."²²

Carter Center observers were told by a significant number of interviewees "about acts of YCL intimidation, notably efforts to control political space and influence local level elections and position appointments." The report refers to the following clashes between the YCL and Tarun Dal or NC members:

In Gorkha in March 2010, a vehicle carrying a central level Tarun Dal leader visiting the district to participate in a party program was attacked by a group of YCL cadres throwing stones and carrying lathis... And during the Maoists protest programs in late 2009 and early 2010, observers noted multiple reports of clashes involving YCL cadres who were displaying black flags to government officials, including, for example, a clash with the Tarun Dal in Chitwan in October 2009.

In multiple locations, observers have also reported cases where YCL cadres have sought to reverse unfavorable school management committee (SMC) election outcomes. In Salyan, YCL and Maoist cadres attacked an NC member in mid-2010 after a Maoist-backed candidate lost an SMC election; in June, more than 50 YCL cadres reportedly attacked 10 NC sympathizers following SMC elections in Gorkha, leading to retaliation and escalation, with local citizens

¹⁷ 'Maoist, NC student clash; 7 injured' 2011, *Republica*, 15 March – Attachment 14

¹⁸ 'Six injured in clash at cancer hospital' 2011, *Himalayan Times*, 10 March – Attachment 15

¹⁹ 'Abductions by the CPN-Maoist since the April 2006 Cease-fire' 2011, South Asia Terrorism Portal <http://www.satp.org/satporgtp/countries/nepal/database/ceasefire.htm> – Accessed 18 March 2011 – Attachment 16

²⁰ 'YCL activists thrash NC cadre, students' 2011, *The Katmandu Post*, 8 January – Attachment 17

²¹ The Carter Center 2011, 'Political party youth wings in Nepal', The Carter Center website, 28 February, pp. 11 & 26 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

²² International Crisis Group 2010, *Nepal's Political Rites of Passage*, Asia Report N°194, 29 September, p. 24 – Attachment 4

expressing concern that even an agreement reached between the parties to resolve the issue did not last more than a day...²³

A report on the Young Communist League on the South Asia Terrorism Portal provides a list of incidents involving the YCL, including information on clashes between YCL and NC members.²⁴ The US Department of State 2009 report on human rights practices in Nepal also refers to YCL attacks on NC members in May 2009.²⁵

An RRT country advice dated 17 May 2010 includes information on incidents where UCPN-M or YCL members had attacked NC cadres and leaders.²⁶ An RRT research response dated 14 January 2009 provides information on the relationship between the Maoists and members of the Nepali Congress Party, and whether the families of Nepali Congress Party members were targeted by the Maoists.²⁷

5. Is there any report or information that suggests that the Maoists and YCL are stronger than the police and people report to YCL instead of going to the police?

The Nepali police forces were reported in January 2011 to “have limited resources and lack sufficient manpower to effectively enforce law and order. Their services are not up to Western standards. Many cases reported to the police remain unresolved.”²⁸ An August 2009 DFAT advice refers to the dynamics in the country being “characterised by impunity, weak law and order and discrimination.”²⁹

In relation to the YCL, the February 2011 Carter Center report indicates that the YCL has been reported to have been involved in public security activities, such as curbing criminal activities or “social evils” like gambling and alcohol consumption during the Dashain and Tihar holidays. YCL representatives had spoken about efforts to prevent smuggling along the Nepal-India border. There were, however, reports of YCL cadres being implicated in benefitting improperly from such efforts, such as charging smugglers a fee for passage across the border. There were also reports of negative youth wing activities, primarily involving the YCL, “which are aimed at obtaining financial gain and which have the effect of undermining political space, development, and public security... In many districts, the YCL and, to a lesser extent, the UML Youth Force, have interfered in contract tender processes, been complicit in smuggling, solicited forced donations, and engaged in violent clashes. Additionally, in some districts, YCL has used intimidation and violence to control political space.” There were cases where YCL cadres lived communally in private and public buildings, and many government officials, non-Maoist

²³ The Carter Center 2011, ‘Political party youth wings in Nepal’, The Carter Center website, 28 February, pp. 12-13 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

²⁴ ‘Young Communist League’ 2011, South Asia Terrorism Portal <http://www.satp.org/satporgrp/countries/nepal/terroristoutfits/YCL.html> - Accessed 18 March 2011 – Attachment 18

²⁵ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Nepal*, March, Section 1(g) – Attachment 19

²⁶ RRT Country Advice 2010, *Country Advice NPL36596*, 17 May, (Question 1) – Attachment 20

²⁷ RRT Research & Information 2009, *Research Response NPL34233*, 14 January, (Questions 2 & 3) – Attachment 21

²⁸ US Department of State Bureau of Consular Affairs 2011, ‘Nepal – Country Specific Information’, Travel.state.gov website, 10 January http://travel.state.gov/travel/cis_pa_tw/cis/cis_980.html# - Accessed 16 March 2011 – Attachment 22

²⁹ DIAC Country Information Service 2009, *Country Information Report No. 09/58 – CIS Request No. NPL 9770: Discrimination*, (sourced from DFAT advice of 5 August 2009), 5 August – Attachment 23

party representatives, citizens and civil society representatives were reported to have expressed concern about this. Some citizens who lived near YCL-inhabited houses, however, believed the presence of YCL cadres improved security or contributed positively to society.³⁰

An earlier report from June 2009 refers to the YCL on occasion having “been involved in quasi-policing activities, such as traffic management, night patrolling, demolition of illegal houses, and the capture of alleged gangsters. Backed by the full might of the Maoists, YCL cadres openly challenged Government authorities, including the police, and progressively established a parallel authority and system.”³¹

According to the US Department of State 2009 report on human rights practices in Nepal, despite the Maoists announcing the dissolution of their parallel government structures and courts in 2007, police and NGO’s had reported that in some districts, particularly in rural areas, they continued to function. In districts where they no longer functioned, the Maoists often expected past decisions and sentences to be carried out. OHCHR reported that these courts, which handled both criminal and civil cases, “did not provide minimum guarantees of due process and fair trial.”³²

The more recent International Crisis Group report from September 2010 indicates that many of the significant policing roles taken on by Maoist militias during the conflict “were initially retained by the YCL, but it has been trying to step back from the parallel functions which contravene the peace agreements.” The report also indicates that in some areas, YCL cadres lived together in rented or captured buildings and were involved in parallel policing.³³

6. Is there information to confirm or deny that the Maoists and YCL are responsible for abduction, kidnapping, rape, robbery, murder and shootouts and that mental harassment is a common activity of Maoists?

The previously mentioned report by the Carter Center indicates that Carter Center observers heard many reports of negative youth wing activities, primarily involving the YCL, “which are aimed at obtaining financial gain and which have the effect of undermining political space, development, and public security.” The YCL had been involved in violent clashes, and in some districts, had used violence and intimidation to control political space. Non-Maoist interviewees across districts visited by Carter Center observers regularly mentioned YCL complicity in smuggling, interference in tender processes, intimidation of other parties and their supporters, forced donations and unlawful taxation. In the lead up to the 2008 Constituent Assembly election in Nepal, “the YCL was implicated in extortion, intimidation and violent activities.” Since June 2010, the overall public activities of political party youth wings are reported to have been limited, although comparatively, the YCL had been the most active youth wing. There

³⁰ The Carter Center 2011, ‘Political party youth wings in Nepal’, The Carter Center website, 28 February, pp. 3-4, 9-10, 19 & 21 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

³¹ Marks, T. 2009, ‘Nepal: Will the Real Prachanda Stand Up?’, *South Asia Intelligence Review*, vol. 7, no. 49, 15 June http://www.satp.org/satporgrp/sair/Archives/7_49.htm#assessment2 - Accessed 22 September 2009 – Attachment 24

³² US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Nepal*, March, Section 1(e) – Attachment 19

³³ International Crisis Group 2010, *Nepal’s Political Rites of Passage*, Asia Report N°194, 29 September, pp. 10 & 30 – Attachment 4

appeared to have been a decrease in youth wing violence and clashes, although nearly all clashes involving youth wings included YCL cadres. Most clashes had been between the YCL and cadres of the UML Youth Force.³⁴

The US Department of State report from January 2011 indicates that in the Terai, the southern plains region of Nepal bordering India, Maoist splinter groups along with other violent groups “continue to engage in extortion, kidnapping, and murdering of Nepalese citizens and locally resident Indian businessmen.” The report also indicates that “political agitation and civil unrest in the Terai, including violent clashes between various political groups and Maoist splinter groups, as well as inter-communal violence and criminality” had decreased in 2009. It is also reported that large demonstrations and incidents of localised violence occurred during a strike imposed by the Unified CPN Maoist Party between 3 and 7 May 2010 in Nepal.³⁵

The US Department of State 2009 report on human rights practices in Nepal also refers to Maoist militias engaging in arbitrary and unlawful use of lethal force and abduction. During 2009, Maoists and Maoist-affiliated organisations continued to commit abuses in contravention of the Comprehensive Peace Agreement. Maoists extorted money from businesses, private citizens, workers, and NGOs, who faced violence or the implied threat of violence if they did not pay. Maoists also attacked political opponents on several occasions.³⁶

7. Deleted.

8. Please provide information on whether the Bakachol-9 district, Khotang, Nepal, and in particular Jhakribash is heavily affected by the Maoists insurgency which amongst other things recruited children under 16 for military training, abducted people with different views to their own and request money from them.

Information was not located on Jhakribash in relation to this question. Information was found in relation to Maoist activity in Khotang, and a December 2003 article refers to a clash between Maoists and security forces in Bakachol village.

It was reported in February 2003 that the Maoists were strong in Khotang district.³⁷ There have been reports of ongoing Maoist activity in the district in the ensuing years. In December 2003, it was reported that at least nineteen Maoists and a policeman were killed in a clash at Deurali Bhanjyang in Bakachol village in Khotang district.³⁸ In June 2005, at least four Maoists and five security personnel were killed when Maoists attacked Diktel, the headquarters of Khotang district. The army claimed that at least 25 more Maoists were killed during the battle. The Maoists burnt down several government offices and 60

³⁴ The Carter Center 2011, ‘Political party youth wings in Nepal’, The Carter Center website, 28 February, pp. 1, 3, 4, 8 & 11 http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/nepal-political-party-youth-wings-022811-en.pdf - Accessed 17 March 2011 – Attachment 5

³⁵ US Department of State Bureau of Consular Affairs 2011, ‘Nepal – Country Specific Information’, Travel.state.gov website, 10 January http://travel.state.gov/travel/cis_pa_tw/cis/cis_980.html# - Accessed 16 March 2011 – Attachment 22

³⁶ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Nepal*, March, Introduction & Section 1(g) – Attachment 19

³⁷ Chandrasekharan, S. 2003, ‘Cease fire should be strengthened with a code of conduct quickly’, Update 29, South Asia Analysis Group website, 25 February – Attachment 27

³⁸ ‘Security forces claim 15 more rebels killed in clash in Nepal’ 2003, *Agence France Presse*, 7 December – Attachment 28

inmates reportedly escaped from the district prison.³⁹ In September 2005, families of security personnel in Khotang district were reportedly forcibly dislodged from their homes by Maoists,⁴⁰ and in November 2005, three teachers and three students were kidnapped by Maoists from a school in Diktel.⁴¹

In May 2006, it was reported that Maoists in Khotang district had stepped up a “donation” drive in remote villages.⁴² In December 2007, the CPN-Maoist leadership in Khotang district is reported to have written to the VDC secretaries in the district demanding 10% of the VDC annual budget for the treatment of the war injured.⁴³ In March 2008, it was reported that the Maoists had disrupted several election rallies of other parties in Khotang district.⁴⁴ The Constituent Assembly of Nepal website indicates that three seats in Khotang district are held by Communist Party of Nepal (Maoists) members.⁴⁵

In June 2008, it was reported that 34 child soldiers from Khotang were still living in Maoist PLA cantonments. At least 117 Maoist child soldiers from Khotang had returned home following the comprehensive peace accord.⁴⁶ In December 2008, Maoists in Khotang continued to hold the property of a member of the Nepal army which was seized by the Maoists during the civil war.⁴⁷ In May 2009, the National Human Rights Commission of Nepal expressed serious concern in relation to organised attacks on leaders and cadres of political parties opposed to the Maoists in various districts, including Khotang.⁴⁸

In December 2009, it was reported that the UCPN-Maoists had unilaterally declared six autonomous states in Nepal, including Kirat autonomous state in Khotang district.⁴⁹

9. Is there information to suggest that Maoists in that area would force their way into the local village homes and stay as unwanted guests and be required to be provided with free accommodation, food and funds?

Specific information was not located on Maoists in Bakachol, Khotang forcing their way into local village homes and staying as unwanted guests and being required to be provided with free accommodation, food and funds.

³⁹ ‘Fresh clashes reported in eastern Nepal’ 2005, BBC Monitoring, source: Nepalnews.com website, 22 June – Attachment 29

⁴⁰ ‘Soldiers’ families leave homes in eastern Nepal after Maoist threats’ 2005, *BBC Monitoring South Asia*, source: Kantipuronline.com website, 8 September – Attachment 30

⁴¹ ‘Nepal: Maoist abduct 56 students, five teachers’ 2005, *The Press Trust of India*, 16 November – Attachment 31

⁴² ‘Nepal Maoists step up extortion in villages – paper’ 2006, *BBC Monitoring South Asia*, source: Kantipur, 12 May – Attachment 32

⁴³ UN Office for the Coordination of Humanitarian Affairs 2007, ‘OCHA Nepal Situation Overview’, Issue no. 19, 9 November – 31 December 2007, ReliefWeb website, 31 December – Attachment 33

⁴⁴ ‘Maoists surrounded Nepali Congress campaigners in Khotang’ 2008, *Asian News International*, 25 March – Attachment 34

⁴⁵ ‘CA Members - Khotang district’ (undated), Constituent Assembly of Nepal website http://www.can.gov.np/ca_members/index?type=all/party_id=all/district_id:Khotang/submit:Search/language:en – Accessed 21 March 2011 – Attachment 35

⁴⁶ ‘60 minors still at Maoist camps: Report’ 2008, *e-Kantipur*, 25 June – Attachment 36

⁴⁷ Kshetry, R. 2008, ‘Maoists hold seized land despite leader’s order’, *Inter Press Service*, 9 December – Attachment 37

⁴⁸ ‘NHRC for stepped up security amid fears of Maoists’ violence’ 2009, *The Press Trust of India*, 13 May – Attachment 38

⁴⁹ Khatri, D. 2009, ‘Ex-rebels continue to declare new states’, *Himalayan Times*, 14 December – Attachment 39

10. Deleted.

11. Deleted.

12. Deleted.

13. Please provide information on the reliability and effectiveness of the police service in Nepal and in particular its effectiveness in protecting Nepalese citizens against Maoists and the Young Communist League.

As previously mentioned, the Nepali police forces were reported in January 2011 to “have limited resources and lack sufficient manpower to effectively enforce law and order. Their services are not up to Western standards. Many cases reported to the police remain unresolved.”⁵⁰ According to DFAT, law and order in Nepal “has deteriorated, especially in Morang, Dhanusha, Mahottari, Rautahat, Bara, Parsa, Nawalparasi districts and the Terai region, bordering India more broadly.”⁵¹

The September 2010 International Crisis Group report indicates that the police lacked basic resources, remained poorly trained and equipped and were relatively few compared to the population and terrain. The police were reported to “feel under attack and insecure”, and there had been direct attacks on police posts and officers. The transitional situation reportedly had “politicised policing – from policy decisions, promotions and transfers to pressure to release suspects or drop cases.” Law and order was reported to be weak, although some statistics were encouraging, with the UML-supporting weekly *Budhabar* reporting comparative statistics which appeared to indicate a reduction in all major crime statistics. There was, however, certainly major undercounting, with many crimes probably not reported, and if they were, police often refused to file cases. Many police officers had “responded to the difficult environment and their perceived loss of control by stepping back and doing their best to avoid getting involved in any tricky situations.” Special policies on policing implemented by both the Maoist-led and UML-led governments had reportedly shown mixed results. A special security plan (SSP) appeared to deliver some results with police strengthened with more personnel and more posts. Despite initial positive reactions, however, “most commentary on the SSP has become negative, pointing out that high hopes failed to materialise in practice.”⁵²

Under Nepal’s Comprehensive Peace Agreement, the Nepal Police and the Armed Police Force are called on to enforce law and order in Nepal. The police reportedly had the role of preventing and investigating non-terrorist criminal behaviour, and were generally unarmed. Corruption and impunity remained problems within the National Police and there were many reports of bribery and police abuse. A severe shortage of senior-level officers resulted in untrained constables at the district level making decisions and policies outside their authority and without supervision from officers. This created space for corruption, bribery, misinterpretation, and abuse of authority. The OHCHR reported that on occasions, the National Police and Armed Police Force responded to protests and provocations with excessive and lethal force. In both 2008 and 2009, “OHCHR

⁵⁰ US Department of State Bureau of Consular Affairs 2011, ‘Nepal – Country Specific Information’, Travel.state.gov website, 10 January http://travel.state.gov/travel/cis_pa_tw/cis/cis_980.html# - Accessed 16 March 2011 – Attachment 22

⁵¹ Department of Foreign Affairs and Trade 2011, ‘Travel Advice – Nepal’, Smartraveller website, 17 February <http://www.smartraveller.gov.au/zw-cgi/view/Advice/Nepal> - Accessed 16 March 2011 – Attachment 40

⁵² International Crisis Group 2010, *Nepal’s Political Rites of Passage*, Asia Report N°194, 29 September, pp. 29-33 & 36 – Attachment 4

documented nearly 40 credible allegations of extrajudicial killings” which were attributed to the National Police.”⁵³

Police reportedly “did not respond to most incidents of violence, particularly events involving Maoists and armed groups in the Terai.” In the Terai, the mandate of the police was limited and they “were unable fully to promote law and order.” On multiple occasions, Maoist and YCL cadres were detained by the police for illegal acts, but were freed by political leadership within the Home Ministry or when other political leaders intervened.⁵⁴

The RRT country advice dated 2 September 2010 provides information on state protection in Nepal, including the situation regarding the Nepal police, armed police force and army, and militia affiliated with political parties such as the YCL.⁵⁵ The RRT country advice dated 17 May 2010 looks at whether the Nepalese authorities provide protection to opponents of the Maoists and YCL, and includes information on corruption, politicisation and a culture of impunity within Nepal’s security apparatus.⁵⁶

Attachments

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⁵⁴ US Department of State 2010, *Country Reports on Human Rights Practices for 2009 – Nepal*, March, Sections 1(d) & (g) – Attachment 19

⁵⁵ RRT Country Advice 2010, *Country Advice NPL37309*, 2 September, (Question 2) – Attachment 7

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